

OFFICERS REPORTS**3 REVIEW OF DELEGATIONS****FILE NO:** D-4-4**REPORT BY:** GENERAL MANAGER

Summary:

This report is submitted in accordance with Section 380 of the Local Government Act 1993 which requires that Councils review their delegations of authority during the first 12 months of each new term of office.

Council Delivery Program and Budget Implications:

This report has no implications for the Budget and supports our Community Strategic Plan long term goal of Effective Governance.

Report

Section 380 of the Local Government Act 1993 states:

"Each council must review all its delegations during the first 12 months of each term of office".

Council's present delegations are to the Mayor, General Manager and its Standing Committees. These delegations were last reviewed on 26 March 2009.

The Mayor's Role and Delegations

The Mayor's role is specified in Section 226 of the Local Government Act and is:

- To exercise in case of necessity, the policy making functions of the governing body of the council between meetings of council.
- To preside at meetings of the council.
- To carry out the civic and ceremonial functions of the office.
- To exercise such other functions of the council as the council determines.

Council has previously delegated to the Mayor the following authorities:

1. Urgent Works

Conjointly with the General Manager to authorise any work not exceeding \$50,000 which is deemed urgent between the last Council meeting in the year and the first meeting in the next year, provided that such work is reported to the next Council meeting.

2. Media Relations

To advise and respond to enquiries from the media and to issue media releases and statements in respect of the affairs of Council and the City generally.

An appropriate form of wording to provide this extent of delegated authority to the Mayor is included in the recommendation.

REVIEW OF DELEGATIONS (CONT.)

General Manager's Role and Delegations

The General Manager's role is set out in section 335 of the Local Government Act. It is to:

- assist the council in connection with the development and implementation of the community strategic plan and the council's resourcing strategy, delivery program and operational plan and the preparation of its annual report and state of the environment report
- Carry out the day-to-day management of the Council.
- Exercise the delegated functions from the Council.
- Appoint staff in accordance with an organisation structure and resources approved by Council.
- Direct and dismiss staff.
- Implement the Equal Employment Opportunity Management Plan.

Due to the range and complexity of matters required to be dealt with by councils in the course of their day to day business and the need for effective and efficient discharge of this business, councils generally exercise their powers of delegation to authorise the General Manager to perform the vast majority of these functions. This arrangement is one which is clearly contemplated by the legislation, as evidenced by the reference to it in section 335's specification of the General Manager's role. This arrangement (in conjunction with appropriate sub-delegations from the General Manager to other Officers) provides good customer service outcomes and greater administrative efficiency (because of less resources needing to be devoted to dealing with routine matters). It also frees up Councillors to focus on community engagement, policy development and our strategic direction.

However, the Local Government Act recognises that certain functions are more appropriately exercised by Council itself (by means of a formal resolution). These include those matters that cannot be delegated (as set out by section 377) as well as matters involving the establishment of policy. Section 377 of the Act lists the type of matters that can't be delegated and therefore that must be considered and determined by Council.

"Local Government Act 1993***Section 377 General power of the council to delegate***

- (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, 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 which are required under this Act to be invited by the council,*
 - j) the adoption of a management plan under section 405,*
 - k) the adoption of a financial statement included in an annual financial report,*

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REVIEW OF DELEGATIONS (CONT.)

- 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.*
- (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 Director-General except as provided by the instrument of delegation to the council."*

An appropriate form of wording, which if adopted, will provide for the continuation of the current extent of delegated authority to the General Manager is included in the recommendation below.

Development Assessment Panel

The City Planning division is currently undergoing a review of processes and structure including the Development Assessment Panel function. The General Manager's assignment of delegation to the Development Assessment Panel is contingent upon the outcome of this review.

Delegations to other officers

As provided for by Section 378 of the Local Government Act, the General Manager has previously delegated certain powers, authorities, duties and functions to other council officers.

These delegations include:

- **administrative functions** including day to day operations, certification of certain documents, legal, financial and staff-related matters;
- **statutory delegations** allowing Officers to exercise powers, duties and functions under legislative provisions; and
- **statutory roles**, that is roles prescribed by legislation.

