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:

  Director Shire Infrastructure

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
12 March 2019

DELEGATIONS

02 BUSINESS OF COUNCIL

02.01 Appointment of staff to Committees

Appoint staff to the membership of Council Committees, external committees, working parties and the like.

02.02 Business papers

Determine matters to be included in the business papers of the Council and its Committees. However, the following items must be included when they arise:

- Reports on matters which cannot be determined under delegated authority
- Reports required to be submitted under any law
- Matters requiring a determination of policy
- Reports directed by the Council or the relevant Committee to be submitted
- Matters essential for the information of the Council or its Committees
- Matters requiring the voting of funds
02.04 Consultants

02.04.04 < $20,000

Engage, and authorise the payment of, consultants but only where, in the opinion of the delegate, Council does not have the capacity or the expertise to undertake the project through its own staff. Further, other than in an emergency, the engagement must be in accordance with a specific decision of the Council, or a general budgetary provision and not exceed $20,000.

02.05 Correspondence

02.05.01 Sign

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.

02.07 Execution of Documents

02.07.01 Applications

02.07.01.02 Applications (except Owners Consent)

Sign, on behalf of Council as authorised officer, applications and the like (except those providing owner’s consent).

02.07.03 General

02.07.03.02 < $150,000

Execute agreements, contracts and other documents provided expenditure does not exceed $150,000 and any relevant condition in the authorities ‘Disposal of plant, equipment and goods etc’ or ‘Procurement’ is satisfied.

02.07.04 Grants

Execute agreements, contracts and other documents concerning grants and the acceptance of funding provided any contribution by Council is budgeted for.

02.07.05 Performing Artists

02.07.05.03 < $5,000

Execute licence agreements and other documents for the engagement of performing artists and small contractors where the hire period does not exceed one year and the consideration does not exceed $5,000.

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.

02.17 Representation

02.17.02 Kurnell V.P.A.

Authorised to be Council’s representative in relation to the Kurnell Voluntary Planning Agreement Monitoring Group.

02.17.03 "The Ridge" Advisory Working Party

Authorised to be Council’s representative in relation to "The Ridge" Advisory Working Party and to give effect to the Mediation Agreement.

03 CERTIFICATES

03.03 Environmental Planning and Assessment Act 1979

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**

**04.04 Environmental Assessment under Part 5 of the Environmental Planning and Assessment Act 1979**

Exercise Council’s functions under Part 5 (Environmental assessment) of the *Environmental Planning and Assessment Act 1979* and regulation.

**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.

**04.06 DCP Maps**

Amend the flood maps forming part of Council’s Development Control Plan to reflect whether property should still be subject to flood related development controls after consideration of changes in knowledge of flood risk or changes to physical characteristics of the property.

**05 FINANCE**

**05.01 Accounts**

**05.01.02 Authorise Payment - Procurement**

Determine whether the amounts and calculations in accounts, invoices and tax invoices comply with any relevant agreement or are, in the opinion of the delegate, otherwise fair and reasonable and, if found to be so, authorise payment or so much as is found to be fair and reasonable, up to the amount(s) shown in the authority ‘Procurement’.

**05.01.03 Authorised Payments**

Pay accounts, invoices and tax invoices which have been authorised for payment by an appropriately authorised officer.

**05.02 Amounts Due to Council**

**05.02.02 Repayment Agreements**

Determine applications to pay by instalments amounts due to Council and vary repayment agreements.

**05.06 Disposal of Plant, Equipment and Goods etc**

**05.06.02 < $50,000**

Sell, exchange or surrender plant, equipment, goods and the like as recorded in Council’s Asset Register at a written down book value not exceeding $50,000.

**05.07 Fees, Charges and Quotations**

**05.07.02.01 Reduce or Waive up to $1,500**

Reduce or waive the payment of fees and charges up to $1,500 in any one instance, but only where the delegate is of the opinion that it is appropriate to do so.

**05.07.03 Refunds and Overpayments**

Approve refunds for all overpayments and credit adjustments to fees and charges that, in the opinion of the delegate, are not legitimately due to Council.

