

**SUTHERLAND SHIRE COUNCIL**  
**INSTRUMENT OF DELEGATION BY THE GENERAL MANAGER**

In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

**Building Regulation Officer - Env Building & Compliance**

and to those people who may act in that position from time to time, the following functions subject to the limitations stated in this Instrument of Delegation and any subsequent written direction made by the General Manager or the Mayor; and

2. Revoke any previous Instrument of Delegation to that position.



**M Grewal**

**Acting General Manager**

**14 December 2018**

**DELEGATIONS**

**02 BUSINESS OF COUNCIL**

**02.05 Correspondence**

**02.05.02 General**

Sign and send correspondence that, in the opinion of the delegate, does not require the consideration of the Council or the signature of the General Manager or the Mayor, except correspondence addressed to:

- The Mayor and Councillors
- The Governors General of any State
- Mayors and councillors of other councils
- Members of Parliament
- The New South Wales Ombudsman
- Heads of Statutory Authorities and Government Departments
- The Independent Commission Against Corruption
- The Local Government and Shires Association
- The legal profession (other than standard acknowledgement letters)

- Council's insurers

and any other correspondence which, in the opinion of the delegate:

- (a) will, in any significant way, bind or commit Council, or
  - (b) concerns a matter which the Council or the community are likely to deem to be of a sensitive nature,
- other than correspondence conveying a decision of the Council.

## **02.12 Operations and Services**

Exercise the functions of the position to which the delegate is appointed or acting, generally in accordance with the position description and responsibilities for that position and if applicable, the sums voted by the Council and Budget allocation.

## **03 CERTIFICATES**

### **03.03 Environmental Planning and Assessment Act 1979**

#### **03.03.01 Part 8**

Assess and determine an application for and issue a building certificate, pursuant to Part 8 of the *Environmental Planning and Assessment Act 1979* and regulation.

#### **03.03.05 Part 4A**

##### **03.03.05.02 Part 4A Except Subdivision (includes Flood and Bushfire Prone Cert.)**

Assess and determine an application for and issue a Part 4A certificate (except a subdivision certificate), pursuant to Division 1 of Part 4A of the *Environmental Planning and Assessment Act 1979* and regulation.

## **04 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

### **04.02 Functions under Part 4 of the Environmental Planning and Assessment Act 1979 and Regulation**

#### **04.02.01.03 - Grant Consents - Team Leader**

Exercise Council's functions under Part 4 (Development Assessment) of the *Environment Planning and Assessment Act 1979* and *Regulation* **EXCEPT:**

- (1) Grant development consent or modify consent or review a determination (as the case may be) where:
  - (a) For all applications:
    - (i) if, before the application is determined, Council advises the Manager Administration and Risk they wish for the Development Assessment and Planning Committee to consider calling the matter to Council for determination, and the Council resolves that the matter should be determined by it.
    - (ii) if a Councillor or Council is the applicant or landowner, unless the Director Planning and Environment consultation the General Manager determines is appropriate to do so after giving consideration to the following:
      - the extent to which the development complies with the controls in Council's LEP and DCP;
      - whether any objections have been received on the reasonableness of the objections, taking into account any guidance from Council's LEP and DCP on the issues raised; and
      - whether circumstances warrant assessment by an external professional, a peer review of assessment undertaken by Council staff, and/or referral of the application to IHAP.
    - (iii) if a member of Council staff is the applicant or landowner or where a declaration of affiliation has been completed by the applicant or property owner, unless the Director Planning and Environment determines that it is appropriate to do so after giving consideration to the following:
      - the extent to which the development complies with the controls in Council's LEP and DCP's in the:
      - whether any objections have been received and the reasonableness of the objections, taking into account any guidance from Council's LEP and DCP on the issues raised;

- whether the circumstances warrant assessment by an external professional, a peer review and assessment undertaken by Council staff, and/or referral of the application to IHAP;
- the relationship of the staff member or person identified in the declaration to the Council and staff involved in assessing applications.

(iv) if the application is for a dwelling house or dual occupancy with more than two storeys.

(v) if the application is for a dual occupancy and the storeys above ground floor exceed 60% of the depth of the site measured from the front property boundary.

(vi) the development relies on existing use rights.

(vii) the development is for 'sex services premises'.

(viii) written objections have been received that are considered to be substantive by the Submission Review Panel, unless the Director Planning and Environment agrees that delegated authority can be exercised.

(b) For development applications:

(i) the delegate does not have authority to vary a development standard pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

(c) For applications to modify a consent or review a determination if the application seeks to modify or review a condition relating to a s.94 contribution or planning agreement.

(2) Enter into a Planning Agreement.

#### **04.02.03 Rejecting Applications**

Reject a development application pursuant to clause 51 of the *Environmental Planning and Assessment Regulation 2000*.

#### **04.02.04 Requesting Further Information**

Request further information pursuant to clauses 53 and 54 of the *Environmental Planning and Assessment Regulation 2000*.

#### **04.02.05 Trees and Bushland**

Assess and determine an application for and issue a permit or approval (as the case may be) pursuant to clause 56 (Preservation of trees or vegetation) of Sutherland Shire Local Environmental Plan 2006 and Sutherland Shire Development Control Plan 2006, or the Sutherland Shire Tree and Bushland Vegetation Preservation Order.

