

COONAMBLE

SHIRE COUNCIL

BUSINESS PAPER

Supplementary Reports Ordinary Council Meeting Wednesday, 14 September 2022

Date: Wednesday, 14 September 2022

Time: 4.30pm

**Location: Shire Chamber
Coonamble**

**Ross Earl
General Manager**

Order Of Business

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10 REPORTS TO COUNCIL

10.1 DELEGATIONS OF AUTHORITY TO THE GENERAL MANAGER

File Number: D4
Author: Ross Earl-General Manager
Authoriser: Ross Earl, General Manager
Annexures: 1. General Managers Delegation

PURPOSE

Council is required under Section 380 of the *Local Government Act 1993* to review its delegations within twelve (12) months if each term of office.

BACKGROUND

Council has previously reviewed and determined the delegations to the Mayor and Deputy Mayor at the Extra-Ordinary Meeting held on 11 January 2022. This report deals specifically with the delegations to the General Manager who is the only employee to whom Council can delegate 377 (1).

The General Manager in turn delegates functions to the appropriate staff within Council with such delegations recorded on a delegations register. Whilst the current delegations to the General Manager are comprehensive, it is felt that a broader delegation would be appropriate to cater for the myriad pieces of legislation which imparts on Council on a daily basis and importantly changes to that legislation.

(a) Relevance to Integrated Planning and Reporting Framework

L1.4.4 Governance is open and transparent.

(b) Financial Considerations

Nil

COMMENTARY

The *Local Government Act 1993* under section 377 enables Council to delegate its functions to enable the smooth operation of Council, as follows:

377 General power of the council to delegate

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following —
- (a) the appointment of a general manager,
 - (b) the making of a rate,
 - (c) a determination under section 549 as to the levying of a rate,
 - (d) the making of a charge,

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- (e) *the fixing of a fee,*
 - (f) *the borrowing of money,*
 - (g) *the voting of money for expenditure on its works, services or operations,*
 - (h) *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
 - (i) *the acceptance of tenders to provide services currently provided by members of staff of the council,*
 - (j) *the adoption of an operational plan under section 405,*
 - (k) *the adoption of a financial statement included in an annual financial report,*
 - (l) *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,*
 - (m) *the fixing of an amount or rate for the carrying out by the council of work on private land,*
 - (n) *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,*
 - (o) *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#),*
 - (p) *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,*
 - (q) *a decision under section 356 to contribute money or otherwise grant financial assistance to persons,*
 - (r) *a decision under section 234 to grant leave of absence to the holder of a civic office,*
 - (s) *the making of an application, or the giving of a notice, to the Governor or Minister,*
 - (t) *this power of delegation,*
 - (u) *any function under this or any other Act that is expressly required to be exercised by resolution of the council.*
- (1A) *Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if—*
- (a) *the financial assistance is part of a specified program, and*
 - (b) *the program is included in the council’s draft operational plan for the year in which the financial assistance is proposed to be given, and*
 - (c) *the program’s proposed budget for that year does not exceed 5 per cent of the council’s proposed income from the ordinary rates levied for that year, and*

- (d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.*
- (2) *A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.*
- (3) *A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation.*

(a) Governance/Policy Implications

Under Section 335 of the Local Government Act 1993, the General Manager shall be responsible for the efficient and effective operation of the organisation.

(b) Legal Implications

The employee of the Council in whom the Council has vested the functions of General Manager to exercise the powers, functions, duties and authorities contained in the *Local Government Act 1993* and other legislation (including Acts, Regulations, Planning Instruments, Orders and Ministerial Directives).

(c) Social Implications

There are no social implications attached to this report.

(d) Environmental Implications

There are no environmental implications attached to this report.

(e) Economic/Asset Management Implications

There are no Economic or Asset Management implications arising from this report.

(f) Risk Implications

There are no risk implications attached to this report.

CONCLUSION

The proposed Delegation of Authority to the General Manager is as follows:

DELEGATIONS TO GENERAL MANAGER

In order to provide for the expedient exercise of its powers and duties and the efficient management of its business and responsibilities, Coonamble Shire Council hereby delegates, in accordance with the provisions of Section 377 of the Local Government Act 1993, to the employee of the Council in whom the Council has vested the function of General Manager, the authority to exercise

the powers, functions, duties and responsibilities arising from legislation specified in schedule 1 below, subject to the limitations in schedule 2 below:

Schedule 1

- 1. The powers, functions, duties and authorities of the Council as specified in***
 - i. the Local Government Act 1993 and Regulations, and***
 - ii. all other Legislation and including Acts, Regulations, Planning Instruments, Orders and Ministerial Directions under which Council has powers, authorities, duties and functions.***

Schedule 2

- 1. Limitations arising from the provisions of the Local Government Act 1993 and all other legislation relevant to this delegation of Authority.***
- 2. All resolutions from time to time of Council directing the General Manager from time to time in the exercise of any powers, authorities, duties and functions.***

As the interim General Manager these delegations should be delegated to Ross David Earl for the period 14 September 2022 until 22 August 2023 unless revoked or amended earlier.

RECOMMENDATION

- 1. That Council notes the contents of this report.**
- 2. That the revised instrumental of delegation for the General Manager of Coonamble Shire be adopted.**
- 3. That the attached instrument of Delegation be provided to Ross David Earl effective from 14 September 2022 until revoked or amended.**



GENERAL MANAGERS DELEGATION

1. LEGISLATIVE REQUIREMENTS

In accordance with Section 335 of the *Local Government Act, 1993*, (Act) as amended, the General Manager shall have the following particular functions:

- a) To conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council,
- b) To implement, without undue delay, lawful decisions of the council,
- c) To advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,
- d) To advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council,
- e) To prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report,
- f) To ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions,
- g) To exercise any of the functions of the council that are delegated by the council to the general manager,
- h) To appoint staff in accordance with the organisation structure determined under his Chapter and the resources approved by the council,
- i) To direct and dismiss staff,
- j) To implement the council's workforce management strategy,
- k) Any further functions that are conferred or imposed on the general manager by or under this or any other Act.

