

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 Surveyor (Certification Unit) - Level 3

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.

02.07 Execution of Documents

02.07.03 General

02.07.03.10 Certification

Execute contracts and other documents in relation to certification work between Council and an applicant provided there is no requirement for the expenditure of funds.

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

03.03.02 Environmental Planning and Assessment Act 1979 (Part 4)

Assess and determine an application for and issue a complying development certificate (including an application to modify a complying development certificate), pursuant to Part 4 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 - Development applications, modification of consents etc

04.02.01.06 - Grant Consents - Level 3

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 (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) If the application exceeds DCP controls by more than 10% for

- Any boundary set back
- Height of out buildings and ancillary structures
- Pool height above ground level
- Garage size

(vii) the development relies on existing use rights.

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

(ix) 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.

(x) the development is for:

- a residential flat building;
- multi-dwelling housing;
- seniors housing; or
- Shop top housing

(b) For development applications:

(i) where approval relies on a variation to 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 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.

(3) Review the determination of a development application.

(4) Extend the period after which a consent lapses.

(5) Determine the review of a rejected application.

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*.

04.05 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.

05 FINANCE

05.07 Fees, Charges and Quotations

05.07.01 Prepare Quotes

Prepare quotations for services provided by Sutherland Shire Certification Services and Southern Sydney Building Certifiers where Council's Adopted Schedule of Fees and Charges for Goods and Services provides for individual quotations.

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.

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

10.02.13.08.04 Other staff no variation

Exercise Council's functions under Part 1 (Approvals) of Chapter 7 of the *Local Government Act 1993* and regulation **EXCEPT**:

1. Determine an application where the Council directs or a Councillor requests, in accordance with Council Policy, that the application be referred to the Development Assessment and Planning Committee for evaluation.
2. Approve an application where the activity does not comply with the requirements of a Council adopted Policy or Code unless, in the opinion of the delegate, the non-compliance can be addressed by conditions of approval.
3. Revoke an approval.

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.