These delegations have been applied in a systematic and cascading manner where an Officer has no greater delegated authority than that of his or her supervisor. These delegations also

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REVIEW OF DELEGATIONS (CONT.)

specify certain limitations and exceptions, which define authority that has been specifically retained by the General Manager. These include operational matters such as conditions of employment for staff, specific correspondence and engagement of legal representation.

The Role of Committees

Council has previously resolved that the role of committees be as follows:

- **City Services Committee**
To consider and make resolutions concerning the following types of matters:
 - roads and drainage
 - environmental protection
 - recreation and culture
 - public health and safety
 - social development
 - community services
 - economic services
 - organisational support and organisational development
- **City Development Committee**
To consider and make resolutions concerning the following types of matters:
 - rezonings and other Local Environmental Plans
 - applications for development approval and related matters
 - land use planning policy, including but not limited to Development Control Plans and Codes
 - other reports on land use planning related matters

Council has previously delegated to the City Services and City Development Committees the authority to exercise Council's powers and functions (other than those precluded from being delegated by section 377 of the Local Government Act 1993) in the achievement of each Committee's purpose.

The recommendations below reaffirm the establishment of our existing committees, their respective established purposes, their delegated authority and certain constitutional provisions relating to them.

The recommended delegations below are identical to those granted by Council when Council last considered these matters on 26 March 2009.

RECOMMENDATION:**THAT**

1. In accordance with the provisions of Section 377 of the Local Government Act 1993, Council hereby delegates to the Mayor the following authorities.
 - 1.1 **Urgent Works**
Conjointly with the General Manager to authorise any work not exceeding \$50,000 which is deemed urgent between the last Council meeting in the year and the first meeting in the next year, provided that such work is reported to the next Council meeting.
 - 1.2 **Media Relations**
To advise and respond to enquiries from the media and to issue media releases and

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REVIEW OF DELEGATIONS (CONT.)

- statements in respect of the affairs of Council and the City generally.
2. In order to provide for the expedient exercise and performance of its powers, authorities duties and functions and the efficient management of its business and responsibilities, Council hereby delegates pursuant to (and in accordance with) section 377 of the Local Government Act 1993 (as amended) to the person, for the time being, holding the office of General Manager, the exercise of its powers, authorities, duties and functions contained in the legislation specified in Schedule 1 subject to the exceptions and limitations specified in Schedule 2 and subject to the following qualifications set out in 2.1 and 2.2.
 - 2.1 Council may by resolution, supervise, control and direct the General Manager in the exercise of any delegated function.
 - 2.2 The General Manager will exercise the powers, authorities, duties and functions delegated, in accordance with and subject to the provisions of any relevant piece of legislation and any relevant current policy of Council.
 3. In order to provide for the more expedient discharge and management of Council's business and the efficient and effective exercise of Council's functions, Council:
 - 3.1 Confirms the prior establishment and continued existence and operation of each of the committees specified in Column 1 of the table to Schedule 3.
 - 3.2 Declares that the role and purpose, and the scope of authority, of each of the committees are as specified opposite their respective names in column 2 in Schedule 3.
 - 3.3 Declares that each of the committees shall consist of all Councillors.
 - 3.4 Pursuant to and in accordance with section 377 of the Local Government Act 1993 (NSW) delegates to each of the committees specified in Column 1 of the table in Schedule 3, all the functions of Council (other than those functions listed in section 377 of the Local Government Act 1993 (NSW) as functions which cannot be so delegated) to enable each such committee to make a final determination in respect of any matter falling within the particular committee's respective role, purpose and authority, subject to the exceptions, conditions, qualifications and limitations (if any) specified in Schedule 4 as well the constitutional provisions specified in Schedule 5.
 - 3.5 Declares that any and all previous delegations and authorisations to the two committees are revoked.
 4. Council declares that in and for the purposes of this instrument of delegations:
 - reference to an Act or other statutory instrument, or part thereof, is a reference to that Act or instrument, or part thereof, as the case may be, as in force from time to time, and extends to and includes any other Act or instrument, or part thereof, replacing or being in substitution for the same, again as in force from time to time, and
 - the word function includes a power, authority and duty and extends to any function conferred or imposed upon Council whether by the Local Government Act 1993 (NSW), another Act or any other law.
 5. Council declares that the provisions contained in Schedules 1, 2, 3, 4 and 5 to this resolution have effect.

