

	<b>COUNCIL POLICY</b>	
	<b>Delegations</b>	
	POLICY NO	093
	DEPARTMENT	Organisational Services
	PROGRAM	Governance & Safety
ENDORSED BY COUNCIL	27 November 2019, Folio 65422	

## 1.0 Scope

This policy applies to the Mayor, Councillors, Chief Executive Officer and all Mackay Regional Council (MRC) employees.

## 2.0 Purpose

The purpose of this policy is to support (MRC) to meet its legislative requirements relating to powers delegated under the *Local Government Act 2009 (the Act)*.

## 3.0 Reference

- *Local Government Act 2009*
- *Local Government Regulations 2012*
- *MRC Delegation Registers*
- *MRC Code of Conduct*
- *026 - Conflict of Interest Policy*
- *005 - Procurement Policy*

## 4.0 Definitions

To assist in interpretation the following definitions shall apply:

**Conflict of Interest** shall mean a real or perceived conflict between an employee's official duties and responsibilities in serving the public interest and their private interests. A conflict of interest can arise from avoiding personal losses as well as gaining a personal advantage – whether financial or otherwise. This includes advantages to relatives, friends and business associates.

An example of a 'real' conflict of interest is:

*Ron is on a recruitment and selection panel and his sister is applying for a position to be decided by that panel.*

An example of a 'perceived' conflict of interest is:

*Mary works for MRC as a community grants funding program manager. On the weekend she plays tennis with the director of a community organisation applying for funding through the funding program Mary is managing.*

**Council** shall mean the Mayor and Councillors of MRC.

**Delegate** shall mean a person who has been assigned to a position which has been assigned powers under various sections of relevant acts to undertake specific duties or functions.

**Employees** shall mean all persons employed at MRC on a permanent, temporary, volunteer or casual basis and may include persons engaged under a contract of service.

**MRC** shall mean Mackay Regional Council.

## 5.0 Background

Under Sections 257-260 of the Act, Council can delegate where applicable to the Mayor, Chief Executive Officer, a Standing Committee, a Committee Chair or another Local Government certain powers in order to ensure efficient and effective response to operational and administrative matters. The Chief Executive Officer may delegate some of his/her powers to employees.

The Act also requires that the Chief Executive Officer establishes registers of delegations which must record all delegations approved by the Council. The delegation registers also list all delegations approved by the Chief Executive Officer to employees.

## 6.0 Policy Statement

### 6.1 Principles

The following principles apply to delegations made:

- Any delegation does not derogate from the power of the Council or Chief Executive Officer to act in any matter.
- A delegation will refer to a delegate's position, not to the individual in that position.
- In exercising a delegation, delegates should make themselves aware of any specific MRC policies, decisions, local laws etc., which may be relevant to the decision.
- Unless otherwise referred to as a special condition, a delegation relates only to authorities or functions within the delegate's area of accountability.
- No delegate is authorised to nominate another officer to perform his or her delegated authority or function.
- As the delegation is issued to a position, the delegation does not cease to have effect merely because the individual in that position moves on. The delegation will pass to the person appointed to that position or any acting in that position from time to time.
- The delegate is not authorised to do anything which is, or is likely to be, a breach of legislation or the code of conduct.

- A delegation cannot be exercised where the delegate holding the delegation would be put in a position of conflict of interest. This includes, in particular, where the delegate would obtain a personal benefit of some material kind. In such circumstances the conflicted delegate must refer the decision to another person with the power to make the decision or to Council.
- All purchasing of goods and services under financial delegation must be in accordance with MRC's procurement policy.

## 6.2 Restrictions

The Mayor may not delegate the following powers:

- A power delegated by Council, if Council has directed the Mayor not to further delegate the power;
- A power to direct the Chief Executive Officer or Senior Executive Employee.

The Chief Executive Officer may not delegate the following powers:

- A power delegated by Council, if Council has directed the Chief Executive Officer not to further delegate the power; and
- The power to keep a register of interests.

## 6.3 Registers

MRC keeps the following registers:

- Delegations by Council to the Mayor;
- Legislative Delegations which includes the delegations from Council to the Chief Executive Officer and from the Chief Executive Officer to employees;
- Administrative Delegations which includes financial delegations.

The Registers include:

- Listing the section or matter in which the right to act or exercise discretion has been so delegated;
- Contains the title of the position to which the powers are delegated;
- Date of delegation being approved.

## 6.4 Review of Delegations

All the Delegation Registers will be reviewed annually.

## 7.0 Review of Policy

This policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three years.

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Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy		Council	28/9/16
2	Review of Policy	Minor amendments	Council	27/11/19