

Delegations of Authority to the Lord Mayor and Chief Executive Officer

Files: X085376.001 and X085376.001

Summary

Under Section 380 of the Local Government Act 1993, each Council must review all of its delegations during the first 12 months of each term of office. The existing delegations to the Lord Mayor and Chief Executive Officer remain in force until Council has approved the revised delegations.

The Delegations to the Lord Mayor and the Delegations to the Chief Executive Officer were last fully reviewed by Council in July 2017. Temporary delegations have been made throughout this period in response to the Covid-19 pandemic to enable efficient action to be taken to assist the community recovery.

The proposed changes to the Delegations to the Lord Mayor are, in summary, as follows:

- the deletion of an obsolete Local Government (General) Regulation 2005 reference in delegation 4 b);
- the addition of a new delegation 11 to clarify that the Lord Mayor has delegation to determine other matters of protocol where required; and
- the amendment of delegation 26 (previously 25) to enable the provision of more timely information to Councillors when reporting on instructions given to commence certain legal proceedings.

The proposed changes to the Delegations to the Chief Executive Officer are, in summary, as follows.

- Acceptance of tenders (delegation 5): Update wording from 'entering into a contract' to 'the acceptance of tender' for consistency with terminology in s377 of the Local Government Act 1993.
- Variation to contracts – contracts approved by CEO (new delegation 6): Add a new delegation for variations to contracts recommended by the Tender Review Group (TRG).
- Variations to contracts – contracts approved by Council (delegation 7 (formerly delegation 6)): Update wording for consistency with the Tender Review Group (TRG) process and the TRG terms of reference.
- Association Memberships (new delegation 9): Add a delegation to approve association memberships to correct an historic administrative oversight from a previous council resolution.

- Grants Programs (new delegation 18): Add a reference to reflect the delegation granted by ROC 8.2 (B) from Council meeting on 11 December 2017 to implement grants programs in accordance with the Grants and Sponsorship Policy criteria and monetary limits.
- Budget and Resource Allocation (Council Reserved Function) (delegation 25 - formerly delegation 22): Increase the amount for the authorisation of any expenditure per project from the capital contingency funds from 'greater than \$150,000' to 'greater than \$250,000' to bring in line with the Local Government Act 1993 tender provisions.

Recommendation

It is resolved that Council:

- (A) approve the Delegations to the Lord Mayor, as shown at Attachment A to the subject report;
- (B) approve the Delegations to the Chief Executive Officer, as shown at Attachment B to the subject report;
- (C) revoke the existing Delegations to the Lord Mayor dated 29 June 2020 and to the Chief Executive Officer dated 16 May 2022;
- (D) confirm that all other delegations by Resolution of Council continue in force; and
- (E) note that the Delegations to the Lord Mayor and the Delegations to the Chief Executive Officer will be updated administratively to reflect any new delegations made by Council resolution.

Attachments

Attachment A. Delegations to the Lord Mayor

Attachment B. Delegations to the Chief Executive Officer

Background

1. Under Section 380 of the Local Government Act 1993, each council must review its delegations during the first 12 months of each term of office.
2. Until such time as this review is conducted, the existing delegations to the Lord Mayor and Chief Executive Officer remain in force.
3. All functions delegated by Council to the Lord Mayor and Chief Executive Officer are contained in the Local Government Act 1993, the City of Sydney Act 1988 and other relevant legislation.
4. The City's Delegation Review Group (DRG) is responsible for reviewing proposed changes to delegations from a legal, operational and governance perspective. The DRG makes recommendations to the Executive (through the Director, Legal and Governance) for endorsement. The DRG and Executive have reviewed the Delegations to the Lord Mayor and the Delegations to the Chief Executive Officer and recommend the following changes to the existing delegations.

Proposed Amendments

Delegations to the Lord Mayor

5. The proposed changes to the Delegations to the Lord Mayor are outlined in the following table.

Background/issue and why proposed change is recommended	Recommended proposed change to delegation
<p>Delegation 4 – Management of Council meetings and business</p> <p>Remove reference to clause 258(b) of the Local Government (General) Regulation 2005.</p> <p>Reason: This clause no longer exists.</p>	<p>Remove sub paragraph “clause 258(b) of the Local Government (General) Regulation 2005”.</p>
<p>New Delegation 11 – External relations and representations</p> <p>From time to time other matters of protocol may arise in addition to those already specifically addressed under the External relations and representations section.</p> <p>Reason: This new delegation will allow the Lord Mayor to determine other matters of protocol as required in line with the Lord Mayor’s existing delegations.</p>	<p>Add new delegation 11 “to determine other matters of protocol where required”.</p>
<p>Delegation 26 (formerly 25) – Authority to Obtain Legal Services</p> <p>Currently the commencement of legal proceedings referred to in that delegation is reported to Council at the first meeting after the instructions are given. Proposal to change the reporting so Councillors are notified in the next CEO Update issued to Councillors.</p> <p>Reasons: It will allow the Lord Mayor to update councillors sooner and the City to act efficiently in litigation. It is noted that all reports on legal proceedings are confidential under section 10A(2)(g) of the Act.</p>	<p>Change note “that any such instructions given are to be reported to Council at the first meeting to occur after the instructions are given”</p> <p>to</p> <p>“that any such instructions given are to be reported to Councillors in the next CEO Update issued to Councillors”.</p>

