

## 10.5. Review of Delegations

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| <b>ENDORSED BY</b> | Luke Harvey, Director Corporate Services                                      |
| <b>ATTACHMENTS</b> | 1. CEO Mayor Delegations Instrument 08 Oct 2024 v1 [ <b>10.5.1</b> - 4 pages] |
| <b>CSP LINK</b>    | 5. Our Civic Leadership<br>5.1 Lead North Sydney's strategic direction        |

### PURPOSE:

The purpose of this report is to address the requirement for Council to review delegations within 12 months of an election.

### EXECUTIVE SUMMARY:

- The Local Government Act 1993 and other relevant legislation authorise Council to undertake a range of functions.
- Delegations enable the efficient and effective administration of Council by allowing decisions to be made at the appropriate level across the organisation.
- Section 377 of the Local Government Act allows the elected Council to delegate authority to the Chief Executive Officer, by Council resolution, to make decisions and perform functions required for Council to operate business as usual activities. The Chief Executive Officer sub-delegates these functions to Council staff in order to provide for the day-to-day operation of the Council.
- It is recommended that the Mayor and Chief Executive Officer's current delegations be re-affirmed.

### RECOMMENDATION:

**1. THAT** the Chief Executive Officer's delegations be re-affirmed by Council, delegating to the Chief Executive Officer, or to the person acting in the position of Chief Executive Officer, all the powers and functions of the Council that it may under any Act of Parliament lawfully delegate, subject to the limitations set out below:

- a. those functions designated in Section 377(1) of the *Local Government Act 1993* as functions which may not be delegated.
- b. any function designated in any other Act of Parliament as a function which may not be delegated.
- c. the writing off of debts over the amount of \$10,000 in accordance with clause 213(2) of the *Local Government (General) Regulation 2005*, in that the amount above which debts may be written off only by resolution of the Council is set at \$10,000.
- d. the writing off of an individual rate or charge over the amount of \$1,000 in accordance with clause 131(1) of the *Local Government (General) Regulation 2005*, in that the

amount above which any individual rate or charge may be written off only by resolution of the council is set at \$1,000.

e. any adopted policy, decisions or directions of the Council.

**2. THAT** in accordance with section 381 of the *Local Government Act 1993*, the Council re-affirms and delegates to the Chief Executive Officer of the Council, or to the person acting in the position of Chief Executive Officer, the plan making functions under Section 3.36 of the *Environmental Planning & Assessment Act 1979*.

**3. THAT** the Council re-affirms and delegates to the Mayor and Mayor and Chief Executive Officer jointly as outlined in the attached instrument of delegation.

## Background

To enable the administration of Council to operate efficiently and effectively, delegations allow various roles within Council to make decisions on behalf of the organisation. It is important to periodically review these delegations to ensure that they remain appropriate and reflective of Council's operational needs.

This report considers the delegations of Council to the roles of Mayor and Chief Executive Officer.

There are certain functions contained in the Local Government Act 1993 that Council is unable to delegate. Section 377 of the Local Government Act provides that:

(1) A council may, by resolution, delegate to the Chief Executive Officer 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 Chief Executive Officer,
- (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.

Section 3.36 of the Environmental Planning and Assessment Act requires a specific delegation to the Chief Executive Officer due to the wording of that section:

### **3.36 Making of local environmental plan by local plan-making authority**

(1) The Planning Secretary is to make arrangements for the drafting of any required local environmental plan to give effect to the final proposals of the planning proposal authority. The Planning Secretary is to consult the planning proposal authority, in accordance with the regulations, on the terms of any such draft instrument.

(2) The local plan-making authority may, following completion of community consultation;

(a) make a local environmental plan (with or without variation of the proposals submitted by the planning proposal authority) in the terms the local plan-making authority considers appropriate, or

(b) decide not to make the proposed local environmental plan.

(3) The local plan-making authority may defer the inclusion of a matter in a proposed local environmental plan.

(4) If the local plan-making authority does not make the proposed local environmental plan or defers the inclusion of a matter in a proposed local environmental plan, the local plan-making authority may specify which procedures under this Division the planning proposal authority must comply with before the matter is reconsidered by the local plan-making authority.

## **Report**

Under the Local Government Act 1993 (the Act), Council must review their delegations within 12 months of an election. This report considers the delegations to the Mayor and the Chief Executive Officer in the instrument of delegation document as attached.

Delegations are a complex area. If comprehensive and practical delegations are not in place, the Chief Executive Officer, Mayor, and Council staff will be unable to undertake their day-to-day service delivery and decision making in an efficient and timely manner affecting the efficiency and productivity of council operations.

### **Delegations to the Chief Executive Officer**

At the 12 September 2022 Council meeting, the Chief Executive Officer was delegated authority to exercise all the powers and functions of the Council that are detailed in the attached delegations register.

The Chief Executive Officer has sub-delegated to the staff of Council all those matters that provide for the day-to-day operations of the Council. These sub-delegations are regularly reviewed to ensure that Council officers are acting to the full extent of their responsibilities and in a manner that is most efficient for the organisation.

### **Delegations to the Mayor**

At the 10 October 2022 Council meeting, the Mayor was delegated authority to exercise all the powers and functions of the Council that are detailed in the attached delegations register.

### **Delegations to the Mayor and the Mayor and Chief Executive Officer jointly**

At the 10 October 2022 Council meeting, the Mayor and the Mayor and Chief Executive Officer jointly were delegated authority to exercise all the powers and functions of the Council that are detailed in the attached delegations register.

