

SUTHERLAND SHIRE COUNCIL
INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER

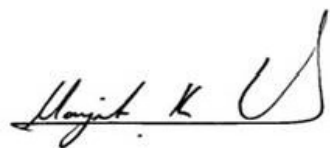
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

Director Corporate Support

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

13 May 2024

DELEGATIONS

FS Finance Functions

FS01 Bank Guarantees

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

FS02 Cheque signing & electronic transfer of funds

Sign cheques drawn from Council's bank account and authorise the electronic transfer of funds from Council's bank accounts.

FS03 Determine Repayment Agreements

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

FS06 Approve the Reimbursement of Councillor Expenses

Approve the payment and reimbursement of expenses and provision of facilities for Councillors in accordance with Council's Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy

FS10 Bankruptcy and Winding Up

Represent council and act on its behalf relating to bankruptcy or for the relief of insolvent debtors, under section 688 of the *Local Government Act 1993*

FS11 Write off rates, charges and accrued interest

Write off amounts for rates, charges and accrued interest which are no longer due to Council in accordance with Chapter 15 of the *Local Government Act 1993* up to a maximum of \$10,000 in any one assessment, but only where there is an error in the assessment, the amount 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 131(1) of the *Local Government (General) Regulation 2021* provides that a council must, from time to time, by resolution, fix the amount of rates and charges above which any individual rate or charge may be written off only by resolution of the council. Clause 131 also requires the decision to write off a debt to be in writing and to contain certain information.

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.

FS16 Staff Novated Lease Agreements

Execute employee novated lease agreements for the salary packaging of motor vehicles as Council's employer representative

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.

FS32 Hold Corporate Credit Card \$5000

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 \$5000

CG Compliance - General Functions

CR Compliance - Roads Act 1993 Functions

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*

CR19 Roads Act 1993 Section 162 Name and Number public roads

Name and number public roads in Sutherland Shire for which Council is the roads authority under Section 162 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

CN01 Enter in to and manage Insurance Agreement

Authority to arrange, enter into and manage Council's insurance required by Section 382 of the *Local Government Act 1993*, together with other insurance arrangements as required by Council's Enterprise Risk Management framework.

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 - DIRECTORS ONLY

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.

Execute subcontracts up to the value of \$1,000,000 over the life of the contract for 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.

CN08 Terminate contracts (to align with existing execute delegation function provision) - DIRECTORS ONLY

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).

Terminate subcontracts up to the value of \$1,000,000 over the life of the contract for 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.

CN11 Execute contracts for the purposes of Natural Disaster Relief and Recovery Arrangements up to the value of \$500,000

Authority to arrange, enter into and manage a contract with a value of up to \$500,000 for the purpose of responding to, or recovering from, a declared natural disaster within 12 months of the declaration of the natural disaster in accordance with *Local Government (General) Regulation 2021*.

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 2022

Appointed as a Public Interest Disclosure Officer under the requirements of the Public Interest Disclosure Act 2022 to receive reports of voluntary public interest disclosures.

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)

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.

LP20 Terminate hire agreements in relation to Community Facility on Public Land (up to 1yr or \$100,000)

Terminate 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 \$100,000 per annum and
- (c) the fee or charge is in accordance with Council's Schedule of Fees and Charges (where applicable)

LP21 Terminate leases, licences and hire agreements in relation to Community and Operational Land (5yrs or \$25,000)

Terminate leases, licences and hire agreements for the use of public land, Crown land for which Council is Crown Land 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.

LP22 Terminate leases, licences and hire agreements in relation to Community and Operational Land (1yr or \$5,000)

Terminate leases, licences and hire agreements for the use of public land, Crown land for which Council is Crown Land Manager, and public roads provided:

- (a) the term does not exceed one year; and
- (b) the consideration does not exceed \$5,000 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).

LP24 Enter into and Execute leases, licences and hire agreements in relation to Community and Operational Land (10yrs or \$100,000)

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

- (a) the term does not exceed ten years; and
- (b) the fee and charge does not exceed \$100,000 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.

LP25 Terminate leases, licences and hire agreements in relation to Community and Operational Land (10yrs or \$100,000)

Terminate leases, licences and hire agreements for the use of public land, Crown land for which Council is Crown Land Manager, and public roads provided:

- (a) the term does not exceed ten years; and

- (b) the fee and charge does not exceed \$100,000 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.

LP27 Waive or Reduce Rent on Leased Premises

The position holder has delegated authority to waive or reduce rent on Council owned residential or commercially leased properties.

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

PC02 Authorise Sick Leave Safety Net

Authorise payment of the sick leave safety net as required under the relevant Enterprise Bargaining Agreement.

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.

PC26 Authorise Temporary Unfit Stand Down

Temporarily stand down an employee in accordance with Council's Alcohol & Other Drugs Determination and Guidelines, Code of Conduct for Council Staff, Work Health and Safety Policy and the Local Government (State) Award.

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 up 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

LG05 Authorise Settlement of General or Worker's Compensation Claims up to \$100,000

Authorise the settlement of general or Worker's Compensation insurance claims and any associated legal proceedings brought by or against Council and execute agreements, deeds and other documents provided the cost of the claim to Council does not exceed \$100,000.

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.

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.

LG10 Instruct External Lawyer - General Insurance Claims

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

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.

LG12 Instruct External Lawyer - Worker's Compensation Claims

Instruct external lawyers to provide advice, act for Council, defend and do all things necessary in court proceedings or other matters in relation to Worker's Compensation claims brought against Council.

LG13 Replacement of Staff Personal Property

Determine claims for the replacement of, or compensation for, lost or damaged personal property up to \$1500.

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.