

Delegations to the Chief Executive Officer

Resolution of Council: 22 August 2022

Responsibility: Legal & Governance

Notes: 22 December 2022 - Deletion of expired Temporary Covid-19 Delegation 18C
16 March 2023 – Deletion of expired Temporary Covid-19 Delegation 18B

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 19 to 48 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 18D 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

Acceptance of tenders

5. approve the acceptance of tenders involving an estimated expenditure or receipt of an amount of \$5 million or less including GST with the prior consultation of the Chief Financial Officer, following a tender process in accordance with the Local Government Act 1993 and relevant regulations;

Variations to contracts – contracts approved by CEO

6. with the prior consultation of the Chief Procurement Officer, approve variations of any contract sum or contract contingency that are 10% or less of the total expenditure previously approved by the CEO, provided:
 - a. there is no material change in scope; and
 - b. the total value of the contract remains under \$5 million including GST for the initial term and any extensions of the contract.

Note:

- *Total expenditure previously approved is the contract sum and any contingency OR contract sum, schedule of rates and any contingency.*
- *This delegation applies to contracts that were recommended by the Tender Review Group (TRG) & CFO and approved by CEO;*

Variations to contracts – contracts approved by Council

7. with the prior consultation of the Lord Mayor, approve variations of any contract sum or contract contingency exceeding the total expenditure previously approved by Council for any variations that are cumulatively 10% or less of the total expenditure previously approved by Council, provided the CEO has obtained advice from the Tender Review Group recommending the variation be approved;

Note: examples of variations include additional scope or an extension of time that result in an increase in the total expenditure previously approved by Council.

Contingency

8. 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;

Association Memberships

9.
 - a. approving memberships of a value less than \$10,000 excluding GST that are required by legislation or that primarily support the City's administrative operations or staff professional development;
 - b. informing Councillors about other proposed memberships and renewals prior to the City taking up or renewing those memberships; and

- c. with the prior consultation of Councillors, proceeding with the proposed memberships or renewals unless a request is received from three or more Councillors for the matter to be reported to Committee;

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

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

LEGAL PROCEEDINGS

13. 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;
14. 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

15. granting of approvals to occupy 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;

16. granting of approvals to occupy 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 occupation of public land or crown land (including parks and open spaces) not exceeding 40 days; or
 - c. for the occupation 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;

17. 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;

GRANTS PROGRAMS

18. implementing the Quick Response Grant, Creative Spaces Grant, Short Term Empty Properties Grant, Venue Hire Support Grants and Sponsorship and Street Banner Sponsorship programs in accordance with the Grants and Sponsorship Policy criteria and monetary limits;

TEMPORARY COVID-19 DELEGATIONS

Al Fresco City Program

- 18A. 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, performance space and other permitted uses under Part 12 of the Liquor Act 2007 in accordance with the requirements of that Act, until 11 December 2023;
- 18B. (intentionally left blank);
- 18C. (intentionally left blank);
- 18D. amending the Outdoor Dining Guidelines to remove Appendix 1 'Road area reallocated to outdoor dining' at such time as applications for on-street outdoor dining are no longer accepted;

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

POLICY AND PROCEDURE

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

BUDGET AND RESOURCE ALLOCATION

22. approving expenditure so as to unfavourably impact on the net operating result approved by Council in the adopted Operational Plan;
23. the approval of concept designs for all major capital works;

24. determination of applications for donations to charities, cultural and other organisations which is contrary to a resolution of Council or policy approved by Council;
25. authorising any expenditure greater than \$250,000 excluding GST per project from the capital contingency funds;
26. writing off bad debts, for amounts greater than \$100,000 (excluding GST);

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

27. the approval of the organisation structure at Director (M2) level;
28. the appointment of senior staff (that is, Director level positions) other than as delegated to the Chief Executive Officer under clause 10;
29. structural changes involving M3 managers other than as delegated to the Chief Executive Officer under clause 11;
30. entering into any significant enterprise agreement other than as delegated to the Chief Executive Officer under clause 12;

COUNCIL OPERATIONS AND SERVICES

31. carrying out new non-core services not already approved by Council;
32. significant variation of any existing Council service that would have ongoing implications for Council in terms of cost or service delivery;
33. 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

34. 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 13;
35. the giving of instructions in legal proceedings contrary to a resolution of Council other than as delegated to the Chief Executive Officer under clause 14;

PROPERTY, LAND USE AND RELATED MATTERS

36. 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 15 and 16;
37. adoption of a plan of management for community land;
38. 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 17;

CULTURAL

39. the development or formation of relationships with other cities, including sister city agreements;
40. the approval of civic and ceremonial events;
41. the granting of civic honours;

PLANNING AND DEVELOPMENT

42. 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;
43. 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;
44. 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;
45. the award of Heritage Floor Space where the applicant is the Council or a government agency;
46. determination of applications for approval to demolish an entire residential building where such buildings will not be replaced in accordance with a development consent;
47. 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;
48. determination of applications for approval to construct a bridge or tunnel.