



**Delegations from Council to
General Manager,
Mayor and Committees**

**As adopted by Council on
20 January 2022**

As per resolution M XXX

1.0 Introduction

In accordance with Part 3 of Chapter 12 (Delegations of Functions) under the *Local Government Act 1993*, Council needs to review and by resolution, delegate functions of the Council under this or any other Act within the first 12 months of each term of Council.

1.1 Section 377 General power of the council to delegate

(1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following--

- (a) the appointment of a general manager,
- (b) the making of a rate,
- (c) a determination under [section 549](#) as to the levying of a rate,
- (d) the making of a charge,
- (e) the fixing of a fee,
- (f) the borrowing of money,
- (g) the voting of money for expenditure on its works, services or operations,
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
- (j) the adoption of an operational plan under [section 405](#),
- (k) the adoption of a financial statement included in an annual financial report,
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#),
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under [section 194](#),
- (q) a decision under [section 356](#) to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under [section 234](#) to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) this power of delegation,
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.

(1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if--

- (a) the financial assistance is part of a specified program, and
- (b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
- (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and

(d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.

(2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.

(3) A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation.

1.2 378 Delegations by the general manager

(1) The general manager may delegate any of the functions of the general manager, other than this power of delegation.

(2) The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).

(3) Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377(2).

1.4 381 Exercise of functions conferred or imposed on council employees under other Acts

(1) If, under any other Act, a function is conferred or imposed on an employee of a council or on the mayor or a councillor of a council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the council.

(2) Such a function may be delegated by the council in accordance with this Part.

(3) A person must not, under any other Act, delegate a function to--

- the general manager, except with the approval of the council*
- an employee of the council, except with the approval of the council and the general manager.*

2.0 Delegation to the General Manager

Pursuant to section 377 of the *Local Government Act 1993* and a resolution of the Council at its meeting held on 20 January 2022, Snowy Valleys Council:

1. revokes all delegations granted to the General Manager prior to this date
2. delegates to the General Manager, or to the person who acts in that position, all of the functions, powers, duties and authorities of the Council that it may lawfully delegate under the *Local Government Act 1993*, any other Act, regulation, instrument, rule or the like (including any functions, powers, duties and authorities delegated to the Council by any authority, body, person or the like) other than the following:
 - i. the functions prescribed in section 377(1) of the *Local Government Act 1993*; and
 - ii. tenders in excess of \$500,000 (including GST), or if the tender is to provide services currently provided by members of staff of the Council as indicated in 377 (1)(i).
3. fixes the amount, pursuant to clause 213 of the Local Government (General) Regulation 2021 and section 607 of the *Local Government Act 1993* an amount of \$5,000 (including GST) for debts owed to Council that may be written off. Any debts in excess of \$5,000 (including GST) are to only be written off by way of a resolution of Council. A report is to be prepared for Council on a bi-annual basis for any debts written off.
4. delegates to the General Manager all powers under the *Environmental Planning and Assessment Act 1979* and the Environmental Planning and Assessment Regulation 2000 including, but not limited to, the assessment and determination of development applications and applications to modify development consents with the exception of development applications within the following categories:
 - i. Conflicts of Interest
Development for which the applicant or a landowner is:
 - a) The Council;
 - b) A Councillor;
 - c) A member of staff that is principally involved in the exercise of Council's functions under the *Environmental Planning and Assessment Act 1979*;
 - d) A member of parliament (either the Parliament of New South Wales or Parliament of the Commonwealth); or
 - e) A relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b), (c), or(d) above.Unless the development is for the any of the following purposes:
 - a) Internal alterations and additions to any residential or commercial building;
 - b) Advertising signage;
 - c) Maintenance or restoration of a heritage item; or
 - d) Minor building structures projecting from the building façade over public

land (such as, but not limited to, awning, verandahs, bay windows, flagpoles, pipes and services and shading devices).