**05.07.05.01 Refund Part 4A Certificate and PCA < $5,000**

Authorise the refund, reduction or waiver of fees and charges in relation to a complying development application, modification
application, application for a Part 4A Certificate and PCA appointment where, in the opinion of the delegate, it is appropriate to do so or required by law, up to $5,000 in any one instance, pursuant to the Environmental Planning and Assessment Regulation 2000. No limit applies where Council is required by law to refund the fee or charge

05.07.07 Refund of Trust Fund Deposits

Authorise the refund of trust fund deposits provided the delegate is of the opinion that the purpose for which the deposit is held has been satisfied or the deposit is no longer required.

05.10 Petty Cash

05.10.01 < $200

Authorise petty cash up to $200 in any one instance.

05.10.02 Cash Advances

05.10.02.01 < $6,000

Approve cash advances to staff who control a petty cash float where the advance is considered necessary, up to $6,000 in any one instance.

05.10.03 Reimburse shortages < $200

Reimburse shortages in a petty cash float up to $200 in any one instance, provided the delegate is of the opinion that a satisfactory reason for the shortfall has been provided.

05.10.04 Reimburse Expenditure

05.10.04.01 Unlimited

Reimburse expenditure from a petty cash float.

05.12 Procurement

05.12.01 Expressions of Interest

Prepare and call for the submission of expressions of interest and tenders, including deciding whether the tender process is to be by way of open tendering or selective tendering, pursuant to clause 166 of the Local Government (General) Regulation 2005.

05.12.04 Submit Tenders and Quotations

Submit tenders and quotations to external bodies, organisations, authorities and the like to provide works and services to them.

05.12.05 Submit Tenders to External Bodies

Submit tenders and quotations to external bodies, organisations, authorities and the like to provide works and services to them provided that there is no reliance on Working Funds.

05.12.06 Obtain Quotes and Authorise Expenditure

05.12.06.11 Including Road and Tip Expenditure

Obtain quotations and authorise expenditure for the supply, purchase, lease or hire of goods, works, services (including consultants engaged by the General Manager or Director), plant, equipment and the like subject to:

(a) expenditure being less than $150,000 for any one transaction, except for:

(i) road building and laying materials provided expenditure is in accordance with a pre-existing contract and does not exceed $500,000 (excluding Goods and Services Tax if applicable) for any one transaction; and

(ii) tip fee payments provided expenditure is in accordance with a pre-existing contract and does not exceed $300,000 (excluding Goods and Services Tax if applicable) for any one transaction; and

(b) funds for such expenditure having been allocated in the Budget (where relevant); and
(c) compliance with any limit on incurring such expenditure which the Council may have fixed (where relevant);
unless authorised by a resolution of the Council.

Note:

1. This authority extends to the execution of procurement type contracts and agreements only associated and consistent with the delegate’s authorised Position Description. All other documents and agreements may only be executed if this delegation includes an authority under item 02.07.

2. This authority does not extend to authorising petty cash claims.

05.13 Security

05.13.01 Accept Guarantees

Accept security in the form of monetary deposits, guarantees, certificates, bonds and the like in respect of a condition of development consent under the Environmental Planning and Assessment Act 1979, an approval under the Local Government Act 1993, a consent under the Roads Act 1993, an order of a court or otherwise relating to the business of Council.

05.13.02 Draw On or Release

Draw on or release any security provided the delegate is of the opinion that it is appropriate to do so having regard to the reason why the security is held.

05.17 Writing off debts

05.17.01 Max of $2,000

Write off debts (other than rates and charges) to a maximum of $2,000 in any one instance, but only where the debt is not lawfully recoverable, it is the result of a decision of a court, or the delegate believes on reasonable grounds that an attempt to recover the amount would not be cost effective, pursuant to the Local Government Act 1993 and regulation.

Note: Clause 213(2) of the Local Government (General) Regulation 2005 provides that a council must, from time to time, by resolution, fix the amount above which debts to the council may be written off only by resolution of the council. Clause 213 also requires the decision to write off a debt to be in writing and to contain certain information.

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.

