

**CHERBOURG ABORIGINAL
SHIRE COUNCIL**

REGISTER OF DELEGATIONS

Introduction

Position Statement

Council seeks to develop a quality of service which has, as its basis, a highly defined customer service ethic. As part of this service, Council seeks to ensure an efficient and timely response to administrative matters by the effective and responsible delegation of its authority in these matters where it is lawful and expedient to do so.

Purpose of the Registers

The Cherbourg Aboriginal Shire Council keeps two Registers which contain particulars of delegations made. They are the Register of Delegations by the Cherbourg Aboriginal Shire Council and the Register of Delegations by the Chief Executive Officer.

The Council may delegate its powers, subject only to certain exceptions, to:

- (a) the mayor; or
- (b) a standing committee or joint standing committee; or
- (c) the chairperson of a standing committee or joint standing committee; or
- (d) the chief executive officer.

The Register of Delegations by the Cherbourg Aboriginal Shire Council lists the matters in which the right to act or exercise a discretion has been so delegated by resolution of the Council. It contains the name or title of the person, or the name of the committee, to whom the powers are delegated. It identifies the powers delegated, including the statutory provisions permitting or requiring the exercise of the powers. It also contains a summary of the resolution by which the powers are delegated, including the date of the resolution. All powers are delegated subject to the conditions summarised in the General Guidelines which preface the powers delegated. Any further conditions to which a specific delegation is subject are summarised after the power delegated.

The Chief Executive Officer of the Council may also delegate certain of his powers (including powers delegated to him by the Council) to another employee of the Council.

The Register of Delegations by the Chief Executive Officer lists the matters in which the right to act or exercise a discretion has been so delegated by the Chief Executive Officer. It contains the name of the person, or the title of the office held by the person, to whom the powers are delegated. It identifies the powers delegated, including the provisions of the statute permitting or requiring the exercise of the powers and contains the date of the delegation. Once again, all powers are delegated subject to the conditions summarised in the General Guidelines. If a specific delegation is subject to any further conditions, those conditions are summarised after the power delegated.

General Guidelines

The general guidelines form part of the Register of Delegations by the Cherbourg Aboriginal Shire Council. The powers specified in that Register are delegated subject to these guidelines.

1.0 Delegation Guidelines

- 1.1 Delegates have the responsibility of making decisions on behalf of the Council. That means that decisions may be subject to appeal or enquiry as to inappropriate administrative procedures. Delegates are therefore expected to exercise their discretion in accordance with the provisions of the law as it would have applied to the Council were it making the decision.
- 1.2 In making decisions, delegates should make themselves aware of any specific Council policies, decisions, local laws etc. which may be relevant to the proposal. This is a key responsibility which forms an integral part of the delegation.
- 1.3 The delegation does not derogate from the power of the Council to act in any matter itself. Accordingly, decisions which appear to the delegate to be of public interest, controversial, or to have some special importance should be referred to the Council for determination. The exercise of this judgement should be such that decisions should be referred if the delegate has any doubts about the interest in or significance of the proposal.
- 1.4 A delegation does not cease to have effect merely because the person who was the specified officer or the holder of the specified office when the power was delegated ceases to be the officer or the holder of the office. The power may be exercised by the person for the time being occupying or acting in the office concerned.
- 1.5 A delegated power may be exercised only in accordance with any conditions to which the delegation is subject.
- 1.6 Subject to Paragraph 2.2 hereof, where a power to decide or approve an application is delegated in this register, the delegation includes the power to:
 - Approve the application;
 - Approve the application, subject to reasonable and relevant conditions; or
 - Refuse the application.
- 1.7 Where a power to do a thing is delegated in this register, the delegation includes the power not to do it.
- 1.8 A power to grant, issue, renew or approve a thing, includes where appropriate, the power to suspend or repeal it.
- 1.9 The symbol %LGA 2009+ where used in this register means the *Local Government Act 2009*.

2.0 Exceptions to Delegations

- 2.1 A power that, in an Act or statutory instrument, is required to be exercised by resolution of the Council, may not be delegated by Council. Such powers are expressly excepted from the delegations contained in this register.
- 2.2 The power to **refuse** an application made under the *Integrated Planning Act 1997* or Town Planning Scheme is expressly excepted from the delegations contained in this register.
- 2.3 Any application made under the *Integrated Planning Act 1997* where submissions oppose the application, is not to be determined under delegated authority.