Note: Specifically excluded is development for which can be considered as 'exempt' or 'complying development' as defined under the State Environmental Planning Policy Exempt and Complying Development Codes 2008.

ii Public Interest Matters

Any notified development in accordance with Council's Community Participation Plan or notification provisions under any adopted policy or Development Control Plans of the Council that attracts ten (10) or more unique submissions.

Note: A unique submission means a submission which in substance is unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual or one household could potentially submit multiple unique submissions. In the instance where there is doubt concerning a unique submission or otherwise the General Manager has final determination of the matter.

iii Departure from Development Standards

In the case where a development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Note: In the case where the Secretary of the NSW Department of Planning Infrastructure and Environment allows concurrence to be assumed by Council staff (or Council's appointed contractors) for contravening development standards, then these applications are not required to be referred to full Council for determination.

iv Applications not supported on grounds of merit

In the case where an application is not supported under delegated authority on the grounds of merit, the application shall be referred to full Council for determination.

Note: Council shall delegate authority to the CEO to determine an application which is not supported on grounds where insufficient information has been provided to undertake a proper assessment and determination of an application or in the case where a request for additional information has been made in accordance with the regulations and that information has either not been supplied or not been supplied to the required standard.

v Modification applications

In the case in which a development application is approved by full Council with additional conditions imposed by way of resolution, should the applicant seek to modify such conditions, that modification application shall be referred back to full Council for consideration and determination.

3.0 Delegations to the Mayor

The Mayor, and in the absence of the Mayor, the Acting Mayor for the period of the Mayor's absence, is delegated authority under section 377 of the *Local Government Act 1993* to exercise and/or perform on behalf of the Council the following powers, authorities, duties and functions:

- 1. Powers or Duties under the *Local Government Act 1993***

To give effect to the Law, and specifically, to carry out the role of the Mayor as prescribed in section 226 of the *Local Government Act 1993*.
- 2. Powers or Duties under other Legislation**

If, under any other Act other than the *Local Government Act 1993*, a function is conferred or imposed on the Mayor, the function is taken to be conferred or imposed on the Council and the Mayor has delegated authority to exercise and/or perform on behalf of the Council the powers, authorities, duties and functions as prescribed under that other Act.
- 3. Preside at Meetings and Functions of Council**

To preside at all meetings of the Council, Committees, Community Committees and Public Meetings convened by the Council at which the Mayor is present, unless the Mayor otherwise appoints another Councillor or person to perform this function.
- 4. Negotiations on behalf of Council**

In conjunction with the General Manager, to participate in negotiations on behalf of the Council with third parties and in connection with the sale, purchase and lease of land and buildings. This function is subject to the limitation that no contractual agreement is to be entered into without a resolution of Council.
- 5. Represent Council – Government and other forums**

To represent the Council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level. To represent the Council, in conjunction with the General Manager, at other forums where it is appropriate that the Mayor should present the Council's position.
- 6. Sign and Execute Documents**

To sign correspondence and other documents. This function is subject to the limitation that execution of any documents under Council Seal must be carried out in compliance with clause 400 of the Local Government (General) Regulation 2021.
- 7. Issue Media Releases**

To make media statements and issue media releases in respect of Council, subject to prior consultation with the General Manager.
- 8. Manage the General Manager's Contract**

To act as Council's delegate for the purpose of the day-to-day management of the General Manager's contract.
- 9. Respond to and liaise with the Minister**

To respond and liaise with the Minister and their representatives in relation to correspondence, inquiries or requests for information.

4.0 Delegations to Council Committees

Council Committees have no delegation except for those provided by resolution of Council.

In the event that a Committee is established by Council, its powers, authorities, duties and functions are limited to:

1. Section 355 of the *Local Government Act 1993*
2. The Committee's Terms of Reference adopted by Council
3. Any limitation imposed by the Council whether it be contained within a resolution of Council or any other written direction from Council.

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