



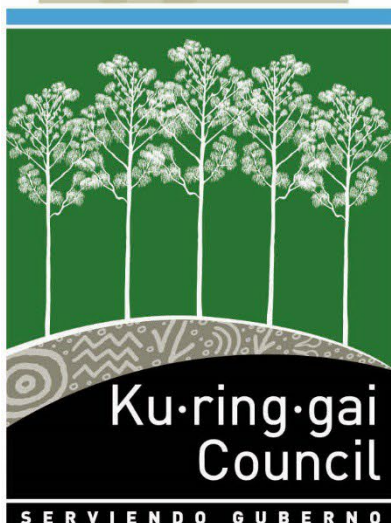
Ku-ring-gai Council

Roles and Delegations of Council and the General Manager

Version Number 2

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Roles and delegations of Council and the General Manager

Contents

1	Introduction	5
2	The role of the governing body of council	6
3	The role of individual councillors	Error! Bookmark not defined.
4	The role and delegations of the Mayor	Error! Bookmark not defined.
	Delegation of functions to the Mayor and Deputy Mayor	8
5	The role and delegations of the General Manager	Error! Bookmark not defined.
	Functions that cannot be delegated to the General Manager	10
	Delegations to the General Manager	11

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Related Document Information, Standards & References

Related Legislation:	Local Government Act 1993 Local Government (General) Regulation 2021	
Related Policies (Council & Internal)	Code of Conduct Procurement Policy	
Other References	Councillor Handbook (NSW Office of Local Government), September 2024 Guidelines for the Appointment and Oversight of General Managers (NSW Office of Local Government), 2022	

Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	16 November 2022	TBC	Manager Governance and Corporate Strategy	First Version as Controlled Document adopted by Council 15 November 2022 resolution 247
2	TBC	TBC	Manager Governance and Corporate Strategy	Must be reviewed during the first 12 months of each term of office. Minor changes to expense limit of Mayoral donations.

1 INTRODUCTION

The elected council oversees the activities of the council. It is the role of elected councillors to represent community views when making decisions on services, infrastructure, planning and regulatory matters. It is the job of council staff to advise councillors and implement their resolutions.

The general manager is the most senior member of staff and is responsible to the council for carrying out council decisions and policy and overseeing the day-to-day operation of the council.

The general manager provides the link between the elected council and its employees. While all council staff have a duty to carry out council decisions, they are responsible to the general manager, not the councillors. Individual councillors cannot direct staff in their day-to-day activities. However, this is counterbalanced by the responsibility of general managers to provide information, guidance and support to councillors to make good decisions.