No.	Delegate	<p style="text-align: center;">Power Delegated</p> <p style="text-align: center;">[All powers are delegated subject to the conditions summarised in the General Guidelines which form part of this Register. Any further conditions to which a specific delegation is subject are summarised after the power delegated]</p>	Source of Power	Date of Council Meeting
1	Chief Executive Officer	<p>To exercise the powers and functions of the Council in the administration and enforcement of laws and the institution and carriage of legal proceedings. This delegation includes the power and authority to do any act and to sign any document necessary or ancillary to the performing of these functions, including:</p> <ul style="list-style-type: none"> • the issue of Notices; • the waiving of fines; • the variation of application fees; • the making of Complaints pursuant to the Justices Act 1886; • the filing of an Appeal; and • but not including the power to compromise or settle legal proceedings without the prior approval of the Council, excluding public liability claims that are subject to the provisions of the <i>Personal Injuries Proceedings Act 2002</i> and the policy deductible applicable from time to time. <p>Conditions of Delegation</p> <p>(i) A show cause notice is to be issued before the commencement of court proceedings except in the case of actions involving public safety or in the case of emergency.</p> <p>(ii) Council to be informed on a monthly basis, of all court actions initiated.</p> <p>(iii) Council approval be obtained prior to making any termination payment offer not otherwise authorised by an Industrial Award or Contract of Service except where such payment relates to a payout associated with a voluntary redundancy and is made in accordance with a formally adopted policy.</p>	Local Government Acts	
2	Chief Executive Officer	To act as an authorised officer of the Council for the purpose of the administration and regulation of Council local laws.	LGA 2009 Chapter 15	

No.	Delegate	<p style="text-align: center;">Power Delegated</p> <p style="text-align: center;">[All powers are delegated subject to the conditions summarised in the General Guidelines which form part of this Register. Any further conditions to which a specific delegation is subject are summarised after the power delegated]</p>	Source of Power	Date of Council Meeting
3	Chief Executive Officer	<p>To make, vary or discharge contracts for the carrying out of work or for the supply of goods or services for emergencies or where the spending incurred by the making, varying or discharging of the contract has been provided for in the approved budget for the financial year when the making, varying or discharging happens, or is permitted expenditure pursuant to Section 522 of the Act.</p> <p>Conditions of Delegation</p> <p>Council to be informed through the Committee of the Council on a monthly basis of -</p> <ul style="list-style-type: none"> ▪ all contracts made for values in excess of \$100,000; and ▪ all variations to contracts where the additional cost to Council is 10% of the contract value or \$20,000, whichever is the greater. 	LGA 2009 Chapter 7 Part 6 S26O	21/10/2008
4	Chief Executive Officer	<p>To dispose of goods, assets, plants and equipment that are surplus to Council's requirements.</p> <p>Condition of Delegation</p> <p>Council to be informed, through the Committee of the Council on a monthly basis, of the disposal of goods etc. other than as trade ins, which have a value in excess of \$5,000.</p>	LA 2009 Chapter 7	21/10/2008
5	Chief Executive Officer	<p>To approve applications made under any Act or statutory instrument to grant, issue, renew, cancel, revoke or approve the transfer of, any licence, permit, registration, consent, approval, or authority for the implementation of a proposal, provided that no objections have been lodged in respect to the application.</p> <p>Condition of Delegation</p> <p>Relevant applications to comply in all respects with the provisions of the relevant Act or statutory instrument and Council's policy.</p>	Local Government Acts	21/10/2008
6	Chief Executive Officer	<p>To exercise the powers of the Assessment Manager under the Integrated Planning Act.</p> <p>Condition of Delegation</p> <p>Council to be informed at each meeting of the Committee of the Council of the Status of current applications for Material Change of Use requiring Impact Assessment.</p>	Local Government Acts	21/10/2008
7.	Chief Executive Officer	To sign cheques and other financial instruments.	LGA 2009 Chapter 7	21/10/2008

No.	Delegate	Power Delegated [All powers are delegated subject to the conditions summarised in the General Guidelines which form part of this Register. Any further conditions to which a specific delegation is subject are summarised after the power delegated]	Source of Power	Date of Council Meeting
8.	Chief Executive Officer	To invest funds subject to Council's Investment Policy. Condition of Delegation Council to be informed, through the Committee of the Council on a monthly basis, of current investments.	LGA 2009 Chapter 7	21/10/2008
9.	Chief Executive Officer	To approve the payment of accounts. Condition of Delegation Council to be informed, on a monthly basis, of the payment of accounts.	LGA 2009 Chapter 7	21/10/2008
10	Chief Executive Officer	To make decisions about the provision of financial assistance to staff, other than full time permanent staff, for the purchase of the corporate wardrobe up to the level of assistance made available by Council to full time permanent staff.	LGA 2009	21/10/2008
11	Chief Executive Officer	To make decisions about the installation and removal of official traffic signs.	Local Government Acts LGA 2009 Chapter 3	21/10/2008
12	Chief Executive Officer	To implement Council's authority under the Hawkers Act 1984.	Local Government Acts	21/10/2008
13.	Chief Executive Officer	To make decisions about the removal of any tree which is dead or which, in the opinion of the Works Supervisor, is so damaged or diseased that it cannot be saved or would not reasonably and feasibly become an appropriate tree for the Shire.	Local Law	21/10/2008
14	Chief Executive Officer	To approve limited closure of roads (temporary obstruction to traffic, in the interests of public safety, etc.).	LGA	21/10/2008
15	Chief Executive Officer	To provide store items to the State Emergency Service to a maximum value of \$250 per item.	LGA	21/10/2008

