Delegation of Functions of the Council

Section 377 of the Act provides that Council may, by resolution, delegate to the General Manager or another person or body (not including another employee of the Council) any of the functions of the Council other than those specifically prohibited in Section 377. There are some delegations to Council from outside bodies which require the approval of both Council and the General Manager under Section 378(3) of the Local Government Act.

Set out below are the statutory roles and functions for both the Mayor and General Manager together with the current delegations which require endorsement by Council.

Role of the Mayor

Section 226 of the Act provides that the role of the Mayor is as follows:

- To exercise, in case of necessity, the policy making functions of the governing body of the Council between meetings of the Council.
- To exercise such other functions of the Council as the Council determines.
- To preside at meetings of the Council;
- To carry out the civic and ceremonial functions of the Mayoral Office.

Role of the General Manager

Section 335 of the Act provides as follows:

(1) The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

(2) The General Manager has the following particular functions:

- The day to day management of the Council.
- To exercise such of the functions of the Council as are delegated by Council to the General Manager.
- To appoint staff in accordance with an organisation structure and resources approved by the Council.
- To direct and dismiss staff.
The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other act.

Clause 209 of the Local Government (General) Regulation 2005 provides that the General Manager must also ensure that:

(a) The provisions of the Act, the regulations and any other written law relating to Council's financial obligations or the keeping of accounts by Councils are complied with;

(b) Effective measures are taken to secure the effective, efficient and economical management of financial operations within each division of the Council's administration;

(c) Authorising and recording procedures are established to provide effective control over the Council's assets, liabilities, revenue and expenditure and secure the accuracy of the accounting records, including a proper division of accounting responsibilities among the Council staff; and

(d) Lines of authority and the responsibilities of members of the Council staff for related tasks are clearly defined.

Delegations to the Mayor

In addition to the powers conferred in Section 226 of the Act, the following delegations have been previously approved and are again recommended for the Mayor:

(a) To supervise and advise the General Manager in the exercise of that officer's powers, duties and functions;

(b) To review each six months (in conjunction with the Council's review panel) the performance agreement for the General Manager, and report at least annually thereon to Council;

(c) To authorise any work which in the opinion of the Mayor is urgent at a cost not to exceed $5,000; and

(d) To alter the order of business of Council meetings (in conjunction with the General Manager) as required.

Delegations to the General Manager (Mr Michael Arch Forsyth)

Subject to the provisions of the Local Government Act 1993 and the Regulations attached thereto, Council should delegate the general power to exercise the functions of the Council to Michael Arch Forsyth (General Manager) except for those functions excluded in Section 377 of the Act.

Council should also approve of the following specific delegations to the General Manager, Michael Arch Forsyth:

(1) To authorise appropriate Officers of Council to receive and deal with
representations regarding proposals for Orders to be issued under Section 133 and 134 of Local Government Act 1993;

(2) Under Section 378 of the Local Government Act 1993, to delegate powers and functions to Council Officers by way of schedules, such delegations to be in accordance with statutory requirements and Council policies;

(3) To review the Performance Agreements for Senior Officers, to report to the Council's Review Panel and to report at least annually thereon to Council.

The general delegation detailed above includes the following:-

(4) (a) To carry on the regular services, functions and operations of Council in accordance with any resolution or policy of Council, including the exercise of all discretionary powers which Council is capable of delegating and is not prohibited from so doing under Section 377 of the Local Government Act, 1993 but excluding any powers which may, by resolution of Council, be reserved to Council.

(b) Included in the delegations approved under Clause 4 (a) are the following:-

- Authority to approve of late payment of rate instalments under the Local Government Act;
- Authority to accept grants to Council under the normal conditions of acceptance;
- Authority to approve of applications for extensions of time to pay rates, charges or accounts if a substantive case can be made by the debtor;
- Authority to take action at any time for the recovery of overdue rates and debtor accounts;
- Authority to approve of disposal and/or destruction of records in accordance with the provisions of the Local Government Act 1993, Records Act and the Regulations attached thereto.

(5) To obtain quotations and authorise the purchase of goods, works and services to the limits authorised by Council or in the estimates adopted by Council.

(6) In conjunction with the Mayor, to alter the Order of Business at Council Meetings as required.

(7) To approve, subject to Council's policy (or to refuse) collections from the public by charitable organisations.

(8) To accept, subject to Governor's approval, loan offers up to the amount approved by the Council (at interest rates not exceeding the indicative interest rate as
calculated by the New South Wales Treasury Corporation) for the purpose and amounts adopted by specific resolution of Council when fixing or amending its annual loan budget.

(9) To make application to the Governor for approval to raise loans as referred to in Clause 8 hereto and to sign and seal such application and loan mortgage documents.

