

Delegations and Decision Making

Public Health Emergency Response and Recovery



This Guide may assist Local Governments to prepare to respond to the immediate Public Health Emergency and assist our communities to recover.

1. Delegations

Councils may consider changing the scope of authority delegated to the CEO, enabling the CEO to better respond to emergency requirements, particularly if calling a Council meeting will unreasonably delay decisions, or a Council meeting is not able to occur as a quorum cannot be obtained.

The CEO may similarly consider adjusting the scope of delegation to employees through sub-delegation, to safeguard continuity of Local Government operations should the CEO or key staff with sub-delegation become unwell, quarantined or required to self-isolate.

The below list, extracted from the **WALGA Template Delegations Register** may provide a starting point for Local Governments to consider delegations:

WALGA Template Delegations	LG Considerations may include:
1.1.1 Audit and Risk Committee	<p>Authority to determine the LG's revised / updated Business Continuity Plan for the purposes of the declared Pandemic / Emergency.</p> <p>Authority to determine operational risk register for the purposes of the declared Pandemic / Emergency.</p>
1.2.1 Appoint Authorised Persons	<p>Relevant to:</p> <ul style="list-style-type: none"> Local Government Act functions Health Local Law Thoroughfares & Public Places Local Law Other Local Laws
1.2.8 Close Thoroughfares to Vehicles	Delegation may assist LG in giving effect to community quarantine arrangements, if required by the Commissioner of Police.
1.2.17 Expressions of Interest for Goods and Services	<p>Delegations may assist LG in:</p> <ul style="list-style-type: none"> Completing procurement processes which are commenced and not yet completed; and Undertaking urgent procurement necessary to address Pandemic / Emergency response.
1.2.18 Tenders for Goods and Services	
1.2.19 Panels of Pre-Qualified Suppliers for Goods and Services	
1.2.20 Application of Regional Price Preference Policy	
1.3.5 Appoint Persons (other than employees) to Open Tenders (CEO Delegation)	Consider if \$value thresholds in existing delegation need to be increased to ensure procurement decisions can be made administratively, without the need to convene a Council meeting.
1.2.22 Payments from the Municipal or Trust Funds	This delegation is likely to already exist for most LGs. If however, no delegation has been provided to the CEO, then this should be prioritised to ensure the LG can continue operations, without need to convene a Council meeting.
1.2.24 Power to Invest and Manage Investments	This delegation is likely to already exist for most LGs. If however, no delegation has been provided to the CEO, then this should be prioritised to ensure the LG can continue operations i.e. draw down on investments if cash-flow is required, without need to convene a Council meeting.

WALGA Template Delegations	LG Considerations may include:
1.2.26 Agreement as to Payment of Rates and Service Charges	Ensure the LGs administration is able to make necessary decisions about rating matters, without need to convene a Council Meeting.
1.2.27 Determine Due Date for Rates or Service Charges	
1.2.28 Recovery of Rates or Service Charges	
1.2.31 Rate Record – Objections	
1.3.8 Information to be Available to the Public <i>(CEO Delegation)</i>	CEO may wish to consider delegation to manage public enquiries seeking statutory information, when this activity is not critical to the LGs response to the pandemic / emergency.
1.3.9 Financial Management Systems and Procedures <i>(CEO Delegation)</i>	Ensure capability for amending authorities in procedures, where large numbers of staff are not attending work.
Local Law Delegations:	Consider delegations to manage business as usual without referral to Council, as well as emergency arrangements. Public Places and Local Government Property Local Law – dealing with permits, including varying and cancelling permits, granting exemptions from permit requirements. Activities on Thoroughfares and Trading Local Law – dealing with permits, including varying and cancelling permits, granting exemptions from permit requirements. Waste Local Law – determining hours of operation of waste facility. Parking Local Law – authorising persons to drive or park on reserves.
Building Act Delegations generally	Delegations to ensure continued operations / approval and enforcement of building matters, without referral to Council. Consider delegation to appoint authorised officers, to ensure capacity to appoint persons where relevant staff are not attending work.
Bush Fire Act Delegations	Consider if your LG will experience ‘dry season’ conditions that may require decisions under the Bush Fires Act concurrently with the LGs management of the Pandemic / Emergency. Delegations may support effective and efficient response to additional emergency response requirements.
Food Act Delegations	Consider whether delegations may assist in effective control and risk mitigation if the food businesses in your LG District experience substantial business down-turn, which may impact food handling practices. Consider delegation to appoint authorised officers, to ensure capacity to appoint persons, where relevant staff are not attending work.
Public Health Act 2016 8.1.2 Enforcement Agency Reports to the Chief Health Officer	Consider if delegation is necessary or if PEHO or the Local Government’s Incident Coordinator (if one has been appointed under the Local Government’s Emergency Management Plan) can fulfil these functions by ‘Acting Through’. Delegation to designate authorised officers under the Public Health Act will be vital to each LG ensuring it has the capacity to appoint persons, where current appointed staff unable to work.