07 PERSONNEL

07.02 Person nel and Organisational Matters

07.02.02 Category 2

Attend to the following matters:

- With the prior concurrence of the Manager – Personnel, appoint persons to a vacant position
- With the prior concurrence of the Manager – Personnel, authorise staff requisition forms for staff
- Appoint and terminate temporary and casual staff
- Determine staff permanency following the completion of the probation period
- Appraise staff performance
- Determine change of hours arrangements for staff
- Determine variations to span of hours by work groups and individuals
- Determine requests for overtime and time in lieu
- Carry out disciplinary actions including termination of employment in consultation with the Manager Personnel
- Sign and issue disciplinary letters in accordance with the provisions of the Local Government (State) Award
- Represent Council in industrial matters, including at the Industrial Relations Commission and Anti Discrimination Board
- Recommend and determine remuneration levels and the allocation of positions within Council's salary system
- Determine higher grade pay for staff
- Determine leave applications
- Direct staff to take leave
- Authorise staff attendance at conferences, seminars, meetings, courses and the like and the payment of all associated expenses provided:
  - attendance does not exceed 2 days duration
  - attendance does not involve a professional association conference
  - attendance does not involve overnight accommodation
  - attendance does not involve air travel
- Issue references on Council letterhead
- Determine the Organisational Structure below the level of Director subject to any consultation required under any relevant Enterprise Agreement, Award and Council Policy
- Authorise timesheets for payment
- Responsibilities under any Work Health and Safety legislation and any other applicable law or Policy

**07.03 Training strategy**

Approve a training strategy (long term) and an annual program as recommended by the Manager Personnel.

**08 PROPERTY MANAGEMENT**

**08.01 Leases, Licences, Hire Agreements etc**

**08.01.01 < 5yrs or $25,000**

Enter into and execute licence and hire agreements for the use of public land, Crown land for which Council is Reserve Trust manager, and public roads provided:

(a) the term does not exceed five years; and

(b) the consideration does not exceed $25,000 per annum; and

(c) the transaction is authorised by the relevant Plan of Management (where applicable); and

(d) the fee or charge is in accordance with Council’s Schedule of Fees and Charges (where applicable); and

(e) the transaction complies with the relevant statutory procedures.

**08.02 Rent reviews**

Implement rent reviews in accordance with the provisions of the relevant lease.

**08.03 Rental Bonds and Security**

**08.03.01 Receive and Refund**

Receive and refund rental bonds and security.

**08.03.02 Execute Lodgements**

Execute bond lodgements with the appropriate statutory body.

**08.03.03 Release or Claim**

Release or claim upon lodged bonds.

**08.04 Represent Council on owners’ corporations**

Represent Council on owners’ corporations under the *Strata Schemes Management Act 1996* and vote on Council’s behalf in meetings of the owners’ corporation. However, the delegate is not authorised to dispose of or lease Council’s interests unless authorised by a resolution of the Council or the lease is not a residential lease and it complies with the authority 'Leases, licences,
hire agreements etc’.

08.06 Termination of leases and licences

08.06.01 Excluding Residential

Terminate leases and licences, but not residential leases and licences.

08.06.02 Resolution of Council

Terminate leases and licences. However, residential leases and licences can only be terminated where demolition of a structure the subject of the lease or licence is necessary or the economic return on the premises does not justify continuation or, regardless of the circumstances, termination has been authorised by a resolution of the Council.

08.06.03 Make Application

Make application to the appropriate statutory body to allow termination and vacant possession to be obtained.

09 PUBLIC LAND AND WORKS

09.01 Community land

Prepare a draft local environmental plan for the purposes of Part 2 (Public land) of Chapter 6 of the Local Government Act 1993 and regulation. However, the delegate is not authorised to place a draft plan on public exhibition unless authorised by a resolution of the Council.

Prepare and exhibit draft Plans of Management for community land in accordance with Part 2 (Public land) of Chapter 6 of the Local Government Act 1993 and regulation.

Adopt a Plan of Management which, in the opinion of the delegate, is procedural or minor and does not require the consideration of the Council.

Hold public hearings for the purposes of reclassification and recategorisation of community land under the Local Government Act 1993 and regulation.

09.02 Dividing Fences

Determine whether Council will make a contribution towards the cost of a dividing fence and if a contribution is to be made, authorise such contribution provided that at least two competitive quotations have been obtained for the carrying out of the work.

09.03 Emergency Situations and Urgent Works

09.03.01 Resources Availability

Make Council’s plant, equipment and personnel available in emergency situations and in response to any lawful direction given under the State Emergency and Rescue Management Act 1989.

09.03.02 Authority to Take Action

Take action pursuant to the State Emergency and Rescue Management Act 1989.

09.03.05 Expenditure

09.03.05.02 Approve < $50,000

Approve up to $50,000 in expenditure on emergency and urgent work, provided the delegate is of the opinion that it is in the public interest to do so.

