

SUTHERLAND SHIRE COUNCIL
INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER

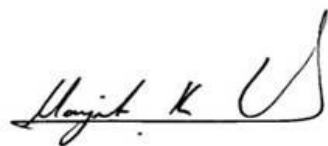
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

Director Shire 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.



Manjeet Grewal

Chief Executive Officer

26 May 2022

DELEGATIONS

AM Asset Management Functions

AM02 Approve public safety measures at Council assets

Attend to the following matters in within the scope of the Officer's role:

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.

AM04 Authorise work on private land

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, under section 67 of *Local Government Act 1993*.

FS Finance Functions

FS01 Bank Guarantees

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

FS12 Write off debts (other than rates and charges) up to \$2,000

Write off debts for fees due other than rates, charges and accrued interest to a maximum of \$2,000 in any one instance, but only where the debt is not lawfully recoverable, it is the result of a decision of a court, or the delegate believes on reasonable grounds that an attempt to recover the amount would not be cost effective, under the *Local Government Act 1993* and *Regulation*.

Note: Clause 213(2) of the Local Government (General) Regulation 2021 provides that a council must, from time to time, by resolution, fix the amount above which debts to the council may be written off only by resolution of the council. Clause 213 also requires the decision to write off a debt to be in writing and to contain certain information.

FS17 Council Timesheets Approval

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

FS25 Refunds – Overpayments and adjustments

Approve or refuse refunds in accordance with applicable legislation and Council policy for over payment or adjustment of monies, subject to appropriate evidence of the over payment.

FS26 Sell plant, equipment, goods and the like <\$150,000

Authorise the disposal of assets by sale, of written down book value less than \$150,000 (including GST), other than land or assets of potentially historical or cultural significance and, in any case, not by donation, in accordance with the Infrastructure, Property, Plant and Equipment Asset Accounting Determination and Guideline, and sign documents arising therefrom.

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.

FS35 Hold Corporate Credit Card \$15,000

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 \$15,000

CG Compliance - General Functions

CG16 Appointed as Council Authorised Person under the Environmental Planning and Assessment Act 1979

Appointed as a Council Authorised Person pursuant Division 9.3 and clause 284 of the *Environmental Planning and Assessment Act 1979* and *Regulation*, for the purposes of serving penalty notices relating to any offence committed under this Act or Regulation.

CG17 Determine Filming Proposal under the Local Government Act 1993

Determine applications for a filming proposal under Section 115 of the *Local Government Act 1993* and *Regulation*.

CG18 Authorised Officer under the Recreation Vehicles Act 1983

Appointed as 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.

CG19 Authorise Signage and Notices related to Alcohol under the Local Government Act 1993 and Regulation

Authorise the location, content, design and erection of signs and notices under the *Local Government Act 1993 and Regulation*, including (but not limited to) prohibition of alcohol consumption and possession of alcohol (but not in relation to any public place that is a road or part of public road or public car park). The erection of alcohol prohibited area signs are subject to first gaining approval of the Local Area Commander of Police.

CG20 Authorise Signage and Notices related to Parking under the Local Government Act 1993 and Regulation

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.

CG21 Approve the Carrying Out of Works by Council under Local Government Act 1993 Section 678

Approve the carrying out of works by Council as under Section 678 of the *Local Government Act 1993*, to give effect to the terms of an order issued under Chapter 7 Part 2 where a person fails to comply with the Order.

CG22 Consider Representations on Penalty Notices, Direction or Order

Consider representations in relation to penalty infringement notices, direction or order issued in accordance with Council's Compliance and Enforcement Policy and guidelines. The delegate can decide whether to caution the person, suspend, discontinue or continue enforcement of the notice (which may involve court proceedings), other than notices, directions or orders issued by the position holder.

CG24 Exercise Functions Under the Liquor Act 2007

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

CG26 Conduct Inspections under the Environmental Planning and Assessment Act 1979

Exercise Council's inspection functions under the *Environmental Planning and Assessment Act 1979 and Regulation*.

CG27 Issue Orders under Local Government Act 1993 Chapter 7 Part 2

Issue Orders on behalf of Council, under the *Local Government Act 1993* Chapter 7 Part 2 Orders.

CR Compliance - Roads Act 1993 Functions

CR05 Roads Act 1993 Section 101 Issue Directions regarding Road Condition

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;

under Section 101 of the *Roads Act 1993*.

CR06 Roads Act 1993 Section 102 Issue Directions regarding Damage to a Public Road

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, under Section 102 of the *Roads Act 1993*.

CR07 Roads Act 1993 Section 103 Issue Directions regarding Safety of Persons or Property

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, under Section 103 of the *Roads Act 1993*.

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*.

CR09 Roads Act 1993 Section 115 Regulate Traffic on a Public Road

Regulate traffic on a public road by means of barriers or by means of notices conspicuously displayed on or adjacent to the public road, under Section 115 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*

CR24 Roads Act 1993 Section 229 Authority to Require Documentation

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 under Section 229 of the *Roads Act 1993*.

CN Contract Functions

CN02 Grants- Execute agreements, contracts and other documentation

Sign grant agreements and associated documentation and the acceptance of funding, on behalf of Council, provided any contribution by Council is budgeted for.

CN05 Execute contracts up to the value of \$250,000

Execute contracts, on behalf of Council, in accordance with the Delegations of Authority Determination and Guidelines, provided the expenditure does not exceed \$250,000 over the life of the contract.

