

Delegations to the Chief Executive Officer

Resolution of Council: 16 August 2021

Responsibility: Legal & Governance

Note: Resolution of Council 26 July 2021. Updated 15 September 2021.

COUNCIL OF THE CITY OF SYDNEY

DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER

INTERPRETATION OF DELEGATIONS

- A. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Local Government Act 1993.
- B. References to the Chief Executive Officer are references to the general manager appointed under the Local Government Act 1993.
- C. References to the decisions of Council are references to decisions made by Council from time to time.
- D. References to policies of the Council are references to policies adopted by Council from time to time.
- E. These delegations are not intended to limit the Chief Executive Officer's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Chief Executive Officer under the Local Government Act 1993.

DELEGATIONS

Subject to the powers, authorities, duties and functions of Council:

- 1. reserved to the Council by Section 377 and Section 379 of the Local Government Act 1993;
- 2. which are required by any legislation or instrument to be performed by the Council;
- 3. delegated to the Lord Mayor by Council resolution from time to time;
- 4. reserved to Council as set out at items 16 to 45 below (**Council Reserved Functions**),

Council delegates to the person holding the position of Chief Executive Officer, on an ongoing basis its functions:

- a) under the Local Government Act 1993 and any other legislation conferring functions on the Council; and
- b) as set out at items 1 to 15 below (**Specific CEO Delegated Functions**),

which are to be exercised in a manner consistent with Council's policies and decisions as applicable from time to time:

SPECIFIC CEO DELEGATED FUNCTIONS

BUDGET AND RESOURCE ALLOCATION

5. with the prior consultation of the Chief Financial Officer, following a tender process in accordance with the Local Government Act 1993 and relevant regulations, approve entering into a contract involving an estimated expenditure or receipt of an amount of \$5 million or less;
6. with the prior consultation of the Lord Mayor, variation of any:
 - a. contract sum; or
 - b. contract contingency,exceeding the amount approved by Council provided any such variations are not cumulatively more than 10%;
7. with the prior consultation of the Lord Mayor, authorising any expenditure from operational contingency funds (consultation not required for the Chief Executive Officer's contingency fund) within the annual budget;

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

8. with the prior consultation of Council, the appointment of senior staff (that is, Director level positions);
9. with the prior consultation of the Lord Mayor, structural changes involving M3 managers;
10. with the prior consultation of Council entering into any significant enterprise agreement;

LEGAL PROCEEDINGS

11. with the prior consultation of the Lord Mayor where practical and possible, the giving of instructions to Council's legal representatives to commence legal proceedings in the NSW Supreme Court or Federal Courts in relation to urgent injunction proceedings;
12. the giving of instructions to Council's legal representatives to resolve an appeal in relation to planning or regulatory appeals which is contrary to a resolution of Council;

PROPERTY, LAND USE AND RELATED MATTERS

13. granting of approvals to occupy and use public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council in respect of approvals where:
 - a. the rental or fee does not exceed \$500,000 per annum;
 - b. the term does not exceed 5 years; and
 - c. the term of any option does not exceed 5 years,

with such approvals being reported to Council in the Quarterly Report;

14. granting of approvals to occupy and use public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council in respect of approvals:
 - a. involving the erection of a hoarding for a period of up to 5 years and which conform to Council's policy on hoardings; or
 - b. relating to a temporary use of public land or crown land (including parks and open spaces) not exceeding 40 days; or
 - c. for the use of footways for outdoor dining for a period of up to 7 years including options;

with such approvals being reported to Council in the Quarterly Report;

15. granting of owner's consent to the lodgement of an application to carry out development on significant property or land (including roads) owned or managed by Council provided that the development involves:
 - a. alterations or additions to the fit-out or internal fabric or appearance of the building;
 - b. minor changes to the external fabric or appearance of the building;
 - c. a use of public or crown land (such as tables and chairs on a footway);
 - d. works by Council in accordance with an approved budget;

and provided that such consent:

- e. is granted for a period of up to 7 years; and
- f. does not fetter Council's discretion as consent authority;

TEMPORARY COVID-19 DELEGATIONS

15A. delegation expired;

15B. delegation expired;

15C. delegation expired;

15D. delegation expired;

15E. by notice on the City of Sydney website, approving the use of roads, footways and public open spaces for outdoor dining, extension of foyer space and performance space under Part 12 of the Liquor Act 2007 in accordance with the requirements of that Act, until 30 June 2022 unless revoked earlier;