09.04 Non-Claimant Native Title applications

Lodge applications relating to nonclaimant native title determinations with the National Native Title Tribunal for all parcels of land where it is considered that Council has an interest and withdraw any application where it is considered that a native title determination is not required.

09.05 Private Works
09.05.01 Authorise Work

Authorise work on private land by agreement with the owner or occupier of that land in accordance with the approved fees determined by the Council, pursuant to section 67 of Local Government Act 1993.

09.05.02 Graffiti Removal with Agreement

Authorise graffiti removal work on private land by agreement with the owner or occupier of that land, pursuant to the provisions of the Graffiti Control Act 2008 and regulation.

09.05.03 Graffiti Removal without the Agreement

Authorise graffiti removal work to property on private land without the agreement of the owner or occupier of that land if the graffiti concerned is visible from a public place, pursuant to the provisions of the Graffiti Control Act 2008 and regulation.

09.06 Risk management

09.06.01 Public bathing reserves, public baths, public swimming pools and Council’s leisure centres

Attend to the following matters in relation to bathing reserves, public baths, public swimming pools, Council’s leisure centres and the like, as and when necessary in the opinion of the delegate:

1. Approve any change, alteration or addition to the level, type, style and quality of lighting.

2. Approve the erection of all signs, including general or specific information, hazard, safety, caution and prohibition signs in English only and, where considered necessary, approve the support of such signs by pictogram symbol signs adopted by the relevant Australian Standard.

3. Approve the replacement of all existing signs irrespective of type in accordance with paragraph (2) above over time, or a progressive basis as and when existing signs require replacement due to physical deterioration, vandalism or damage.

4. Approve the inspection of all existing signs, but subject to paragraph (6) below.

5. Approve the installation of new signs.

6. Approve the variation of supervision, inspection, maintenance and prohibition enforcement activities.

7. Approve the erection of fencing.

09.06.02 Parks and reserves

Attend to the following matters in relation to parks, reserves and the like, as and when necessary in the opinion of the delegate:

1. Approve any change, alteration or addition to the level, type, style and quality of lighting.

2. Approve the erection of all signs, including general or specific information, hazard, safety, caution and prohibition signs in English only and, where necessary considered necessary, approve the support of such signs by pictogram symbol signs adopted by the relevant Australian Standard.

3. Approve the replacement of all existing signs irrespective of type in accordance with paragraph (2) above over time, or a progressive basis as and when existing signs require replacement due to physical deterioration, vandalism or damage.

4. Approve the inspection of all existing signs, but subject to paragraph (6) below.

5. Approve the installation of new signs.

6. Approve the variation of supervision, inspection, maintenance and prohibition enforcement activities.

7. Approve the erection of fencing.

09.06.03 Wharves, jetties and boat ramps

Attend to the following matters in relation to wharves, jetties, boat ramps and the like, as and when necessary in the opinion of the delegate:
1. Approve any change, alteration or addition to the level, type, style and quality of lighting.

2. Approve the erection of all signs, including general or specific information, hazard, safety, caution and prohibition signs in English only and, where considered necessary, approve the support of such signs by pictogram symbol signs adopted by the relevant Australian Standard.

3. Approve the replacement of all existing signs irrespective of type in accordance with paragraph above over time, or a progressive basis as and when existing signs require replacement due to physical deterioration, vandalism or damage.

4. Approve the inspection of all existing signs, but subject to paragraph (6) below.

5. Approve the installation of new signs.

6. Approve the variation of supervision, inspection, maintenance and prohibition enforcement activities.

7. Approve the erection of fencing

09.06.04 Footpaths

Attend to the following matters in relation to footpaths and the like, as and when necessary in the opinion of the delegate:

1. Approve any change, alteration or addition to the level, type, style and quality of footpath lighting.

2. Approve the erection of all signs, including general or specific information, hazard, safety, caution and prohibition signs in English only and, where considered necessary, approve the support of such signs by pictogram symbol signs adopted by the relevant Australian Standard.

3. Approve the replacement of all existing signs irrespective of type in accordance with the paragraph above over time, or a progressive basis as and when existing signs require replacement due to physical deterioration, vandalism or damage.