CN08 Terminate contracts up to the value of \$250,000 (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 \$250,000 (to align with existing execute delegation function provision)

ES Emergency Situation and Urgent Works Functions

ES03 Authorise the Use of Council's personnel, plant and equipment in Emergency Situations

Authorise the use of Council's plant, equipment and personnel as required emergency situations and in response to any lawful direction given under the *State Emergency and Rescue Management Act 1989*

ES04 Authority to take Action - State Emergency and Rescue Management Act 1989

Take action under the *State Emergency Rescue Management Act 1989*

LE Legislative Functions

LE04 Appointed as Public Interest Disclosure Officer under the Public Interest Disclosure Act 2013

Appointed as a Public Interest Disclosure Officer under the requirements of the *Public Interest Disclosure Act 2013*

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.

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

PC01 Represent Council and Industrial Courts and Tribunals

Represent Council in industrial matters, including at the Industrial Relations Commission and Anti-Discrimination Board

PC04 Authorise Payment Untaken Sick Leave

Authorise untaken sick leave payments, in accordance with the Core Enterprise Agreement (clause 6.5), provided the employee meets the criteria for payment.

PC05 Determine Overtime and Time in Lieu Requests

Determine requests for the accrual of overtime and time in lieu

PC06 Direct Employee Leave

Direct employee to take leave in accordance with the *Local Government (State) Award* and Council policy

PC07 Authorise Disciplinary Actions; general

Sign and issue;

- 1st Written Warning,
- 2nd Written Warning and
- 3rd and Final Written Warning

disciplinary letters in accordance with the provisions of the *Local Government (State) Award* and Council policy.

PC08 Authorise Disciplinary Actions; verbal warnings and performance improvement plans

Issue verbal warnings and Performance Improvement Plans.

PC09 Authorise Show Cause Notices

Authorise Show Cause Notices.

PC10 Authorise Suspension or Stand Down Employees

Suspend and stand down employees in accordance with the *Local Government (State) Award* and Council policy with the concurrence of the Manager People and Culture

PC11 Authorise termination of employment

Terminate the employment of Employees with the concurrence of the Manager People and Culture

PC12 Amend conditions of employment

With the concurrence of the Chief Executive Officer, interpret and make amendments to conditions of employment, except for the Delegates own position and, in relation to the Manager of P&C, positions within their team.

PC13 Appoint to Vacant Positions

Appoint persons to vacant positions in accordance with the provisions of the *Local Government Act 1993*, *except for the Delegates own position and, in relation to the Manager of P&C, positions within their team.*

PC14 Authorise Permanent Appointment of Employees following Probation

Determine the permanent appointment of Employees following the probation period, except for the Delegates own position and, in relation to the Manager of P&C, positions within their team.

PC15 Determine Organisational Structure

Determine the Organisational Structure below the level of Director, with the concurrence of the Chief Executive Officer, subject to any consultation required under any relevant Enterprise Agreement, Industrial Agreements, Award, Council Agreements, Industrial Instruments and Council policy

PC16 Authorise to Evaluate Position Grading

Authorise the evaluation of position grading in accordance with requirements under any relevant Enterprise Agreement, Industrial Agreements, Award, Council Agreements, Industrial Instruments and Council policy except for the Delegates own position and, in relation to the Manager of P&C, positions within their team

PC17 Authorise the Advertisement of Vacancies

Authorise the advertisement of vacant positions, except for the Delegates own position and, in relation to the Manager of P&C, positions within their team.

PC18 Authorise the Engagement of Temporary Staff

Authorise the engagement of temporary staff.

PC19 Authorise the Engagement of Casual Staff

Authorise the engagement of casual staff

PC21 Approve Allowances - Operational

Approve operational allowances in accordance with requirements under any relevant Enterprise Agreement, Industrial Agreements, Award, Council Agreements, Industrial Instruments and Council policy.

PC22 Approve Allowances - Discretionary

Approve discretionary allowances in accordance with requirements under any relevant Enterprise Agreement, Industrial Agreements, Award, Council Agreements, Industrial Instruments and Council policy.

PC23 Approval Allowances – Percentage or Package

Approve percentage or package allowances in accordance with requirements under any relevant Enterprise Agreement, Industrial Agreements, Award, Council Agreements, Industrial Instruments and Council policy.

CA Companion Animals Act Functions

CA03 Release of Confidential Information under Companion Animals Act 1998

Authorised to release information in accordance with Section 89 of the *Companion Animals Act 1998*.

PR Procurement Functions

PR11 Submit Tenders

Submit tenders to external bodies, organisations, authorities and the like to provide works and services to them.

PR12 Submit Quotations Other than Those Included in Fees and Charges

Submit quotations to external bodies, organisations, authorities and the like to provide works and services to them, outside of those included in Fees and Charges.

PR19 Authorise Expenditure (DIRECTORS ONLY)

- Authorise expenditure for the procurement of goods, works and services, in accordance with the Procurement Policy and Guidelines to the value of \$250,000
- Authorise expenditure up to the value of \$1,000,000 for the procurement of goods, works and services under an existing Council/CEO approved:
 - prescribed contract (within the meaning of clause 163 of the Local Government (General) Regulation 2021); and / or
 - Preferred Supplier Agreement / Contract

CF Correspondence Functions

CF01 Authorise Correspondence to Members of Parliament, Head of Department or Agency

Authorise correspondence to Members of Parliament or those for the direct attention of heads of government departments and agencies

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

GF Governance Functions

GF01 Determine Matters to be Included in Business Papers

Determine matters to be included in the business papers of the Council and its Committees and published as required by the Code of Meeting Practice.

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.

LG08 Instruct External Lawyer - Employment Disputes

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

LG09 Instruct External Lawyer – Regulatory Enforcement

Instruct external lawyers to provide advice and to commence, defend, prosecute, settle, discontinue and withdraw any proceedings or other matters or actions in relation to matters under the relevant legislation or Regulation governing enforcement action associated with the responsibilities of the Delegate.

LG11 Instruct External Lawyer - Local Court

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