2. Authorisations

Local Governments should also review the list of appointed authorised persons, to ensure that sufficient persons are appointed, trained and capable of fulfilling authorised persons functions under legislation relevant to the Local Government's emergency response capabilities. This may be vital if key personnel become unwell, quarantined or are required to self-isolate.

3. Policies

Council Policies are an important element of Local Government governance. Policies are also a touch point for informing your community's expectations and level of confidence in what to expect from the Local Government.

In this immediate period of the early impacts of Covid-19, where there are already major impacts on business and families, it will be important for Local Governments to demonstrate leadership and capacity to adapt. Early review of Local Government Policies to identify those that may be unreasonably restrictive or onerous in the changed economic and community environment, should be prioritised for amendment, with the policy changes being applicable to the expected recovery timeframe.

Public Health Emergency policy amendments can be given effect for specified timeframes through:

- The Policy including a specified date for the Council to review and determine if the amended policy should cease operation or be further amended to suit the recovery phase; or
- Stating that the policy, or specified clauses in the policy are only applicable for a specified period of time and once that time expires, so does the policy or relevant policy clauses. It will then be at the Local Government's discretion as to whether further policy review is required or not.

Policies that may require immediate prioritisation may include any policy that guides financial or operational impacts for business or impacts financially on families or the wellness of your community i.e. rates collection, community service provision, business and community grant policies.

In addition, Local Governments should ensure they have a Council adopted policy for:

- Appointing an Acting CEO - ensures a person can Act as CEO without the need to convene a Council meeting, should the substantive CEO be unable to work.
- Appoint the Local Government's Deputy under s.26 of the *Health (Miscellaneous Provisions) Act 2011*, with the policy including provision that appoint an alternative Deputy if the appointed Deputy is unable to work.

There are likely to be a range of policy opportunities through which each Local Government may exercise discretion to meet its community needs and most importantly provide community members who are suffering extreme financial stress, some hope and guidance for how they will be served and supported by their Local Government.

4. Compliance Obligations during COVID Response

The Premier and Minister for Local Government request that the sector do whatever is necessary to control the spread of Covid-19 and to respond to and aid recovery from the pandemic, in the best interests of communities and the economic viability of businesses.

WALGA is currently liaising with the Department of Local Government, Sport and Cultural Industries to develop a range of exemptions from some compliance obligations that may slow down or reduce the agility of the response and recovery effort; for example, requirements for local public notices.

Until such time as there is clarity, then Local Government should maintain records of any departure from statutory compliance so that evidence is retained of the rationale and process that led to decisions and outcomes.

5. Risk Analysis to Inform Decision Making

Your Local Government will likely already have activated Business Continuity and Emergency Management Plans, focussing on dealing with the immediate actions necessary for your Local Government to respond to the initial emergency. This may include reacting to the changing and evolving environment as State and Federal Governments implement restrictions on community and business activity, including the analysis of potential risks and consequences that these restrictions and the public health impacts may cause for the community and the Local Government’s operations.

These considerations in relation to emergency response and recovery phases will help to prepare the Local Government and provide confidence and surety for the Council, CEO, staff and importantly your community too.

Some risks, and the expediency by which your Local Government responds, can be mitigated through **delegations, authorisations, policies and other decision making** practices that support effective and efficient response to the Public Health Emergency.