(10) To authorise action to be taken to comply with any policy of Council or any provision of the Local Government Act or of any other law, statutory or otherwise, affecting the Council.

(11) To invest surplus cash that is available from time to time.

(12) In relation to Staff:-
   
   (a) To make decisions in all office matters in dispute.
   
   (b) To re-arrange or re-organise office staff in all departments.
   
   (c) To hear appeals by employees against decisions of employees, in regard to industrial disputes, and give rulings thereon.
   
   (d) To instruct staff to take necessary action in connection with any complaints or requests received.
   
   (e) To hear disputes between members of the staff and give rulings thereon.

(13) To approve the attendance of employees of Council to Conferences and pay out-of-pocket expenses for attendance at such conferences to Council’s approved maximum amount. To approve the attendance of staff to training seminars and the like, subject to such delegation being exercised and being kept within the votes of Council as may be authorised from time to time and further that authority be granted to the General Manager or to his delegate to attend conferences subject to final sanction of the Mayor.

(14) To write off monies due to Council up to and including the amount of $2,500 provided such writing off is in accordance with the provisions of the Act.

(15) To approve contributions towards legal expenses sought by the Local Government and Shires Associations providing such payments do not exceed $500.

(16) To waiver the replacement cost of domestic waste garbage and recycling bins due to extenuating circumstances following investigations being undertaken in relation to a claim.

(17) Under authorisation pursuant to Section 381(3) of the Local Government Act 1993 to exercise or perform each of the powers, authorities, duties and functions...
conferred or imposed on the Director General of New South Wales Department of Health under part IV - Division II of the Food Act 1989, being clean-up notices (Section 51), Orders for Closure (Section 52) and Receipt of Requests for Inspection (Section 53).

(18) To declare a dog to be dangerous under Part 5 of the Companion Animals Act 1998.

(19) The power to concur in the making of a direction under Section 82(3) of the Act when determining an application for approval where the General Manager is satisfied that an objection lodged with the Council under Section 82(1) of the Act to a local approvals policy of Council is well founded.

(20) The power to determine objections against the imposition of local orders in relation to applications for approval to carry out an activity prescribed under Section 68 of the Local Government Act.

(21) The power to concur in the making of a direction under Section 82(3) of the Act for the modification of the provisions of Clause 51 or Clause 52 of the Local Government (General) Regulation 2005, when determining an application for approval in the circumstances stated in the Director General's Delegation dated 14 March 1996.

(22) The power to negotiate prices with prospective purchasers of Council land within parameters set by Council, subject to approval by Council.


(25) The authority to approve all forms under the Local Government Act 1993 which are not prescribed by regulation or approved by the Director General.

(26) Subject to compliance with the requirements of the Local Government Act 1993 and regulations thereunder and subject to any express policy or direction of
Council, the authority to exercise and perform on behalf of Council all functions, powers, authorities, duties and matters contained in a report generally adopted by Council on 18 May 2010 in respect of risk and asset management of parks and reserves, recreational facilities, foreshores, boat ramps, disused quarries and cemeteries and other Council assets.

(27) To approve or refuse applications for market days, street fairs and the like within Council's commercial areas.


(30) The authority to authorise officers and appropriate persons to enter on private lands in actions taken under Sections 118A-188K of the Environmental Planning and Assessment Act.

(31) The authority to delegate to appropriate officers the authority to sign Section 88 Certificates and all other certification in relation to the Waste Levy and requirements of the Protection of the Environment Operations Act 1997.

(32) The authority to appoint officers to exercise the powers and functions of the Protection of the Environment Operations Act 1997 under Section 187 of that Act.

(33) The Authority to delegate to authorised officers to exercise the powers and functions as applicable under the Road Transport (General Act) 1999 and the Road Transport (General) (Penalty Notice Offences) Regulation 2003.

(34) The authority to:

- Approve development applications up to a value of $5,000,000 where a proposal complies with statutes planning instruments and Council's policies and codes and where no more than 5 objections are received except:
  
  a) where developments are for subdivisions of over 30 allotments;
  
  b) where a Councillor requests that the matter be put before Council.

- Approve development applications reliant on the application of SEPP No 1 where the variation to the development standard sought is a minor nature or effect.

- Approve development applications seeking minor variations to Council's Development Control Plans when the variations sought are of a minor nature or effect.
- Refuse development applications once where approval of such application is prohibited under the Local Government Act or Regulation or Environmental Planning Instrument or where the application is so far outside Council’s code or policy requirements that conditions to rectify deficiencies cannot be embodied in an approval.

- Approve (but not refuse) applications for extensions of time for development applications previously approved by Council or its officers where the planning position remains unchanged provided that such delegation not extend beyond the development applications for which the Director has power to approve.

(35) The authority to take appropriate action and if necessary commence legal proceedings and/or issue a penalty infringement notice in relation to unauthorised development.