2. DELEGATIONS

In order to provide for the expedient exercise of its powers and duties and the efficient management of its business and responsibilities, Coonamble Shire Council hereby delegates, in accordance with the provisions of Section 377 of the *Local Government Act 1993*, to **Ross David Earl**, the employee of the Council in whom the Council has vested the function of **General Manager**, the authority to exercise the powers, functions, duties and responsibilities arising from legislation specified in schedule 1 below, subject to the limitations in schedule 2 below:

Schedule 1

1. The powers, functions, duties and authorities of the Council as specified in
 - i. the *Local Government Act 1993* and Regulations, and
 - ii. all other Legislation and including Acts, Regulations, Planning Instruments, Orders and Ministerial Directions under which Council has powers, authorities, duties and functions.

Schedule 2

1. Limitations arising from the provisions of the Local Government Act 1993 and all other legislation relevant to this delegation of Authority.
2. All resolutions from time to time of Council directing the General Manager from time to time in the exercise of any powers, authorities, duties and functions.

3. PERIOD OF DELEGATION

These delegations will be effective from 14 September 2022 until 22 August 2023 unless revoked or amended.

4. REVIEW

The delegations will be reviewed as required and in the event of legislative changes impacting on the delegations. All amendments will be subject to a resolution of Council.

Title: GENERAL MANAGERS DELEGATIONS		
Department: GENERAL MANAGER		
Version	Date	Author
V1	14/09/2022	Ross Earl
Tim Horan MAYOR		

10.2 COONAMBLE WASTE MANAGEMENT FACILITY

File Number: G1 1
Author: Ross Earl-General Manager
Authoriser: Ross Earl, General Manager
Annexures: Nil

PURPOSE

The purpose of this report is to provide an update to Council in relation to the Draft Prevention Notice received from the Environmental Protection Authority (EPA) in respect of the receipt and handling of asbestos at the Coonamble Waste Management Facility.

BACKGROUND

As previously advised to Councillors via a memo, Council has received a Draft Prevention Notice under Section 96 of the Protection of the *Environment Operations Act 1997*.

That Draft Notice has now become a formal document and contains a provision that Council must **immediately** follow the directions below:

Cease causing or permitting any asbestos waste to be transported to and / or received at the premises until such time as a new asbestos pit has been constructed in line with the EPA's guidelines - '*Environmental Guidelines: Solid Waste Landfills, Second edition 2016*' and the requirements for asbestos waste under *The Protection of the Environment Operations (Waste) Regulation 2014*.

There are a number of other provisions which Council has to undertake, and they need to be completed by 13 March 2023.

Council has initiated action to cease the receipt of asbestos at the Waste Management Facility with the facility contractors, impacted asbestos removal contractors and other parties being informed as well as signage erected at the Waste Management Facility.

The issue has highlighted the need to expedite some of the recommendations of consultants appointed to look at the operations of the facility more generally.

It is proposed to undertake the finalisation of a Masterplan for the facility which will be looking at initiatives such as the construction of additional cells and the establishment of a waste transfer facility to allow more orderly disposal to take place.

The coordination of works required would stretch the already limited resources of the Environmental Services Department and such the addition of a new staff member with considerable expertise in the area has been engaged to facilitate the completion of the Masterplan and prepare costings for works required including those requested by the EPA. Mr Lindsay Mathison from Gilgandra has already commenced work.

At this stage any funds required will be taken from the Reserve established for the Waste Management Improvement works.

Once the Masterplan has been developed and a scope of works prepared, and estimates determined a further report will be tabled for Council's consideration.

(a) Relevance to Integrated Planning and Reporting Framework

E1.2 Support environmental initiatives which grow our contribution to broader environmental outcomes for future generations.

E1.3 Improve our strategies, plans and programs so that we successfully balance the sustainable waste expectations of our community within the resources available to us.

(b) Financial Considerations

There are funds held within the Waste Management Reserve to undertake the initial works required.

COMMENTARY

(a) Governance/Policy Implications

Council has a responsibility to comply with all legislation requirements.

(b) Legal Implications

Council has a legal responsibility to comply with all relevant legislation.

(c) Social Implications

The absence of a compliant facility would cause some difficulty and inconvenience to the residents within the shire.

(d) Environmental Implications

There is an environmental responsibility of Council to ensure that there are no adverse impacts caused on the environment.

(e) Economic/Asset Management Implications

The Waste Management Facility is an important community asset and should be managed as such.

(f) Risk Implications

The operation of a facility which is not legislatively compliant poses a risk to Council across numerous areas.

CONCLUSION

There needs to be considerable work undertaken to ensure that the Coonamble Waste Management Facility remains compliant and meets the needs of the community into the future.

RECOMMENDATION

- 1. That Council note the receipt of a Prevention Notice from the EPA in respect of the handling of asbestos at the Coonamble Waste Management Facility.**
- 2. That Council notes the fee of \$605.00 incurred for the issue of the notice.**
- 3. That Council endorses the action to immediately cease causing or permitting asbestos waste to be transported to and / or received at the Waste Management Facility, until such time as a new asbestos pit has been constructed in line with EPA guidelines.**
- 4. That Council notes the preparation of a Masterplan for the ongoing operation of the Coonamble Waste Management Facility.**
- 5. That funding of the development of the Masterplan be sourced from the Waste Management Reserve Fund.**
- 6. That on completion the Masterplan, complete with funding options be presented to Council for consideration.**