

ABAQULUSI MUNICIPALITY



DELEGATION OF POWERS

1. DEFINITIONS

Any word or expression to which meaning has been in this delegation framework, shall bear the same meaning, unless the context otherwise indicates:

- 1.1
- **“administration”** means the Municipal manager and the other employees of the Municipality;
 - **“after consultation”** means with due regard for the views of any person with whom a delegated body is required to consult before he/she exercises a delegated or sub-delegated power;

- **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- **“Council”** means the Municipal Council of the AbaQulusi Municipality, its legal successors in title and its delegates
- **“delegating authority”**, in relation to a delegation of a power by the Council, means the Council, and in relation to a sub-delegation of a power by a delegated body, means that delegated body;
- **“delegation”** means the authorization of a delegated body by a delegating authority to act in his/her stead, and in relation to a power includes an instruction to exercise the power, and **“delegate”** has a corresponding meaning;
- **“delegated body”** in relation to the delegation of a power means the political structure, political office-bearer or employee to whom a power has been delegated in writing by the delegating authority;
- **“in consultation”** means with the concurrence of the person with whom a delegated body must consult before exercising a delegated or sub-delegated power;
- **“power”** includes a duty and a function;
- **“political office-bearer”**, in relation to the Municipality, means the Speaker and the Mayor elected by the Council in accordance with the provisions of the Structures Act
- **“IDP”** means the Integrated Development Plan of the Council

- **“MFMA”** means the Local Government: Municipal Finance Management Act No. 56 of 2003.
- □**“political structure”**, in relation to the Municipality, means the Council or any Committee or other collective structure of the Municipality elected, designated or appointed in accordance with the provisions of legislation;
- **“Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and
- **“Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

1.2 Legislative background

S59 (1) of the Municipal Systems Act 32 of 2000 requires a Municipal Council to develop a system of delegation that will maximize administrative and operational efficiency. This system will in turn ensure that formal delegated powers reside with certain designated political structures, political office bearers, Councillors or staff members, who have been awarded certain delegated powers to perform duties as appropriate.

Section 53 of the Systems Act, states that a municipality must define specific roles and areas of responsibility for each political structure or political office bearer of the municipality and of the municipal manager. These respective roles and areas of responsibility may include the delegation of powers and duties.

2. Powers of the Municipality

The Municipal Manager should ensure the documentation of the delegation of functions or tasks to appropriate levels of staff in the employ of the Municipality.

- 2.1 The Municipality has all the powers assigned to it in terms of the Constitution as well as other relevant legislation. The Municipality has the right to do anything reasonably necessary for or incidental to the effective exercise of its powers;
- 2.2 The executive and legislative authority of the Municipality vests in the Council. The Council takes all the decisions of the Municipality except:
 - Decisions on those matters that it has delegated to a delegated body; and
 - Decisions on those matters that by law have been assigned to a political structure, political structure, political office-bearer or employee of the Council.
- 2.3 The Council may exercise executive and legislative authority within the Municipal area only. The Council may, by written agreement with another Municipality, exercise executive authority in the area of that other Municipality.
- 2.4 All the powers of the Municipality that have not been reserved for the Council, or that have not been delegated to a political structure, political office-bearer or employee of the Council are delegated to the Executive Committee of the Council

3. Objectives of Delegation

The objectives of this system of delegation are:

- To ensure maximum administrative and operational efficiency;
- To provide for adequate checks and balances;
- To delegate decision-making to the most effective level within the administration;
- To involve employees in management decisions as far as practicable;
- To promote a sense of collective responsibility for performance;
- To assign clear duties for the management and co-ordination of administrative components, systems and mechanisms;
- To define in precise terms the duties of each political structure and political office-bearer, and
- To determine the relationships amongst the political structures, political office-bearers and the administration, and the appropriate lines of accountability and reporting for each of them.

4. Roles and responsibilities

It is important to define the specific roles and areas of responsibility of each political office bearer, political structure and the Municipal Manager and the Chief Financial Officer of the Council to ensure:

- a) good relationships and interaction between these bodies and persons;
- b) appropriate lines of accountability and reporting for these bodies and persons;

- c) that unnecessary overlapping of responsibilities between these bodies and persons are prevented or kept to the minimum;
- d) that disputes that may arise between these bodies and persons, are resolved amicable and timely;
- e) good interaction between these bodies and persons, and other Councillors and employees of the Council;

5. The Speaker

5.1 Statutory functions of the Speaker

- a) Presides at meetings of the council and signs the minutes of the council meetings;
- b) must ensure that council meets at least quarterly;
- c) Co-ordinates the arrangements regarding dates and venues for the meetings.
- d) Maintains order during meetings of the council and ensures that the meetings are conducted in compliance with the Council's Rules of Order;
- e) Performs all other duties assigned to him/her in the Council's Rules of Order of the Council;
- f) Ensures compliance with the Code of Conduct for councillors;
- g) Authorises any investigation or enquiry into suspected or alleged impropriety by councillors or any alleged breaches of the Code of Conduct for councillors;
- h) Determines where and when council meets;

- i) Convenes special meetings of council at his/her discretion or on request of the majority of councillors she/he must do so.
- j) Responsible for public participation which include community survey and the functioning of ward committees
- k) He chairs the Rapid Response Team which is responsible for avoiding marches and demonstrations

5.2 Line of Accountability and Reporting

The Speaker reports to, and is accountable to Council.

5.2 The Mayor

5.2.1 Statutory Functions of the Mayor

- a) Presides at meetings of the Executive Committee and signs the minutes of its meetings;
- b) Delegates appropriate duties to the Deputy Mayor;
- c) Decides when and where the Executive Committee will meet, but if a majority of the members request the mayor in writing to convene a meeting of the committee, the Mayor must convene a meeting at a time set out in the request;
- d) Receives input on Council's IDP from the Municipal Manager, tables this in the Executive Committee, conveys the recommendations of the Executive Committee to council for approval of an IDP
- e) Tables in the municipal council the annual report of the municipality;
- f) Must ensure that the municipality addresses any issues raised by the auditor-General in an audit report;

- g) Performs all duties and functions in terms of the MFMA including, but not limited to:-
- (i) provide general political guidance over the fiscal and financial affairs of the municipality;
 - (ii) oversee the exercise of responsibilities assigned in terms of the MFMA to the Accounting Officer and the Chief Financial Officer; and
 - (iii) within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality.
- h) Performs the duties, including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal council or the Executive Committee.
- i) Receives petitions on behalf of the Municipality
- j) If the Mayor is absent or not available, and the municipality does not have a deputy Mayor or the Deputy Mayor is also not available, the Mayor may designate a member of the Executive Committee in writing to act as a Mayor.
- k) Negotiates and signs the performance agreement of the Municipal Manager, and manages the compilation and evaluation thereof.
- l) Co – ordinate the drafting of responses to community memorandums

5.2.2 Other functions of the Mayor

- a) Functions as the political head of the municipality driving the council's policies and strategies;
- b) Interacts with the public;
- c) Receives and interviews representatives and delegations from public interest groups, and makes recommendations to the executive committee in this regard;
- d) Represents the Council at meetings and functions;
- e) Makes press statements on behalf of council;
- f) Leads development and strategy processes;
- g) Handles public relations and external communication functions in consultation with the Municipal Manager.

5.2.3 Line of Accountability and Reporting

The Mayor reports to, and is accountable to the Executive Committee and to Council.

5.2.4 CHIEF WHIP

- (a) To manage political relations between parties at Council and Committee meetings.

- (b) To ensure attendance of Councillors at meetings of Council and its Committees.
- (c) To establish the Troika plus Committee and ensure that it meets fortnightly.
- (d) To advise Councillors on important matters on the relevant agenda.
- (e) To ensure that Councillors motions are prepared and timeously tabled in terms of the procedural rules of the Council.
- (f) To advise the Speaker and the Mayor of urgent motions.
- (g) To advise the Speaker and Mayor on how to deal with important items not disposed of at a Council meeting
- (h) To bring to the Speaker's attention Councillors who have not attended three consecutive meetings.
- (i) To ensure that Councillors annually submit declaration of interest forms.
- (j) To ensure that Councillors are informed and belong to the Councillors Pension Fund as well as the Medical Aid Scheme.
- (k) To ensure that Councillors are fully conversant with the Rule of Order of Council.
- (l) To interact directly with the Municipal Manager.
- (m) To interact with staff members through the office of the Municipal Manager.
- (n) To co – ordinate the responses to questions raised with notice through Municipal Manager.

Line of Accountability and Reporting

To account directly to Council.

5.3 Executive Committee

5.3.1 Statutory Functions of the Executive Committee

- a) Reviews the performance of the municipality in order to improve:
 - i) the economy, efficiency and effectiveness of the municipality;
 - ii) the efficiency of credit control and revenue and debt collection services; and
 - iii) the implementation of the municipality's by-laws;
- b) Monitors the management of the municipality's administration in accordance with the policy directions of the municipal council (output monitoring);
- c) Oversees the provision of services to communities in the municipality in a sustainable manner;
- d) Reports on the involvement of communities and community organisations in the affairs of the municipality;
- e) Considers recommendations on the alignment of the IDP and the budget received from the relevant councillors;
- f) Ensures that regard is given to public views and reports on the effect of consultation on the decisions of the council;
- g) Makes recommendations to council regarding:-

- i) the adoption of the estimates of revenue and expenditure, as well as capital budgets and the imposition of rates and other taxes, levies and duties;
- ii) the passing of by-laws; and policies
- iii) the raising of loans.
- iv) approval or amendment of the IDP
- v) appointment and conditions of service of Municipal Manager and heads of departments
- h) Deals with any other matters referred to it by the council and submits recommendations thereon for consideration by the council;
- i) Attends to and deals with all matters delegated to it by council in terms of the Systems Act;
- j) Appoints a chairperson/s from the members of the Executive Committee, for any committee established by council in terms of section 80 of the Structures Act to assist the Executive Committee;
- k) Delegates any powers and duties of the Executive Committee to any Section 80committee;
- l) Varies or revokes any decisions taken by a section 80 committee, subject to vested rights;
- m) Develops strategies, programmes and services to address priority needs of the municipality through the IDP and estimates of revenue and expenditure, taking into account any applicable national and provincial plans and submits a report to, and recommendations thereon, to the council;

- n) Subject to applicable legislation, recommends or determines the best methods, including partnerships and other approaches to deliver services, programmes and projects to the maximum benefit of the community;
- o) Identifies and develops criteria in terms of which progress in the implementation of services, programmes and objectives to address the priority needs of the municipality can be evaluated, which includes key performance indicators which are specific to the municipality and common to local government in general;
- p) Manages the development of the performance management system, assigns responsibilities in this regard to the Municipal Manager and submit the proposed performance management system to council for consideration;
- q) Monitors progress against the said key performance indicators;
- r) Receives and considers reports from committees in accordance with the directives as stipulated by the Executive Committee;
- s) Elects a chairperson to preside at meetings if both the Mayor and Deputy Mayor are absent from a meeting in the event of there being a quorum present at such a meeting, if the Mayor failed to designate a member of Executive Committee (EXCO) in writing to act as Mayor;
- t) Considers appeals from a person whose rights are affected by a decision of the municipal manager in terms of delegated powers, provided that the decision reached by this committee may not retract any rights that may have accrued as a result of the original decision.
- u) Reports, in writing, to the municipal council on all decisions taken by Exco at the next ordinary council meeting;

5.3.2 Other functions of the Executive Committee

- a) Recommends to council after consultation with the relevant Portfolio Committee, policies where council had reserved the power to make policies itself;
- b) Recommends after consultation with the relevant Sect 79 Committee, rules of order of council meetings and approves rules of order for meetings of itself and any other committee;
- c) Makes recommendations to council on proposed political structures of council;
- d) Makes recommendations to council in respect of council's legislative powers;
- e) Determines strategic approaches, guidelines and growth parameters for the draft budget including tariff structures;

5.3.3 Line of Accountability and Reporting

The Executive Committee reports to, and is accountable to the council.

