

**SUTHERLAND SHIRE COUNCIL**  
**INSTRUMENT OF DELEGATION BY THE GENERAL MANAGER**

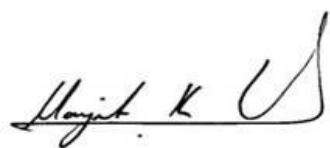
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

**Senior Development Engineer - Public Domain Assets**

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**

**14 December 2018**

**DELEGATIONS**

**02 BUSINESS OF COUNCIL**

**02.05 Correspondence**

**02.05.03 Legal**

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

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**

### **03.03 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.

## **05 FINANCE**

### **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**

#### **06.03.01 Statements**

Sign Statements of Facts and Contentions.

#### **06.03.02 Witness**

Appear as a witness or delegate of Council in any court or forum.

## **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 1C - 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 1C (Investigative Powers) of Part 6 (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 section 9.58 of the Act and clause 284 of the regulation. **(Certificate of Authority required)**

#### **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)**

#### **10.02.13.02 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)**

##### **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.

###### **10.02.19.03.02 Roads Act 1993 (Section 29)**

Section 29 – Prepare a proposal to fix or vary the levels of a public road and to make an order giving effect to the plan.

###### **10.02.19.03.05 Roads Act 1993 (Section 86)**

Section 86 – Direct the owner of a private road (other than a classified road) to carry out such work as is necessary to prevent the road from becoming unsafe or unsightly.

###### **10.02.19.03.06 Roads Act 1993 (Section 88)**

Section 88 – Authorise the removal or lopping of any tree or other vegetation that is on or overhanging a public road if it is necessary to do so for the purpose of carrying out road work or removing a traffic hazard.

###### **10.02.19.03.07 Roads Act 1993 (Section 92)**

Section 92 – Authorise the alteration of the landform of land adjoining a public road so as to ensure the stability of the road.

**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.

**10.02.19.03.09 Roads Act 1993 (Section 94)**

Section 94 – Authorise the carrying out of drainage work in or on any land in the vicinity of a public road for the purpose of draining or protecting the road.

**10.02.19.03.10 Roads Act 1993 (Section 95)**

Section 95 – Direct the occupier of land from which sand, soil or other such matter has been washed or blown onto a public road to take such action as is necessary to remove the obstruction and prevent its recurrence.

**10.02.19.03.11 Roads Act 1993 (Section 96)**

Section 96 – Direct the occupier of any land in the vicinity of a public road: (a) to alter a fence (including a rabbit proof fence) on the land; (b) to provide floodgates in any such fence; or (c) to repair any such fence or floodgates, in order to prevent obstruction to the free flow of surface drainage from the public road, or to the free flow of a watercourse that crosses the public 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.

**10.02.19.03.18 Roads Act 1993 (Section 103)**

Section 103 – Direct the owner or occupier of land to erect or install fences, lights or other equipment on or around any premises on the land that are in a sufficiently dangerous condition to threaten the safety of persons or property on a public road in the vicinity of the premises.

**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.

**10.02.19.03.20 Roads Act 1993 (Section 115)**

Section 115 – Regulate traffic on a public road by means of barriers or by means of notices conspicuously displayed on or adjacent to the public road.

**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.

**10.02.19.03.35 Roads Act 1993 (Sections 164 to 174) (C of A required)**

Sections 164 to 174 (Division 1 (Entry to land) of Part 11) – Enter land and other powers. **(Certificate of Authority required)**

**10.02.19.03.38 Roads Act 1993 (Section 218)**

Section 218 – Recover costs incurred by Council in constructing or repairing any special crossing over a footway in the public road for the traffic of vehicles across the footway to or from the land.

**10.02.19.03.39 Roads Act 1993 (Section 229)**

Section 229 – Require the owner of a vehicle or the person in charge of a vehicle to produce documents immediately where the authorised officer suspects on reasonable grounds that the driver of the vehicle has committed an offence against the Act or the regulations.

**10.02.19.03.40 Roads Act 1993 (Section 238)**

Section 238 – Take action to give effect to a direction given under the Act and to recover the costs incurred in exercising any function under Division 2.

**10.02.19.03.41 Roads Act 1993 (Section 243)**

Section 243 – Serve penalty notices as an authorised officer.

**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.