



DELEGATION REGISTER

September 2022

DELEGATION OF AUTHORITY
REGISTER
September 2022

Review

Reviewed By	Date Approved	Resolution Number
Council	10 December 2020	Item 8.7
Chief Executive Officer		

Amendments

Delegation	Date Approved	Resolution Number	Amendment/s
Various	18 August 2022	Item 8.6	<p>Amalgamation of Management Committee Terms of Reference and Delegated Authority arrangements with Chief Executive Officer Delegated Authority arrangements into a single register.</p> <p>Various changes to extent of delegated authority arrangements.</p> <p>Revised document format.</p>

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1. DECISION TO DELEGATE

In considering whether to delegate a power or duty a local government must have consideration of the intended benefit arising from this delegation. Powers or duties should only be delegated in instances where this delegation would create an efficiency in the operations of that local government. Where the duties to be performed by the delegate are not subject to the discretion of the individual, then “acting through” arrangements may better achieve the desired efficiency.

2. GENERAL

A local government may delegate authority to exercise any of its statutory functions to Committees or the Chief Executive Officer. Any decision to delegate must be made by absolute majority. The local government is not permitted to delegate its powers to delegate. A CEO can delegate the exercise of any of their powers or duties to employees (other than the power to delegate).

Without limiting the effect of sections 58 and 59 of the *Interpretation Act 1984*, a delegation made under the *Local Government Act 1995* has effect for the period of time specified in the delegation or where no period is specified, indefinitely.

A decision to amend or revoke a delegation to a Committee or the CEO by a local government must be made by an absolute majority.

3. DELEGATIONS TO THE CEO

Delegations of authority from Council to the CEO must be in writing and can be general or specific. The limits on delegation of authority to the CEO are:

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government;
- (c) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (d) any of the local government’s powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (e) borrowing money on behalf of the local government;
- (f) hearing or determining an objection of a kind referred to in section 9.5;
- (g) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

4. DELEGATION BY THE CEO TO EMPLOYEES

Delegations of authority from the CEO to employees:

- (a) must be in writing;
- (b) can be general or specific; and
- (c) are subject to any conditions Council may have imposed.

5. DELEGATION TO COMMITTEES

Delegations of authority to exercise the statutory powers of Council may be made to committees (as detailed in sections 5.16 and 5.17 of the *Local Government Act*).

Section 5.17 provides limitations on what powers and duties a local government can delegate to its committees. Section 5.17(1) limits the powers and duties which can be delegated to committees, according to the types of members which constitute the committees, for example:

- Council members only;
- Council members and employees only;
- Council members, employees and other persons; or
- Employees and other persons only.

Section 5.17(2) prohibits absolutely the delegation of any powers or duties to committees comprised of only persons other than Council members or employees.

The Council has approved the establishment of a Management Committee in accordance with section 5.8 of the Act.

The objectives of the Management Committee are:

- To assist Council with the implementation of the Catalina Project.
- To monitor the Catalina Project for compliance with approved Budget and Program.
- To assist in achieving Council's objectives for the Catalina Project.

The Committee will consist of a minimum of five members.

The local government shall provide secretarial and administrative support to the Committee.

The Committee shall generally meet on a bi-monthly basis, alternative to Council meeting dates.

Additional meetings shall be convened at the discretion of the presiding person.

The Committee is a formally appointed Committee of Council and is responsible to that body. The Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility. The Committee does not have any management functions and cannot involve itself in management processes or procedures.

The Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its term of reference in order to facilitate informed decision-making by Council.

The Council has delegated to the Committee, pursuant to sections 5.16 and 5.17 of the Act, the delegation of some powers and duties, as detailed in 7.3 below.

The Council has adopted the following as the Terms of References of the Committee:

1. Monitor Project Performance against the approved Project strategies, plans or concepts.
2. Monitor Project performance against the approved Project Budget and provide a report and recommendations to Council with respect to variances and proposed variation to the approved Project Budget.
3. Monitor Project Performance against the approved Project Annual Plan and report on any variations to the approved Project Annual Plan to Council.
4. Monitor the performance of the Development Manager against agreed KPIs and report Development Manager performance against them to Council.
5. Monitor performance of approved marketing and sales programmes for the Project and report progress to Council.
6. Make recommendations to Council with respect to the Project Annual Plan, Project Budget and Project Milestones.
7. Make recommendations to Council with respect to the Mid-Year Review of the Project Annual Plan, Project Budget and Project Milestones
8. Provide guidance, advice and assistance to Council with respect to advancing the Catalina Project.

Reports, recommendations and any decisions made under Delegated Authority by the Committee shall be presented to the next ordinary meeting of the Council.

