

**SUTHERLAND SHIRE COUNCIL**  
**INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER**

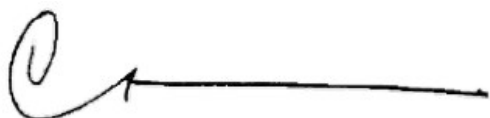
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

**Manager Property Services**

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.



**C Phelan**

**Acting Chief Executive Officer**

**2 September 2019**

**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**

### **02.07.01 Applications**

#### **02.07.01.01 Owners consent**

Provide owner's consent on behalf of Council authorising the lodgement of applications and the like under any law under which Council has functions, for land owned by Council and land under Council's care, control and management.

#### **02.07.02 Easements, covenants etc**

For the purpose of enabling registration at the NSW Land and Property Information, execute documents, dealings and the like (for example, plans and those that create, vary, modify, release or extinguish, easements, restrictions and covenants). However, the delegate is not authorised to do so where Council is the beneficiary or the document or dealing concerns land owned by Council or land under Council's care control and management.

#### **02.07.03 General**

##### **02.07.03.01 General**

Execute agreements, contracts and other documents provided any relevant condition in the authorities 'Disposal of plant, equipment and goods etc' or 'Procurement' is satisfied.

##### **02.07.03.05 < \$10,000**

Execute agreements, contracts and other documents provided expenditure does not exceed \$10,000 and any relevant condition in the authorities 'Disposal of plant, equipment and goods etc' or 'Procurement' is satisfied.

## **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.

## **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**

#### **05.02.01 Collection**

Collect amounts due to Council and issue a receipt for the payment.

## **05.07 Fees, Charges and 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.

### **05.07.07 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.

## **05.12 Procurement**

### **05.12.06 Obtain Quotes and Authorise Expenditure**

#### **05.12.06.03 < \$50,000**

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 \$50,000 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**

### **05.13.01 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.

## **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.

### **06.03.03 Represent Council**

In proceedings in the Local Court, represent Council in all respects as though a party concerned, and institute and carry on proceedings which the Council is authorised to institute and carry on under the *Local Government Act 1993*, pursuant to section 687 of that Act.

### **06.03.04 Proceedings**

Commence, prosecute, settle, discontinue and withdraw any proceedings or actions and issue and serve any notice, complaint or claim for the recovery of any penalty or debt owing to Council and, where necessary, instruct lawyers to do so. However, proceedings can only be settled if the delegate is of the opinion, in collaboration with the Mayor, that this course of action is appropriate or it is in accordance with a decision of the Development Assessment and Planning Committee or the Council.

### **06.03.06 Instruct Lawyers**

Instruct lawyers in any matter and in any proceedings or actions in any court, tribunal and the like. This includes to provide advice; engage experts, and to commence, defend, prosecute, settle, discontinue and withdraw proceedings. However, proceedings can only be settled if the delegate is of the opinion, in collaboration with the Mayor, that this course of action is appropriate or it is in accordance with a decision of the Development Assessment and Planning Committee or the Council.

## **07 PERSONNEL**

### **07.02 Personnel and Organisational Matters**

#### **07.02.05 Category 5**

Attend to the following matters:

- Supervise staff including performance review
- Appraise staff performance
- Recommend remuneration levels and the allocation of positions within Council's salary system
- Recommend staff permanency following the completion of the probation period
- Recommend change of hours arrangements for staff
- Recommend variations to span of hours by work groups and individuals
- Recommend requests for overtime and time in lieu
- Represent Council in industrial matters, including at the Industrial Relations Commission and Anti Discrimination Board
- Authorise timesheets for payment
- Determine higher grade pay for staff
- Determine leave applications excluding Leave Without Pay of greater than one week.
- Direct staff to take leave.
- Responsibilities under any Work Health and Safety legislation and any other applicable law or Policy

## **08 PROPERTY MANAGEMENT**

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

#### **08.01.03 < \$25,000**

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

(f) in respect of residential leases, the lease has been authorised by a resolution of the Council.

## **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**

### **08.06.02 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.

### **09.04 Non-Claimant Native Title applications**

Lodge applications relating to non-claimant 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.

## **09.06 Risk management**

### **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.

## **10 REGULATION AND ENFORCEMENT**

### **10.02 Functions**

#### **10.02.07 Crown Lands Act 1989**

Exercise Council's functions under the *Crown Lands Act 1989* and regulation.

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

##### **10.02.13.02 Inspection Functions**

Exercise Council's inspection functions under the *Local Government Act 1993* and regulation.

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

###### **10.02.13.08.02 Managers and Team Leaders**

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:
  - (a) the non-compliance can be addressed by conditions of approval; or
  - (b) the following are satisfied:
    - (i) the non-compliance satisfies the objectives of the Policy or Code; and
    - (ii) strict compliance would be unreasonable or unnecessary in the circumstances of the case or tend to hinder the attainment of the objectives; and
    - (iii) any non-compliance with any one or more of the standards of the Policy or Code does not exceed 20% of the standard.

#### **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.