5.4 Portfolio Committees of Council

All Portfolio Committees report to the Executive Committee. The Executive Committee may refer a matter back to the Portfolio Committee for further consideration, amend or adopt the recommendations if it has delegated authority to do so, or submit its (Executive committee) recommendations to council.

5.4.1 Portfolio Committees

The following are examples of portfolio committees that are established in terms of S80 of the Structures Act:

Number of seats allocated per Party

Corporate Services

Development Planning

Community Services

Finance Services

Technical Services

5.4.2 Responsibilities of Portfolio Committees

The responsibilities of the Portfolio Committees, in respect of their functional areas are:

- to develop and recommend strategy;
- to develop and recommend by-laws;
- to consider and make recommendations in respect of the draft budget and IDP;
- to ensure public participation in the development of policy, legislation, IDP and budget;
- to monitor the implementation of Council policies; and
- to exercise oversight on all functional areas.

5.4.3 Functions

Formulates recommendations for consideration by the executive committee in relation to:

- a) policy falling within the functional area of the portfolio after consultation with the relevant Executive Director;

- b) annual business plans falling within the functional area of the portfolio;
implementation of the business plans of the functional areas of the portfolio;
- c) the review of financial performance against approved budgets relating to prior and current years including dealing with reports from the Auditor-General;
- d) the draft budget in respect of the functional areas of the portfolio, including tariffs of charges after consultation with the relevant Executive Director;
- e) reports and recommendations submitted in respect of the functional areas of the portfolio including comment arising from its oversight function;
- f) compliance with the legislation, norms and standards in respect of the functional areas of the portfolio;
- g) passing or amendments of by-laws pertaining to the function of the portfolio;
- h) prioritising projects falling within the functional areas of the portfolio;

5.4.4 The committee may consult with the Municipal Manager and the relevant Executive Director on council's policies and programmes.

5.4.5 Monitor Performance through the Performance Management System framework

5.4.6 Line of Accountability and Reporting

The Portfolio Committees report to the Executive Committee.

5.5 EXECUTIVE OVERSIGHT

Municipal Public Accounts Committee (MPAC): Legal Framework

Functions of the committee

The main purpose of the MPAC is to exercise oversight over the executive functionaries of council and to ensure good governance in the municipality. This will include oversight over municipal entities. In order for the MPAC to fulfil this oversight role, it needs to be provided with the necessary information and documentation to interrogate the actions of the executive. Part 2 below provides generic terms of reference for the MPAC

Delegations to the MPAC

The following responsibilities are to be delegated to the MPAC in terms of the provisions of section 59 of the Systems Act:

1. The authority to interrogate the following documents and to make recommendations to the municipal council in accordance with the terms of reference of the committee:
 - 1.1 Unforeseen and unavoidable expenditure;
 - 1.2 Unauthorised, irregular or fruitless and wasteful expenditure;
 - 1.3 SDBIP;
 - 1.4 Monthly budget statements;
 - 1.5 Mid-year budget and performance assessment;
 - 1.6 Mid-year budget and performance assessment of municipal entities;
 - 1.7 Disclosures concerning councillors, directors and officials;
 - 1.8 Annual financial statements;
 - 1.9 Annual report;
 - 1.10 Issues raised by the A-G in the audit reports;
 - 1.11 The appointment of the audit committee;
 - 1.12 Disciplinary steps instituted in terms of the MFMA;
 - 1.13 The review of the IDP post elections;

- 1.14 The annual review of the IDP;
 - 1.15 Performance management plan;
 - 1.16 The draft annual budget with reference to the approved IDP; and
 - 1.17 Declaration of interest forms submitted by councillors.
2. The authority to consider all presentations made by the community on the annual report and the authority to have interviews with members of the community to obtain input on the annual report, as well as the authority to prepare the draft oversight report over the annual report.
 3. The authority to instruct any member of the executive or the municipal manager to attend the meeting of the MPAC to address matters specified by the MPAC and to provide the MPAC with copies of documents to be dealt with by the committee in terms of its terms of reference.
 4. The authority to instruct any member of the board or the CEO of a municipal entity to attend the meeting of the MPAC to address matters specified by the MPAC and to provide the MPAC with copies of documents to be dealt with by the committee in terms of its terms of reference.
 5. The authority to obtain legal, technical and other specialised assistance required to exercise its functions and duties within the budget approved for the committee and subject to the supply chain management policy where applicable.

Line of Accountability and Reporting

The MPAC reports directly to the municipal council and the chairperson of the MPAC must liaise directly with the speaker on the inclusion of reports of the MPAC in the council agenda. As the MPAC is a committee of the council, its reports are submitted directly to the council without being submitted to the Exco or Mayoral Committee. The chairperson of the MPAC liaises directly with the speaker on the inclusion of its report in the council agenda, and the committee staff ensures that the documentation is physically included in the agenda of the council meeting.

6. Number of seats allocated is 9

5.6 Audit Committee (section 166 of MFMA)

5.6.1 Composition

- (i) The Audit Committee consists of not less than three (3) members, not more than 5 who must have knowledge and experience of accounting and auditing. No Councillor may be a member of the Audit Committee;
- i) Immediately after the Council has elected and appointed the members of the Audit Committee, it must appoint one of them as the Chairperson;

5.6.2 Functions and duties of the Audit Committee

- j) The Audit Committee must, with regard to any audit performed by or on behalf of the Auditor-General, and in terms of the Audit Charter,
- k) together with the Municipal Manager, the External Auditor and such other employees of the council as it may deem appropriate, assess the planning and scope of and approach to such audit;
- (b) evaluate the findings of the external auditor especially:-
 - significant transactions that do not fall within the normal activities of the municipality;
 - substantial deficiencies in internal control and the recommendations to improve them;
 - the reasonable reporting, presentation and publication of information in annual financial statements;
 - the relevance of the accounting policy followed in the compilation of annual financial statements;
 - compliance with Generally Recognised Accounting Practice (GRAP);
 - compliance with the law;

- I generally evaluate the report of the external auditor on the financial statements;
 - (d) evaluate substantial unresolved accounting or auditing problems experienced during such audit;
 - I evaluate the advice provided by the external auditor or any other person with regard to the objects of the Audit Committee; and
 - (f) assess the co-ordination and co-operation between the external auditors and the internal auditor, if any.
- l) The Audit Committee must, with respect to internal auditing-
 - m) provide for direct reporting to the council of the findings of the Internal Auditor, if any;
 - (b) evaluate the efficiency and effectiveness of the internal audit function, if any;
 - I assess matters of significant importance reported by the internal Auditor, if any;
- (iii) The Audit Committee must, in respect of financial reporting-
 - n) assess the effectiveness of policies for and procedures of financial reporting; and
 - o) The audit committee must, with respect to internal control-
 - p) review the effectiveness of the accounting and control system;
 - (b) assess any deficiency in the accounting and internal control
 - I assess and confirm the policies and procedures for identifying areas of risk and the measures implemented to ensure adequate

control of and security at such areas.

(vi) The Audit Committee must-

- q) consider and submit a report on matters referred to it by the Municipal Manager or the Council and
- (b) perform such functions as the Council may assign to it from time to time.

5.6.3 Powers of the Audit Committee

- r) The Audit Committee may, to the extent necessary for the efficient and effective performance of its function and achievement of its objectives:-
- s) access and inspect any records, documents and information held otherwise by the municipality or an employee of the municipality;
- (b) access and inspect any premises on which or from where the activities of the municipality are performed;
- l conduct interviews with the Council or any committee thereof and summons any employee of the municipality to appear before it and interview him or her; after consultation with the Municipal Manager;
- (d) investigate any matter, or cause any matter to be investigated by any employee of the municipality, after consultation with the Municipal Manager;
- (i) ensure that effective accounting policies, systems and reporting are implemented and applied; and
- (f) facilitate improvement of the standard of financial reporting.

5.6.4 Line of Accountability and Reporting

The Audit Committee reports to Council via the Executive Committee

5.7 Municipal Manager

5.7.1 Powers and duties of the Municipal Manager

As head of the administration and Accounting Officer of the municipality, the following statutory powers and duties are assigned to the Municipal Manager in accordance with the provisions of the Structures Act and the Systems Act:

- a) To form and develop an economical, effective, efficient, accountable and performance driven administration for the municipality;
- b) To manage the municipality's administration in accordance with the provisions of the Systems Act and other legislation applicable to the municipality;
- c) To administer the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006;
- d) To implement the municipality's IDP, and to monitor the progress with the implementation of the plan;
- e) To manage the provisions of services to communities, residents and ratepayers in a sustainable manner;
- f) To control and manage the effective utilisation and training of staff;
- g) To maintain discipline of staff;

- h) To promote sound labour relations and compliance by the municipality of applicable labour legislation, conditions of service and collective agreements;
- i) To advise the structures and functionaries of the municipality;
- j) To manage the communication between the municipality's administration and its structures and functionaries;
- k) To carry out the decisions of the structures and functionaries of the municipality;
- l) To administer and implement the municipality's by-laws and policy;
- m) To implement national and provincial legislation applicable to the municipality;
- n) To facilitate participation by communities, residents, ratepayers and other stakeholders in the affairs of the municipality;
- o) To approve the use of council's facilities by members of the council in accordance with policy;
- p) To develop and approve the staff establishment within a policy framework determined by the council;
- q) To advise the executive committee, in accordance with the envisaged consultative process, on section 57 appointments;
- r) To appoint staff below the level of section 57 Managers in accordance with the municipal recruitment policy;

- s) To be responsible for all the income and expenditure of the municipality;

- t) To be responsible for all assets and the discharge of all liabilities of the municipality;

- u) To be responsible for proper and diligent compliance with the MFMA; and

- v) Considers appeals from a person whose rights are affected by a decision taken under delegated authority, of a staff member other than the municipal manager, provided that the decision by the municipal manager may not retract any rights that may have been accrued as a result of the original decision.

