

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 Infrastructure and Operations

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

AM Asset Management Functions

AM01 Approval of work and costs incurred for Street Lighting

Approve work to proceed and for Council to bear the additional annual charge where the relevant energy provider has agreed to a scheme of street lighting improvement.

Approve the replacement of street lamps or variations in wattage or type of street lamps.

Approve the installation of street lights in new areas where it is considered that street lighting is required and for Council to bear the additional annual charges.

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.

AM03 Authorise the removal of graffiti

Authorise graffiti removal work on private land by agreement with the owner or occupier of that land or without agreement if the graffiti is visible from a public place, in accordance with *Graffiti Control Act 2008*.

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

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.

FS34 Hold Corporate Credit Card \$10,000

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 \$10,000

CG Compliance - General Functions

CG02 Appointed as an Authorised Person under the Biosecurity Act 2015 (Certificate of Authority Required)

Appointed under Section 372 of the *Biosecurity Act 2015*, as and to exercise the functions of an authorised officer and exercise all other functions under the *Biosecurity Act 2015*. This includes (but is not limited to) entering and inspecting premises, applying for search warrants, erecting notices, giving notices and serving penalty notices.

CG10 Appointed as Authorised Officer under the Rural Fires Act 1997

Appointed as an Authorised Officer to exercise the functions conferred on the Council under the *Rural Fires Act 1997* and *Regulation*.

CG14 Appointed as Authorised Person for Entry on to land and other powers under Local Government Act 1993 Chapter 8 Part 2 (Certificate of Authority Required)

Appointed as and Authorised Person to exercise the functions conferred on Council (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.

CR Compliance - Roads Act 1993 Functions

CR10 Roads Act 1993 Section 116 Applications to the Roads and Maritime Service

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 Part 8 Division 2 of Section 116 of the *Roads Act 1993*.

CR14 Roads Act 1993 Section 130 Revoke public gate permit

Revoke a public gate permit under Section 130 of the *Roads Act 1993*

CR15 Roads Act 1993 Section 138 and 139 Determine Application for consent: carry out works - public roads

Determine an application for consent under Section 138 and 139 of the *Roads Act 1993*, related 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.

CR21 Roads Act 1993 Section 175 Authorise and Give Notice - taking position of land

Authorise and give notice of the taking of possession of land for the purpose of carrying out road work on a road or a proposed road, or providing a temporary road to replace a public road that has become impassable under Section 175 of the *Roads Act 1993*.

CR22 Roads Act 1993 Section 217 Determine and Impose Contributions: Kerb, Gutter and Footway

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 under Section 217 of the *Roads Act 1993*.

CR23 Roads Act 1993 Part 13 Division 3 Kerb and Guttering

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, under Part 13 Division 3 of the *Roads Act 1993*

CR28 Roads Act 1993 Section 26 Direct restoration of Land

Direct the owner of land affected by road widening to carry out such work as is necessary to restore the land under Section 26 of the *Roads Act 1993*.

CR29 Roads Act 1993 Section 29 Levelling of Public Road

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

CR31 Roads Act 1993 Section 39 Close a temporary public road

Make an application to close a temporary public road, under Section 39 of the *Roads Act 1993*.

CR34 Roads Act 1993 Section 92 Authorise the Alteration of Landforms

Authorise the alteration of the landform of land adjoining a public road so as to ensure the stability of the road, under Section 92 of the *Roads Act 1993*.

CR35 Roads Act 1993 Section 93 Direct the Owner of Land Adjoining Public Roads

Direct the owner of any land adjoining a public road to fill in any excavation that threatens the stability of the public road, under Section 93 of the *Roads Act 1993*.

CR36 Roads Act 1993 Section 94 A Authorise Drainage Work

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, under Section 94 of the *Roads Act 1993*.

CR38 Roads Act 1993 Section 96 Direct Occupier of Land – Fencing and Floodgates

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, under Section 96 of the *Roads Act 1993*.

CR39 Roads Act 1993 Section 97 Issue Directions regarding Utility Services – Public Roads

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; under Section 97 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.

CN03 Sign a Deed of Agreement - Replanting Trees on Public Land

Sign on behalf of Council, Deeds of Agreement in respect of the replanting of trees on public lands and the acceptance of associated funds.

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*.

CN12 Grants - Prepare and submit grant funding applications

Prepare and submit grant funding applications to seek additional resources through grant opportunities that align to Council's strategic direction.

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

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)

LP10 Enter into and Execute leases, licences and hire agreements in relation to Community and Operational Land (1yr or \$5,000)

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 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).

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).

PD Planning and Development Functions

PD12 Infrastructure and Environmental Impact Assessment

Exercise Council's functions under Part 5 (Infrastructure and Environmental Impact Assessment) of the *Environmental Planning and Assessment Act 1979* and *Regulation*.

PD14 Amend Flood Maps

Amend the flood maps, forming part of Council's Development Control Plan, to reflect whether property should still be subject to flood related development controls after consideration of changes in knowledge of flood risk or changes to physical characteristics of the property.

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.

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

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.

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.