

Delegations - Policy for Members

Council Policy

Policy Name	Delegations - Policy for Members		
Type	Council Policy		
Owner	Elected Members		
Responsible Officer	Chief Executive Officer		
Authorised	Chief Executive Officer	Approval Date	23/03/2022
Decision Number	22105	Next Review Date	23/03/2026

1 Purpose

This policy outlines the framework for delegating powers, functions and duties vested in the Council and its officers, in accordance with the Act (ss 40, 41 and 168) and the Regulations (ss 6, 19 and 99), which make provision for the delegation of powers and functions from the Council and the CEO.

2 Definitions

For the purposes of this policy, the following definitions from the Act apply:

Term	Definition
Act	<i>Local Government Act 2019</i> (NT)
CEO	Chief Executive Officer of a council as appointed under section 165(1) of the Act
Council	Alice Springs Town Council
Member	An elected member of Alice Springs Town Council
Regulations	<i>Local Government (General) Regulations 2021</i> (NT)
Sub-delegation	Passing of a delegation, with or without exclusion, from the CEO to another individual or body

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3 Legislative framework

3.1 Delegations by Council

The Council is able to delegate its powers and functions under section 40 of the Act. The delegation can be made to:

- (a) the CEO;
- (b) a council committee;
- (c) a local authority; or
- (d) a local government subsidiary.

However:

- (a) the power to impose rates and charges cannot be delegated;
- (b) if power to incur financial liabilities is delegated, the Council must, by resolution, fix reasonable limits on the delegate's authority;
- (c) a delegation cannot duplicate or derogate from the CEO's functions (including delegated functions);
- (d) subject to what the Council can delegate to the CEO below, the power to enter into a transaction on conditions that are not arm's length conditions cannot be delegated;
- (e) subject to what the Council can delegate to the CEO below, the power to make a decision that requires a council resolution cannot be delegated; and
- (f) if power to enter into a contract is delegated - the contract must be below the threshold value.

Under the Act, the Council may delegate to the CEO:

- (a) the power to enter into a transaction on conditions that are not arm's length conditions if the transaction will provide a community benefit; and
- (b) the power to waive a fee for service (wholly or partly) under section 289(4) if the waiver will provide a community benefit

'Arm's length conditions' are conditions that might be expected to operate between commercial entities dealing wholly independently with one another in comparable circumstances.

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3.2 Council must delegate financial functions to Council committee if no Ordinary Meeting

If the Council does not schedule an ordinary meeting at least once a month, the Council must delegate to a council committee the necessary power to carry out the financial functions of the Council on its behalf in the months the Council does not schedule an ordinary meeting.¹

If a scheduled ordinary meeting is postponed or not held for a particular month or a scheduled council committee meeting is not held, the CEO must publish the previous month's financial report on the Council's website as soon as practicable.²

3.3 Delegations by CEO

The CEO may delegate its powers and functions under section 168 of the Act. A delegation can be made to an individual or a committee.

The CEO must not delegate a power or function to the following:

- (a) an audit committee;
- (b) a council committee; or
- (c) a local government subsidiary.

The CEO must also maintain a register of all delegations by the Council and the CEO.³

3.4 Council Resolution

The Council must, within the first six months of its term, determine, by resolution, the threshold value for a contractor so that if the power to enter into a contract is delegated, the threshold value is known. The current threshold value is \$100,000.

The Council must also review any delegations of its functions and powers within six months after a general election of the Council.⁴

3.5 General delegation and sub-delegation principles

Delegations and sub-delegations:

- (a) are to be worded so that they are exercisable by either a body or the holder of a position, not by a specified individual;
- (b) cannot go beyond what could be done by the person or body providing the delegation; and

¹ Section 19(1) of the Regulations.

² Section 19(2) of the Regulations.

³ Section 6(1)(j) of the Regulations.

⁴ Section 99 of the Regulations.

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- (c) must be in writing and may be expressed to be subject to conditions or limitations which must be adhered to by the person exercising the delegated function.

The power to sub-delegate in accordance with section 168 of the Act cannot be sub-delegated.

A person or body exercising a delegated function does so in their own right, not as agent (or on behalf of) the person or body delegating the function.

A delegation cannot be exercised by a person who has a conflict of interest. If any conflict of interest occurs, this must be declared and dealt with in accordance with the Code of Conduct or any law or written policy that applies.

3.6 Execution of documents pursuant to delegated authority

A person who enters into a deed, contract, agreement or similar document pursuant to a delegated authority must do so in accordance with all policies, procedures, conditions and limitations including those set out in the Register of Delegations and Sub-Delegations and Procedure - Common Seal and Delegated Authority Execution and any other condition or limitation imposed on the delegate.

3.7 Responsibility and application

This Policy should be evaluated on the basis that the extent of delegation and sub-delegation are improving the efficiency of the administrative processes by the devolution of authority and accountability to appropriate staff and/or other bodies to enable the proper discharge of their responsibilities and to ensure that internal controls are effective.

This Policy is to be reviewed every four (4) years within the Term of the Council and may be reviewed at other times at the discretion of the CEO.

4 Overriding delegations

Delegated authorities cannot be overridden by Members. As noted in section 3.4 above, the Council must review delegations within 6 months of each general election.

Council Members will have the opportunity to discuss any changes required to delegations at the review meeting.

5 Related Documents

- *Local Government Act 2019*
- *Local Government (General) Regulations 2021*

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6 Management Endorsement and Approval

APPROVED:



Robert Jennings
Chief Executive Officer

Date: BACKUP ADOD
MARCH 2022