5.7.2 Line of Accountability and Reporting

The Municipal Manger reports to, and is accountable to Council and the Executive Committee

5.8 Chief Financial Officer

5.8.1 Role of the Chief Financial Officer

The Chief Financial Officer:

- a) is administratively in charge of the budget and treasury office

- b) must advise the Accounting Officer on the exercise of powers and duties assigned to the Accounting Officer in terms of the MFMA;
- c) must assist the Accounting Officer in the administration of the municipality's bank accounts and in preparation and implementation of the municipality's budget;
- d) must advise senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of section 78 of the MFMA delegated to them in terms of section 79 of the MFMA; and
- e) must perform such budgeting, accounting, analysis, financial reporting, cash management, debt, management, supply chain management, financial management, review and other duties as may in terms of section 79 of the MFMA be delegated by the Accounting Officer to the Chief Financial Officer.

5.8.2 Line of Accountability and Reporting

The Chief Financial Officer reports to, and is accountable to the Accounting Officer/Municipal Manager.

6. Principles, conditions and limitations

The principle of delegation requires that one body (referred to as the **delegating authority**) confers on another body (referred to as the **delegated body**) the authority to make decisions, execute powers, perform functions and discharge duties, that the delegating authority would ordinarily be required to make, execute, perform or discharge.

The delegating authority may only confer a power that it originally has as its own. The process of delegation must be examined within the context of the "rule of law" principle i.e. the Municipality may not do anything unless it has either expressly or through implication, been authorised to do so.

6.1 Principles in delegating authority in terms of Section 59(2) of the Systems Act

- a) A delegation must be in writing and is subject to any limitations, conditions and directions the municipal council may impose
- b) A delegation must not be in conflict with the Constitution, Systems Act and Structures Act, or any other legislation;
- c) All delegations must ensure that the council retains all legislative powers and those executive powers which cannot be lawfully delegated;
- d) Policy formulation and determination process is as follows -
 - Policy is determined by the body that has the authority to do so in terms of council's delegation systems;
 - Any other structure legitimately established may initiate the generation of policy. The procedure to follow in determining the policy will depend on which body has the final authority to approve it;

- e) The council as the legislative and executive authority may not exercise any power or perform any function beyond that conferred upon it by law;
- f) All delegations are conditional upon compliance with legislation, council policies and procedures, standing rules of order, its IDP and budget;
- g) Delegations must provide for good governance and allow for adequate checks and balances;
- h) All delegations must enhance service delivery without sacrificing accountability;
- i) Delegation does not oblige a delegatee to exercise his/her delegated power and allows for the decisions to be made at a higher level.
- j) Must be reviewed when a new Council is elected;

6.2 Conditions and limitations of delegations

All decision-making powers delegated by Council or any other delegating authority in regard to sub-delegations are subject to the following:

- a) Delegated powers are conferred upon positions (political or staff) in the organisation of Council and not personally on incumbents;
- b) Delegations also apply to acting positions. Persons acting in these positions have the same-delegated powers as those serving in a permanent capacity, provided that the competent authority has duly appointed such acting persons;
- c) The system of delegations does not redefine Council's powers and functions;
- d) The policies whether existing or future will determine the parameters of any delegation and the delegating authority is bound to comply therewith. It is the duty of the delegating authority and Council's Portfolio standing Committees to ensure that clear and comprehensive policies are drafted;
- e) In executing delegated authority, no expenditure may be incurred unless the delegated body is satisfied that the Council has budgeted for the expenditure and that the funds are still available on the relevant budget votes;

- f) The chain of authority from the Council to the Executive Committee to the Councillors, the Municipal Manager to officials below must not be jeopardised by any delegation;
- g) All delegated authorities must report delegated decisions at such intervals as the delegating authority may require. These reports are to enable the delegating authority to determine whether the policies regulating the power are adequate and/or whether the delegation is appropriate;
- h) A delegation may set out special circumstances in which a delegated body is prohibited from exercising his/her delegated power, for example if the delegated body is recommending the rejection of the most financially beneficial tender offered;
- i) All decisions in delegated authority affecting the rights of others must be in writing and reasons must be recorded for such decisions;
- j) All decisions taken in delegated authority must be available for audit purposes.

7. Policies and by-law formulation and determination process

The policy formulation and determination process is as follows:

- a) Policy and by-laws are determined by the body that has the authority to do so in terms of Council's delegations system;
- b) Any political structure or branch of the executive may initiate the generation of proposed policy or by-laws. The procedure to follow in determining the policy or by-law will depend on which body has the final authority to approve it;
- c) Policy or by-laws which are required to be approved by Council must first be channelled via the Portfolio Committee for its recommendations. The Portfolio Committee will then submit its recommendations to the Executive Committee and then be forwarded to Council for approval.

- d) The process to be followed in determining policy on human resources must be determined by the Workplace Forum for approval by the Executive Committee and adoption by Council.

8. Revision of resolutions taken under delegated authority (Section 59(3) of the Systems Act)

Council –

- a) In accordance with procedures in its Rules of Order, may, or at the request in writing of at least one quarter of its councillors, must, review any decision taken by such a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person; and
- b) May require the Executive Committee to review any decision taken by such political structure, political office bearer, councillor or staff member (delegated body) in consequence of a delegation or instruction taking into account any rights that may have accrued to a person.

9. Referral of matters to delegating authorities for decision

A delegated body to which a delegating authority has been delegated or sub-delegated a power to dispose of matters falling within the area of responsibility of the delegate may, or must if instructed to do so by the relevant delegating authority, refer a matter before the delegated body to the relevant delegating authority for a decision (Section 61 of the Systems Act).

10. Appeals – Section 62(1) of the Systems Act

A person, whose rights are affected by a decision taken by a delegated body in terms of a power or duty delegated or sub-delegated by a delegating authority, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

10.1 Process of appeals (Section 62(2) and (3) of the Systems Act)

Upon receipt of an appeal

- a) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority;
- b) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from rights that may have accrued as a result of the decision; and
- c) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

10.2 Appeals Authority – Section 62(4) of the Systems Act

The following appeals authorities are appointed:

- c) The Municipal Manager - when the appeal is against a decision taken by a staff member other than the Municipal Manager;
- f) The Executive Committee - when the appeal is against a decision taken by the Municipal Manager;

- g) The committee consisting of all chairpersons of portfolio standing committees (chairperson to be elected from amongst its members by the members) – when the appeal is against a decision taken by a political structure or political office bearer or a councillor

11. Duty to report to delegating authority – Section 63 of the Systems Act

A delegated body must report to the delegating authority at such intervals and format as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report.

A councillor or a staff member, to whom a power had been delegated, must report to the delegating authority in writing on all decisions taken. A report in this regard must be submitted as follows:

- (a) by the EXCO for information to the Council, together with the EXCO report on the decisions and recommendations on the matters considered by EXCO.
- (b) by the Municipal Manager to the EXCO within 14 days of the end of each month. This report must be incorporated into the report of the EXCO to the Council.
- (c) by the Executive Director to the Municipal Manager within 12 days of the end of each month. This report must be incorporated into the report of the Municipal Manager to the EXCO.
- (d) by a Director to the Executive Director concerned within 10 days of the end of each month. This report must be incorporated into the report of the Executive Director to the Municipal Manager.
- (e) by a Manager to the Director concerned within 8 days of the end of each month. This report must be incorporated into the report of the Director to the Strategic Executive Director.

- (f) by other delegated bodies of lower designations to the Manager concerned within 6 days of the end of each month. This report must be incorporated into the report of the Manager to the Director.

12. Withdrawals, amendment or lapsing of delegation or sub-delegation

The Council or any other delegating authority, may at any time withdraw, qualify or amend a delegation made by it. The withdrawal, amendment, qualification or lapsing of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation (Section 64 of the Systems Act).

13. Review of delegation (Section 65 of the Systems Act)

Whenever it becomes necessary in terms of section 59(2)(f) of the Municipal Systems Act to review Council's delegations, the Municipal Manager must submit through the Executive Committee to the Council: -

- a) A report on the existing delegations issued in terms of section 59 by the Council and other delegating authorities of Council; and
- b) Recommendations on any changes to the existing delegations, which the Municipal Manager may consider necessary.

CHAPTER 2: SYSTEM OF DELEGATION

In order to achieve maximum administrative and operational efficiency and to provide for adequate checks and balances, this system of delegation applies to the AbaQulusi Municipal Council, all political structures, political office bearers, councillors and staff members.

1. Powers reserved for Council only

1.1 General Powers

- a) Approves by-laws;
- b) Assigns the administration of by-laws to the Municipal Manager and the respective
- c) Heads of Department;
- d) Determines overall strategic policy applicable to the municipality as a whole which gives macro direction to its executive and which guides the formulation of all other policies;
- e) Approves the Integrated Development Plan;
- f) Elects members of the Executive Committee, the Mayor, Deputy Mayor and Speaker;
- g) Delegates appropriate decision-making powers in terms of section 59(1)(a) of the Systems Act;
- h) May remove the Speaker, Mayor and/or Deputy Mayor and one or more of the members of the Executive Committee from office in terms of applicable legislative prescripts;
- i) Establishes committees in terms of section 79 and section 80 of the Structures Act;
- j) Grants leave to Councillors from meetings of the council;
- k) Approves Rules of Order of Council;
- l) Determines political structures of council;
- m) Establishes a performance management system and annually appoints a Performance Management Audit Committee
- n) Approves the movement of funds between main segments into which the budget of the municipality is divided for the different departments, by means of the adjustments budget, in terms of the requirements of the MFMA;
- o) Receives, deliberates and decides on audit reports;
- p) Appoints a municipal manager; Executive Director Planning and other section 57 employees;
- q) Appoints an acting municipal manager or acting Executive Director Planning

- r) Appoints, after consultation with the municipal manager, managers or acting managers directly accountable to the municipal manager and determines their conditions of service;
- s) Determines a policy framework for the staff establishment;
- t) Disposes of immovable property in terms of section 14 and 111 of the MFMA;
- u) Determines councillor remuneration within the applicable legislative framework;
- v) Designates full-time councillor positions and authorizes applications to the MEC for Local Government for determination of full-time positions;
- w) Appoints or nominates councillors and/or officials to attend international meetings/conferences/ seminars, etc.
- x) Appoints councillors to portfolio committees;
- y) The council (if less than 15 councillors), or a committee of Councillors not involved in the decision, appointed by council, (if more than 14 Councillors), considers appeals from a person whose rights are affected by a decision of a political structure, political office bearer or a councillor, taken in terms of a power or duty delegated, provided that the decision reached by the council or committee of Councillors may not retract any rights that may have accrued as a result of the original decision.