15F. making any necessary temporary changes to the City of Sydney Outdoor Dining Guidelines and developing any necessary further guidelines to enable the implementation of AI Fresco City objectives as outlined in the AI Fresco City – Acceleration of Covid-19 Recovery – Implementation Update and Delegations Report to Council dated 14 December 2020, with such changes to be reported by way of CEO Update, for the duration of the AI Fresco City program (**currently until 30 June 2022**);

15G. making any necessary temporary changes to the Neighbourhood Parking Policy and as outlined in the Memorandum by the Chief Executive Officer to Council on

16 August 2021 (Item 4.2 'Temporary Delegation to the Chief Executive Officer – Parking Permits') in relation to the evidence that will be acceptable to enable the issue of parking permits until 31 March 2022, unless revoked earlier.

COUNCIL RESERVED FUNCTIONS (NOT TO BE EXERCISED BY THE CEO)

POLICY AND PROCEDURE

16. the power to make or amend Council policy;
17. witnessing the affixing of the Common Seal of the Council;
18. the release for public exhibition and comment of any plan or policy, which is required by legislation to be exhibited;

BUDGET AND RESOURCE ALLOCATION

19. approving expenditure so as to unfavourably impact on the net operating result approved by Council in the adopted Operational Plan;
20. the approval of concept designs for all major capital works;
21. determination of applications for donations to charities, cultural and other organisations which is contrary to a resolution of Council or policy approved by Council;
22. authorising any expenditure greater than \$150,000 (excluding GST) per project from the capital contingency funds;
23. writing off bad debts, for amounts greater than \$100,000 (excluding GST);

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

24. the approval of the organisation structure at Director (M2) level;
25. the appointment of senior staff (that is, Director level positions) other than as delegated to the Chief Executive Officer under clause 8;
26. structural changes involving M3 managers other than as delegated to the Chief Executive Officer under clause 9;
27. entering into any significant enterprise agreement other than as delegated to the Chief Executive Officer under clause 10;

COUNCIL OPERATIONS AND SERVICES

28. carrying out new non-core services not already approved by Council;
29. significant variation of any existing Council service that would have ongoing implications for Council in terms of cost or service delivery;

30. altering the Schedule of Fees and Charges which are not within the relevant categories as determined within the Revenue Policy of Council's Operational Plan;

LEGAL PROCEEDINGS

31. the giving of instructions to Council's legal representatives to commence legal proceedings in the NSW Supreme Court or Federal Courts other than as delegated to the Chief Executive Officer under clause 11;
32. the giving of instructions in legal proceedings contrary to a resolution of Council other than as delegated to the Chief Executive Officer under clause 12;

PROPERTY, LAND USE AND RELATED MATTERS

33. granting of approvals to occupy and use public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council other than as delegated to the Chief Executive Officer under clause 13 and 14;
34. adoption of a plan of management for community land;
35. granting of owner's consent to the lodgement of an application to carry out development on significant property or land (including roads) owned or managed by Council other than as delegated to the Chief Executive Offer under clause 15;

CULTURAL

36. the development or formation of relationships with other cities, including sister city agreements;
37. the approval of civic and ceremonial events;
38. the granting of civic honours;

PLANNING AND DEVELOPMENT

39. determination of applications for development consent under the Environmental Planning and Assessment Act 1979 involving the erection of a building of more than three storeys;
40. determination of applications for development consent under the Environmental Planning and Assessment Act 1979 where a request is made by Councillors for the development application to be the subject of a report to Council, through the Planning and Development Committee, provided that:
 - i. the request is in writing (email acceptable) to the Chief Executive Officer, from three or more Councillors; and
 - ii. prior to lodging the request, the relevant Councillors have firstly consulted with the Chief Executive Officer or Director City Planning, Development and Transport regarding any public objections received, and have considered whether or not such objections are well founded, may be satisfied by the imposition of conditions or by the amendment of the application, as advised by the Chief Executive Officer or Director;

41. determination of applications for approval to demolish a heritage item but this does not prevent determination of application for works modifying a heritage item in accordance with a development consent;
42. the award of Heritage Floor Space where the applicant is the Council or a government agency;
43. determination of applications for approval to demolish an entire residential building where such buildings will not be replaced in accordance with a development consent;
44. determination of applications for consent or approval which involve a variation under s82 of the Local Government Act 1993 of a prescribed standard or a Council policy;
45. determination of applications for approval to construct a bridge or tunnel.