Delegations to the Chief Executive Officer

6. The proposed changes to the Delegations to the Chief Executive Officer are outlined in the following table.

Background/issue and why proposed change is recommended	Recommended proposed change to delegation
<p>Delegation 5 – Acceptance of tenders</p> <p>Change the reference to ‘entering into a contract’ to ‘the acceptance of a tender’.</p> <p>Reasons:</p> <ul style="list-style-type: none"> • the use of the word ‘tender’ reflects the wording of s377 of the Local Government Act • the decision is to accept the tender whereas the contract is administrative. 	<p>Amend wording from:</p> <p>“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;”</p> <p>to:</p> <p>“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;”</p>
<p>Delegation 6 – Variation to contracts – contracts approved by CEO</p> <p>Currently there is no delegation for variations of contracts recommended by the Tender Review Group.</p> <p>Reason: Include the new proposed delegation 6 for consistency with the Tender Review Group process and its Terms of Reference.</p>	<p>Add new delegation 6:</p> <p>“Variations to contracts – contracts approved by CEO</p> <p>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:</p> <ol style="list-style-type: none"> 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. <p><i>Note:</i></p> <ul style="list-style-type: none"> - <i>Total expenditure previously approved is the contract sum and any contingency OR contract sum, schedule of rates and any contingency.</i> - <i>This delegation applies to contracts that were recommended by the Tender Review Group (TRG) & CFO and approved by CEO;”</i> <p>The current Delegation 6 will become Delegation 7.</p>
<p>Delegation 7 – Variations to contracts – contracts approved by Council</p> <p>Delegation 7 (formerly 6) is amended for consistency with the Tender Review Group process and its Terms of Reference.</p>	<p>Delegation 7 (formerly 6) reworded from:</p> <p>“with the prior consultation of the Lord Mayor, variation of any:</p> <ol style="list-style-type: none"> a. contract sum; or b. contract contingency, <p>exceeding the amount approved by Council provided any such variations are not cumulatively more than 10%.”</p> <p>to:</p>

Background/issue and why proposed change is recommended	Recommended proposed change to delegation
	<p>“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.</p> <p><i>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.”</i></p> <p>The current Delegation 7 will become Delegation 8.</p>
<p>Delegation 9 – Association Memberships</p> <p>New delegation approving association memberships.</p> <p>Reason: to include a previous council resolution that was not added to the delegations register at the time.</p> <p>Meeting No 1460 Item 7.5:</p> <p>https://meetings.cityofsydney.nsw.gov.au/Data/Council/20070806/Agenda/070806_council_minutes.pdf.</p>	<p>Add new delegation:</p> <p>“Association Memberships</p> <p>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;</p> <p>b. informing Councillors about other proposed memberships and renewals prior to the City taking up or renewing those memberships; and</p> <p>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.”</p>
<p>Delegation 18 – Grants Programs</p> <p>New delegation to reflect council resolution on 11 December 2017.</p> <p>Meeting No 11/1591 Item 8.2(B):</p> <p>https://meetings.cityofsydney.nsw.gov.au/Data/Council/20171211/Agenda/171211_COUNCIL_ITEM08.pdf</p> <p>Reason: To include a previous council resolution that was not added to the delegations register at the time. The terminology of the various grants has been updated to ensure it is consistent with the new draft Grants and Sponsorship Policy.</p>	<p>Add new delegation:</p> <p>“GRANTS PROGRAMS</p> <p>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;”</p>

Background/issue and why proposed change is recommended	Recommended proposed change to delegation
<p>Delegation 25 – Budget and Resource Allocation – Council Reserved Function</p> <p>Proposed amendment to Delegation 25 (formerly 22) to change authorising any expenditure greater than \$150,000 to \$250,000.</p> <p>Reason: to bring in line with the Local Government Act tender provisions.</p>	<p>Delegation 25 (formerly 22) reworded from:</p> <p>“authorising any expenditure greater than \$150,000 (excluding GST) per project from the capital contingency funds;”</p> <p>to:</p> <p>“authorising any expenditure greater than \$250,000 excluding GST per project from the capital contingency funds;”</p>
<p>Housekeeping Amendments</p>	<p>Expired Temporary Covid-19 Delegations removed and the remaining delegations categorised and updated following Council resolution on 27 June 2022 Item 11.9 - Public Exhibition – Outdoor Dining Policy, Outdoor Dining Guidelines and Display of Goods on the Footway Local Approvals Policy.</p> <p>Current delegation numbering updated.</p>

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

7. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship – by ensuring the proper and effective exercise of the City of Sydney's powers and functions by delegation in accordance with the Local Government Act 1993.

Organisational Impact

8. The organisational impact of any change to the delegations is considered as part of the Delegation Review Group review and Executive endorsement process before being recommended for endorsement by Council.

Risks

9. The associated risks of any change to the delegations are considered as part of the Delegation Review Group review and Executive endorsement process before being recommended for endorsement by Council.

Financial Implications

10. There are no budget implications associated with this report.

Relevant Legislation

11. Sections 377 and 380, Local Government Act 1993.

Critical Dates / Time Frames

12. Council must have reviewed and approved the Delegations to the Lord Mayor and the Delegations to the Chief Executive Officer by December 2022.

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