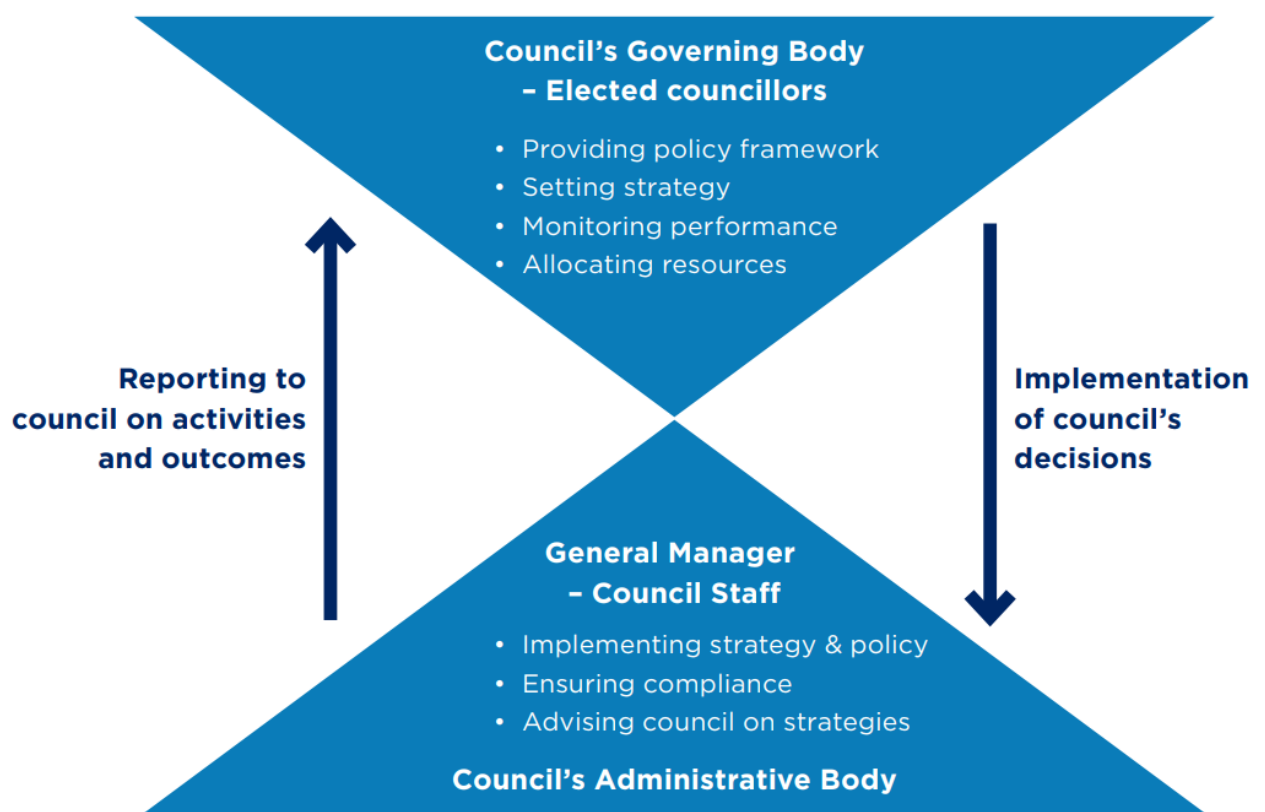


Figure 1: Key council relationships (from NSW Office of Local Government's Councillor Handbook, December 2021)

The roles of councillors and the General Manager are defined in the *Local Government Act 1993* (*the Act*). Ku-ring-gai Council delegates some additional functions to the Mayor and

Deputy Mayor, and Council may delegate functions to the General Manager under the Act. The roles and delegations of these key Council positions are detailed in this document.

2 THE ROLE OF THE GOVERNING BODY OF COUNCIL

The role of the governing body is described in section 223 of the *Local Government Act 1993* as follows:

- (a) to direct and control the affairs of the council in accordance with this Act,*
- (b) to provide effective civic leadership to the local community,*
- (c) to ensure as far as possible the financial sustainability of the council,*
- (d) to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council,*
- (e) to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,*
- (f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,*
- (g) to keep under review the performance of the council, including service delivery,*
- (h) to make decisions necessary for the proper exercise of the council's regulatory functions,*
- (i) to determine the process for appointment of the general manager by the council and to monitor the general manager's performance,*
- (j) to determine the senior staff positions within the organisation structure of the council,*
- (k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,*
- (l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately.*

As members of the governing body, and in the interests of ensuring the organisation operates effectively to achieve the best outcomes for the community, councillors should endeavour to work constructively with council staff that are responsible for implementing council decisions. This need is reflected in the Act which requires the governing body of council to consult with the General Manager in directing and controlling the affairs of the council.

3 THE ROLE OF INDIVIDUAL COUNCILLORS

Section 232 of the Act prescribes the role of individual councillors as follows:

- (a) to be an active and contributing member of the governing body*
- (b) to make considered and well-informed decisions as a member of the governing body*
- (c) to participate in the development of the integrated planning and reporting framework*
- (d) to represent the collective interests of residents, ratepayers and the local community*
- (e) to facilitate communication between the local community and the governing body*
- (f) to uphold and represent accurately the policies and decisions of the governing body*
- (g) to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.*

The Act makes it clear that councillors are individually accountable to the local community for the performance of the council, and Councillors have an obligation to make decisions that are in the best interests of the community as a whole.