#### **04.05 Telecommunication Low Impact Facilities**

Assess, determine and deal with a notification by a licensed carrier within the meaning of the *Telecommunication (Low – Impact Facilities) Determination Act 1997* for the construction, maintenance and operation of telecommunication facilities on land under the ownership of Council and land under Council's care, control and management.

### **06 LEGAL PROCEEDINGS AND CLAIMS**

#### **06.03 Legal**

##### **06.03.02 Witness**

Appear as a witness or delegate of Council in any court or forum.

#### **06.05 Trees (Disputes Between Neighbours) Act 2006**

Exercise Council's functions under the *Trees (Disputes Between Neighbours) Act 2006*.

### **10 REGULATION AND ENFORCEMENT**

#### **10.02 Functions**

##### **10.02.08 Environmental Planning and Assessment Act 1979**

(Note: See also *ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979*)

#### **10.02.08.01 Functions under Division 1C - Investigative Powers (C of A required)**

Appointed as and to exercise the functions of a council investigation officer under the *Environmental Planning and Assessment Act 1979* and regulation. This includes (but is not limited to) the functions under Division 1C (Investigative Powers) of Part 6 (e.g. entering and inspecting premises, giving directions, applying for search warrants, requiring answers to questions) and serving penalty notices as an authorised person pursuant to section 9.58 of the Act and clause 284 of the regulation. **(Certificate of Authority required)**

#### **10.02.08.03 Functions under Part 6 Division 2A (Orders)**

Exercise Council's functions under Part 6 Division 2A (Orders) of the *Environmental Planning and Assessment Act 1979* and regulation.

#### **10.02.08.04 Issue notices pursuant to Division 1 Part 4A**

Issue notices as an accredited certifier pursuant to Division 1 of Part 4A (Certification of work and other matters) of the *Environmental Planning and Assessment Act 1979* and regulation.

#### **10.02.13 Local Government Act 1993**

##### **10.02.13.01 Appointed Persons and Exercising Functions (C of A required)**

Appointed as and to exercise the functions of an authorised person (including the 'person authorised' referred to in Part 2 of Chapter 8) under the *Local Government Act 1993* and regulation. This includes (but is not limited to) entering and inspecting premises, giving directions, applying for search warrants, requiring answers to questions and serving penalty notices. **(Certificate of Authority required)**

##### **10.02.13.08 Part 1 (Approvals) of Chapter 7**

#### **10.02.15 Protection of the Environment Operations Act 1997**

##### **10.02.15.01 Protection of the Environment Operations Act 1997**

Appointed as and to exercise the functions of an authorised officer and enforcement officer and authorised to exercise all other functions under the *Protection of the Environment Operations Act 1997* and regulation. This includes (but is not limited to) entering and inspecting premises, seizing items, applying for search warrants, requiring the furnishing of information and records, requiring answers to questions, giving directions and notices and serving penalty notices.

#### **10.02.19 Roads Act 1993**

##### **10.02.19.01 Exercise functions of authorised officer (C of A required)**

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Roads Act 1993* and regulation. This includes (but is not limited to) entering and inspecting land, applying for search warrants, granting consent, issuing notices and orders and serving penalty notices. **(Certificate of Authority required)**

##### **10.02.21 Swimming Pools Act 1992 (C of A required)**

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Swimming Pools Act 1992* and regulation. This includes (but is not limited to) entering and examining premises, applying for search warrants, serving orders, and serving penalty notices. **(Certificate of Authority required)**

##### **10.02.22 Boarding Houses Act 2012 (C of A required)**

Appointed pursuant to Division 4 of the *Boarding Houses Act 2012*, as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Boarding Houses Act 2012* and regulation. This includes (but is not limited to) entering and inspecting premises, open ground and remove flooring, taking of photographs, and giving notices. **(Certificate of Authority required)**

## INTERPRETATION

Where appearing in this Instrument of Delegation:

- Headings are for convenience only and do not affect interpretation.
- Monetary amounts are inclusive of GST, unless the contrary is expressly stated.
- *Law* includes an Act, regulation, instrument and the like and any amendment, re-enactment, consolidation or replacement of that law by a similar provision in that law or any other law.
- A reference to a policy means a policy adopted by resolution of the Council and includes an amendment or replacement of that policy where adopted by resolution of the Council.
- A reference to “written objections” or “public submission” refers to objections or submissions received from the general public and not from a Commonwealth or State Government department, authority, agency and the like.
- A petition, objection or submission that is signed by or contains the names of more than one person is taken to be one objection or submission as the case may be.
- A reference to a Commonwealth or State Government department, authority, agency and the like includes any successor to it.
- A reference to a concurrence includes any later or amended concurrence.
- A reference to a function includes a reference to a power, authority, duty and the like and to the exercise or performance of such.
- Where the exercise or performance of a function requires other functions to be exercised or performed or requires the delegate to do other things to exercise or perform that function, the delegate is authorised to exercise or perform those other functions and to do those other things.
- A word which denotes the singular denotes the plural and vice versa.
- An authority to ‘approve’ includes approve with conditions or to refuse.