6. REGISTER OF, AND RECORDS RELEVANT TO DELEGATIONS

The CEO must keep a register of all delegations made to the CEO and employees. The register records the power or duty delegated, the delegate's position, any conditions imposed on the delegation and where the power to delegate is derived from.

The register of delegations must be reviewed at least once every financial year.

A person who is delegated a power or duty is to keep records of the following in relation to the exercise of the power or discharge of the duty:

- (a) how the power was exercised, or duty discharged;
- (b) when the power was exercised, or duty discharged; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or discharge of the duty.

This provision does not necessarily require the keeping of a register and other efficient record keeping practices would be sufficient. However, it is recommended that such systems provide for accessible accountability of the performance of these tasks.

7. DELEGATIONS

7.1 *Local Government Act 1995*

7.1.1 EMERGENCY RESPONSE

Function to be performed:	Authority to engage and deploy equipment in an emergency.
Conditions:	Delegated authority may only be used where there is imminent or substantial risk to public safety or property.
Statutory Reference:	<i>Local Government Act 1995</i> , s3.34
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Manager Project Coordination
Conditions on s5.44 delegates:	Delegated authority may only be used where there is imminent or substantial risk to public safety or property.
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	3 August 2006

7.1.2 PURCHASE ORDERS

Function to be performed:	<p>Authority to place and/or approve purchase orders:</p> <ul style="list-style-type: none"> • With formally contracted suppliers in accordance with the Procurement Policy and <i>Local Government Act 1995</i>. • Non-contracted and non-accredited suppliers in accordance with the Procurement Policy and <i>Local Government Act 1995</i>.
Conditions:	<p>The delegation is subject to:</p> <ul style="list-style-type: none"> • Budget provision or budget allowance policy; • Procurement Policy.
Statutory Reference:	<p><i>Local Government Act 1995</i>, s6.10 <i>Local Government (Financial Management) Regulations 1996</i>, r12(1)(a)</p>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Manager Project Coordination Executive Assistant
Conditions on s5.44 delegates:	As above
Relevant Local Law, Policy or Management Practice:	TPRC Procurement Policy
Initial Council adoption:	3 August 2006

7.1.3 TENDERS, EXPRESSIONS OF INTEREST AND OTHER PROCUREMENT PROCESSES

<p>Function to be performed:</p>	<p>Authority to undertake a procurement process:</p> <ul style="list-style-type: none"> • Publicly invite tenders before entering into a contract for the supply of goods and services if the consideration under the contract is or is expected to be, worth in excess of \$250,000. • Determine the criteria and weightings for evaluating a response to a procurement process. • Vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation. • Assess tender responses by means of a written evaluation of the extent to which each respondent satisfies the criteria. • Recommend which tender respondent best maximises outcomes for TPRC. • Request quotations and procure goods and services if the consideration under the contract is or is expected to be less than \$250,000. • Engage with prequalified suppliers under the WALGA Preferred Supplier Program or State Government Common Use Agreement.
<p>Conditions:</p>	<ul style="list-style-type: none"> • Tenders can only be invited for those goods and services identified in the approved or amended annual budget. • Acceptance of the most advantageous tender is subject to Section 3.57(1) of the <i>Local Government Act 1995</i>, and Regulation 11(1) of the <i>Local Government (Functions and General) Regulations 1996</i>. • Part 4, Division 2 of the <i>Local Government (Functions and General) Regulations 1996</i> must be followed. • Subject to the requirements and conditions of TPRC's Procurement Policy.

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Statutory Reference:	<i>Local Government Act 1995, s3.57</i> <i>Local Government (Functions and General) Regulations 1996, Part 4, Division 2</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	TPRC Procurement Policy
Initial Council adoption:	3 August 2006

7.1.4 AUTHORITY TO CANCEL UNPRESENTED STALE CHEQUES

Function to be performed:	Authority to cancel unpresented stale cheques to the value of \$20,000.
Conditions:	An alternative method of payment for the amount owing must be explored prior to the cheque being cancelled.
Statutory Reference:	r11, <i>Local Government (Financial Management) Regulations 1996</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	Nil
Relevant Local Law, Policy or Management Practice:	TPRC Financial Management Policy
Initial Council adoption:	11 February 2010

7.1.5 EXTENSION OF CONTRACTS

Function to be performed:	Authority to approve an extension to a contract awarded through a tender or expression of interest process.
Conditions:	<p>Subject to:</p> <ul style="list-style-type: none"> • The tender specifying the provisions of the option term; • The contract providing for the extension; and • The extension being on the same terms and conditions as the last year of the original term but does allow for price increases in line with the contract provisions (if any) for the price.
Statutory Reference:	r11, <i>Local Government (Function and General) Regulations 1996</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	TPRC Procurement Policy
Initial Council adoption:	24 June 2010

