

SUTHERLAND SHIRE COUNCIL
INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER

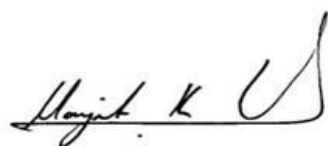
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

Manager Public Safety & Lifeguards

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

18 October 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.

02.12 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

03.01 Companion Animals Act 1998

03.01.01 Companion Animals Act 1998 - Enclosure Compliance

Issue and revoke a certificate of compliance in relation to the enclosure in which a dangerous dog or restricted dog is required to be kept, pursuant to section 58H of the *Companion Animals Act 1998* and regulation.

03.03 Environmental Planning and Assessment Act 1979

03.03.04 Section 121

Issue a certificate as to outstanding orders or notices, pursuant to section 121ZP of the *Environmental Planning and Assessment Act 1979*.

03.04 Local Government Act 1993

03.04.02 Local Government Act 1993 (section 735A)

Issue a certificate as to outstanding notices, pursuant to section 735A of the *Local Government Act 1993*.

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'.

05.02 Amounts Due to Council

05.02.01 Collection

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

05.02.02 Repayment Agreements

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

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.

05.07.04.03 Refund Certificates < \$500

Authorise the refund, reduction or waiver of fees and charges in relation to inspections or certificates where, in the opinion of the delegate, it is appropriate to do so or required by law, up to \$500 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.

05.07.06 Refund Section 68 Approval < \$500

Authorise the refund of fees paid in relation to an application for a section 68 Approval which has been rejected or withdrawn where, in the opinion of the delegate, it is appropriate to do so or required by law, up to \$500 in any one instance, pursuant to sections 85 and 88 respectively of the *Local Government Act 1993*. No limit applies where Council is required by law to refund the fee.

05.10 Petty Cash

05.10.01 < \$200

Authorise petty cash up to \$200 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.

05.12 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*.

05.12.06 Obtain Quotes and Authorise Expenditure

05.12.06.02 < \$100,000

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 \$100,000 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.

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.

06.03.05 Instruct Lawyers - Local Court

Instruct lawyers to provide advice and to commence, defend, prosecute, settle, discontinue and withdraw any proceedings or actions in the Local Court.

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.

09 PUBLIC LAND AND WORKS

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*.

09.06 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

10 REGULATION AND ENFORCEMENT

10.02 Functions

10.02.04 Companion Animals Act 1998

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Companion Animals Act 1998* and regulation. This includes (but is not limited to) entering property, seizing dogs, issuing and giving orders and notices, making declarations and serving penalty notices.

10.02.07 Crown Lands Act 1989

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

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.

10.02.09 Food Act 2003 (C of A required)

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Food Act 2003* and regulation. This includes (but is not limited to) entering and inspecting premises, applying for search warrants, seizing items, serving notices and orders, and serving penalty notices. **(Certificate of Authority required)**

10.02.11 Impounding Act 1993

Appointed as and to exercise the functions of an authorised person and impounding officer and authorised to exercise all other functions under the *Impounding Act 1993* and regulation. This includes (but is not limited to) impounding, giving notices and serving penalty notices.

10.02.12 Liquor Act 2007

Exercise Council's functions under the *Liquor Act 2007*.

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)**

10.02.13.05 Part 2 (Orders) of Chapter 7

Exercise Council's functions under Part 2 (Orders) of Chapter 7 of the *Local Government Act 1993* and regulation.

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

10.02.13.08.02 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.

10.02.13.08.04 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.

10.02.15 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.

10.02.16 Public Health Act 2010 (C of A required)

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Public Health Act 2010* and regulation. This includes (but is not limited to) entering and inspecting premises, giving directions, applying

for search warrants, taking of samples, requiring answers to questions, serving penalty notices and serving notices and orders. **(Certificate of Authority required)**

10.02.17 Recreation Vehicles Act 1983

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Recreation Vehicles Act 1983* and regulation. This includes (but is not limited to) inspecting vehicles and giving directions.

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)**

10.02.20 Rural Fires Act 1997

Appointed as and to exercise the functions of an authorised officer and authorised to exercise all other functions under the *Rural Fires Act 1997* and regulation.

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)**

10.03 Representations – penalty notices

Consider representations in relation to penalty infringement notices and decide whether to caution the person, suspend, discontinue or continue enforcement of the notice (which may involve court proceedings), other than in respect of notices which have been issued by the delegate.

10.05 Security Industry Act 1997

Perform the functions and authorities associated with the responsibilities of holding a Master Licence under the Security Industry Act 1997.

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.