4 THE ROLE AND DELEGATIONS OF THE MAYOR

The Mayor is considered to be the voice of the council and the leader of the community. The Mayor has the same role and responsibilities as councillors but has additional responsibilities that reflect their leadership role. The role of the Mayor is described in section 226 of the Act:

- (a) to be the leader of the council and a leader in the local community,*
- (b) to advance community cohesion and promote civic awareness,*
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,*
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,*
- (e) to preside at meetings of the council,*
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,*
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,*

- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,*
- (i) to promote partnerships between the council and key stakeholders,*
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,*
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,*
- (l) to carry out the civic and ceremonial functions of the mayoral office,*
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,*
- (n) in consultation with the councillors, to lead performance appraisals of the general manager,*
- (o) to exercise any other functions of the council that the council determines.*

Delegation of functions to the Mayor and Deputy Mayor

Ku-ring-gai Council delegates some additional functions to the Mayor and Deputy Mayor. In addition of the roles in the Act, the Mayor is delegated the following authorities:

- (a) To approve individual donations up to \$425, to the limit of \$6,800 per year of term. The limit will be reduced proportionally for part year terms. The Mayoral donations will be reported to Council after each year of term.*
- (b) To purchase artwork from Ku-ring-gai Art Society to the limit of \$1,300 per year of term, reduced proportionally for part year terms.*
- (c) To authorise expenditure for minor civic receptions for visitors up to a limit of \$850 for any one reception.*
- (d) To approve the General Manager's expenses, in line with the General Manager's contact of employment and relevant council policies.*
- (e) To acknowledge receipt of gifts and benefits disclosures from the General Manager, in line with Code of Conduct requirements.*
- (f) To authorise leave for the General Manager.*
- (g) To appoint, after consultation with the General Manager, a temporary General Manager during the absence of the General Manager on leave.*

Section 231(3) of the Act provides that the Deputy Mayor may exercise any function of the Mayor at the request of the Mayor, if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor. In these circumstances, the Deputy Mayor may exercise the delegations granted by Council to the Mayor.

5 THE ROLE AND DELEGATIONS OF THE GENERAL MANAGER

The General Manager's role is to implement council decisions without undue delay and carry out functions imposed by legislation. Council's governing body monitors the implementation of its decisions via reports to Council.

The General Manager is the most senior employee of council and is the only member of staff selected and appointed by councillors. The functions of the General Manager are described in section 335 of the Act:

- (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 this 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 other functions that are conferred or imposed on the general manager by or under this or any other Act.*

Functions that cannot be delegated to the General Manager

Under section 377 of the Act, council may delegate functions of the council to the General Manager, 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,*
- (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*

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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.*

The governing body of council may by resolution delegate certain functions to the General Manager.

The General Manager may, in turn, delegate functions to other staff (with some exceptions). However, the General Manager retains responsibility to ensure that any sub-delegated function is carried out appropriately.

Delegations to the General Manager

Council delegates to the General Manager all functions of the Council under the *Local Government Act 1993* and any other Act which can be delegated, excluding:

- (a) those functions specified in clauses (a) to (u) of section 377(1) of the Local Government Act 1993*
- (b) the acceptance of tenders for an amount greater than \$250,000¹*
- (c) writing off any debts for an amount greater than \$10,000*
- (d) writing off any rates or charges for an amount greater than \$100*
- (e) any functions expressly required, by a resolution of Council made after this date, to be exercised by resolution of Council.*

The General Manager may authorise the purchase of goods, materials, works and services required for the functioning of the Council and to incur expenditure for such goods, materials, works and services where provision has been made in the approved budget, it is authorised under legislation, adopted Council policy or resolution of Council.

¹ Under section 55 of the *Local Government Act 1993* and Council's Procurement Policy, Council must invite tenders before entering into contracts over \$250,000 (or other amount prescribed by the regulations). Section 55(3) of the Act specifies exemptions to tender requirements, including pre-approved procurement, inter-governmental agreements, inter-council agreements, real property transactions, employment contracts, legislative exemptions, emergencies, public-private partnerships (PPPs), environmental upgrade agreements and electoral administration agreements.

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