

Instrument of Delegation to the Lord Mayor

Dated: 22 February 2022



In accordance with, and subject to, section 377 of the *Local Government Act 1993 (Act)*, Council delegates to the Lord Mayor, on an ongoing basis, the following functions:

DELEGATIONS

1. Leadership and policy direction

- a) to be the leader of the Council and a leader in the local community;
- b) to advise, consult and provide strategic direction to the Chief Executive Officer, except as otherwise provided by the Act.

2. Management of Council meetings and business

- a) to preside at Council meetings;
- b) to call and schedule meetings of Council and Committees of Council;
- c) to request the Chief Executive Officer to include items on the agenda for all meetings of Council and Committees of Council, subject to the Act and the *Local Government (General) Regulation 2021 (Regulation)* and any other Act or Regulation. Provided that if the Council has by resolution determined that a specific item should be placed on its agenda, the function exercised under this delegation must be exercised in accordance with that resolution.

3. External relations and representations

- a) to act as the official spokesperson of the City of Newcastle;
- b) to determine:
 - i. who should represent Council on external organisations and committees and inter-agency working parties, where Council has not determined a representative; and
 - ii. who should represent Council at civic ceremonial and social functions, where the Lord Mayor is unable to attend and Council has not determined its representative,

Provided that before a determination is made that a staff member should so represent Council, the Lord Mayor must consult with the Chief Executive Officer.

- c) to determine who will exercise Council's Local Government NSW (LGNSW) voting rights from among the Councillor attendees;
- d) to determine who will exercise Council's Australian Local Government Association (ALGA) voting rights from among the Councillor attendees;
- e) to act as a Council nominated director on Newcastle Airport Pty Ltd, Greater Newcastle Aerotropolis Pty Ltd, Newcastle Airport Partnership, Greater Newcastle Aerotropolis Partnership, Newcastle Airport Partnership Company 1 and Newcastle Airport Partnership Company 2.

4. Organisational Accountability and Performance Management

- a) to exercise Council's functions under the Chief Executive Officer's Contract of Employment having regard to any functions of a performance review panel or policy in effect;
- b) to obtain external legal advice in relation to the appointment, conduct and

performance of the Chief Executive Officer, and related issues;

- c) to negotiate and settle terms of a contract of employment with the Chief Executive Officer including determining the appropriate remuneration, bonuses and incentives in accordance with relevant Council resolutions (as required), the Chief Executive Officer's Contract of Employment and relevant Council policies;
- d) to review, approve and implement governance and accountability structures and processes for the performance of the organisation and to oversee the performance of the Chief Executive Officer (and, through the Chief Executive Officer, the performance of the organisation and program areas within the organisation);
- e) to settle performance standards, and plan, and carry out performance reviews, of the Chief Executive Officer, in accordance with any performance review panel or policy in effect;
- f) to accept the resignation of the Chief Executive Officer;
- g) to appoint a Director as an Acting Chief Executive Officer from time to time as might be required by the absence of the Chief Executive Officer for any reason;
- h) to take other administrative action in connection with the Chief Executive Officer's Contract of Employment including but not limited to the approval of annual leave.

5. Staffing and structure of the Lord Mayor's office

- a) In respect of the Lord Mayor's Office (**LMO**), to:
 - i. determine the structure;
 - ii. determine the number and description of all staff positions;
 - iii. allocate expenditure of the LMO within its overall budget;
 - iv. be fully and formally consulted in respect of the appointment (or dismissal) of all staff;
 - v. allocate tasks on a day to day basis;in consultation with the Chief Executive Officer.
- b) to determine requests for the waiver or reduction of fees in accordance with Council's adopted budget and pre-determined categories.

6. General authority of Council during a Recess Period

- a) Where there are grounds to support that a decision of the elected Council cannot be delayed during a Recess Period, to exercise the functions of the elected Council other than:
 - i. the functions reserved by the elected Council itself in accordance with section 377 of the Act;
 - ii. those powers and functions delegated to the Chief Executive Officer.
- b) Where the decision relates to a determination of applications for development consent under the *Environmental Planning and Assessment Act 1979* (**Development Application**) that would have otherwise been determined by the Development Applications Committee, the Lord Mayor is authorised to co-determine the Development Application with the Chief Executive Officer in accordance with the process set down in the Chief Executive Officer's Instrument of Delegation.
- c) This authority is effective from midnight on the day of the last Council meeting prior to

the Recess Period, up to the time of commencement of the first meeting at the conclusion of the Recess Period, subject to:

- i. such delegations are to be exercised following receipt by the Lord 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 Committee of Council;
- ii. those reports or other business papers are to be circulated to Councillors at least three business days prior to the exercise of delegations;
- iii. where written objections by a majority of Councillors on any one item are received by the Lord Mayor, stating relevant reasons for objection, the item is to be deferred until the next relevant meeting of Council; and
- iv. any such decisions made by the Lord Mayor pursuant to such delegation is to be reported to the next meeting of Council.

This clause does not limit the Lord Mayor's authority pursuant to section 226(d) of the Act to exercise in the cases of necessity, the policy-making functions of the governing body of Council between meetings of Council.

7. Emergency provisions

- a) In the event of an emergency, or an order by legislation or government authority, that prevent Council from being able to meet (either in person or in an electronic form), Council enters into a 'Recess Period' until the emergency is concluded, and that the Lord Mayor may exercise the functions of the elected Council in accordance with clause 6.

INTERPRETATION

- a) **Chief Executive Officer** means the General Manager appointed under the Act;
- b) **Decisions of Council** means decisions made by the elected Council from time to time;
- c) **Policy/Policies of the Council** means references to policies adopted by the elected Council from time to time;
- d) **Recess Period** means a period of time where Council has, by resolution of Council, specifically determined a break in Council's ordinary meeting schedule. A Recess Period does not include:
 - i. the time between meetings (an extraordinary meeting can be called where decisions are required to be made as a matter of urgency); or
 - ii. the time between Council terms (that is the period between the day of the last ordinary council meeting and the date of declaration of a new elected Council).

This Instrument of Delegation should be construed as:

- a) operating in a manner which is valid and within the powers conferred on Council under the Act;
- b) not limiting the Lord Mayor's ability to carry out such other functions and exercise such other powers as the Council may determine from time, to time or as may be functions of the Lord Mayor under the Act.

All previous delegations of functions the subject of this Instrument of Delegation are revoked.