

SUTHERLAND SHIRE COUNCIL
INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER

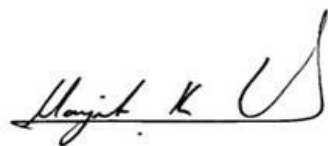
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

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; and

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



Chief Executive Officer

31 October 2022

DELEGATIONS

FS Finance Functions

FS01 Bank Guarantees

Approve the acceptance and release of bank guarantees on behalf of Sutherland Shire Council.

FS09 Write off debts (other than rates and charges) up to \$25

Write-off debts for unpaid fees due to maximum \$25 in any one instance

FS13 Waive or Amend Fees and Charges up to \$2,000

The position holder is delegated authority to waive or amend or determine various fees as detailed in Council's Schedule of Fees and Charges in accordance with Section 610E of the *Local Government Act 1993*.

FS15 Issue Tax Receipts

Issue an official tax receipt on behalf of Sutherland Shire Council.

FS17 Council Timesheets Approval

Approve and certify staff timesheets within the position holder's area of responsibility.

FS27 Refunds – approve Refund of Security Bonds and Deposits

Draw on, release or authorise the refund of security fund deposits provided that the purpose for which the deposit is held has been satisfied or the deposit is no longer required.

FS30 Hold Corporate Credit Card \$2000

Hold a Corporate Credit Card for the supply, purchase, or hire of goods, works, services, plant, equipment in accordance with the Credit Card Determination and Procurement Policy and Guidelines to the value of \$2000

CR Compliance - Roads Act 1993 Functions

CR01 Appointed as Authorised Officer under the Roads Act 1993 (Certificate of Authority Required)

Appointed as 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.

CR08 Roads Act 1993 Section 107 Issue Directions regarding Obstruction and Encroachment

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, under Section 107 of the *Roads Act 1993*.

CR12 Roads Act 1993 Section 125 Approve Applications for the use of Footway by Restaurants

Determine an application for an approval to allow a person who conducts a restaurant adjacent to a footway of a public road (being a public road that is vested in fee simple in Council) to use part of the footway for the purposes of the restaurant, under Section 125 of the *Roads Act 1993*.

CR13 Roads Act 1993 Section 126 Approve Structures in a Footway for use by Restaurants

Authorise the holder of a footway restaurant approval to erect and maintain structures in, on or over any part of the footway the subject of the approval, or at the request and cost of the holder of the approval, erect and maintain any such structure, under Section 125 of the *Roads Act 1993*.

CR16 Roads Act 1993 Section 139 Grant permits in relation to street vending

Grant, revoke, transfer and extend the term of a street vending consent under Sections 139A to 139E of the *Roads Act 1993*

CR18 Roads Act 1993 Section 150 Consent to Orders

Consent to an order from the Minister to transfer a public road from or to Council. An order can only be made with the consent of the council from or to the road is to be transferred under Section 150 of the *Roads Act 1993*

CR20 Roads Act 1993 Section 164 to 174 Enter Land and other powers (Certificate of Authority Required)

Enter land and perform other powers under Sections 164 to 174 (Division 1 (Entry to land) of Part 11) of the *Roads Act 1993*.

CR30 Roads Act 1993 Section 38A - 38F Close a Public Road

Make an application to close a public road, under Section 29 of the *Roads Act 1993*.

CN Contract Functions

CN07 Execute contracts up to the value of \$50,000

Execute contracts, on behalf of Council, in accordance with the Delegations of Authority Determination and Guidelines, provided the expenditure does not exceed \$50,000 over the life of the contract.

CN10 Terminate contracts up to the value of \$50,000 (to align with existing execute delegation function provision)

Terminate contracts, on behalf of Council, in accordance with the Delegations of Authority Determination and Guidelines, provided

the contract value does not exceed \$50,000 (to align with existing execute delegation function provision)

LP Land and Property Functions

LP01 Lodge Applications with the Native Title Tribunal

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.

LP02 Make Application to allow Termination or Vacant Possession

Make application to the appropriate statutory body to allow termination and vacant possession to be obtained.

LP03 Appointed as Authorised Officer in relation to Community Land as a Public Reserve under the Crown Lands Management Act 2016

Appointed as an Authorised Officer to manage community land under Sections 3.22 and 10.6 of the under the *Crown Lands Management Act 2016* and *Regulation* to manage community land.