1.2 Financial Powers

- a) Approves council's annual budget and any amendment thereto;
- b) Determines and imposes rates, levies, duties and tariffs;
- c) Raises loans;
- d) Adopts, maintains and implements a credit control and debt collection policy and a rates and tariff policy which complies with the Systems Act and the MPRA, which rates and tariff policy must be reviewed annually;

- e) Considers and deals with the annual report of the municipality and adopts an oversight report containing the council comment on the annual report, including a statement whether the council –
- has approved the annual report with or without reservations;
 - has rejected the annual report; or
 - has referred the annual report back for revision of those components that can be revised.

1.3 Exclusions and Restrictions

A municipal council may not delegate all of its functions.

a) Exclusions

Section 160(2) of the Constitution and other legislation prevents municipal councils from delegating certain functions. These include the following matters which may not be delegated and must be performed by the municipal councils:

- passing of by-laws;
- approving budgets;
- imposing rates and other taxes, levies and duties;
- raising of loans.

[Constitution of the Republic of South Africa, section 160(2)]

- approving or amending the integrated development plan;
- deciding to enter into a service delivery agreement (in terms of section 76(b) of the Systems Act);
- setting of tariffs.

[Systems Act, section 59(1)]

- appointment and conditions of service of the Municipal Manager and a Strategic Executive Director of the municipality

[Structures Act, Section 30(5)(c)]

b) Restricted delegations

Certain powers may in terms of section 60(1) and (2) of the Systems Act be delegated, but only to specified positions or committees. The following powers may, within a policy framework determined by the municipal council,

- (i) be delegated to an executive committee only, in respect of –

- decisions to expropriate immovable property or rights in or to immovable property; and
- after appointment, the determination or alteration of the remuneration, benefits or other conditions of service of the municipal manager or managers directly accountable to the municipal manager.

- (ii) an executive committee or chief financial officer in respect of –

- decisions to make investments on behalf of the municipality within a policy framework determined by the Minister of Finance.

1.4 Instruction to perform duties

Council may instruct any political structure, political office bearer, Councillor or staff member to perform any of the Council's duties (Section 59(1)(b) of the Systems Act. This is also applicable to any other delegating authority in regard to sub-delegations.

2. Delegated bodies

2.1 Appointments by Council

Council appoints the following political structures, political office bearers, councillors and staff members as delegated bodies to which Council delegates powers and give instructions:

- i) The Executive Committee;
- ii) The Mayor;
- iii) The Speaker;
- iv) The Municipal Manager;
- v) Any other political structure, political office bearer, councillor or staff member appointed by Council or the Executive Committee.

2.2 Other appointments

Any political structure, political office bearer, councillor or staff member can appoint delegated bodies to whom authority can be sub-delegated by taking 2.1 above into account.

3. Delegated authority

The following authorities are delegated in terms of Section 59 of the Systems Act (Act 32 of 2000) to the political structures, political office bearers, councillors and staff members as indicated and also subject to the approved system of delegation:

3.1 The Executive Committee

3.1.1 General powers

- a) Designates Councillors, as determined by the MEC as full-time councillors;
- b) Sets policy in respect of matters falling within the delegated powers of the Executive Committee or within the powers of the executive, below itself;
- c) Comments on proposed legislation and government policies;
- d) Appoints or nominates councillors to attend national and local meetings/ conferences/ seminars, etc;
- e) Appoints or nominates councillors to represent council on outside bodies;
- f) Co-ordinates the operations of the councillors;
- g) Decides to institute or defend any action in the High Court, or court of equal or higher stature;
- h) Decides to institute or defend arbitration proceedings in matters where it
- i) Grants leave of absence to members from meetings of the Executive Committee;
- j) Decisions to expropriate immovable property or rights in or to immovable property within a prescribed policy framework.

3.1.2 Financial Matters

- a) Determines the amount of loss of damage suffered by council where the Municipal Manager or any other Manager reporting directly to the Municipal Manager or other staff member has been responsible for such loss or damage, and recovers the loss or damage from them;
- b) Takes any appropriate action with regard to any loss of or shortage in funds or property belonging to or controlled by the council involving alleged fraud, theft

or negligence on the part of all staff, members of council or any other structure of council;

- c) Approves the virement of funds of any capital amount provided that such virements are taken up in the adjustment estimates;
- d) Resolves any other matter not specifically reserved by council or specifically delegated to another structure or individual.

3.1.2 Line of Accountability and Reporting

The Executive Committee reports to the Council.

3.2 The Mayor

3.2.1 Delegated Powers

- a) When the Council goes into recess, he/she in consultation with the Municipal Manager takes decisions on behalf of the Executive Committee or Councillors which if not taken would in some manner prejudice the Council, in all such cases the mayor must report on such decisions to the next ordinary meeting of the executive committee;
- b) Approves subsistence and travel claims of Municipal Manager/ acting Municipal Manager;
- c) Approves the attendance of conferences by the Municipal Manager/ acting Municipal Manager;
- d) Approves leave for the Municipal Manager/ acting Municipal Manager; and
- e) Any other matter which the council may determine.

3.2.2 Line of Accountability and Reporting

The Mayor reports to Executive Committee and to Council.

3.3 The Speaker

3.3.1 Delegated Powers

- a) Like all other political office bearers, performs duties and exercises powers delegated
- b) to the Speaker in terms of section 59 of the Systems Act;
- c) Performs other duties assigned to him/her in the Council's Rules of Order; and
- d) Any other matter which the council may determine.

3.3.2 Line of Accountability and Reporting

The Speaker reports to Council.

3.4 Municipal Manager

In terms of section 60 of the MFMA, the Municipal Manager must provide guidance and advice on compliance with this Act to the political office bearers and officials of the municipality.

Although the Municipal Manager has all the authority to exercise his/her statutory responsibilities, the following powers are delegated in addition thereto:

3.4.1 Powers delegated to the Municipal Manager

- a) To approve, in consultation with the relevant Heads of Department, the sale by public competition of movable assets in terms of the Supply Chain Management Policy as approved by the council;

- b) To sign any documents which are necessary to give effect to any resolutions of the council or resolution by any committee of the council acting in terms of a delegated power;
- c) To obtain legal opinion or to take any necessary steps to defend actions, claims or proceedings instituted against the Council, provided that High Court actions shall first be approved by the Executive Committee;
- d) To obtain services of an attorney or advocate for any official purpose;
- e) After consultation with the Chief Financial Officer, to incur expenses to appoint investigators to obtain evidence in cases of alleged irregularities or misconduct;
- f) After consultation with the Chief Financial Officer to apply contractual penalty clauses in the event of late delivery of goods or services to the Council;
- g) To approve of leave applications by Heads of Department;
- h) To approve of the secondment of staff from one department to another;
- i) To approve of the payment of travelling and subsistence claims in respect of Councillors and Heads of Department;
- j) To approve, in consultation with the relevant Head of Department, of applications by employees for study assistance in terms of the Council Study Assistance Scheme in terms of approved policy;
- k) To decide on the replacement, at the council's expense, of an official's tools or equipment which are damaged or broken while used in the service of the council in cases where an official is expected to provide her or his own tools or equipment;
- l) To allocate official cellular phones or the payments of cellular phone allowances to officials within a policy approved by council;
- m) Provided that necessary funds are available, to approve the attendance by officials of meetings, workshops, seminars, conferences, congresses and similar events and visits which are in the interest of the council and which are to be conducted within the Republic of South Africa;
- n) To decide about the refunding of tender deposits in respect of those tenders where the council has no contractual obligation to refund deposits;

- o) To decide on the use of coat of arms, flag and banner of the municipality for commemorative and other purposes;
- p) To decide whether costs incurred by the Disaster Management organisation for the provision of assistance, must be recovered by council;
- q) To decide whether food must be supplied to workers of Disaster Management organisations during the provision of assistance.;
- r) To grant permission to persons and bodies to examine the records of the central registry of the council for research purposes or in terms of The Promotion of Access to Information Act and the Promotion of Access to Information Manual as adopted by Council;
- s) To turn down any applications for donations which cannot be considered in terms of council policy;
- t) To grant special leave to employees who are sportsmen and women, coaches and referees/umpires, for the purpose of participation in sports events and tournaments at Provincial and National level.
- u) The approval of ex-gratia payments to sportspersons in terms of policy to employees who represent the R.S.A. at national level;
- v) The granting of permission for the free use of council's premises for departmental functions and other municipal-orientated activities/events.
- w) After consultation with the Heads of Department concerned:-
 - i) to create and fill temporary posts in the event of urgent or emergency situations on condition that budgetary provisions have been made;
 - ii) to transfer and promote officials from one department to another, excluding Heads of Department, in terms of the municipality's recruitment and placement policy;
 - iii) to appoint persons in acting capacities and to approve of payment of acting allowances;
 - iv) to approve the allocation of travel allowances of staff at approved rates;
 - v) to approve that staff may perform external paid private work.

- x) The authority to expend money in terms of the monetary limits as specified in terms of approved municipal delegations of authority and co-sign all cheques with Chief Financial Officer and any other authorised senior financial official;
- y) The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council;
- z) The authority to sub-delegate to municipal officials.

3.4.2 Risk Management

- a) setting an appropriate tone by supporting and being seen to be supporting the Institution's aspirations for effective management of risks;
- b) delegating responsibilities for risk management to Management and internal formations such
- c) holding Management accountable for designing, implementing, monitoring and integrating risk management into their day-to-day activities;
- d) holding the internal structures referred to in 22(2)(b) accountable for performance in terms of their responsibilities for risk management;
- e) providing leadership and guidance to enable Management and internal structures responsible for various aspects of risk management to properly perform their functions;
- f) ensuring that the control environment supports the effective functioning of risk management;
- g) facilitate the approval of the risk management policy, strategy;
- h) facilitate the approval of the fraud prevention policy, strategy;
- i) approving the risk management plan;
- j) facilitate the approval of the Institution's risk appetite and risk tolerance;
- k) devoting personal attention to overseeing management of the significant risks;
- l) leveraging the Audit Committee, Internal Audit, External Audit and Risk Management Committee for assurance on the effectiveness of risk management ensuring appropriate action in respect of the recommendations

of the Audit Committee, Internal Audit, External Audit and Risk Management Committee to improve risk management; and

- m) provide assurance to relevant stakeholders that key risks are properly identified, assessed and mitigated.

