

**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 Traffic & Public Domain 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.



**Peter Hazeldine**

**Acting Chief Executive Officer**

**23 December 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**

#### **02.07.03.04 < \$50,000**

Execute agreements, contracts and other documents provided expenditure does not exceed \$50,000 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.

## **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.

## **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**

#### **05.07.02.02 Reduce or Waive up to < \$500**

Reduce or waive the payment of fees and charges up to \$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.

### **05.07.07 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**

#### **05.12.01 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*.

#### **05.12.03 Delegation Removed Open or Selective Tendering**

Delegation removed and added to 05.12.01

#### **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.

##### **05.12.06.14 < \$150,000 (quote only no expenditure)**

Obtain quotations for the supply, purchase, lease or hire of goods, works, services, plant, equipment and the like up to a value of \$150,000. This does not give the authorised officer the authority to approve expenditure.

### **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.

## **07 PERSONNEL**

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

#### **07.02.09 Category 9**

- 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**

### **09.05 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*.

#### **09.06 Risk management**

##### **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.

### **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.

##### **10.02.08 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)**

###### **10.02.11 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.

###### **10.02.13 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)**

###### **10.02.13.03 Authorising signs**

###### **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.

###### **10.02.13.05 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.

###### **10.02.13.07 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.

## **10.02.18 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)**

#### **10.02.19.03 Functions under Roads Act 1993**

Exercise the following functions under the *Roads Act 1993* and regulation:

##### **10.02.19.03.01 Roads Act 1993 (Section 26)**

Section 26 – Direct the owner of land affected by road widening to carry out such work as is necessary to restore the land.

##### **10.02.19.03.08 Roads Act 1993 (Section 93)**

Section 93 – Direct the owner of any land adjoining a public road to fill in any excavation that threatens the stability of the public road.

##### **10.02.19.03.12 Roads Act 1993 (Section 97)**

Section 97 – Direct any person who is entitled to place utility services in, on or over a public road: (a) to locate any new or replacement services in a conduit; and (b) to pay to Council such proportion as may be prescribed by the regulations of the costs incurred by Council in connection with the construction of the conduit, if the public road is one where there are conduits for the carriage of utility services across the road.

##### **10.02.19.03.13 Roads Act 1993 (Section 98)**

Section 98 – Direct the person having control of any work or structure that is situated in, on or over a public road to alter the work or structure or the location of the work or structure. If the person fails to comply with the direction, make the alteration as directed.

##### **10.02.19.03.16 Roads Act 1993 (Section 101)**

Section 101 – Direct any person by whom a public road is dug up to restore the road to its previous condition, and if a public road is damaged as a result of a leakage from, or breaking or bursting of, any object or work placed in, on or over the road, direct the person: (a) who was responsible for placing the object or work in, on or over the road; or (b) who has the care or control of the object or work; or (c) whose act or omission caused the leakage, breaking or bursting, to restore the road to its previous condition, or instead of giving such a direction, authorise such action as is necessary to restore the road to its previous condition and seek recovery of the costs incurred in taking action.

**10.02.19.03.17 Roads Act 1993 (Section 102)**

Section 102 – Direct a person who causes damage to a public road, or to any road work on a public road or any traffic control facility on a road or road related area within the meaning of the [Road Transport \(General\) Act 2005](#) (other than a road or road related area that is the subject of a declaration made under section 15 of that Act relating to all of the provisions of that Act), to pay the cost incurred by Council in making good the damage that they are liable to pay.

**10.02.19.03.19 Roads Act 1993 (Section 107)**

Section 107 – Direct any person who causes an obstruction or encroachment on a public road, or the owner of any land that is used, or is able to be used, in connection with an obstruction or encroachment on a public road, to remove the obstruction or encroachment.

**10.02.19.03.21 Roads Act 1993 (Section 116)**

Section 116 – Apply to the RTA for consent to the erection of any notice or barrier, the carrying out of any work or the taking of any other action for the purpose of regulating traffic on a public road and the removal of any notice or barrier, the demolition of any work or the ceasing of any action for which it has been given consent under Division 2 of Part 8.

**10.02.19.03.29 Roads Act 1993 (Sections 138 and 139)**

Sections 138 and 139 – Determine an application for consent to: (a) erect a structure or carry out a work in, on or over a public road; (b) dig up or disturb the surface of a public road; (c) remove or interfere with a structure, work or tree on a public road; (d) pump water into a public road from any land adjoining the road; or (e) connect a road (whether public or private) to a classified road.

**10.02.19.03.30 Roads Act 1993 (Sections 139A - 139E)**

Sections 139A to 139E – Grant, revoke, transfer and extend the term of a street vending consent.

**10.02.19.03.37 Roads Act 1993 (Section 217)**

Section 217 – Determine and impose the amount of contribution an owner of land adjoining a public road is to contribute to the cost incurred by Council in constructing or paving any kerb, gutter or footway along the side of the public road adjacent to the land.

**10.02.19.03.43 Roads Act 1993 (Clause 6)**

Clause 6 – In order to exercise the functions under Part 8 of the Act, appoint traffic controllers, or authorise agents and contractors to appoint traffic controllers, to direct traffic on a road.

## 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.