LP04 Appointed as Authorised Officer in relation to Community Land as a Public Reserve under the Crown Lands Management Act 2016

Appointed as an Authorised Officer to manage operational land under the *Crown Lands Management Act 2016* and *Regulation* under section 3.22 of the Act.

LP05 Appointed as Authorised Officer to Manage land as a Public Reserve under the Crown Lands Management Act 2016

Appointed as an Authorised Officer to fulfil the function of a Council manager of land under Sections 3.22 and 10.6 of the *Crown Lands Management Act 2016* and *Regulation*

LP06 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.

LP07 Adopt a Community Land Plan of Management

Adopt a Community Land Plan of Management on behalf of Council which is procedural or minor and does not require the consideration of the Council.

LP08 Enter into and Execute hire agreements in relation to a Community Facility on Public Land (up to 1yr or \$100,000)

Enter into hire agreements for the use of community facilities located on public land provided:

- (a) the term does not exceed 12 months and
- (b) the fee or charge does not exceed \$1,000 per annum and
- (c) the fee or charge is in accordance with Council's Schedule of Fees and Charges (where applicable)

LP09 Enter into and Execute leases, licences and hire agreements in relation to Community and Operational Land (5yrs or \$25,000)

Enter into and execute leases, licences and hire agreements for the use of public land, Crown land for which Council is Crown Land Manager Reserve Trust manager, and public roads provided:

- (a) the term does not exceed five years; and
- (b) the fee and charge 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) in respect of residential leases, the lease has been authorised by a resolution of the Council.

LP11 Determination of whether Council will contribute and the level of contribution to cost of Dividing Fence

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.

LP12 Execute Documents for Land Registration

For the purpose of enabling registration at the NSW Land Registry Services, execute documents, dealings and the like (for example, plans and those that create, vary, modify, release or extinguish, easements, restrictions and covenants).

EXCLUSION: 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.

LP13 Provide Owner's 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.

LP14 Authorise and Approve Rent reviews

Authorise and Approve rent reviews in accordance with the provisions of the relevant lease.

LP15 Receive, Refund or Claim Rental Bonds and Security and Execute Bond Lodgements

Receive and refund rental bonds and security, to make a claim against a bond and execute bond lodgements with the appropriate statutory body.

LP17 Terminate Commercial Leases

Terminate or dispose of Council's interests in Commercial leases and licences.

LP18 Terminate Residential Leases

Terminate Residential leases and licences where demolition of the structure that is the subject of the lease or licence is necessary, or the economic return on the premises does not justify continuation.

PC People and Culture Functions

PC05 Determine Overtime and Time in Lieu Requests

Determine requests for the accrual of overtime and time in lieu

PC08 Authorise Disciplinary Actions; verbal warnings and performance improvement plans

Issue verbal warnings and Performance Improvement Plans.

PR Procurement Functions

PR06 Authorise Expenditure < \$50,000

Authorise expenditure for the procurement of goods, works and services, in accordance with the Procurement Policy and Guidelines to the value of \$50,000 including;

- Council Stores issued goods and materials,
- prescribed contracts (within the meaning of clause 163 of the *Local Government (General) Regulation 2021*),
- endorsed Preferred Supplier Agreement, or
- where Council has resolved to do so.

CF Correspondence Functions

CF02 Authorise Correspondence of a Non-standard Nature

Authorise correspondence of a non-standard nature such as interpretation of Council policy or position in accordance with other delegations granted to the position or in accordance with the responsibilities of the position

CF03 Respond with Council's Position

Correspondence that is making a submission in relation to draft legislation or government position, on behalf of Council, in

accordance with the responsibilities of the position

LG Legal Functions

LG06 Instruct External Lawyer - Administrative Law Matters

Instruct external lawyers to provide advice, act for Council, defend and do all things necessary in court proceedings or other matters in relation to administrative law matters brought against Council.

LG07 Instruct External Lawyer - Commercial and Property Matters

Instruct external lawyers to provide advice, act for Council, defend and do all things necessary in court proceedings or other matters in relation to commercial and property matters brought against Council.

LG14 Instruct External Lawyer Local Court and Land and Environment Court

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

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.