The 2019/20 Budget will also now include works, programs and activities which will either not be able to be delivered or the priorities for your community are now changed. Whilst the annual budget review process may be almost completed, in light of the increasing restrictions on community and business activity there may be opportunity to identify financial and resource savings that can be redeployed through budget amendments to address emerging community needs.

The following are just some immediate risks evident for all Local Governments and there are likely to be additional risks evident and specific to your Local Government and the functions and services fulfilled on behalf of your community:

Risk / Issue	Considerations
<p>Fast paced decision making may be necessary to respond to Government and Public Health directives, orders and community needs and expectations.</p>	<p>What Local Government functions and services will be critical when responding to the Emergency and to the recovery phase?</p> <p>What delegations, authorisations and policies will enable response in the Emergency and do these need to be modified to provide improved efficiency and effectiveness?</p> <p>Is there opportunity for further modifying delegations, authorisations and policies to better support the community in the response phase?</p>
<p>Council Members may become unwell, quarantined or required to self-isolate, which may impact a Council meeting quorum, which may mean necessary decisions are unable to be made or are delayed.</p>	<p>What delegations, authorisations and policy changes can Council determine now, so that if the Council is unable to convene or decisions are required urgently, the administration has the capability to respond to the changing and evolving emergency environment?</p>
<p>The CEO, key senior and operational employees necessary for essential services may become unwell, quarantined or required to self-isolate at the</p>	<p>Do the Local Government’s delegations, policies and the range of authorised persons provide sufficient and appropriate scope to enable effective succession planning, in the event that a critical number of employees (which may</p>

Risk / Issue	Considerations
<p>same time, impacting the capacity for continuing services and functions.</p>	<p>include the CEO) are unable to work for an extended period?</p>
<p>The Public Health Emergency is expected to extend over a long period of time (i.e. minimum 6 months).</p>	<p>Increasing and compounding the impact on the community and therefore the range of services. Requiring the Local Government to sustain emergency response capability and essential services over the duration of the Public Health Emergency.</p>
<p>Many people have and will continue to lose employment and there is no certainty for the economic future in the short or long term following the Public Health Emergency.</p>	<p>What policies could Council consider now to assist those facing economic hardship now and in the longer term recovery phase?</p> <p>What policies, capital projects and community and business grants could Council consider to generate economic benefit for the community in the recovery phase?</p> <p>What community development and support programs could the Local Government provide now and in the longer term recovery, to support community well-being?</p>
<p>Local Government services, activities and works are required to cease or be substantially limited due to the Public Health Emergency.</p>	<p>Are there unspent budget allocations and resources, which can be redeployed through budget amendments to address emerging community needs?</p>

6. Budget

Whether a Local Government has completed the budget review or not, the Council may, at any time as necessary, make budget amendment decisions, by absolute majority, under s.6.2 of the *Local Government Act 1995*.

As the Act requires a Council resolution by absolute majority, the power to approve a budget amendment is not able to be delegated to the CEO. Therefore, taking time now to examine the unspent budget allocations, particularly those that will be underspent due to the Pandemic control restrictions, will provide Local Governments will the opportunity of funding essential services and other activities that will be necessary for responding to the emergency in the remainder of the 2019/2020 financial year.

In planning for the 2020/2021 budget, Local Governments will be faced with a large proportion of their community that remain subject to pandemic control restrictions and as a result, are unemployed or substantially under employed. Forecasts indicate there will be widespread economic hardship for families and businesses extending over at least an 18-month horizon.

The economic impacts of Covid-19 will require Local Governments to review and reprioritise Strategic Community Plan objectives and reprioritise and rationalise budget allocations now in the current budget to ensure essential services are available to respond to the emergency, and there will be budget and strategic priority implications for several years to come in order to reduce the economic burden and support our communities in the recovery phase.

Reserve Accounts may be required to be repurposed and drawn down from to ensure Local Governments are able to meet the challenges of responding to Covid-19 and in leading recovery for the community and local businesses.

7. Questions and Enquiries

Should you have any queries regarding this Guide, such as accessing the WALGA Template Delegations Register, please contact us at governance@walga.asn.au