

Program:	Executive Office
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Scope

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

Objective

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)*.

Policy Statement

This policy provides for the authority and responsible exercise of delegation within MRC.

This process to remain in force until otherwise determined
by Mackay Regional Council

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1.0 Principles

Delegations are the mechanisms by which Council authorises the CEO and MRC Employees to act on behalf of MRC. Delegations are a key element in effective governance and management of MRC and provide formal authority to the delegated Employee to commit MRC and/or incur liabilities on behalf of the organisation.

1.1 How Delegations must be exercised

Delegations are to be exercised within the framework of *the Act*, Council Policies, Procedures and Local Laws and any other applicable external legislative requirements.

Delegated authority must be exercised by the most appropriate Employee in terms of the level of decision making, financial, asset, information and human resource management.

Financial, procurement and facilities management Delegations must be exercised within specified delegated financial thresholds, budget allocations and in accordance with *the Act*, Council Policies, Procedures, Local Laws and any other external legislative requirements.

A Delegation must be exercised in accordance with any conditions attached to the Delegation.

1.2 Principles

The following principles apply to Delegations made:

- A Delegate **must become** familiar with their appointed Delegation and have an appropriate understanding and knowledge of the requirements of relevant Legislation, Council Policies, Procedures and Local Laws.
- A Delegate **must not** exercise a Delegation if there is an actual or perceived conflict of interest (e.g. making a financial commitment in which the approver has a personal interest).
- Delegations are conferred on a position and individuals occupying the position are responsible and accountable for decisions made under the approved Delegations.
- An Employee who has been formally appointed to act in a position can exercise any Delegation attached to that position unless the appointment to act specifies otherwise.
- If a position or a committee is abolished or re-named so that there is a reassignment of responsibility for a particular function, the Delegation is reassigned accordingly.
- A Delegate is not obliged to exercise the Delegation. Where the Delegate believes special or unusual circumstances exist which would make it more transparent or ethical for the matter to be dealt with other than by the

Delegate, the matter should be transferred to a Manager, Director, CEO or Council for Decision.

- A breach of this policy or of a Delegation may be regarded as misconduct. Breach of a Delegation may result in disciplinary action.
- Council or the CEO, as the case may be, may at any time vary or repeal any Delegation, subject to any Legislation, Council Policy, Procedure or Local Law governing the Delegation.

1.3 Delegation Hierarchy

Levels of authority are hierarchical following the relevant lines of the Organisational Chart up to and including Council.

Provided there is no legal reason why a named Delegate must exercise a particular Delegation, the Delegate's Manager and each officer in line of organisational authority superior in turn to that officer, hold the same delegated function.

1.4 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; and
- A power to direct the CEO or a member of the Executive Leadership Team (ELT).

The CEO may not delegate the following powers:

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

1.5 Registers

MRC will keep and maintain the following registers:

- Delegations by Council to the Mayor;
- Legislative Delegations which include the Delegations from Council to the CEO and from the CEO to Employees; and
- Administrative Delegations which include 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; and
- Date of delegation being approved.

1.6 Review of Delegations

All of the Delegations Registers will be reviewed annually in accordance with legislative requirements.

2.0 Definitions

To assist in interpretation, the following definitions shall apply:

CEO shall mean the Chief Executive Officer. A person who holds an appointment under section 194 of *the Act*. This includes a person acting in this position.

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 all elected representatives, including the Mayor, of Mackay Regional Council.

Councillor shall mean an elected representative, including the Mayor, of Mackay Regional Council.

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.

Delegation shall mean the authority to make decisions on behalf of MRC. This includes Delegations from Council to the CEO and from the CEO to Employees.

Director shall mean the individual who is in charge of a Department and a member of ELT, excluding the CEO.

ELT shall mean the Executive Leadership Team which includes the Director Capital Works, Director Community & Client Services, Director Development Services, Director Engineering & Commercial Infrastructure, Director Organisational Services, Executive Officer and Senior Legal Counsel.

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.

Mayor shall mean an elected member of Council, also referred to as a Councillor, with additional responsibilities as outlined in section 12(4) of *the Act*.

MRC shall mean Mackay Regional Council.

the Act shall mean the *Local Government Act 2009*.

3.0 Review of Policy

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

- The related documents are amended or replaced.
- 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 (3) years.

4.0 Reference

- *Local Government Act 2009*
- *Local Government Regulation 2012*
- *Human Rights Act 2019*
- MRC Delegation Registers
- MRC Financial Delegations Register
- MRC Code of Conduct
- MRC Policy 026 - Conflict of Interest
- MRC Policy 005 - Procurement

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
3	Review of Policy	Updated	Council	25/01/23