7.1.6 PAYMENTS FROM THE MUNICIPAL FUND OR TRUST FUND

Function to be performed:	Authority to make payments and transfers from the municipal fund or the trust fund.
Conditions:	<ul style="list-style-type: none"> • Subject to the requirements of Regulation 13 of the <i>Local Government (Financial Management) Regulations 1996</i>. • Each payment from the municipal fund or the trust fund is to be listed and reported to Council on a monthly basis at the next Ordinary Meeting of Council.
Statutory Reference:	r12(1), <i>Local Government (Financial Management) Regulations 1996</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	TPRC Payment of Accounts Policy TPRC Payment of Distributions Policy
Initial Council adoption:	3 August 2006

7.1.7 INVESTMENT OF FUNDS AND THEIR PROCEDURES

Function to be performed:	Authority to invest surplus funds within the limits of the Investment Policy.
Conditions:	That the delegated person adheres to the provisions of the Investment Policy.
Statutory Reference:	s6.14, <i>Local Government Act 1995</i> r19, <i>Local Government (Financial Management) Regulations 1996</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	TPRC Investment Policy
Initial Council adoption:	24 June 2010

7.1.8 VARIATIONS TO CONTRACTS FOR GOODS AND SERVICES

Function to be performed:	Vary a contract with the successful tenderer for the supply of goods and services in accordance with Regulation 12A of the <i>Local Government (Function and General) Regulations 1996</i> .
Conditions:	<ul style="list-style-type: none"> • The variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or • The variation is a renewal or extension of the term of the contract as described in regulation 11(2)(j).
Statutory Reference:	r21A, <i>Local Government (Functions and General) Regulations 1996</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil.
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	TPRC Procurement Policy
Initial Council adoption:	24 June 2010

7.1.9 DISPOSAL OF PROPERTY, LAND AND BUILDINGS (PUBLIC AUCTION, PUBLIC TENDER OR PRIVATE TREATY)

Function to be performed:	Authority to set the sale price, advertise, consider submissions and manage the disposal of all property and lots by private treaty under Section 3.58(3) of the <i>Local Government Act 1995</i> .
Conditions:	Subject to the value being less than \$1,000,000.
Statutory Reference:	s3.58, <i>Local Government Act 1995</i>
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.42 delegates:	<p>Authority to determine the sale price for single residential lots subject to the average of lot pricing for a stage being higher than the approved Project Cashflow. Where there is a difference between the average of lot pricing supplied by the Development Manager and the independent valuer, then the higher of the lot pricing will be determined as the sale price.</p> <p>In the event that the determined average of lot pricing is less than the lot pricing for a stage in the Project Cashflow the CEO shall refer the matter back to Council before exercising this delegation.</p>
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	13 December 2012

7.1.10 SALES CONTRACT FINANCE AND SETTLEMENT EXTENSIONS AND CANCELLATIONS

Function to be performed:	Authority to determine finance and settlement extensions and contract cancellations for the sale of lots.
Conditions:	Nil
Statutory Reference:	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • s3.58 Disposing of Property • s3.59 Commercial enterprises by local governments
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	N/A
Initial Council adoption:	19 December 2013

7.1.11 DISPLAY VILLAGE LOTS TENDERS

Function to be performed:	Authority to grant approval to proceed with a Display Village Lots Tender and to allocate lots to builders in accordance with the procedure outlined in the associated Tender criteria.
Conditions:	Nil
Statutory Reference:	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> • s3.58 Disposing of Property • s3.59 Commercial enterprises by local governments
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	N/A
Initial Council adoption:	19 December 2013

7.2 GENERAL

7.2.1 CONDITIONS OF APPROVAL AND SERVICING INFRASTRUCTURE AGREEMENTS

Function to be performed:	Authority to approve and negotiate conditions of approval and servicing infrastructure agreements relating to subdivision, development, landscaping applications and servicing plans for the Tamala Park Project and requirements and scheme costs under the City of Wanneroo Town Planning Scheme.
Conditions:	Subject to Budget provision and consistent with TPRC objectives and, as appropriate, approved TPRC policies and strategies.
Statutory Reference:	Nil
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	18 August 2011

7.2.2 VARIATION OF THE SALE PRICE OF A SALES CONTRACT

Function to be performed:	Authority to vary the sale price of sales contracts for lots.
Conditions:	<p>Subject to:</p> <ul style="list-style-type: none"> • A recommendation from the Development Manager supporting the variation; • The variation not being greater than 10% of the original contract price; • Use of the delegation be reported to Council.
Statutory Reference:	Nil
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	10 December 2020