3.4.3 Integrated Development Plan

- a) To coordinate the IDP's annual review and service delivery implementation plan.
- b) To prepare the business plans for the sourcing of funds for various projects as contained in the IDP.
- c) To promote and implement integrated Development Planning with other spheres of governance.
- d) To gather information and research on specific policies, strategies and programme relevant to local governance and public policy.
- e) To ensure an explicit alignment between the IDP and budget planning.
- f) To ensure public participation in the decision-making processes of the Municipality.
- g) Grant, postpone or deny leave of absence to all employees within the IDP unit.
- h) Be responsible for an efficient and effective administrative and financial management of the IDP unit.
- i) Identify the Council's development priorities and objectives and internal transformation needs.
- j) To empower and mobilize all sectors of the community to participate meaningfully in the activities of the Municipality. The objective is to disseminate reliable and updated information and facilitate public participation in decision-making processes of the Municipality.

- l) To ensure an active public participation process in achievement of participation and the empowerment goal in terms of Section 160(4) of the Constitution and 16(1) of the Municipal Systems Act.

- l) To facilitate the establishment of the Municipal Ward Committee desks and Public Participation.

NOTE: All the above-mentioned powers may be sub delegated in writing by the Municipal Manager.

3.4.4 Line of Accountability and Reporting

Reports to Council and the Executive Committee;

Reports to the relevant MEC;

Reports to the Auditor-General.

3.5 Chief Financial Officer

3.5.1 Powers and duties delegated to the Chief Financial Officer:

- a) The authority to collect moneys owed to the council in terms of a contract, legislation, court orders, and decisions of the council or any other legal basis.
- b) The authority to commence with legal process on behalf of council in respect of the recovering of any money owed to the council for whatever reason and in any court, which has jurisdiction, with the inclusion of the signing of all necessary documents. This includes the power to instruct the council's attorney and advocate when necessary, to act on behalf of council in such cases;
- c) The claiming from and making of payments to professional persons or firms;
- d) The authority to release funds in respect of capital and operational expenditure items in terms of the approved capital and operational budget;
- e) The authority to deduct money, subject to the basic conditions of employment Act and any other relevant legislation, from remuneration which an official or a councillor owes to the Council.
- f) The authority to make a ruling in respect of the commencement with a legal process for claiming of damages to council property caused by third party, and for expenses in respect of injuries sustained by an official while on duty,

which the council must incur in terms of the Workmen's Compensation Act (Act No. 130 of 1993) and leave agreement, in the event that another party causes the accident or incident;

- g) The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of: -
 - i) the financial regulations;
 - ii) the regulations regarding housing subsidy to employees.
- h) To deal with all matters relating to insurance of council assets;
- i) To sign such documents as may be necessary when claiming funds obtained from any government department;
- j) To invest monies to the best advantage subject to council's Cash and Investment Policy and applicable legislation, and to report in terms of section 71 of the MFMA;
- k) To enter into agreement on behalf of council for the payment of arrears by debtors;
- l) To refund/pay furniture removal costs of new staff appointees in terms of the relevant policy of the council;
- m) To authorise the payment of I.O.D. pay in respect of employees injured on duty;
- n) To obtain, in consultation with the municipal manager, bank overdrafts or to take up loans on short-term commitments when these are required and report to council;
- o) To implement and enforce council's policy in respect of credit control and debt collection;
- p) The authority to obtain an interim property valuation from the Council's appraisers as and when the need arises, in respect of any property within the municipal area;
- q) The issuing of a clearance certificate, which certifies that the rates, fees, amounts and interest in respect of a certain property in the municipal area, have been paid to the council as required by the applicable legislation;
- r) The authority to sign the following documents:
 - i) Share certificates in respect of approved loans;

- ii) All documents concerning the collection of money owed to the Council, in either
- iii) The Magistrates or the High Court;
- iv) Debt certificates
- s) The authority to expend money in terms of the monetary limits as specified in terms of approved municipal delegations of authority.

3.5.2 Statutory powers, functions and duties delegated in terms of the MFMA

3.5.2.1 in respect of:

- all income and expenditure of the municipality;
- all assets and the discharge of all liabilities of the municipality; and
- proper and diligent compliance with MFMA.

3.5.2.2 Ensuring that the municipality has and maintains-

- effective, efficient and transparent systems of financial and risk management and internal control;
- a system of internal audit;
- an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
- a system for properly evaluating and prioritising all major capital projects prior to a final decision on the project;

3.5.2.3 Keeping full and proper records of the financial affairs of the municipality in accordance with any prescribed norms and standards;

3.5.2.4 The effective, efficient, economical and transparent use of the resources of the municipality.

- 3.5.2.5** Taking effective and appropriate steps to:
- collect all money due to the municipality;
 - prevent unauthorised expenditure;
 - prevent losses resulting from possible criminal conduct; and
 - manage available working capital efficiently and economically.
- 3.5.2.6** Without delay report all losses as a result of suspected criminal conduct to the South African Police Service;
- 3.5.2.7** The management, including the safeguarding and the maintenance of the assets, and managing the liabilities, of the municipality;
- 3.5.2.8** Compliance by the municipality with any tax, levy, duty, pension and audit commitments as may be required by legislation;
- 3.5.2.9** Setting all contractual obligations of, and pay all money owing by the municipality within the prescribed or agreed period;
- 3.5.2.10** On discovery of any unauthorised expenditure, must immediately report, in writing, particulars of the expenditure to the mayor, the members of the Executive Council of the Province responsible for finance and for local government and the Auditor-General;
- 3.5.2.11** Administer the budget and treasury office, as well as the Supply Chain Management Unit, and advise the Municipal Manager and other officials on financial matters;
- 3.5.2.12** Set out the annual budget in a schedule that shows revenue by source and expenditure by vote, and comply with any other guidelines issued by National Treasury from time to time;
- 3.5.2.13** Ensure that the remuneration of political office bearers is in accordance with legislation;
- 3.5.2.14** Report to council on all expenditure on staff salaries, wages, allowances and benefits;
- 3.5.2.15** Where appropriations for capital projects span more than one (1) year, ensure that shifting of funds between years is in accordance with section 31 of the MFMA;

- 3.5.2.16 Open and maintain at least one bank account in the name of the municipality, and advise National Treasury and Auditor General in writing of details thereof;
 - 3.5.2.17 Notify National Treasury of occasions when the bank account/s of the municipality show an overdraft position;
 - 3.5.2.18 Table in council a consolidated report of withdrawals each quarter, and submit a copy of the consolidated report to the Provincial Treasury and Auditor-General;
 - 3.5.2.19 To ensure that the requirements for the raising of short- and long-term debt complies with section 45 and section 46 of the MFMA;
 - 3.5.2.20 To report monthly, quarterly and mid-year on the Council's budget performance in terms of Chapters 7, 8 and 12 of the MFMA;
 - 3.5.2.21 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.
- 3.5.3 Line of Accountability and Reporting

The Chief Financial Officer reports to the Municipal Manager

3.6 Manager office of the Municipal Manager

3.6.1 The incumbent is delegated to:

- a) To manage and monitor the strategic agenda of the municipality;
- b) To ensure the conceptualization, design and implementation of organization restructuring;

- c) To provide strategic advice to the Office of the Municipal Manager and ensure that high levels of performance of the administration is maintained;
- d) To ensure that programmes related to the performance management and transformation and other corporate issues are aligned and integrated;
- e) To provide on-going support to structural, process and system changes as required;
- f) To ensure the introduction of a learning organization and knowledge management practices;
- g) To ensure pro-active planning, management and maintenance of the development of the Municipality;
- h) To create an environment conducive to the development of the local community;
- i) To ensure the provision of effective and relevant services for the Municipality;
- j) To determining mechanisms, processes and procedures for interaction and communication between the regional administration of AbaQulusi Municipality:
 - the ward councillor or other responsible that part of the municipality's area;
 - ward committee, where applicable, in the municipality area;
 - the local community in that part of the municipality area;
 - the Office of the Municipal Manager, all ED's and other staff members
- k) To oversee the process of investigating and considering alternative services mechanisms for the provision of municipal services as provided for the Systems Act;
- l) The management of the provision of services to the local community in a sustainable and equitable manner;

- m) Facilitating participation by the local community in the affairs of the municipality;
- n) Developing and maintaining a system whereby community satisfaction with municipal services is assessed;
- o) On written request by a staff member, to make a copy of or extract from the staff systems and procedures on the Municipality, including any amendments, available to that staff member;
- p) To ensure that the purpose, contents and consequences of the staff systems and procedures of the municipality and the code of conduct for officials are explained to staff members who cannot read;
- q) Making sure that the annual budget is tabled to public, inviting the community to submit representation in connection therewith and submitting same to the finance and provincial and affected municipalities;
- r) Making the administrative support, resources and information required by the Mayor to perform the budgetary steps to the Mayor available to him / her,
- s) Developing an appropriate system of delegation that will both maximize administrative and operational efficiency and provide adequate checks and balances in the Municipality's financial administration for the proper application of the MFMA;
- t) Making an assessment of the impact of the shifting of a function or service to a municipality's entity on the Municipality's assets and liabilities when considering the establishment of a participation in a municipal entity ;

- u) Inviting the local community, organized labour and other interested persons to submit comments or representation in respect of the Municipality's intention to establish and/or participate in a municipal entity;
- v) Giving the local municipality reasonable notice of the intention to amend a contract or agreement procured through the supply chain management policy of the Municipality and inviting the local community to submit representations to the Municipality entity concerned;
- w) Tabling the reasons for the proposed amendment of a contract or agreement procured through the supply through the supply chain management policy of a municipal entity of which the Municipality is in the Council;
- x) Giving the local community reasonable notice of the intention to amend a contract or agreement procured through the supply chain management policy of the municipality and inviting the local municipality to submit representations to the Municipality;
- y) Preparing an annual report for the Municipality;
- z) Determining any additional information to be contained in the annual report of a municipal entity of which the municipality is a parent municipality;
- aa) Submitting the annual financial statements of the Municipality to the Auditor-General on or before the 31 August of each year;
- bb) Receiving the annual report of a municipal entity of which the Municipality is a parent municipality;
- cc) Submitting copies of the minutes of meeting of the Council and its committees where the annual report was discussed to the Auditor-General, the provincial treasury and the provincial department responsible for local government.

