



DELEGATIONS TO THE GENERAL MANAGER AND MAYOR

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Amended by Council: 7 August 2018
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Amendments

Date	Amendment	Reference
3 July 2012	Adopted	CS/31
10 October 2012	Updated with new Councillor details	GM/28
13 November 2012	Updated to reflect Council resolution re Mayoral discretionary fund increase for urgent works	NM/20
4 December 2012	Review of delegations	CS/58
8 July 2014	Review of delegations to the General Manager and Mayor. Updated with new General Manager details	GM/14
20 April 2015	Amendment to Exception No. 30 to delegations to the General Manager	EP/18
5 July 2016	New delegation C appointing the position of General Manager as delegate of Reserves Lands Trusts	CS/17
7 August 2018	Reviewed pursuant to Section 380 of the <i>Local Government Act 1993</i>	CS/29
17 April 2019	Delegations from Mosman Local Planning Panel to General Manager	ECM Doc. Set ID 5656602

DELEGATIONS TO THE GENERAL MANAGER AND MAYOR

The persons and Committees identified in these Delegations for the 2017 - 2020 Council Term are as follows:

Mayor:	Cr Carolyn Corrigan
Deputy Mayor:	Cr Roy Bendall (elected 19 September 2017)
General Manager:	Mr Dominic Johnson

The Mayor, by virtue of office, is Chairperson (ex officio) of all Committees, excepting the Traffic Committee [Clause 267 of the *Local Government (General) Regulation 2005*].

1. COMMITTEE OF THE WHOLE:

Councillors Carolyn Corrigan (Chairperson), Roy Bendall, David Cook, Simon Menzies, Libby Moline, Tom Sherlock and Jacqui Willoughby.

Pursuant to the provisions of Section 377 of the *Local Government Act 1993*, Council delegate to Committee of the Whole the authority to determine any authorised function of the Council by majority vote, such individual votes to be recorded by name in the Minutes of the meeting.

2. TRAFFIC COMMITTEE

Councillor S Menzies (Chairperson) and Councillor D Cook (alternate delegate).

Pursuant to Section 377 and 379 of the *Local Government Act 1993*, as amended, and in accordance with that Section the power to resolve upon any matter submitted for consideration by the Traffic Committee is delegated to the Chairperson or Council's appointed alternate delegates, the General Manager (Mr Dominic Johnson) or nominee and representatives of the Roads and Maritime Services, NSW Police Force and the Local State Member or nominee, as members of the Traffic Committee provided:

1. The recommendation of the Committee is unanimous.
2. There is at least a representative of Council (Chairperson) and the NSW Police Force present at the meeting.
3. The recommendation of the Committee generally being in accordance with the recommendation of the appropriate employee of the Council making such recommendation.
4. No written objections being received by the Roads and Maritime Services prior to the commencement of the meeting.
5. The specific item has been listed on the Business Paper giving notice of the meeting and no Councillors have given written notice of interest in respect of such specific item to the General Manager prior to the commencement time of the meeting of the date of the meeting. Such written notice to include the item number, the general heading, as listed in the Business Paper, and reason for giving such notice, excepting that if a Councillor has notified interest in respect of any specific item, he/she may withdraw such notice prior to the close of the said meeting. In the event of more than one Councillor giving interest in respect of a specific item to the General Manager prior to the meeting, all Councillors giving such notice must withdraw their notice prior to the close of the said meeting.

6. Business Papers in respect of the meeting have been distributed to all Councillors prior to the meeting.

In the event that the above provisos are not satisfied in respect of any matter, the decision taken by the Committee shall be a recommendation to Council and not a resolution by delegation.

