

BACKGROUND

Council regularly engages persons and entities (Other Parties) to undertake activities on behalf of Council which, through limitations on Council resources or expertise, Council itself is unable to fulfil. These Other Parties are required to secure their own Public and Products Liability and Professional Indemnity Insurance coverage in order to help protect Council from exposure to financial liabilities. In cases where Other Parties cannot reasonably secure their own Public and Products Liability and Professional Indemnity Insurance coverage, Council may consider extending its Public and Products Liability and Professional Indemnity Insurance policy to cover Other Parties for the activities they are undertaking on behalf of Council.

OBJECTIVE

The main objectives of this policy are to:

- extend Council's Public and Products Liability and Professional Indemnity Insurance coverage to Other Parties which exercise Council's functions on behalf of Council in circumstances where contractual arrangements or volunteer management are not appropriate and where the Other Parties are unable to reasonably secure their own Public and Products Liability and Professional Indemnity insurance coverage; and
- ensure risks associated with the delegated functions are adequately identified consistent with Council's Enterprise-wide Risk Management policy and properly managed in order to minimise Council's exposure to financial liabilities consistent with Council's civil liability obligations and insurance arrangements.

POLICY STATEMENT

- 1 Council may delegate (or the General Manager may sub-delegate) certain functions in accordance with section 355(e) of the *Local Government Act, 1993*, to Other Parties on behalf of Council.
- 2 Where those Other Parties are, after reasonable efforts, unable to secure their own Public and Products Liability and Professional Indemnity Insurance coverage in accordance with Council's requirements, the action of delegation of specific Council functions by the General Manager (or sub-delegate) to those Other Parties may also extend Council's Public and Products Liability and Professional Indemnity Insurance coverage to those Other Parties to the extent of the delegation.
- 3 Delegation AA32 provides authority to "*Authorise a letter of sub-delegation of Council functions to a volunteer to undertake functions of Council*".

STATEMENT OF PROCEDURES

Engagement

- 1 The Council officer undertaking the engagement of the Other Party must determine the most appropriate method of engaging the Other Party, whether by way of contractual arrangements, volunteer management or delegation of certain functions. Contractual arrangements or volunteer management should take precedence over delegation of certain functions.
- 2 Where the Council Officer determines that delegation of certain functions is the most appropriate method of engagement, the Other Party is required to make reasonable efforts to secure Public and Products Liability and Professional Indemnity Insurance coverage at their expense and in accordance with Council's requirements.

Council considers that Other Parties such as businesses, commercial entities and incorporated associations are generally capable of securing their own Public and Products Liability and Professional Indemnity Insurance coverage. Individuals and unincorporated associations can seek to secure Public and Products Liability and Professional Indemnity Insurance coverage through existing personal insurances which they may hold.

Insurance

- 3 Where a Divisional Manager considers that the Other Party for which they are intending to undertake functions on behalf of Council is incapable of securing sufficient Public Liability and Professional Indemnity Insurance coverage in its own capacity, then the delegating of certain functions to the Other Party can, where considered appropriate, be extended to include Council's Public and Products Liability and Professional Indemnity Insurance coverage.

Risk Assessment

- 4 Where it is proposed to extend a delegation to include Council's Public and Products Liability and Professional Indemnity Insurance coverage, **a risk assessment must be completed** and the responsible Divisional Manager must be satisfied that the activity will be undertaken in a manner consistent with Council's Enterprise-wide Risk Management policy and properly managed in order to minimise Council's exposure to financial liabilities consistent with Council's civil liability obligations and insurance arrangements.

The Risk Assessment template is available on Council's Hub – *Support/ Corporate Governance/ Legal Services/ Templates (Category 8: Delegations – 02 Council Risk Assessment)*.

Review

- 5 In order to assess the appropriateness of extending a delegation to include Council's Public and Products Liability and Professional Indemnity Insurance coverage, the Divisional Manager must submit a request to the Risk and Insurance Team who will:
 - Verify that reasonable attempts have been made by the Other Party to secure their own insurance;
 - Confirm that Council's Public and Products Liability and Professional Indemnity Insurance coverage is sufficient for the proposed delegated functions;
 - Review the adequacy of the risk assessment; and
 - Ensure that appropriate declarations are submitted to Council's insurer.
- 6 Delegation of Council functions can occur by the:
 - Council adopting, by resolution, a formal recommendation to delegate Council functions to a person (including the General Manager but excluding all other employees of Council) or entity; or
 - General Manager, where exercising powers which have been delegated to him by Council, sub-delegating Council functions to any person or entity.

Supervision

- 7 The Council division whose officers liaise with persons or entities who undertake functions of Council, is the division responsible for ensuring formal sub-delegation of Council's functions to a person or entity occurs. This will ensure that persons or entities are provided with an actual delegation of Council's liability insurance coverage for the functions they undertake on behalf of Council in accordance with the functions of Council which have been sub-delegated.

Letter of Sub-delegation

8 Council employees who wish to arrange for functions of Council to be sub-delegated must prepare a letter of sub-delegation of Council authority from the General Manager (or sub-delegate). The letter provides for functions of Council to be sub-delegated and for the conditions which are applicable to the sub-delegated functions to be nominated. The letter nominally provides for the term of sub-delegation to be limited to three months but this term can be varied by the General Manager (or sub-delegate) as appropriate:

- **For volunteers only**, letters of sub-delegation of Council functions are to be submitted to the Manager Governance and Information for authorisation; and
- **All other letters of sub-delegation** of council functions are to be submitted to the General Manager for authorisation.

The letter templates are available on Council's Hub – *Support/ Corporate Governance/ Legal Services/ Templates – Category 8*.

9 Where the delegation is to be extended to include Council's Public and Products Liability and Professional Indemnity Insurance coverage, the letter to be submitted for signature by the General Manager (or sub-delegate) **must be accompanied by a copy of the risk assessment** duly noting consultation with the Risk and Insurance Team.

10 In addition to submission of the General Manager's (or sub-delegate's) letter of grant of sub-delegation to the delegate(s), each division is responsible for formally advising delegates with whom its officers liaise on the nature and extent of Council's delegations to them and the corresponding delegation of Council's insurance coverage.

Records Management

11 Once a formal delegation has been made, each division is responsible for scanning and recording the delegation in:

- The relevant divisional Trim Container; and
- Alternate Trim Container GI-50.02.007 (*GI - Corporate Support Compliance – Registers - Sub-Delegations to Volunteers and External Parties - From 2012 - Master File*);

using the following Title format: "Sub-Delegation - <insert name of delegate> - <insert name of location or activity> - Expires <insert expiry date>".

It is necessary to record the delegation in this manner for the purpose of assembling information for compiling Council's Annual Report on entities that exercised delegated functions of Council (section 428(o) of the *Local Government Act*).

Review Following Election

12 Delegations made to persons or entities must be reviewed during the first 12 months after each general local government election (section 380 of the Act).

SUMMARY SHEET

Responsible Division	Governance and Information
Date adopted by Council	26 June 2017
Date of previous adoptions	18 February 2014 (EMC), 9 September 2013, 6 November 2002, 19 June 1995
Date of next review	February 2020
Prepared by	Risk and Insurance Team Leader
Authorised by	Manager Governance and Information