No.	Delegate	Power Delegated [All powers are delegated subject to the conditions summarised in the General Guidelines which form part of this Register. Any further conditions to which a specific delegation is subject are summarised after the power delegated]	Source of Power	Date of Council Meeting
16.	Chief Executive Officer	To appoint persons as authorised persons and to sign identity cards for authorised persons.	LGA	21/10/2008
17.	Chief Executive Officer	To make determinations affecting Council Services (Water, Sewer, Stormwater). Condition of Delegation Council to be informed on a monthly basis, of determinations.		21/10/2008
18.	Chief Executive Officer	To approve the writing-off of individual debts due to Council up to a value of \$1000 and which are deemed to be irrecoverable or uneconomic to recover. Condition of Delegation Council to be informed, on a monthly basis, of debts in excess of \$500 which have been written off and of the reasons therefore.	LGA	21/10/2008
19.	Chief Executive Officer	To exercise the powers devolved to Council for the administration and enforcement of the whole or part of an environmental protection policy, the issue of environmental authorities or other relevant matters in accordance with Section 514 of the Environmental Protection Act 1994.	Local Government Acts	21/10/2008
20	Chief Executive Officer	To approve write-off of stores, assets and debts up to a value of \$200 per individual item. Condition of Delegation Council to be informed, through the Committee of the Council on a monthly basis, of write-offs valued in excess of \$200 for any individual item.	LGA	21/10/2008
21	Chief Executive Officer	To exercise the powers conferred to Council by virtue of the provisions of Section 21 of the Food Act 1981 for the serving of an order, in writing, on the proprietor of a food store, food vehicle or equipment to put into a clean and sanitary condition such food store, food vehicle or equipment. Condition of Delegation Council to be informed on a monthly basis, of closure orders on premises.	Local Government Acts	21/10/2008
22	Chief Executive Officer	To issue a certificate about the category, alignment and levels of roads in its area; or about the fact that the alignment or level of a road in its area has not been fixed.	LGA 1993 Chapter 13	21/10/2008

No.	Delegate	Power Delegated [All powers are delegated subject to the conditions summarised in the General Guidelines which form part of this Register. Any further conditions to which a specific delegation is subject are summarised after the power delegated]	Source of Power	Date of Council Meeting
23.	Mayor	To authorise all aspects of the staging of civic receptions and Council functions.	LGA 1993 Chapter 4	21/10/2008
24.	Chief Executive Officer	To make an ex-gratia payment of an amount not exceeding \$1,000 when dealing with liability claims made against the Council, where satisfied that, although no legal liability attaches to Council, the circumstances are of a nature as to warrant such action.	LGA 1993 Chapter 6	21/10/2008
25	Chief Executive Officer	Subject to the relevant industrial award or agreement, to determine the terms of employment for employees appointed by the Chief Executive Officer subject to compliance with any Council policies or directives.	Section 472 LGA 1993	21/10/2008
26	Chief Executive Officer	To accept and appoint authorised persons to enforce delegated powers of the <i>Environmental Protection (Waste Management) Regulations 2000</i> and the <i>Environmental Protection (Water) Policy 1997</i> , as described in these Instruments of Delegation including any future replacement of such Instruments of Delegation from the Environmental Protection Agency.	EPA 1994	21/10/2008
27.	Chief Executive Officer	To take one or more of the following steps to control offensive or abusive conduct by customers at the Cherbourg Fresh Shop. <ol style="list-style-type: none"> 1. Warning to the offender to cease the conduct immediately 2. Direct the offender to immediately vacate the premises and not return that day 3. Direct the offender to immediately vacate the premises and not return until the expiration of another specified period, such direction to be followed up by letter addressed to the offender 4. Call the police to enforce these directions if the offender refuses to comply or re-enters the premises before the end of the specified period <p>This delegation in no way implies that the Retail Manager is permitted to use force to carry out these directions.</p>	Local Government Act	23-2-09
28.	Chief Executive Officer	To determine financial assistance to individuals and teams, upon the receipt of properly made applications, in accordance with the policy statement entitled <i>Sporting Representations</i> adopted by council on the 17 th March, 2009	Local Government Act and Council Policy Statement	17-3-09

No.	Delegate	Power Delegated [All powers are delegated subject to the conditions summarised in the General Guidelines which form part of this Register. Any further conditions to which a specific delegation is subject are summarised after the power delegated]	Source of Power	Date of Council Meeting
29.	Chief Executive Officer	To approve properly made applications for use of Council vehicles by Portfolio Councillors and Approved Group in accordance with the policy statement entitled %Portfolio Councillors and Approved Groups- Use of Council Vehicles+adopted by council on the 17 th March 2009	Local Government Act and Council Policy	17-3-09
30.	Chief Executive Officer	To select and appoint a person or persons to be a Complaints Officer to investigate complaints in accordance with the General Complaints Process under the Local Government Act 1993	Local Government Act	21-4-09
31.	Chief Executive Officer	To assist eligible persons (Aged or Infirm) in the maintenance of their properties where self help is an unfair burden on the householder and other assistance is not readily available. Refer Council policy %Mowing of Yards and Surrounds- Aged or Infirm persons+	Local Government Act	19-5-09
32.	Chief Executive Officer	To implement the conditions for use of Council motor vehicles that are assigned to designated employees for work use in accordance with the policy statement %Staff Use of Vehicles+	Local Government Act	20-7-09