7.2.3 SPONSORSHIP

Function to be performed:	Authority to approve sponsorship requests to a maximum of \$2,000.
Conditions:	Subject to determination of requests in accordance with TPRC Sponsorship Policy.
Statutory Reference:	Nil
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	18 August 2011

7.2.4 BULK EARTHWORKS, CIVIL, INFRASTRUCTURE AND LANDSCAPE WORKS

Function to be performed:	Authority to grant approval to bulk earthworks, civil, infrastructure and landscape works.
Conditions:	Subject to rates being in accordance with Council approved rates for the associated works and there being a budget allocation.
Statutory Reference:	Nil
s5.42 Delegation to:	Chief Executive Officer
s5.44 Delegation to:	Nil
Conditions on s5.44 delegates:	N/A
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	18 August 2011

7.3 DELEGATIONS TO COMMITTEES

7.3.1 MODIFICATIONS TO CIVIL ENGINEERING OF STAGES

Function to be performed:	Approval of modifications to the civil engineering of stages, subject to Clause 4(a), Regional Purpose, Establishment Agreement Tamala Park Regional Council 2006.
Conditions:	Subject to any modifications being consistent with TPRC Objectives, Strategies, Policies, approved Annual Plan and Budget.
Statutory Reference:	s3.64 and s3.65, <i>Local Government Act 1995</i>
s5.16 Delegation to:	Management Committee
Relevant Local Law, Policy or Management Practice:	Establishment Agreement TPRC Procurement Policy
Initial Council adoption:	16 April 2020

7.3.2 MODIFICATIONS OF STAGES OF THE SUBDIVISION

Function to be performed:	Approval for modifications of stages of the subdivision including the number of lots, lot sizes and configuration, mix and locations, subject to Clause 4(a), Regional Purpose, Establishment Agreement Tamala Park Regional Council 2006.
Conditions:	Subject to any modifications being consistent with TPRC Objectives, Strategies, Policies, approved Annual Plan and Budget.
Statutory Reference:	s3.64 and s3.65, <i>Local Government Act 1995</i>
s5.16 Delegation to:	Management Committee
Relevant Local Law, Policy or Management Practice:	Establishment Agreement TPRC Procurement Policy
Initial Council adoption:	16 April 2020

7.3.3 SALES PROCEDURES

Function to be performed:	Approval to change sales procedures, subject to the requirements of Section 3.58 of the <i>Local Government Act 1995</i> .
Conditions:	Subject to any Marketing Strategies and Programmes being consistent with TPRC Objectives, Strategies, Policies, approved Annual Plan and Budget.
Statutory Reference:	s3.58, <i>Local Government Act 1995</i>
s5.16 Delegation to:	Management Committee
Relevant Local Law, Policy or Management Practice:	Establishment Agreement TPRC Procurement Policy
Initial Council adoption:	16 April 2020

7.3.4 APPOINTMENT OF PROJECT CONSULTANTS AND CONTRACTORS

Function to be performed:	The appointment of project consultants and contractors and to enter into a contract with a value more than \$250,000 and less than \$3,000,000, subject to Regulation 11(1) of the <i>Local Government (Functions and General) Regulations 1996</i> and s3.57(1) of the <i>Local Government Act 1995</i> .
Conditions:	<ul style="list-style-type: none"> • Tenders can only be invited for those goods and services identified in the approved or amended annual budget. • Acceptance of the most advantageous tender is subject to Section 3.57(1) of the <i>Local Government Act 1995</i>, and Regulation 11(1) of the <i>Local Government (Functions and General) Regulations 1996</i>. • Part 4, Division 2 of the <i>Local Government (Functions and General) Regulations 1996</i> must be followed. • Subject to the requirements and conditions of TPRC's Procurement Policy.
Statutory Reference:	<i>Local Government Act 1995, s3.57</i> <i>Local Government (Functions and General) Regulations 1996, Part 4, Division 2</i>
s5.16 Delegation to:	Management Committee
Relevant Local Law, Policy or Management Practice:	TPRC Procurement Policy
Initial Council adoption:	16 April 2020

7.3.5 MARKETING STRATEGIES

Function to be performed:	Approval of Marketing Strategies and Programmes, subject to clause 4(a), Regional Purpose, Establishment Agreement, Tamala Park Regional Council 2006.
Conditions:	Subject to any Marketing Strategies or Programmes being consistent with TPRC Objectives, Strategies, Policies, approved Annual Plan and Budget.
Statutory Reference:	Nil
s5.16 Delegation to:	Management Committee
Relevant Local Law, Policy or Management Practice:	Nil
Initial Council adoption:	16 April 2020