**DELEGATION OF POWERS UNDER SECTION 377 OF
THE LOCAL GOVERNMENT ACT 1993, AS AMENDED**

GENERAL POWER OF THE COUNCIL TO DELEGATE

Section 377 provides:

"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:

- the appointment of a General Manager
- the making of a rate
- a determination under Section 549 as to the levying of a rate
- the making of a charge
- the fixing of a fee
- the borrowing of money
- the voting of money for expenditure on its works, services or operations
- 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)
- the acceptance of tenders which are required under this Act to be invited by the Council
- the adoption of a Management Plan
- the adoption of a financial statement included in an annual financial report
- a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
- the fixing of an amount or rate for the carrying out by the Council of work on private land
- 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
- 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*
- the power of the Council to authorise the use of reasonable force for the purpose of gaining entry to premises under Section 194
- a decision under Section 356 to contribute money or otherwise grant financial assistance to persons
- the power of the Council under Section 455 in relation to attendance at meetings
- the making of an application, or the giving of a notice, to the Governor or Minister

- this power of delegation
- any function under this or any other Act that is expressly required to be exercised by resolution of the Council"

This section of the Act needs to be considered in conjunction with section 49 of the *Interpretation Act 1987*, and also Section 151 of the *Environmental Planning and Assessment Act 1979*, in relation to delegations by Councils of their functions under that Act.

Additionally, Section 379 of the *Local Government Act 1993*, as amended, limits the power to delegate regulatory functions of the Council under Chapter 7.

Delegations to the General Manager

1. Mosman Council:

- A. Recognises that certain functions are conferred on the General Manager by the *Local Government Act 1993*; and
- B. Delegates to the person holding the position of General Manager its functions under the *Local Government Act 1993* and any other legislation conferring functions on the Council administration,

EXCEPT:

Item	Delegation
1.	The functions that are required by or under the <i>Local Government Act 1993</i> or by any other Act or instrument to be performed by the governing body of the Council, including but not limited to the provisions of Section 377.
2.	Functions and authorities delegated to the Mayor or matters referred to Committees of Council.
3.	The power to make or amend Council policy.
4.	The release for public exhibition and comment of any plan or policy which is required by legislation to be exhibited.
5.	The exercise of authorities and functions in a manner not consistent with the policies and decisions of Council.
6.	Approving or varying Council's revenue and expenditure budget position.
7.	The allocation of unconditional revenue gains in excess of \$50,000 and outside the adopted budget, without prior consultation with the Mayor.
8.	Approving expenditure that exceeds the budget of any Division by more than \$50,000, without prior consultation with the Mayor.
9.	Significant variation of priorities for Council's programs, including priorities relating to the Capital Works program, studies, policy development programs and other initiatives specified by the Council in MOSPLAN.
10.	Variation of any external contract, deed or agreement approved by Council, except the expenditure of specific project contingency allocations within approved budgets and minor variations (defined as 10% of the contract sum or \$20,000, whichever is the greater), which may be undertaken with the concurrence of the Mayor.
11.	Determination of applications for donations to charities, cultural and other organisations except as permitted in any Council Policy.
12.	Writing off bad debts, for amounts above \$5000 (including GST).
13.	Engaging consultants, for non-budgeted amounts above \$20,000 (including GST); without authorisation from the Mayor.

Item	Delegation
14.	The approval of the organisation structure at Director level.
15.	The appointment of senior staff (that is, Director level positions) unless prior consultation with Council has occurred; as per s337 of the LG Act.
16.	Entering into any major enterprise agreements involving significant impact on budget, except after consultation with Council.
17.	Carrying out any new non-core service not already being undertaken at the date of this resolution of Council.
18.	Significant variation of any existing Council service that would have ongoing implications for Council in terms of cost or service delivery.
19.	Setting or altering the Schedule of Fees and Charges, except to adjust a fee or charge payable for services provided on a commercial basis or waiving or reducing fees in cases of financial hardship or for pressing community needs.
20.	Instructing Council's legal representatives to commence legal proceedings (including an appeal) on any matter costing more than an estimated \$20,000, except when the Mayor has been consulted; or on industrial/employment, enforcement and prosecution matters; or where the Mayor has a conflict of interest.
21.	Instructing Council's legal representatives to provide legal advice on any matter costing more than an estimated \$20,000, except when the Mayor has been consulted; or on industrial/employment, enforcement and prosecution matters; or where the Mayor has a conflict of interest.
22.	<p>Granting of leases and licences and approving applications for use of public land or crown land for:</p> <ul style="list-style-type: none"> • Balmoral Bathers Pavilion • Balmoral Baths • Boronia House • Mosman Swim Centre • Balmoral Boatshed • Balmoral Long Day Child Care Centre (Pippies) • Alexander Avenue Child Care Centre • Bridgepoint Air Space • Bridgepoint Air Space Signage • Crown land leases with a term exceeding five years
23.	Adoption of a plan of management for community land.
24.	Matters relating to community land pending adoption of a plan of management.
25.	Granting of owner's consent for lodgement of Development Applications or approval of Section 138 Applications on Council controlled land where the