### **Consultation requirements**

Community consultation is not required.

### **Financial/Resource Implications**

There are no direct financial or resource implications within this report.

### **Legislation**

The Local Government Act 1993 outlines that Council may, by resolution, delegate to the Chief Executive Officer or any other person or body (but not an employee of the Council other than the Chief Executive Officer) any of the functions of the Council other than those referred to in section 377 of the Act.



NORTH SYDNEY COUNCIL  
INSTRUMENT OF DELEGATION  
CHIEF EXECUTIVE OFFICER &  
MAYOR  
28 OCTOBER 2024

North Sydney Council

### Delegations to the Chief Executive Officer

At the Council meeting held on 28 October 2024, North Sydney Council resolved:

1. **THAT** the Chief Executive Officer's current delegations be re-affirmed by Council, delegating to the Chief Executive Officer, or to the person acting in the position of Chief Executive Officer, all the powers and functions of the Council that it may under any Act of Parliament lawfully delegate, subject to the limitations set out below:
  - a. those functions designated in Section 377(1) of the *Local Government Act 1993* as functions which may not be delegated.
  - b. any function designated in any other Act of Parliament as a function which may not be delegated.
  - c. the writing off of debts over the amount of \$10,000 in accordance with clause 213(2) of the *Local Government (General) Regulation 2005*, in that the amount above which debts to the Council may be written off only by resolution of the Council is set at \$10,000.
  - d. the writing off of an individual rate or charge over the amount of \$1,000 in accordance with clause 131(1) of the *Local Government (General) Regulation 2005*, in that the amount above which any individual rate or charge may be written off only by resolution of the council is set at \$1,000.
  - e. any adopted policy, decisions or directions of the Council.
2. **THAT** in accordance with section 381 of the *Local Government Act 1993*, the Council re-affirms and delegates to the Chief Executive Officer of the Council, or to the person acting in the position of Chief Executive Officer, the plan making functions under Section 3.36 of the *Environmental Planning & Assessment Act 1979*.

At the Council meeting of 28 October 2024 Council resolved:

3. **THAT** the Council re-affirms and delegates to the Mayor and Mayor and Chief Executive Officer jointly as outlined in the attached instrument of delegation. [see below for details of these delegations].

North Sydney Council

**Delegations to persons and bodies other than Council staff**  
**Delegations to the Mayor**

At the Council Meeting held on 28 October 2024, North Sydney Council resolved to delegate the following matters to the Mayor:

| Title                                  | Detail  |
|--|---|
| Matters for investigation              | The Mayor is delegated authority to refer to the Chief Executive Officer matters considered to need investigation and report with referral to Council, as necessary   |
| Presentation of gifts                  | The Mayor is delegated authority to authorise the presentation of small gifts to visitor on appropriate occasions   |
| Public Statement                       | The Mayor is delegated authority to make public statements on matters of official Council attitude or interpretation of Council policy  |
| Chief Executive Officer leave          | The Mayor is delegated authority to determine leave applications of the Chief Executive Officer, in accordance with the Chief Executive Officer's contract of employment and relevant Council policies  |
| Certificates of Australian Citizenship | The Mayor is delegated authority to present Certificates of Australian Citizenship after applicants have pledged the Oath or Affirmation of Allegiance, as provided by the Australian Citizenship Act 2007  |
| Correspondence                         | The Mayor is delegated authority to sign outgoing correspondence in relation to the Office of Mayor, however, those matters relating to the day-to-day management of Council are matters that remain with the Chief Executive Officer to sign   |
| Emergency Expenditure                  | The Mayor is delegated authority to approve, in the event of an emergency, all necessary expenditure after consultation with the Chief Executive Officer  |
| Meeting recess                         | The Mayor is delegated authority to exercise, during meeting recesses, the powers, authorities, duties and functions of Council other than;<br>(i) those reserved to the Council itself by section 377 and section 379 of the <i>Local Government Act</i><br>(ii) those powers and functions delegated to the Chief Executive Officer by Council from time to time, with such delegations to be effective from midnight on the day of the last Council meeting prior to a recess period as approved by the Council, up to the |



## North Sydney Council

| Title                     | Detail  |
|---------------------------|---|
|                           | time of commencement of the first Council meeting at the conclusion of the recess period  |
| Senior staff consultation | The Mayor is delegated authority to consult with the Chief Executive Officer (in accordance with section 337 of the <i>Local Government Act 1993</i> ) prior to the appointment or dismissal, by the Chief Executive Officer, of senior staff |

### Delegations to the Mayor and Chief Executive Officer jointly

At the Council meeting held on 28 October 2024, North Sydney Council resolved to delegate the following matters to the Mayor and Chief Executive Officer, jointly:

| Title                                 | Detail  |
|---------------------------------------|---|
| Miscellaneous donations               | The Mayor and Chief Executive Officer, jointly, are delegated authority to approve donations up to the sum of \$3,000 provided that funds are available within the adopted budget for Miscellaneous Donations                     |
| Councillors attendance at conferences | The Mayor and Chief Executive Officer, jointly, are delegated authority to authorise Councillors attendance at conferences, seminars and similar functions in accordance with Council's Councillor Expenses and Facilities Policy |

### Review of this Document

Section 380 of the Local Government Act 1993 requires Council to review all of its delegations during the first 12 months of each term of office.