

SUTHERLAND SHIRE COUNCIL
INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER

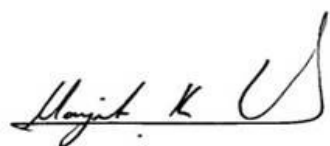
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

Manager Development Assessment & Certification

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 Chief Executive Officer or the Mayor; and

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



M Grewal

Chief Executive Officer

11 November 2019

DELEGATIONS

02 BUSINESS OF COUNCIL

02.05 Correspondence

02.05.05 Manager

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 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 Association
- 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

02.07.03.09 Replanting trees

Execute Deeds of Agreement in respect of the replanting of trees on public lands and the acceptance of associated funds.

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

03.02 Conveyancing Act 1919

Issue a certificate of amount due, pursuant to section 88G of the *Conveyancing Act 1919*.

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.

03.03.02 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.

03.03.03 Section 150

Issue a certified copy or extract of a document, pursuant to section 150 of the *Environmental Planning and Assessment Act 1979*.

03.03.05 Part 4A

03.03.05.01 Part 4A

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

03.05 Strata Certificates

Assess and determine an application for and issue a strata certificate, pursuant to Part 2 of the *Strata Schemes (Freehold Development) Act 1973* and regulation or Part 2 of the *Strata Schemes (Leasehold Development) Act 1986* and regulation.

Assess and determine an application to terminate a strata certificate, pursuant to Part 3 of the *Strata Schemes (Freehold*

Development) Act 1973 and regulation or Part 3 of the Strata Schemes (Leasehold Development) Act 1986 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

04.02.01.02 - Grant Consents - Manager

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) 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 State Environmental Planning Policy No.1 - Development Standards or Clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

(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*.

04.03 Clause 4.6 of Sutherland Shire Local Environmental Plan 2015

04.03.01.01 Clause 4.6 - Manager

Exercising Council's authority under State Environmental Planning Policy No.1- Development Standards and Clause 4.6 of Sutherland Shire Local Environmental Plan 2015 in relation to the determination of applications, EXCEPT:

(a) in respect of an applications for any of the following types of development:

- dual occupancy;
- residential flat building;
- multi – dwelling housing;
- seniors housing; or
- Shop top housing;

if any of the development standards for height, floor space ratio or landscaped area in Sutherland Shire Local Environmental Plan 2015 are exceeded by more than 10%. These exceptions do not apply to pre-existing variations.

(b) in respect of any application not referred to in (a) above that the delegate has authority to determine, the variation to any development standard is greater than 40%. These exceptions do not apply to pre-existing variations.

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.

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'.

05.07 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.

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.

05.07.04.02 Refund < \$5,000

Authorise the refund, reduction or waiver of fees and charges in relation to a pre-application discussion (PAD), development application, modification application, review application, subdivision certificate or construction certificate application 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*. Note: No limit applies where Council is required by law to refund the fee or charge.

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

05.10 Petty Cash

05.10.01 < \$200

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

05.12 Procurement

05.12.06 Obtain Quotes and Authorise Expenditure

05.12.06.05 < \$20,000

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 not exceeding \$20,000 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

05.13.02 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.

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 Personnel and Organisational Matters

07.02.03 Category 3

Attend to the following matters:

- Appoint permanent or temporary staff up to Grade 6 in the Council Salary Structure, but only after consultation with the Manager – People & Culture
- Appoint casual staff, but only after consultation with the Manager – People & Culture
- 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 (other than the termination of employment) in consultation with the Manager – People & Culture
- Represent Council in industrial matters, including at the Industrial Relations Commission and Anti Discrimination Board
- Recommend remuneration levels and the allocation of positions within Council's salary system
- Determine leave applications excluding Leave Without Pay of greater than one week.
- Direct staff to take leave
- Determine higher grade pay for staff
- Issue references on Council letterhead
- 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.

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 9.2 - 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 9.2 Investigative Powers (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 Division 9.3 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)**

10.02.13.07 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

10.02.13.08.04 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.

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.