4. Approve the inspection of all existing signs, but subject to paragraph (6) below.

5. Approve the installation of new signs.

6. Approve the variation of supervision, inspection, maintenance and prohibition enforcement activities.

7. Approve the erection of footpath fencing

09.07 Road events

Grant permission for walkathons, fun runs, marathons and the like within public roads, subject to the requirements of the Sutherland Traffic Committee and relevant authorities.

09.08 Street lighting

Approve work to proceed and for Council to bear the additional annual charge where the relevant energy provider has agreed to a scheme of street lighting improvement.

Approve the replacement of street lamps or variations in wattage or type of street lamps.

Approve the installation of street lights in new areas where it is considered that street lighting is required and for Council to bear the additional annual charges.

09.09 Trees

Supply trees, shrubs and other vegetation to any person for planting in the Shire, within the budget allocation approved by the Council.

10 REGULATION AND ENFORCEMENT

10.02 Functions

10.02.01 Authorised officer/person/inspector/enforcement officer etc and Council’s other functions (C of A required)
Appointed as and to exercise the functions of an authorised officer/person/inspector/enforcement officer and the like pursuant to any law under which Council has functions and authorised to exercise all other functions under those laws, subject to the qualifications set out under the heading “Qualifications” below. The functions referred to in this clause include (but are not limited to): entering, inspecting and searching land, premises and property; applying for search warrants; giving directions; requiring answers to questions; requiring the furnishing of information and records; giving directions; issuing, giving and serving notices and orders; revoking orders; and issuing and serving penalty notices.

Qualifications:

1. Subject to this Delegation, only the following functions can be exercised under the Environmental Planning and Assessment Act 1979 and regulation:

   (a) The delegate is appointed as and to exercise the functions of an authorised person, including the functions under Division 1A (Local Enforcement Powers) of Part 6; and

   (b) Council’s functions under Part 6 Division 2A (Orders); and

   (c) Serve penalty notices as an authorised person, pursuant to section 127A and clause 284; and

   (d) Council’s inspection functions.

2. Subject to this Delegation, only the following functions can be exercised under the Local Government Act 1993 and regulation:

   (a) The delegate is appointed as and to exercise the functions of an authorised person, including the functions as a ‘person authorised’ under Part 2 (Entry on to land and other powers) of Chapter 8; and

   (b) Council’s functions under Part 2 (Orders) of Chapter 7; and

   (c) Serve penalty notices as an authorised person, pursuant to section 679; and

   (d) Council’s inspection functions. (Certificate of Authority required)

10.02.05 Contaminated Land Management Act 1997

Exercise Council’s functions under the Contaminated Land Management Act 1997 and regulation.

10.02.13 Local Government Act 1993

10.02.13.03 Authorising signs

10.02.13.03.01

Authorise the location, content, design and erection of signs and notices under the Local Government Act 1993 and regulation, including (but not limited to) those determining free parking areas, as well as prohibition of alcohol consumption and possession of alcohol (but not in relation to any public place that is a road or part of public road or public car park). The erection of alcohol prohibited area signs are subject to first gaining approval of the Local Area Commander of Police.

10.02.13.03.02

Authorise the location, content, design and erection of signs and notices under the Local Government Act 1993 and regulation, including (but not limited to) those determining free parking areas, excluding prohibition of alcohol consumption and possession of alcohol.

10.02.13.06 Part 3 Adoption of Local Policies concerning Approvals and Orders

Exercise Council’s functions under Part 3 (Adoption of local policies concerning approvals and orders) of Chapter 7 of the Local Government Act 1993. However, the delegate is not authorised to place a draft policy on public exhibition unless authorised by a resolution of the Council.

10.02.13.07 Reject a Section 68 Application
Reject an unclear or illegible application for a section 68 Approval, pursuant to section 85 of the Local Government Act 1993 and regulation.

10.02.13.08 Part 1 (Approvals) of Chapter 7

10.02.13.08.01 Director

Exercise Council’s functions under Part 1 (Approvals) of Chapter 7 of the Local Government Act 1993 and regulation EXCEPT 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. However, such an application can be determined where the Land and Environment Court Forum of the Council, the Development Assessment and Planning Committee or the Council thereafter refer the application to the General Manager or relevant Director for determination.

10.02.18 Road Transport (General) Act 2013

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the Road Transport (General) Act 2013 and regulation and the ‘road transport legislation’ as defined in that Act. This includes (but is not limited to) inspecting and searching vehicles and premises, giving directions 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)

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.