Schedule 1

The powers, authorities, duties and functions specified in:

- a) The Local Government Act 1993 as amended; and
- b) Other Acts and subordinate legislation under which Council has powers, authorities, duties and functions.

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REVIEW OF DELEGATIONS (CONT.)

Schedule 2

The powers, authorities, duties and functions related to:

- a) A decision to prepare a draft Local Environmental Plan (LEP).
- b) The adoption of a draft LEP.
- c) The determination of submissions received in response to the public exhibition of a draft LEP.
- d) The determination of development applications as nominated by the Director City Planning.
- e) Approval of a development application which does not substantially comply with Council's policies.
- f) Matters delegated to the Mayor.
- g) Section 226 of the Local Government Act, relating to the role of the Mayor.

Schedule 3

| NAME OF COMMITTEE | ROLE AND PURPOSE, AND SCOPE OF AUTHORITY, OF COMMITTEE |
|----------------------------|---|
| City Services Committee | <p><u>Role and Purpose:</u> To consider and make resolutions in respect of any and all of the following matters:</p> <ul style="list-style-type: none"> • roads and drainage • environmental protection • recreation and culture • public health and safety • social development • community services • economic services • organisational support and organisational development <p><u>Scope of Authority:</u> To that end, and for the above purpose, the Committee shall have the authority to pass resolutions.</p> |
| City Development Committee | <p><u>Role and Purpose:</u> To consider and make resolutions in respect of any and all of the following matters:</p> <ul style="list-style-type: none"> • Rezoning and other Local Environmental Plans • Applications for development approval and related matters • Land use planning policy, including but not limited to Development Control Plans and Codes • Other reports on land use planning-related matters <p><u>Scope of Authority:</u> To that end, and for the above purpose, the Committee shall have the authority to pass resolutions.</p> |

Schedule 4

EXCEPTIONS, CONDITIONS, QUALIFICATIONS AND LIMITATIONS

1. Each committee must exercise the functions delegated in accordance with and subject to the provisions of all relevantly applicable legislation and any law as well as any relevantly applicable and current policy of Council.
2. Each committee, in the exercise of its functions, shall at all times operate and otherwise comply with the constitutional provisions specified in Schedule 5 as well as any relevant resolution of Council.

Schedule 5

CONSTITUTIONAL PROVISIONS

1. Each committee shall meet at the time and place and on the date (day of the month,

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REVIEW OF DELEGATIONS (CONT.)

- and/or as otherwise required) as may be determined from time to time generally or specifically by Council.
2. The Chairperson and Deputy Chairperson for each Committee shall be as determined from time to time by Council.
 3. The quorum for a meeting of a committee shall be six members.
 4. Each member is entitled to one vote. In the event of an equality of votes, the person presiding has a second or casting vote.
 5. Members of the public wishing to address a meeting of a committee may do so in accordance with the guidelines adopted by Council as in force from time to time.