3.6.2 Performance Management System

- a) Preparing and submitting within 14 days after the approval of the Municipality's annual budget, drafts of the annual performance agreements as required in terms of section 57(1)(b) of the Municipal Systems Act for the Municipal Manager and all senior managers;
- b) Performing an assessment of the Municipality's performance during the first half of each financial year;
- c) Submitting the mid-year performance assessment report to the Mayor, the National Treasury and the Provincial Treasury.
- d) Ensure that the Municipality's performance is in accordance with IDP objectives
- e) Ensure that there are monitoring and technical support mechanisms in place to guide organisational, Departmental and individual performance.
- f) Facilitating and drafting of the performance agreements for the Municipal Manager and managers reporting directly to the Municipal Manager aligned to the IDP and SDBIP
- g) Facilitate the evaluation process for the Municipal Manager and the managers reporting directly to the municipal manager
- h) Controls the critical key performance areas of the PMS functionality and provides support and input into the execution of PMS strategies to ensure alignment with objectives set out in the IDP
- i) Coordinating activities associated with the PMS functionality and the alignment thereof to other key municipal processes

- j) Ensure that all legislative and reporting requirements are complied with as specified in the MFMA, MSA, relevant regulations, Council policies and procedures.
- k) Investigate best practices and alternative measuring and monitoring systems to ensure that systems are adequately positioned to managing organisational and individual performance,
- l) Mapping out initiatives and interventions necessary for the provision of support in terms of monitoring and measuring performance to give effect to the PMS.
- m) Co-ordinates processes necessary to facilitate the communication of performance management throughout the municipality.
- m) Sustaining and/ or building relationships with key stakeholders through interaction and provision of information on issues pertaining to performance management issues.
- o) Interacting with external and internal organisation, community other stakeholders to facilitate consultation in line with the PMS framework and council policies.
- p) Ensuring that all stakeholders are consulted by ensuring that adverts are placed in the local and provincial media.
- q) Ensuring community involvement in setting indicators and targets for organisational performance and the review thereof.
- r) Ensure that stakeholders in the PMS process are kept up-to-date on issues of Organisational and Employee Performance and to provide a platform for stakeholder feedback on PMS issues.

- s) Ensure a climate conducive to promoting and sustaining motivational and performance levels is cultivated and maintained enabling in the PMS unit to contribute positively to the Organisation service level objectives and outcomes.

3.6.3 Special Programmes

- t) Develop and implement special programmes,
- u) Conduct community needs assessment;
- v) Develop and implement systems and processes to support the special programmes;
- w) Identify priority projects;
- x) Liaise closely with all stakeholders before, during and after programme implementation;
- y) Develop community participation and capacity building programmes;
- z) Develop, manage, maintain and evaluate an effective HIV/Aids programme for the municipality;

- aa) Set up systems to monitor programme implementation progress;
- bb) Prepare and submit programme progress reports to the relevant stakeholders;
- cc) Prepare and submit reports on the impact of programmes;
- dd) Ensure proper budgeting and funding of programmes;
- ee) Monitor the expenditure;
- ff) Conduct or co-ordinate HIV/Aids training and workshops for staff and general public.

3.6.4 Line of Accountability and Reporting

The Chief of Operations reports to the Municipal Manager.

3.7 EXECUTIVE DIRECTOR: Corporate Services

3.7.1 Administration

Facilitate the signing of the following documents:

- a) A declaration by the seller for the payment of transfer duties in connection with property transactions excluding declarations concerning buildings which were erected with funds obtained from any state department;
- b) Lease contracts in respect of the leasing of council property as well as property leased by the council, excluding documents concerning the leasing of buildings erected with funds received from national or provincial government;
- c) Contracts for the maintenance of lifts in municipal buildings as well as maintenance contracts in respect of council equipment which are under the control of the Administrative Manager;
- d) Contracts concerning the installation of telephones for official purposes
- (e) All documents which are necessary for the registration of erven or other immovable property alienated by the council, excluding documents for the registration of erven or other immovable property alienated by the council on which buildings are erected with funds received from national or provincial government;
- (f) All documents which may be necessary for the registration of immovable property in the council's name irrespective of the way in which the council acquired such immovable property;
- (g) Contracts which may be necessary for the alienation of any rights in immovable property owned by the council;
- (h) All documentation necessary for compliance with the provisions of the relevant Expropriation Act, 1975 (Act 63 of 1975);

- i) All documents which may be necessary for the registration of servitudes or notarial contracts to which the council is a party;
- j) Contracts regarding branch-railway lines and third-party rights;
- k) Any other documents for which authority has been delegated by the by the Municipal Manager;
- l) In consultation with the SED: Technical Services to waive Council's rights in respect of servitudes;
- m) The authority to decide on the form of transport that should be used by officials of whom it is required to attend meetings, workshops, seminars, conferences, congresses and similar events and special visits in the interest of the Council, and which are to be conducted within the boundaries of the Republic of South Africa.

3.7.2 Council Support

- a) To provide the overall support to Councillors;
- b) Preparation and compilation of Councillors' agreements in consultation with the Municipal Manager;
- c) Attend to logistics for councillors who attends to meetings, workshops and seminars;
- d) Deal with Councillor's personal relevant matters e.g. salary queries, salary adjustments in terms of the relevant legislation, pension, etc.
- e) Maintenance of the municipal offices;
- f) Administration of office lease agreements.
- g) Maintain and oversee every task taken by the office of Council Support and report to the Executive Director Corporate Services with every duty undertaken.

3.7.3 Human Resources

In the case of a new appointment, after approval from the Municipal Manager if such an appointee has been obliged to change his or her place of residence as a result of the appointment, to grant permission in terms of the council's policy for the payment of removal costs in respect of the appointee's movable property; provided that sufficient proof of such costs that had been incurred, is furnished;

In consultation with the Municipal Manager, to decide about confirming the appointment of an employee that was appointed on probation period in the light of the performance and competence of the appointee, subject to the provisions of the labour legislation;

- a) The administration of the council's obligation in respect of:
 - the Employment Equity Act;
 - the Skills Development Act;
 - the Labour Relations Act and; and
 - the Basic Conditions of Employment Act

- b) To grant or defer leave, to grant sick leave, to approve of leave being carried over to the next cycle, all in respect of all employees in the department and within the limitations as set out in Council's leave conditions;

- c) In consultation with the departmental head concerned, to dismiss with proper notice, any temporary employee, whether in a permanent or temporary post, if his or her services are no longer required, subject to the provisions of the labour legislation;

- d) In consultation with the departmental head concerned, to decide about the

acceptance or not of a notice of termination of service received from an employee on a shorter period than the period set in the conditions of service of the employee;

- e) In consultation with the departmental head concerned, provided that the granting of permission does not adversely affect the employee's work performance, to grant permission to an employee who applies to pursue other paid employment;
- f) The authority to approve payment of an acting allowance to an employee in terms of his or her conditions of service, on receipt of a certificate issued by the departmental head concerned, certifying that the employee did in fact fully act in the post concerned;
- g) In consultation with the departmental head concerned the authority to extend the validity of non-accumulative leave of an employee, subject to collective agreement on conditions of service;
- h) In consultation with the departmental head concerned the annual adjustment of the schedule of uniforms and protective clothing;

3.7.4 Information Technology

- a) Deal with IT strategic management, guidance and advice in respect of policy and strategy, planning and development and implementation IT initiatives within the Municipality, in line with the MFMA, Local Government Municipal Structures Act, and the Municipal Systems Act.
- b) Coordinate effective use of Information Communication Technologies to enable enhanced service delivery and access to information and services by all municipal stakeholders.

- c) Develop an enterprise technology & information strategy (IT Strategic Plan) that is aligned & supportive to organisational objectives.
- d) Develop Disaster Recovery Plan and Business Continuity Plan, as Risk Management measures for the Municipality with special emphasis on Phoenix Financial Management System.
- e) Set-up and maintain ICT governance policies, processes and procedures, including ICT, Financial Governance, Project Management, ICT Service Management, Helpdesk & Support, Systems Development and SLA.
- f) ICT Asset Management (from procurement to disposal), ICT Infrastructure (Hardware, software & networks).
- g) Oversees Application Development and Support and website management.
- h) Ensure that all development of system capacities is in accordance with Group Wide Standards.
- i) Operate as the first point of contact for all external IT stake holders like local, provincial and national Government departments like SITA, IT systems auditors from the Auditor General Office.
- j) Involved with IT/Computer training for all users to ensure optimal ICT resource usage.
- k) Oversee IT projects, vendor management, municipal databases & website management and general helpdesk functions.
- l) Wireless WAN and LAN management.

- g) working together with Council support to assist Councillor with electrical and paperless system as it has been introduced.

3.8 EXECUTIVE DIRECTOR: Technical Services

3.8.1 Roads and Storm Water

- a) Approval of progress payment certificates to contractors doing roads capital projects as well accounts for professional engineers rendering professional services to the Municipality not exceeding prescribed amounts set by Council.
- b) Approval of procurement requisitions and payments thereof for services and suppliers of goods not exceeding prescribed amounts set by Council.
- c) To be authorized by Council to adhere to the stipulations of the Occupational Health and Safety Act, Act 85 of 1993 with regard to construction and maintenance of roads and storm-water networks that Council is responsible for.
- d) To on behalf of the Council take over the roads and storm- water networks from township developers after it was inspected and found to adhere to all applicable specifications, requirements and laws.
- e) To approve plans/or draft designs as submitted by Town developers, Design Engineers (own department and consulting Engineers) in accordance with the appropriate founding specification for roads and storm water as well as the terms of section 79(1) of Local Government Ordinance 17 of 1939, and section 119(1) of the LOCAL Government Ordinance 15 of 1986.
- f) To take control of all tenders and contracts concluded and approved by the Council for roads and storm water services, to supervise it and to draw-up tender documents.

- g) To prescribe technical specification for all materials for civil engineering services
to be used in the established townships in accordance of the Establishing conditions with consideration to the geological earth formation in each separate case and safety requirements.
- h) To facilitate the appointment of a Consulting Engineer according to council resolutions which engineer disposes of the necessary skills regarding the tasks that must be done, at guidelines tariff of fees as determined by the Engineering Council of South Africa ECSA and as published from time to time as a Board Notice in a Government Gazette provided that the necessary funds have been approved in accordance with Engineering Profession Act 46/2000 in terms of which Act the appointment of Consultants shall be done.
- i) Grant extension of time for claims on roads and storm water construction contracts in terms of the agreement
- j) In consultation with the Municipal Manager, to approve the services of a Consultant, in terms of the supply chain management policy, with regard to any of the matters under his or her control, where the consultant's fees and expenses do not exceed a prescribed amount set by council per project or occasion.

3.8.2 Water and Sanitation

- a) To in accordance with the Council's policy, and geohydrological requirements, grant permission for the sinking of boreholes
- b) To in terms of the Council's policy, effectuate the connection of any land with the Council's sewerage system or water network and to recover costs incurred from the owner of such land up to the point of litigation.
- c) To administer and implement the Council's by-laws relating to Water (Administrator's Notice 21 of 05/01/1977) and Sanitation Administrator's Notice 845 of 25/05 1983.

