



LATE ITEMS ORDINARY MEETING

AGENDA

27 APRIL 2021

Your attendance is required at an Ordinary meeting of Council to be held in the Council Chambers, 232 Bolsover Street, Rockhampton on 27 April 2021 commencing at 9:00am for transaction of the enclosed business.

In line with section 277E of the Local Government Regulation 2012, it has been determined that it is not practicable for the public to attend Council meetings in person at the current time. Until further notice, Council meetings will be livestreamed online.

A handwritten signature in black ink, appearing to be "C. P.", written in a cursive style.

CHIEF EXECUTIVE OFFICER
23 April 2021

Next Meeting Date: 11.05.21

Please note:

In accordance with the *Local Government Regulation 2012*, please be advised that all discussion held during the meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, staff member or a member of the public.

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9 OFFICERS' REPORTS

9.3 COUNCIL DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER

File No:	12660
Attachments:	1. Delegation Register - Nature Conservation (Animals) Regulation 2020 ↓
Authorising Officer:	Tracy Sweeney - Executive Manager Workforce and Governance
Author:	Allysa Brennan - Coordinator Legal and Governance

SUMMARY

This report seeks Council's approval for delegations under the Nature Conservation (Animals) Regulation 2020 to the position of Chief Executive Officer.

OFFICER'S RECOMMENDATION

THAT:

1. Council resolves as per section 257 of the *Local Government Act 2009* to delegate to the Chief Executive Officer, the exercise of powers contained in schedule 1 of the attached Delegation Register – *Nature Conservation (Animals) Regulation 2020*.
2. These powers must be exercised subject to any limitations contained in schedule 2 of the Delegation Register attached to this report.

COMMENTARY

LGAQ, with the assistance of King and Company Solicitors have identified powers under the *Nature Conservation (Animals) Regulation 2020*.

Subsequently, proposed delegation register for the *Nature Conservation (Animals) Regulation 2020* set out in attachment 1 of this report has been prepared. The delegation register recommends which legislative powers under the Regulation should be delegated to the Chief Executive Officer (CEO).

This legislation has not previously been contained in Council's existing Delegation Register. Within the recommendation column in the attachment, a recommendation is made suggesting that each relevant power be delegated from Council to the CEO.

The recommendations in attachment 1 are for Council's consideration and adoption.

PREVIOUS DECISIONS

This delegation register has not previously been considered or adopted by Council.

BUDGET IMPLICATIONS

Not applicable.

LEGISLATIVE CONTEXT

Section 257 of the *Local Government Act 2009* allows Council to delegate its powers to one or more individuals, including to the CEO. In accordance with section 257(5) of the *Local Government Act 2009* a delegation to the CEO must be reviewed annually by Council.

To further streamline the decision making process, section 259 of the *Local Government Act 2009* allows the CEO to sub-delegate powers (including those delegated by Council) to another Council position where appropriate.

LEGAL IMPLICATIONS

Important legal principles which apply to the delegation proposal set out in this report are:

- Council at all times retains power to revoke the delegation. Accordingly, Council retains ultimate control.
- Council, as delegator, has responsibility to ensure that the relevant power is properly exercised. Council will therefore continue to supervise and oversee the exercise of its powers.
- A delegation of power by Council may be subject to any lawful conditions which Council wishes to impose. The imposition of conditions enables Council to impose checks and balances on its delegations, however, the delegated power cannot be unduly fettered.
- The delegate must exercise a delegated power fairly and impartially, without being influenced by or being subject to the discretion of other individuals.

STAFFING IMPLICATIONS

There will be no impact on staffing numbers or changes to positions.

RISK ASSESSMENT

Without powers being delegated to the CEO and subsequently sub-delegated to relevant positions, Council operations would be impeded significantly as separate resolutions would be required to allow decisions to be made for a vast number of operational activities that are undertaken on a daily basis.

CORPORATE/OPERATIONAL PLAN

Not applicable.

CONCLUSION

This report includes a Delegation Register for legislation incorporating sections to be delegated from the Council to the CEO.