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RESOLUTION - 21 MARCH 2013

3 REVIEW OF DELEGATIONS

FILE NO: D-4-4

Min. No. 69 RESOLVED (Councillors Hawatt/Paschalidis-Chilas)

THAT

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 - 1.2 Media Relations
To advise and respond to enquiries from the media and to issue media releases and statements in respect of the affairs of Council and the City generally.
2. In order to provide for the expedient exercise and performance of its powers, authorities duties and functions and the efficient management of its business and responsibilities, Council hereby delegates pursuant to (and in accordance with) section 377 of the Local Government Act 1993 (as amended) to the person, for the time being, holding the office of General Manager, the exercise of its powers, authorities, duties and functions contained in the legislation specified in Schedule 1 subject to the exceptions and limitations specified in Schedule 2 and subject to the following qualifications set out in 2.1 and 2.2.
 - 2.1 Council may by resolution, supervise, control and direct the General Manager in the exercise of any delegated function.
 - 2.2 The General Manager will exercise the powers, authorities, duties and functions delegated, in accordance with and subject to the provisions of any relevant piece of legislation and any relevant current policy of Council.
3. In order to provide for the more expedient discharge and management of Council's business and the efficient and effective exercise of Council's functions, Council:
 - 3.1 Confirms the prior establishment and continued existence and operation of each of the committees specified in Column 1 of the table to Schedule 3.
 - 3.2 Declares that the role and purpose, and the scope of authority, of each of the committees are as specified opposite their respective names in column 2 in

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21 MARCH 2013

REVIEW OF DELEGATIONS (CONT.)

Schedule 3.

3.3 Declares that each of the committees shall consist of all Councillors.

3.4 Pursuant to and in accordance with section 377 of the Local Government Act 1993 (NSW) delegates to each of the committees specified in Column 1 of the table in Schedule 3, all the functions of Council (other than those functions listed in section 377 of the Local Government Act 1993 (NSW) as functions which cannot be so delegated) to enable each such committee to make a final determination in respect of any matter falling within the particular committee's respective role, purpose and authority, subject to the exceptions, conditions, qualifications and limitations (if any) specified in Schedule 4 as well the constitutional provisions specified in Schedule 5.

3.5 Declares that any and all previous delegations and authorisations to the two committees are revoked.

4. Council declares that in and for the purposes of this instrument of delegations:

- reference to an Act or other statutory instrument, or part thereof, is a reference to that Act or instrument, or part thereof, as the case may be, as in force from time to time, and extends to and includes any other Act or instrument, or part thereof, replacing or being in substitution for the same, again as in force from time to time, and
- the word function includes a power, authority and duty and extends to any function conferred or imposed upon Council whether by the Local Government Act 1993 (NSW), another Act or any other law.

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| City Services Committee | <u>Role and Purpose:</u> To consider and make resolutions in respect of any and all of the following matters: <ul style="list-style-type: none"> • roads and drainage • environmental protection • recreation and culture |

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REVIEW OF DELEGATIONS (CONT.)

| | |
|----------------------------|--|
| | <ul style="list-style-type: none"> • public health and safety • social development • community services • economic services • organisational support and organisational development <p><u>Scope of Authority:</u> To that end, and for the above purpose, the Committee shall have the authority to pass resolutions.</p> |
| City Development Committee | <p><u>Role and Purpose:</u> To consider and make resolutions in respect of any and all of the following matters:</p> <ul style="list-style-type: none"> • Rezoning and other Local Environmental Plans • Applications for development approval and related matters • Land use planning policy, including but not limited to Development Control Plans and Codes • Other reports on land use planning-related matters <p><u>Scope of Authority:</u> To that end, and for the above purpose, the Committee shall have the authority to pass resolutions.</p> |

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1. Each committee must exercise the functions delegated in accordance with and subject to the provisions of all relevantly applicable legislation and any law as well as any relevantly applicable and current policy of Council.
2. Each committee, in the exercise of its functions, shall at all times operate and otherwise comply with the constitutional provisions specified in Schedule 5 as well as any relevant resolution of Council.

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1. Each committee shall meet at the time and place and on the date (day of the month, and/or as otherwise required) as may be determined from time to time generally or specifically by Council.
2. The Chairperson and Deputy Chairperson for each Committee shall be as determined from time to time by Council.
3. The quorum for a meeting of a committee shall be six members.
4. Each member is entitled to one vote. In the event of an equality of votes, the person presiding has a second or casting vote.
5. Members of the public wishing to address a meeting of a committee may do so in accordance with the guidelines adopted by Council as in force from time to time.