Item	Delegation
	works are significant.
26.	The development or formation of relationships with other cities, including sister city agreements.
27.	The approval of civic and ceremonial events.
28.	The granting of civic honours.
29.	<p>Determination of Applications for Development Consent under the <i>Environmental Planning and Assessment Act 1979</i> in the following cases which are delegated to the Mosman Development Assessment Panel for determination</p> <ol style="list-style-type: none"> 1. Development Applications where the applicant or owner is Mosman Council, a Councillor or staff member of Mosman Council 2. Section 82A and 96AB Applications 3. Development Applications where there are continuing unresolved objections relating to view loss of the Harbour or scenic landmarks (that is the Heads, Opera House or Harbour Bridge) which cannot be resolved by means of condition/s or refusal 4. Development Applications made by the Crown 5. Development Applications involving a Clause 4.6 variation greater than 10 per cent to a development standard contained in MLEP 2012 6. Development Applications where there is there at least one objection from a property owner that shares a side boundary and there is non-compliance with the minimum side setback requirement of the DCP and/or the development would extend beyond the rear alignment of that same adjoining neighbour's building 7. Development Applications where there are unresolved objections from three or more properties where the ground/s for objection relate/s to a matter or matters other than view loss referred to in (3) and which cannot be resolved by means of condition or refusal 8. Development applications for works between the foreshore and the foreshore building line 9. Section 96(2) and 96AA where matters referred to in (1), (3), (7) and (8) above apply
30.	Determination of Applications for Development Consent under the <i>Environmental Planning and Assessment Act 1979</i> that involve public land, Crown land where Mosman Council is the reserve trust manager, or an unmade road zoned RE1 or E2 under Mosman LEP2012, or land owned by a public authority as defined in the <i>Local Government Act 1993</i> .

- C. As Manager of the Mosman Foreshore Reserves Lands Trust, Mosman Sporting Fields Reserves Lands Trust and Mosman Pocket Parks Reserves Lands Trust appoint the person holding the position of General Manager as delegate of each Reserves Lands Trust to execute leases and associated documents together with any other documents associated with an approval or consent granted by the Reserves Lands Trusts.

2. Mosman Local Planning Panel

The Chair of the Mosman Local Planning Panel (MLPP), pursuant to Section 2.20(8) of the *Environmental Planning and Assessment Act 1979* and on behalf of the MLPP, delegate to the General Manager (or his delegate) the functions of the MLPP in respect to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* irrespective of the number of objections.

[ECM Document Set ID 5656602 dated 17 April 2019]

Delegations to the Mayor

The role of Mayor, pursuant to Section 226 of the *Local Government Act 1993*, as amended, is as follows:

“226 The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
- to exercise such other functions of the Council as the Council determines; to preside at meetings of the Council; and
- to carry out the civic and ceremonial functions of the mayoral office.”

Pursuant to Section 377 and Section 379 of the *Local Government Act 1993*, as amended, and subject to the limitations and stipulations which the said Sections impose, Council hereby authorises the Mayor to exercise or perform on behalf of the Council, the powers, authorities, duties and functions of the Council as specified hereunder:

Item	Delegation
1.	The person authorised to exercise or perform on behalf of the Council the said powers, authorities, duties and functions of the Council may, if he/she considers it advisable so to do, refer back to Council any matter calling for the exercise of any such power, authority, duty or function, and in such circumstances Council reserves to itself full authority to determine the matter.
2.	Where the person for the time being holding the office of Mayor is absent from duty (as distinct from temporary unavailability) the Deputy Mayor may act in place of the Mayor in the exercise or performance on behalf of the Council of the said powers, authorities, duties and functions.
3.	Authority to manage the General Manager, except as otherwise provided by s335 of the <i>Local Government Act 1993</i> .
4.	Exercise the power of expulsion from meetings of Council, pursuant to Clause 258 of the <i>Local Government (General) Regulation 2005</i> , as amended.
5.	Call upon Councillors to attend social or official functions of Council and to authorise the payment of travelling expenses where such function is outside of the Council's area and was considered to be on the business of Council, in accordance with Council's policy for the payment of expenses and provision of facilities to Mayor and Councillors.
6.	Make Council corporate gifts available for presentation on appropriate occasions.
7.	Approve any work which, in the Mayor's opinion, is urgent, at a cost not exceeding \$10,000, provided that such expenditure be the subject of report to the following meeting of the Council.
8.	Approve temporary appointments to the General Manager's position where the holder is suspended from duty, sick or absent (Section 351); as distinct from temporary absence.
9.	Grant applications for holidays and leave of absence to the General Manager.
10.	In accordance with Council's Provision of Facilities and Payment of Expenses Policy to determine all claims submitted by the General Manager seeking payment or reimbursement of legitimate and reasonable expenses incurred by