Once Council has resolved to delegate to the CEO, the exercise of powers contained in schedule 1 of the Delegation Register attached to this report subject to any limitations contained in schedule 2 of the Delegation Register, sub-delegates will be given specific delegations according to their respective areas of responsibility subject to the same general conditions and, where appropriate, specific limitations.

COUNCIL DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER

Delegation Register – Nature Conservation (Animals) Regulation 2020

Meeting Date: 27 April 2021

Attachment No: 1

Delegations Register – Nature Conservation (Animals) Regulation 2020

Under section 257 of the Local Government Act 2009, ROCKHAMPTON REGIONAL COUNCIL resolves to delegate the exercise of the powers contained in Schedule 1 to the Chief Executive Officer.

These powers must be exercised subject to the limitations contained in Schedule 2. All prior resolutions delegating the same powers are repealed.

Schedule 1

Section of NCAR	Entity Power Given To	Title	Description	Recommendation
Sections 42(2) and (3)	Entity Power Given To: Owner of the airport	Chapter 3 – Dealing with Animals Generally Part 6 – Airports Division 2 – Authorised Activities	Power, as the owner of an airport, in the circumstances listed in subsection 42(1), to:- (a) take the animal at the airport; (b) remove or otherwise deal with an animal breeding place used by the animal; (c) keep an animal taken for the purpose of releasing it; and (d) release the animal into a prescribed natural habitat for the animal.	Delegation to the CEO
Section 43(1)	Entity Power Given To: Owner of the airport	Chapter 3 – Dealing with Animals Generally Part 6 – Airports Division 3 – Record Requirements	Power, as the owner of an airport, to keep a record for an animal taken under section 42(2).	Delegation to the CEO
Section 61(2)	Entity Power Given To: Local Government or Relevant Person	Chapter 3 – Dealing with Animals Generally Part 11 – Flying-Foxes	Power, in the circumstances listed in subsection 61(1) to:- (a) destroy the flying-fox roost; (b) drive away, or attempt to drive away, a flying-fox from the roost; and (c) disturb a flying fox in the roost.	Delegation to the CEO
Section 62(1)	Entity Power Given To: Person	Chapter 3 – Dealing with Animals Generally Part 11 – Flying-Foxes	Power to carry out the activities listed in subsection 62(1) in relation to a tree that is a flying-fox roost.	Delegation to the CEO
Section 235	Entity Power Given To: Person	Chapter 5 – Managing Animal Authorities Part 2 – Applications for Authorities Division 1 – Making Applications	Power to apply to the chief executive for the grant of an animal authority.	Delegation to the CEO
Section 242(4)	Entity Power Given To: Applicant	Chapter 5 – Managing Animal Authorities Part 2 – Applications for Authorities Division 3 – Considering Applications	Power to comply with a notice from the chief executive asking for other information or a document the chief executive requires to decide the application.	Delegation to the CEO
Section 243	Entity Power Given To: Applicant	Chapter 5 – Managing Animal Authorities Part 2 – Applications for Authorities Division 3 – Considering Applications	Power to amend an application for the grant of an animal authority.	Delegation to the CEO
Section 258	Entity Power Given To: Holder of a Renewable Licence	Chapter 5 – Managing Animal Authorities Part 5 – Renewal of Particular Licences	Power, as the holder of a renewable licence, to apply to renew the licence.	Delegation to the CEO
Section 265	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 2 – Amendments by Application	Power, as the holder of an animal authority, to apply for an amendment of the authority.	Delegation to the CEO
Section 266(1)	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 2 – Amendments by Application	Power to comply with a notice from the chief executive asking for other information or a document the chief executive requires to decide the amendment application.	Delegation to the CEO
Section 267	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 2 – Amendments by Application	Power to amend an application for the amendment of an animal authority.	Delegation to the CEO
Section 271(1)	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 3 – Non-Immediate Amendments by Chief Executive	Power to comply with a notice from the chief executive and make written representations to the chief executive about why the proposed amendment should not be made.	Delegation to the CEO
Section 275(1)	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 5 – Non-Immediate Suspension or Cancellation by Chief Executive	Power to make written representations to the chief executive about why the chief executive should not suspend or cancel an animal authority.	Delegation to the CEO
Section 276	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 6 – Return of Authorities	Power to return an animal authority that has been amended to the chief executive.	Delegation to the CEO
Section 277	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 6 – Return of Authorities	Power to return an animal authority that has been suspended to the chief executive.	Delegation to the CEO
Section 278	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 6 – Amendment, Suspension or Cancellation of Authorities Division 6 – Return of Authorities	Power to return an animal authority that has been cancelled to the chief executive.	Delegation to the CEO
Section 279	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 7 – Replacement and Surrender of Authorities	Power to apply to have an animal authority that has been damaged, destroyed, lost, stolen, or replaced.	Delegation to the CEO
Section 280	Entity Power Given To: Holder of an Animal Authority	Chapter 5 – Managing Animal Authorities Part 7 – Replacement and Surrender of Authorities	Power to surrender an animal authority (with an accompanying notice of surrender) to the chief executive.	Delegation to the CEO

