



# DELEGATION OF FUNCTIONS

## General Manager

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 a person acting in the position of the General Manager, ALL the powers and functions of the Council subject to the express conditions or limitations as listed separately in the schedule, and 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;
    - iii) 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 continue 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 **23 June 2022** by Resolution **22-311** which makes it and remains in force until expressly altered or revoked by subsequent Resolution.

### SCHEDULE

#### Financial Matters

Code	Name & Description	Legislation
BSC102	<b>Restrictions on writing off debts to a council</b> The amount above which debts to the Council may be written off only by resolution of the Council is \$10,000	<b>Local Government (General) Regulation 2021</b> Clause 213

## Operational

Code	Name & Description	Legislation
BSC049b	<p><b>Applications under Chapter 7 Part 1 of the Local Government Act 1993</b></p> <p>Delegations do not include determination of any activity for review of a determination previously made by the General Manager or the Council.</p>	<p><b>Local Government Act 1993</b></p> <p>Chapter 7, Part 1</p>
BSC095	<p><b>Determinations under Part 5 Infrastructure and Environmental Impact Assessment of the EP&amp;A Act</b></p> <p>Make all necessary determinations under Part 5 Infrastructure and Environmental Impact Assessment of the EP&amp;A Act, except approval of an activity for which an Environmental Impact Statement has been required.</p>	<p><b>Environmental Planning and Assessment Act 1979</b></p> <p>Part 5</p>
BSC104	<p><b>Administration of public land</b></p> <p>Delegations do not include:</p> <ul style="list-style-type: none"> <li>a) Power to adopt a Plan of Management under Section 40.</li> <li>b) Power to grant consent to a development application to which Section 47E of the Local Government Act applies.</li> </ul>	<p><b>Local Government Act 1993</b></p> <p>Chapter 6</p>
BSC105	<p><b>Administration of roads under the Roads Act 1993</b></p> <p>Delegations do not include the power to make an application for the permanent closure of any road for which Council is the roads authority.</p>	<p><b>Roads Act 1993</b></p>
DEG002a	<p><b>Acceptance of tenders other than to provide services currently provided by members of staff of the council (s377(1)i of LGA)</b></p> <p>Acceptance of tenders is limited to:</p> <ul style="list-style-type: none"> <li>a) Capital works specifically itemised in a budget approved by Council (as long as the tendered amount falls within the approved budget); or</li> <li>b) Renewal of existing contracts; or</li> <li>c) Projects that are less than \$250,000 (ex GST) in value</li> </ul>	<p><b>Local Government Act 1993</b></p> <p>Section 377(1)i</p>
BSC113	<p><b>Entering contracts primarily for the purpose of response to or recovery from a declared natural disaster</b></p> <p>Enter contracts up to \$500,000, but only for a contract that—</p> <ul style="list-style-type: none"> <li>a) is primarily for the purpose of response to or recovery from a declared natural disaster (as defined in the Regulation), and</li> <li>b) is entered into within 12 months after the date on which the natural disaster is declared.</li> </ul>	<p><b>Local Government Act</b> Section 55(3)(n)(i)</p> <p><b>Local Government (General) Regulation 2021</b> Clause 170A</p>

## Development

Code	Name & Description	Legislation
BSC103	<p><b>Adoption of local policies concerning approvals and orders</b></p> <p>Delegations do not include the power to adopt, amend or revoke a local approvals or orders policy under s161 or 165 of the Local Government Act 1993.</p>	<p><b>Local Government Act 1993</b></p> <p>Sections 161 and 165</p>
DEG088e	<p><b>Applications under Part 4 of the Environmental Planning and Assessment Act 1979</b></p> <p>Delegations do not include determination of any:</p> <ul style="list-style-type: none"> <li>• Development Application or Section 4.55 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.</li> <li>• Application that has an estimated value exceeding \$10,000,000 or for subdivision of land that would create 10 or more lots.</li> <li>• Application involving "designated development" pursuant to Section 4.10 of the Environmental Planning and Assessment Act, 1979.</li> <li>• Application involving a proposed variation under State Environmental Planning Policy No 1 - Development Standards unless the variation relates to a minor rural boundary adjustment.</li> <li>• 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 Environmental Planning and Assessment Act 1979.</li> </ul>	<p><b>Environmental Planning and Assessment Act 1979</b></p> <p>Part 4</p>

## Legal

Code	Name & Description	Legislation
BSC091	<p><b>Commencing or defending legal proceedings</b></p> <ul style="list-style-type: none"> <li>• Delegation to commence or defend legal proceedings is limited to those proceedings in which Council's external solicitors (if engaged) estimate, in writing, that the professional legal costs for the proceedings will be less than \$50,000 unless commencement or defence of legal proceedings has otherwise been authorised by Council resolution. Where Council's external solicitors are not engaged delegation to commence or defend legal proceedings is limited to those proceedings in which Council's internal solicitors estimate, in writing, that the disbursements for the proceedings will be less than \$50,000 unless commencement or defence of legal proceedings has otherwise been authorised by Council resolution.</li> <li>• Exercise of delegation is subject to Councillors being informed by memorandum of its exercise and the progress of the proceedings, together with current cost expenditure, being reported to Councillors monthly.</li> </ul>	

Code	Name & Description	Legislation
BSC091a	<p><b>Settlement of legal proceedings</b></p> <p>The delegations do not include:</p> <ul style="list-style-type: none"> <li>a) Power to settle legal proceedings for payment of less than 50% of Council's original or amended claim.</li> <li>b) 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.</li> </ul>	

  
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**Cr Michael Lyon**  
**Mayor**

28/6/2022  
 .....  
 Date

I, Mark Arnold, acknowledge receipt of and understand the above delegation.

  
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**Mark Arnold**  
**General Manager**

28/6/2022  
 .....  
 Date