Item	Delegation
	the General Manager whilst on the formal business of the Council.
11.	Request the General Manager to schedule meetings of Council Committees, Councillor Briefings and Inspections by Councillors.
12.	Request the General Manager to add items on the agendas for all meetings of Council and Council Committees, subject to the <i>Local Government Act 1993</i> and the <i>Local Government (General) Regulation 2005</i> and any other Act or Regulation.
13.	Co-authorise expenditure items exempted from the General Manager's delegations and not otherwise requiring authorisation by Council.
14.	Approve all expenditure for emergency work, maintenance and repairs to Council property that have not been provided for in the annual budget, for works requiring expenditure of \$50,000 to \$150,000 on advice of the General Manager; with a report to Council at the earliest opportunity.
15.	Determine requests for the waiver or reduction of fees in accordance with Part 10 of Chapter 15 of the <i>Local Government Act 1993</i> , for example venue hire discounts and ad-hoc requests from charities, in accordance with and subject to policies and budgetary allocations adopted and an approved Council policy.
16.	Co-authorise the use of unbudgeted consultants involving expenditure greater than \$20,000 on advice of the General Manager.
17.	Approve all press statements and publications issued on behalf of Council that the General Manager considers may have significant political ramifications or represent major Council announcements.
18.	Determine who should represent Council at civic ceremonial and social functions, where the Mayor is unable to attend and Council has not determined its representative.
19.	<p>Instruct Council's legal representatives directly or through the General Manager as appropriate:</p> <ol style="list-style-type: none"> a. provided the instruction is not inconsistent with Council policies or decisions; or b. where there is an inconsistency (such as to settle court proceedings where Council's prospects are poor) if it is in Council's interest to do so and the Mayor has been so advised (by General Manager, or external counsel); and c. provided that if the Mayor proposes to give instructions (either directly or indirectly) to commence legal proceedings (including an appeal), the Mayor shall consult the General Manager, unless it is inappropriate to do so, in which case the Mayor shall consult at least two Councillors (in confidence if necessary), before doing so. On the day such proceedings are commenced, the General Manager shall be advised of the nature of the proceedings, unless they have a conflict of interest. Additionally, this will be brought to the next Council meeting for confirmation
20.	<p>Exercise, during the Christmas/New Year recess of Council, the powers, authorities, duties and functions of Council other than:</p> <ol style="list-style-type: none"> a. those reserved to the Council itself by Section 377 and Section 379 of the <i>Local Government Act 1993</i>; b. those powers and functions delegated to the General Manager by Council resolution from time to time

Item	Delegation
	<p>Such delegations to be effective immediately following the last Council meeting of the calendar year, up to the time immediately prior to the first Council meeting of the following calendar year, subject to:</p> <ol style="list-style-type: none"><li data-bbox="424 383 1465 517">a. such delegations are to be exercised following receipt by the Mayor of reports or other business papers in a form similar to the form of reports or other business papers normally submitted to Council or a Council Committee;<li data-bbox="424 517 1465 584">b. those reports or other business papers are to be circulated to Councillors at least three business days prior to the exercise of delegations;<li data-bbox="424 584 1465 685">c. where written objections by three Councillors on any one item are received by the Mayor, stating relevant reasons for objection, the item is to be deferred until the next meeting of Council, and<li data-bbox="424 685 1465 754">d. any decisions made by the Mayor pursuant to such delegation are to be reported to the next Council meeting.