Section of NCAR	Entity Power Given To	Title	Description	Recommendation
Section 371	Entity Power Given To: Local Government	Chapter 10 – Miscellaneous Part 4 – Urban Flying-Fox Management Area Map Division 3 – Amending the Map	Power to apply to the chief executive to amend the urban flying-fox management area map.	Delegation to the CEO
Section 372	Entity Power Given To: Local Government	Chapter 10 – Miscellaneous Part 4 – Urban Flying-Fox Management Area Map Division 3 – Amending the Map	Power to provide information to the chief executive that is relevant to the removal of an urban flying-fox management area from the urban flying-fox management area map.	Delegation to the CEO
Section 379(1)	Entity Power Given To: Affected Person	Chapter 11 – Administrative Provisions Part 1 – Review of Decisions Division 2 – Internal Review	Power, as an affected person, to apply to the chief executive for a review of the decision.	Delegation to the CEO
Section 379(2)	Entity Power Given To: Affected Person	Chapter 11 – Administrative Provisions Part 1 – Review of Decisions Division 2 – Internal Review	Power, as an affected person, to ask the chief executive for an information notice for the decision.	Delegation to the CEO
Section 381(2)	Entity Power Given To: Affected Person	Chapter 11 – Administrative Provisions Part 1 – Review of Decisions Division 2 – Internal Review	Power to agree to a longer period for the chief executive to comply with section 381(1).	Delegation to the CEO
Section 382	Entity Power Given To: Affected Person	Chapter 11 – Administrative Provisions Part 1 – Review of Decisions Division 3 – Staying Operation of Original Decision	Power, as an affected person, to apply to QCAT for a stay of the operation of a decision.	Delegation to the CEO
Section 383	Entity Power Given To: Person	Chapter 11 – Administrative Provisions Part 1 – Review of Decisions Division 4 – External Review	Power to apply to QCAT for a review of an internal review decision.	Delegation to the CEO

Schedule 2

Limitations to the Exercise of Power	
1	Where Council in its budget or by resolution allocates an amount for the expenditure of Council funds in relation to a particular matter, the delegate in exercising delegated power in relation to that matter, will only commit the Council to reasonably foreseeable expenditure up to the amount allocated.
2	The delegate will not exercise any delegated power in relation to a matter which, to the delegate's knowledge adversely affects, or is likely to adversely affect, the Council's relations with the public at large.
3	The delegate will not exercise any delegated power in relation to a matter which has already been the subject of a resolution or other decision of the Council (including a policy decision relating to the matter).
4	The delegate will not exercise any delegated power in a manner, or which has the foreseeable affect, of being contrary to an adopted Council policy or procedure.
5	The delegate will only exercise a delegated power under this resolution in a manner which complies with the requirements of Council's Planning Scheme and any exercise of power which involves a departure from or variation of those requirements will only be undertaken by Council.
6	The delegate will not exercise any power which cannot lawfully be the subject of delegation by Council.