- d) To take over the water and sanitation network of township developers on behalf of Council after it was inspected and found to adhere to all applicable specifications requirements and laws.
- e) To approve plans/or draft designs as submitted by town developers, design engineers (own department and consulting engineers) in accordance with the appropriate founding stipulations for installation of water and sanitation as well as terms of Section 79(1) of Local government Ordinance 17 of 1939, and Section 119(1) of the Ordinance 15 of 1996.
- f) To facilitate the appointment of a Consulting Engineer according to council resolutions which engineer disposes of the necessary skills regarding the tasks that must be done, at guidelines tariff of fees as determined by the Engineering Council of South Africa ECSA and as published from time to time as a Board Notice in a Government Gazette provided that the necessary funds have been approved in accordance with Engineering Profession Act 46/2000 in terms of which Act the appointment of Consultants shall be done.
- g) To take control of all tenders and contracts concluded and approved by the Council for Water and Sanitation Services and to supervise it to draw tender documents.
- h) To prescribe technical specifications for all materials for water and sanitation services to be used in the established townships in accordance of the Establishing conditions with consideration to the geological earth formation in each separate case and safety requirements.

3.8.3 Electrical Services

- a) The authority to extend the electricity supply network of the Council, to make connections thereto in terms of the electricity supply regulations and to authorise repayments in connection therewith;
- b) In consultation with the Municipal Manager, the authority to approve the services of a consultant, in terms of the supply chain management policy, with regard to any of the matters under his or her control, where the consultant's

fees and expenses do not exceed a prescribed amount per project or occasion;

- c) The authority to grant permission to consumers to resell electricity on conditions as contained in the electricity supply regulations;
- d) The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of -
 - the electricity supply regulations;
 - the Electricity Act; and the Occupational Health and Safety Act, 1993, as supplier of electricity within the municipal area.
- e) In consultation with the Municipal Manager, the provision of technical assistance and training to other municipalities, private persons and organisations that are deemed necessary and essential, without prejudice to the training of the Council's own personnel;
- f) The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.

3.8.4 Line of accountability and reporting

The Executive Director Technical Services reports to the Municipal Manager.

3.9 EXECUTIVE DIRECTOR: Development Planning

3.9.1 Planning

- a) The authority to grant approval for the erection of a second residential unit one stand or premises in terms of the Town Planning Schemes and other relevant legislation;

- b) The authority to issue certificates of condonation in terms of the provisions of the Sectional Titles Act, 2003 (Act 29 Of 2003);
- c) The authority to approve applications for the consolidation and sub-division of land which does not belong to the municipality and, where necessary, the setting of building-clause conditions to be registered against the titles of the stands concerned, as well as the determination of servitudes for the protection of services and their application in cases in which subdivisions are made;
- d) The authority to take the necessary steps to secure a suitable court order which obliges the owner or occupier of land or premises to meet the requirements of the Town Planning Scheme in the event that owners or occupiers of land or premises fail to meet the requirements of the said Town Planning Scheme;
- e) The authority to make recommendations to approve rezoning applications in respect of land within the applicable legal prescripts;
- f) The authority to make recommendations and commentary in respect of applications for the cancellation, suspension or amendment of the conditions which are restrictive, to bring the title deed of a premises into line with the Town Planning Scheme, except in cases in which a reversionary clause in favour of the Council exists in the title deed;
- g) The issuing of a certificate, in compliance with the requirements of the Provincial Township Board, that an applicant who has applied for township establishment, has in fact provided services to the satisfaction of the council;
- h) The issuing of building clause and waiver certificates as well as certificates for the raising of property title conditions to bring it in line with the provisions of council's Town Planning Scheme;
- i) The authority to consider applications for special consent use in terms of the Town Planning Scheme. In cases, which he/she considers, the application to be of a controversial nature or that might have a significant impact on the surrounding community, or must, in the case of objections being lodged by surrounding property owners, refer it to the Council for a decision;
- j) To manage the Land Use Management System;

- k) The authority to perform the local economic development function
function, including industrial development;
- l) The authority to perform the tourism functions in liaison with the relevant Provincial Department and District Municipality.
- m) Support the Municipal Manager in the preparation of the Municipal Integrated Development Plan.
- n) The authority to recommend the appointment of officials of his or her department as health and safety representatives for his or her department in terms of the provisions of the relevant Occupational Health and Safety Act, (Act No. 85 of 1993);
- o) The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.
- p) The authority to permit private persons or organisations to perform work on Council property: Provided that-
- this does not prejudice the council's interests; and
 - the council is indemnified in writing against any damages and claims which may arise or result from such activities;
- q) The authority to approve or reject all building plans and to decide on building line concessions, lateral and rear spaces as set out in the Town Planning Scheme;
- r) The authority to consider and finalise all applications for permanent advertisements in accordance with the provisions of the regulation for the display of advertisements jointly with the Planning Committee;
- s) The authority to perform the functions and exercise the powers vested in the council in terms of the provisions of -

- the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act , 1998, (Act 19 of 1998);
 - the lease contracts for municipal housing;
 - the National Building Regulations and Building Standards Act (Act No. 103 Of 1997); and
 - the provisions of regulations in respect of the numbering and renumbering of buildings and places, and the assignment of names to and the display thereof on flats;
- t) The authority to grant permission for a deviation or relaxation in terms of the National Building Regulations and Building Standards Act, (Act No. 103 of 1997) except for a regulation concerning the strength and stability of buildings;
 - u) To approve or reject requests for the use of servitude areas created for municipal purposes, for building purposes or for the erection of other structures: Provided that such use of the servitude area does not prejudice the purpose for which the servitude was registered;
 - v) The authority to relax height restrictions of buildings to a maximum of 10 (ten) metres, where relevant;
 - w) To make recommendations to the relevant government departments concerned in respect of the approval of or rejection of applications to demolish or reconstruct houses;
 - x) The authority to grant the necessary sanction in consultation with the Municipal Manager, until a professional surveyor is appointed, to give out cadastral work on a portion basis to surveying firms, subject thereto that the fees concerned shall be as stipulated in the statutory prescribed scales, and provided that no single appointment exceeds a prescribed amount;
 - y) When applications are made to relax street building lines in respect of single residential stands within the area the authority to finalise such applications

administratively provided that the mentioned building lines are relaxed to a prescribed maximum, in which case this is adequately provided for by the scheme;

- z) The authority to consider applications for home industries and house cafes in terms of the Town Planning Scheme. In cases, which he/she considers, the application to be of a controversial nature or that might have a significant impact on the surrounding community, or must, in the case of objections being lodged by surrounding property owners, refer it to the Council for a decision;
- aa) The issuing of a certificate, in compliance with the requirements of the Provincial Township Board, that an applicant who has applied for township establishment, has in fact provided services to the satisfaction of the Council;
- bb) The issuing of building clause and waiver certificates as well as certificates for the raising of property title conditions to comply with the provisions of Council's Town Planning Scheme;
- cc) The authority to sanction a relaxation in respect of any structural changes to buildings in terms of the provisions of the regulations governing crèches and crèches-cum-nursery schools: Provided that the provisions of the National Building Regulations are not contravened;
- dd) The implementation of the municipality's integrated development plan, and the monitoring of progress with implementation of the plan
- ee) The authority to consider and finalise applications for temporary advertisements and posters, the placing of banners and posters in respect of functions and other events, as well as other ways of advertisement, amongst other things, by using balloons, in accordance with the provisions of the regulations for the display of advertisements;
- ff) Administration of delegations as set out in terms of KwaZulu-Natal Planning and Development Act, 2008 (Act 6 of 2008), see Annexure A.

3.9.2 Housing Development and Administration

- a) To execute in general all the activities and duties of the Council in terms of the Housing Act 107 of 1997, the Housing Code, the Municipal housing Strategy and the IDP, in order to ensure that the right to have access to adequate housing is realized on a progressive basis.
- b) To promote housing development projects by developers.
- c) To, on behalf of Council act as developer in respect of the planning and execution of a housing development project on the basis of full pricing for cost and risk.
- d) To facilitate joint venture contracts with developers, on behalf of Council, in respect of housing development projects
- e) To facilitate the establishment of a separate business entity in order to execute housing development projects in terms of the relevant housing legislation and policies.
- f) To administer any national housing program in respect of projects within the area of jurisdiction.
- g) To facilitate and support the participation of all relevant role players in the housing development process.
- h) To administer the housing waiting list and assess housing demand from time to time.
- i) The authority to perform all the functions related to the social aspects of housing delivery in terms of housing development, discount benefit scheme and rental stock;
- j) To facilitate upgrading of informal settlements within the area of jurisdiction of the local authority.

3.9.3 Building Inspectorate

- a. To in terms of Section 7 of the Act, satisfy himself /herself than any application to erect a building not only with the requirements of the Act but also with any other applicable law.

- b. To in terms of sections 4 & 7 of the Act, approve of or refuse any application for the erection of a building.
- c. To take any actions deemed fit in terms of section 10 of the Act in cases where he/she considers building or earthwork to be objectionable in any way.
- d. To act in terms of section 10 of the Act, where it comes to the attention of the Manager Building Inspectorate that no work has been done in a period of more than 3 months on a building under construction.
- e. To, in terms of section 12 read with section 10 of the Act take all and any suitable action deemed fit, which action includes but is not limited to allowing compulsory evacuation of buildings and/or building sites and/or (in the extreme) allowing for the demolishing of buildings where a building becomes dilapidated and/or where any building or earthworks becomes dangerous in any way.
- f. To in terms of section 13 of the Act, exempt an applicant applying for minor building work (as defined in the Act) to comply with the Act, and whilst in so doing, authorizing the applicant by setting any conditions or give any directions which are not specified but which, presumably, would have to be within the terms of the Act.
- g. To issue a certificate of occupancy in terms of section 14 of the Act, where he/she is satisfied that the completed building has been erected in accordance with the regulations.
- h. To enter any building or land at any reasonable time in connection with the consideration of any application submitted in terms of section 4 of the Act, and/or to further determine whether the owner of the building or land complies with any/all the provisions of the Act, and /or any conditions imposed by the Municipality in terms of the Act.
- i. Permit a deviation or grant an exemption from any regulation except those which may concern the strength and stability of the building, in terms of section 18 of the Act.

