

Resolution of Council

12 December 2022

Item 4.1

Powers of Attorney and Chief Executive Officer Performance Review

Memorandum by the Chief Executive Officer

To Council:

Arrangements for an Acting Chief Executive Officer / Powers of Attorney

A Resolution of Council is sought to grant new Powers of Attorney to all City of Sydney Directors.

At present the Council has granted Power of Attorney to specific individual Directors, as follows:

- Patricia Monica Barone, by resolution dated 1 June 2009;
- Kim Philip Woodbury, by resolution dated 24 October 2016;
- William Ross Carter, by resolution dated 24 October 2016; and
- Kirsten Tara Morrin, by resolution dated 28 October 2019.

It is appropriate that Powers of Attorney be granted to all people filling the permanent Director roles, as follows:

- Chief Executive Officer;
- Chief Operating Officer;
- Chief Financial Officer;
- General Counsel, Director Legal and Governance;

- Director City Services;
- Director City Life;
- Director People, Performance and Technology; and
- Director City Planning Development and Transport;

to enable those Directors to act make decisions on behalf of the Chief Executive Officer.

The Chief Executive Officer has the capacity to appoint someone to act in her role while she is on annual leave under her general delegations from Council. The delegation to appoint an acting Chief Executive Officer in other circumstances rests with the Lord Mayor in accordance with the Register of Delegations from Council to the Lord Mayor (Delegation 19).

Section 378 of the Local Government Act 1993 provides that:

378 Delegations by the general manager

- (1) The general manager may delegate any of the functions of the general manager, other than this power of delegation.
- (2) The general manager may sub-delegate a function delegated to the general manager by the council to any person or body (including another employee of the council).
- (3) Subsection (2) extends to a function sub-delegated to the general manager by the council under section 377 (2).

The Powers of Attorney will be used:

- when the Chief Executive Officer has appointed a Director to be Acting Chief Executive Officer when she is on annual leave;
- under delegation from the Chief Executive Officer when she is not physically able to sign documents due to being interstate/overseas while on duty or due to illness or where there is an urgent need for documents to be physically signed at a time when she is not available; or
- when the Lord Mayor has appointed a Director (M2) to temporarily act as Chief Executive Officer in accordance with Register of Delegations from Council to the Lord Mayor.

Updated Guidelines for the Appointment and Oversight of General Managers

New Guidelines for the Appointment and Oversight of General Managers (Guidelines) have been issued under section 23A of the Local Government Act 1993.

The Guidelines have been updated to reflect new standard contracts and to implement the Independent Commission Against Corruption (ICAC)'s recommendation that they include guidance that general managers' performance agreements include performance indicators related to the promotion of an ethical culture. The Guidelines also contain guidance on the importance of good working relationships between councils and general managers.

Under section 23A of the Act, councils must consider the updated Guidelines when exercising their functions in relation to the recruitment and oversight of general managers.

Establishment of a Chief Executive Officer Performance Review Panel

In accordance with the Guidelines and a 19 September 2022 Resolution of Council, a Chief Executive Officer Performance Review Panel (Panel) will be established.

The Panel will comprise of:

- The Lord Mayor;
- The Deputy Lord Mayor;
- a Councillor nominated by Council;
- a Councillor nominated by the Chief Executive Office (note that the Chief Executive Officer will nominate a Councillor prior to the Panel convening); and
- an independent observer being the Chair of the Audit, Risk and Compliance Committee (Carolyn Walsh).

The role of the Panel includes:

- conducting performance reviews
- reporting the findings and recommendations of reviews to Council, and
- development of the performance agreement.

Members of the Panel will be required to undertake training. This training will be arranged and provided by the City and offered to all Councillors.

Councillors who are not members of the performance review panel may be invited to contribute to the performance review process by providing feedback to the Lord Mayor on the Chief Executive Officer's performance relevant to the agreed performance criteria. All Councillors will be notified of relevant dates in the performance review cycle and be kept advised of the Panel's findings and recommendations.

MONICA BARONE

Chief Executive Officer

Moved by the Chair (the Lord Mayor), seconded by Councillor Kok –

It is resolved that:

- (A) Council note the recommendation to revoke each current Power of Attorney and grant a new Power of Attorney to each permanent Director role at the City of Sydney;
- (B) Council note that a further report to Council to revoke each current power of attorney and grant a new power of attorney to each permanent Director role will be provided to Council for approval in 2023;
- (C) Council note that each current Power of Attorney will remain in full force and effect until Council makes a resolution to revoke each Power of Attorney;

- (D) Council note the Guidelines for the Appointment and Oversight of General Managers as shown at Attachment A to the subject memorandum;
- (E) Council establish a Chief Executive Officer Performance Review Panel comprised of the Lord Mayor, Deputy Lord Mayor, Councillor Lyndon Gannon (nominated by Council), a Councillor nominated by the Chief Executive Officer (note that that the Chief Executive Officer will nominate a Councillor prior to the convening of the Panel) and an independent observer being the Chair of the Audit, Risk and Compliance Committee;
- (F) authority be delegated to the Chief Executive Officer Performance Review Panel to undertake the Chief Executive Officer's performance review in accordance with the Guidelines; and
- (G) Council note that the Panel will report back to Council in a confidential session on the findings and recommendations of performance reviews as soon as practicable following any performance review.

Clauses (A) to (C) were moved by the Chair (the Lord Mayor), seconded by Councillor Kok, and carried unanimously.

Clauses (D) to (G) were moved by the Chair (the Lord Mayor), seconded by Councillor Kok – noting that Councillor Lyndon Gannon would be the Councillor nominated by Council in clause (E).

The substantive motion (comprising clauses (D) to (G)) was carried on the following show of hands –

Ayes (8) The Chair (the Lord Mayor), Councillors Chan, Davis, Ellsmore, Gannon, Kok, Scott and Scully

Noes (2) Councillors Jarrett and Weldon.

Substantive motion (comprising clauses (D) to (G)) carried.

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