

GENERAL MANAGER'S DELEGATIONS (DRAFT FOR COUNCIL CONSIDERATION)

Instrument of Delegation

Pursuant to the Local Government Act 1993 ("the Act") and by every other Act conferring a power of delegation, Byron Shire Council:

1. Revokes all previous delegations granted to the General Manager prior to the date of this instrument.
2. Delegates to the General Manager of the Council, or to person acting in the position of the General Manager, [all](#) ALL the powers and functions of the Council:
 - (a) except the functions or powers prescribed by s377(1) of the Act or by any other Act or Regulation as functions which may not be lawfully delegated; and
 - (b) subject to:
 - (i) the below express conditions or limitations;
 - (ii) the general limitations in paragraph 3; and
 - (iii) compliance with any resolution or policy of the Council.

Description	Power/Function	Condition/Limitation/Restriction
Applications and Approvals	Applications under Part 4 of the Environmental Planning and Assessment Act 1979 ("the EP&A Act")	Delegations do not include determination of any: <ul style="list-style-type: none">• Development Application or s96 Modification Application that is referred to Council by the Planning Review Committee, unless the stated issues requiring referral are subsequently resolved to the satisfaction of the Planning Review Committee.• Application that has an estimated value exceeding \$10,000,000 or for subdivision of land that would create 20 or more lots.• Application involving 'Designated Development' pursuant to s77A of the EP&A Act.• Application involving a proposed variation under State Environmental Planning Policy No 1 – Development Standards unless the variation relates to a minor rural boundary adjustment• Application for review of a determination previously made by the General Manager or the Council.• Revocation or modification of a consent pursuant to s96A of the EP&A Act.
	Applications under Part 5 of the EP&A Act	<ul style="list-style-type: none">• Delegations do not include determination of any activity for which an Environmental Impact Statement has been required.
	Applications under Part 1 Chapter 7 of the Local	<ul style="list-style-type: none">• Delegations do not include determination of any application for review of a determination previously

	Government Act 1993	made by the General Manager or the Council.
Bad debts	Amount fixed pursuant to clause 213 of the Local Government (General) Regulations 2005	<ul style="list-style-type: none"> The amount above which debts to the Council may be written off only by resolution of the Council is \$5<u>10</u>,000.
Legal Proceedings	Commencement of legal proceedings	<ul style="list-style-type: none"> Delegation to commence legal proceedings is limited to those proceedings in which Council's solicitors estimate, in writing, that the legal costs for the proceedings will be less than \$50,000.
	Settlement of legal proceedings	<p>The delegations do not include:</p> <ul style="list-style-type: none"> Power to settle legal proceedings for payment of less than 50% of Council's original or amended claim. Power to enter into consent orders in the Land and Environment Court in relation to development for which the General Manager would not otherwise be able to grant consent under delegation.
Local Approvals and Orders Policies	Administration of local policies concerning approval and orders	<p>Delegations do not include:</p> <ul style="list-style-type: none"> Power to adopt, amend or revoke a local approvals or orders policy under s161 or 165 of the Local Government Act.
Public Land Management	Administration of public land under Chapter 6 of the Local Government Act	<p>Delegations do not include:</p> <ul style="list-style-type: none"> Power to adopt a Plan of Management under s40. Power to grant consent to a development application to which s47E of the Local Government Act applies.
Roads Management	Administration of roads under the Roads Act	<ul style="list-style-type: none"> Delegations do not include the power to make an application for the permanent closure of any road for which Council is the roads authority.
Tender acceptance	Acceptance of tenders other than to provide services currently provided by members of staff of the council (s377 1.1 of LGA)	<p>Acceptance of tenders is limited to:</p> <ul style="list-style-type: none"> Capital works specifically itemized in a budget approved by Council (as long as the tendered amount falls within the approved budget); or Renewal of existing contracts; or Projects that are less than \$500,000 (ex gst) in value

3. Imposes the following additional General Limitations:

- (a) Delegated functions or powers do not include any function or power that:
- (i) cannot be delegated under s377 of the Act or any other law; or
 - (ii) is exclusively delegated to the Mayor;

- (ii) cannot be exercised lawfully.
- (b) Delegated functions or powers must be exercised consistently with all resolutions, resolved Policies and statutory planning documents of the Council.
- (c) Delegations do not include the power to make or amend any policies of the Council which have been adopted by resolution, except to make minor administrative amendments (for example inserting document references, updating hyperlinks or references to updated policies or legislation etc).
- (d) Where a delegation requires the prior recommendation or estimate from Council's solicitors, it must be in writing.
- (e) Where any function or power provided by these delegations is amended by a subsequent Act or Regulation, the delegations continues so amended.

In this Instrument of Delegation, a reference to the General Manager includes any person who is acting in the position of General Manager.

This delegation commences on the date of the Resolution which makes it and remains in force until expressly altered or revoked by subsequent Resolution.