- j. To obtain a court order to stop work on any building where such work is unauthorized or does not comply with the provisions of the Act (section 21).
- k. To charge fees and/or other monies in respect of the examination of plans (section 22).
- l. To approve of the demolition or changeover of buildings in consultation with other relevant business units.
- m. To grant permission for the erection of buildings nearer than the distance stated in the Town Planning Scheme.
- n. To undertake an investigation according to the stipulations of Section 11B (1) of Act 103 of 1985 when there is a suspicion that a nuisance exists on the premises and to report back to Council.

3.9.4 Economic Development

- a. Projects facilitation and coordination.
- b. Seek funding on behalf of projects from donor agency and other National and Provincial Departments.
 - i. Develop business plans of projects that request the service.
 - ii. Manage the registration of cooperatives.
- c. In respect of marketing advertisement, authority should be delegated to:
 - i. Direct marketing in consultation with the communication and Mayor's office.
 - ii. Development of marketing and tourism brochures.
 - iii. Direct link with all business structures.
- d. In respect of Budget allocation, authority should be granted to:
 - i. Granted permission to sign and authorize amount as delegated in the financial policy.

- ii. To facilitate entering into service contract with service providers for rendering of capacity building programs as stipulated in the policy.

- e. In respect of business development, authority should be delegated to:
 - i. Facilitate the establishment of Tourism Forum.
 - ii. Facilitate the establishment of Forum of prevention of crime and grim.

- f. In respect of Human capital development, authority should be granted to :
 - i. Facilitate the sourcing of funding for the establishment of incubation centres.
 - ii. Engage service providers to facilitate business skill training.

3.9.5 Urban renewal and special projects

- a) Develop and implement urban renewal and / or township regeneration programmes.
- b) Manage neighbourhood and development partnership programme - NDPG (National Treasury).
- c) Submit funding applications in terms of grant requirements.
- d) Coordinate and manage consultants appointed for the execution of NDPG projects.
- e) Initiate township regeneration projects.

3.9.6 Geographic Information Systems (GIS)

- a) Manage GIS unit.
- b) Update GIS data sets.
- c) Aerial photography.

- d) Adhere to National Standards and prescriptions as set out by the National Spatial Data Infrastructure (NSDI) Act No. 54 of 2003 in order to facilitate the sharing and integration of spatial Information within the Newcastle Municipality environment.
- e) To capture and maintain metadata for any spatial information held by it in accordance with this Act No. 54 of 2003.
- f) A data custodian must ensure that metadata is available to users by information held by it in accordance with this Act No. 54 of 2003.
- g) Making its metadata available to the data users with the actual data in the prescribed manner for inclusion in the electronic metadata catalogue
- h) Including it in a manual on functions as described in section 14 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- i) Must take reasonable steps to effect adequate and appropriate security against the loss of spatial information or unlawful access to and modification or disclosure of that spatial information.
- j) To ensure the protection of the copyright of the State and other interested parties in spatial information in the Municipality's custody.
- k) To ensure that all project documents, with spatial location, that are being implemented within the Municipality have a location reference in a format that is usable to the GIS Office within the Municipality.
- l) To develop a GIS Roadmap/ (5 year) Strategy that will be approved by the Municipality in terms of GIS Implementation within the Municipality.
- m) To engage with the District Municipality, other spheres of Government to source funding for the Implementation of GIS within the Municipality.
- n) May exchange spatial information in terms of a collaborative maintenance agreement providing for the regular updating of base data sets within an agreed period.

- p. To approve of the appointment of students for experiential training on a closed term temporary agreement in accordance with Council policy
- q. To determine variable shifts or flexi-time for personnel working in the unit, with the aim of usage of access to facilities by the public after normal working hours, subject to working the minimum working hours prescribed in terms of legislation and that the conditions of service are not affected.

3.10.7 Cultural Services

- a) To render cultural-/library-/museum services to residents and visitors of AbaQulusi within the framework of existing legislation and Municipal by-laws.
- b) Administer and implement the Council's Standard Library By-laws and to administer Council's Standard by-laws and tariff structure on Museums.
- c) To determine the library hours of the different libraries according to his discretion, after taking into consideration the needs of the community as well as the fixed minimum/maximum hours.
- d) To temporarily close a library, after due consideration of justifiable statistics, for the use of such a library during low season peaks provided that, in the instances of such temporary closure, staff be allocated to other libraries where they are needed. To temporarily close the museums for installation of new exhibitions and for maintenance such as pest control, stripping and sealing of floors.
- e) To determine variable shifts for personnel working in the unit (especially library and museum personnel) with the aim of usage /access to facilities by the public after normal working hours and during certain hours on a Saturday, subject to working the minimum working hours prescribed in terms of legislation and that the conditions of service are not affected.
- f) To determine and vary the hours of the official opening of various libraries based on statistics of usage during the summers and winter as well as taking the safety of personnel into consideration and the availability of public

transport (during closure in the evenings) subject to working of minimum prescribed hours per month; to grant time for exhibition openings to take place in the Art Museum.

- g) To accept donations intended for the use of the museums and libraries and to sign as beneficiary for an on behalf of Council for the acceptance of such donations and to administer such in terms of current legislation.
- h) In terms of the provisions of the Library by-laws (30 January 1991), to approve or refuse applications to lease the library Auditorium.
- (i) To put the library halls at the disposal of other directorates/ business units of the Council, provided that they are not otherwise occupied or hired out.
- (j) To facilitate partnership agreements with other library/information/museum services, NGO's or similar institutions.

NOTE: All the above-mentioned powers may be sub-delegated in writing by the Director:

Community Services

3.10.8 Line of accountability and reporting

The Director Community Services reports to the Municipal Manager

3.11 Manager: Internal Audit

3.11.1 The powers delegated to Manager: Internal Audit

- a) To prepare a risk-based audit plan and an internal audit program for each financial year;
- b) To advise the accounting officer and report to the audit committee on the
- c) To implement the internal audit plan and matters relating to:

- (i) internal audit;
 - (ii) internal controls;
 - (iii) accounting procedures and practices;
 - (iv) risk and risk management;
 - (v) performance management;
 - (vi) loss control; and
 - (vii) compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; and
- d) To perform such other duties as may be assigned to it by the accounting officer.
 - e) The objective of internal audit is to assist Directors and Managers in the effective discharge of their responsibilities.
 - f) Internal audit's scope of work is to examine and evaluate the adequacy and effectiveness of the organizations system of internal control and the quality of performance in carrying out assigned responsibilities.
 - g) Manage the internal auditing department according to the statement of purpose, authority and responsibility for the internal auditing department.
 - h) Provide written policies and procedures to guide audit staff.
 - i) Coordinate internal and external audit efforts.
 - j) Establish and maintain a quality assurance program to evaluate the operations of the internal auditing unit.
 - k) Grant, postpone or deny leave of absence to all employees within the internal audit department other than him/her.
 - l) Maintain effective relations with executive and operating management.
 - m) Provide executive management with reports on audit coverage and the results of the audit activity, and interpret those results to improve the audit schedule and audit coverage.
 - n) To appoint temporary staff within his/her department in consultation with the Municipal Manager subject to budgetary provision;

- o) The authority to expend money in terms of the monetary limits as specified in terms supply chain management policy and as per the procurement delegations;
- p) The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.

NOTE: All the above-mentioned powers may be sub-delegated in writing by the Manager: Internal Audit.

3.11.2 Line of accountability and reporting

The Manager: Internal Audit reports to the Municipal Manager.

4 Procurement Delegations

The procurement delegations are based on the Municipal Supply Chain Management Regulations (Government Gazette No. 27636/2005, Notice 868 of 2005 dated 30 May 2005).

5.1 Sub-delegations

5.1.1 An Accounting Officer may in terms of Section 79 of the Act, sub-delegate any supply chain management powers and duties including those sub-delegated to the Accounting Officer in terms of regulation 4(1), but any such sub-delegation must be consistent with sub-regulation (2) and regulation 4.

5.1.2 The power to make the final award:

- a) above R2 million (VAT included) may not be sub-delegated by an Accounting Officer;

- b) above R200 000 (VAT included), but not exceeding R2 million (VAT included), may be sub-delegated but only to the bid adjudication committee of which the CFO and senior management are members.

5.1.3 The bid adjudication committee must within five (5) days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by the bid adjudication committee during that month, including:

- a) the amount of the award;
- b) the name of the person to whom the award was made; and
- c) the reason why that award was made to that person.

5.1.4 Paragraph 5.1.3 does not apply to procurements out of petty cash.

5.1.5 No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

5.2 Range of Procurement Processes

5.2.1 A supply chain management policy must provide for the procurement of goods and services by way of:

- a) Petty cash purchases up to a transaction value of R2000 (VAT included);
- b) Written quotations for procurement of a transaction value over R2000 up to R10 000 (VAT included);
- c) Formal written price quotations for procurement of a transaction value over R10 000 up to R200 000 (VAT included); and
- d) A competitive bidding process for:
 - i. Procurement above a transaction value of R200 000 (VAT included), and
 - ii. The procurement of long term (period) contracts.

5.2.2 A supply chain management policy may allow the Accounting Officer:

- a) To lower but not to increase the different threshold values specified in 5.1.2.
- b) To direct that, written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2000;
- c) To direct that, formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
- d) To direct that, a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

5.2.3 A supply chain management policy must state:

- a) That goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy; and
- b) That when determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction

5.3 DIRECTORS OF DEPARTMENT

Powers Delegated to all Executive Directors of Department

- (a) To grant or defer leave, to grant sick leave, to approve of leave being carried over to the next cycle, all in respect of all employees in the department and within the limitations as set out in Council's leave conditions;
- (b) To authorise, in consultation with the Municipal Manager, expenditure, ex budget to a maximum as per the amount determined in the procurement policy of Council;
- ;
- (c) To engage and dismiss casual labour in consultation with the Municipal Manager

- (d) In the case of a new appointment, after approval from the Municipal Manager if such an appointee has been obliged to change his or her place of residence as a result of the appointment, to grant permission in terms of the Council's policy for the payment of removal costs in respect of the appointee's movable property, provided that sufficient proof of such costs that had been incurred, is furnished;
- (e) In consultation with the Municipal Manager to decide about confirming the appointment of an employee that was appointed on probation period in the light of performance and competence of the appointee, subject to the provisions of the labour legislation;
- (f) In consultation with the Municipal Manager and provided that the granting of permission does not adversely affect the employee's work performance, to grant permission to an employee who applies to pursue other employment;
- (g) To appoint temporary staff within his/her department in consultation with the Municipal Manager and Director Corporate Services subject to budgetary provision;
- (h) The authority to expend money in terms of the monetary limits as specified in terms of the Supply Chain Management Policy;
- (i) The authority to perform functions and exercise the powers that vest in the Council in terms of the provisions of any by – laws the administration of which has been assigned to the incumbent by the municipal Council.

Line of Accountability

Reports to the Municipal Manager.