

10.1. Delegations

AUTHOR: Shane Sullivan, Executive Manager Governance

ATTACHMENTS:

1. Delegation - Role of Mayor - October 2022 [**10.1.1** - 1 page]

PURPOSE:

The purpose of this report is for Council to consider the delegation to the Mayor.

EXECUTIVE SUMMARY:

Under the Local Government Act 1993 (the Act), Council must review all their delegations within 12 months of an election. Council may, by resolution, delegate to the General Manager or any other person or body (but not an employee of the Council other than the General Manager) any of the functions of the Council other than those referred to in section 377 of the Act.

At its meeting held 12 September 2022, Council resolved the delegation to the General Manager. The purpose of this report is for Council to consider the delegation to the position of Mayor.

FINANCIAL IMPLICATIONS:

There are no financial implications in this report.

RECOMMENDATION:

1.THAT Council delegate to the role of Mayor those functions set out in the attached Instrument of Delegation under the *Local Government Act 1993* noting that Council is able to delegate functions other than those provided in section 377(1) of the Act.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

5. Our Civic Leadership

5.1 Lead North Sydney's strategic direction

5.2 Strong civic leadership and customer focussed services

BACKGROUND

At its meeting held 12 September 2022, Council resolved as follows:

1. THAT Council delegate to the General Manager any of the functions under the Local Government Act 1993 or any other Act other than those provided in section 377(1) in accordance with the attached Instrument of Delegation.

2. THAT a report be provided to Council for the purpose of considering the Instrument of Delegation to the Mayor before December 2022 in order to meet Council's obligations under the Act.

Legislation

The Act contemplates councils delegating functions and decision making to the General Manager. These are those functions that are operational and administrative in nature rather than strategic.

There are some functions that a council is not able to delegate and these are prescribed in section 377 of the Act as follows:

(1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following

- (a) the appointment of a general manager,*
- (b) the making of a rate,*
- (c) a determination under [section 549](#) as to the levying of a rate,*
- (d) the making of a charge,*
- (e) the fixing of a fee,*
- (f) the borrowing of money,*
- (g) the voting of money for expenditure on its works, services or operations,*
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
- (i) the acceptance of tenders to provide services currently provided by members of staff of the council,*
- (j) the adoption of an operational plan under [section 405](#),*
- (k) the adoption of a financial statement included in an annual financial report,*

- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#),
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under [section 194](#),
- (q) a decision under [section 356](#) to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under [section 234](#) to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) this power of delegation,
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.

(1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if

- (a) the financial assistance is part of a specified program, and
- (b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
- (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
- (d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.

(2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.

(3) A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation

A General Manager can only exercise and sub delegate to staff the powers and functions they have either in their own right (under legislation) or that have been delegated by Council (through a resolution or instrument of delegation).

Section 226 of the Act sets out the role of Mayor as follows

226 Role of mayor

The role of the mayor is as follows--

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the mayoral office,
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the councillors, to lead performance appraisals of the general manager,
- (o) to exercise any other functions of the council that the council determines.

CONSULTATION REQUIREMENTS

Community engagement is not required.

DETAIL

Attached is the Role of Mayor delegation recommended for adoption by Council. This delegation is under section 226(o) of the Local Government Act being any other functions of the council that the council determines. The role of Mayor has the functions provided under section 226 (a) to (n) under the Act.

Changes to the current delegation are shown in strikethrough and additions are in red. Only one change is proposed which is a correction to a role title.

DELEGATION OF AUTHORITY - MAYOR

THE MAYOR

The Mayor performs the functions as prescribed under section 226 of the Local Government Act 1993. The Council has determined that the Mayor may exercise the following functions of the Council in accordance with Section 226 (o) of the Local Government Act:

1. General

To deal, in cases of emergency, with any matter not precluded by Section 377 of the Local Government Act 1993 and not being otherwise delegated or development/building applications.

2. Tenders - Security/Safety

To authorise the invitation of tenders for urgent works involving security and/or public safety which have not been provided for in the adopted budget.

3. Maintenance and/or Repair of Council's Property

To authorise urgent work by way of maintenance and/or repair to Council's property subject to expenditure less than \$100,000 for any one work and which has not been provided for in the adopted budget.

4. Urgent Works

To authorise expenditure up to \$15,000 on urgent work subject to such expenditure in any one year not exceeding \$50,000 which has not been provided for in the adopted budget.

5. Major Developments - Public Meetings

(In consultation with the General Manager or the Director of City ~~Services~~ Strategy.)

Call public meetings to discuss development proposals that are considered to be of a magnitude which would affect a particular part of, or the whole of the area in order that residents, ratepayers and all interested parties have the opportunity to fully discuss and express their views to Council before any decision is entered into.

6. Traffic Committee and Council's Vote

To vote on behalf of Council on the North Sydney Traffic Committee on urgent traffic issues that arise in the December/January seasonal break.

7. Delegation dealt with by Mayor to be reported to Council

All matters dealt with under delegation to the Mayor shall be reported to the next available meeting of the Council.