

SUTHERLAND SHIRE COUNCIL
INSTRUMENT OF DELEGATION BY THE CHIEF EXECUTIVE OFFICER

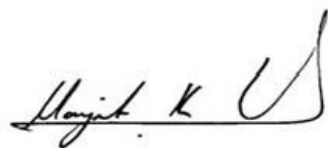
In accordance with section 378 of the *Local Government Act 1993*, I hereby:

1. Delegate to the position of:

Team Leader Development Compliance

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

27 May 2024

DELEGATIONS

FS Finance Functions

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*.

FS17 Council Timesheets Approval

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

CG Compliance - General Functions

CG07 Appointed as Authorised Officer under the Protection of the Environment Operations Act 1997 (Certificate of Authority Required)

Appointed as and to exercise the functions of an authorised officer and enforcement officer and authorised to exercise all other functions under the Protection of the *Environment Operations Act 1997* and *Regulation*. This includes (but is not limited to) entering and inspecting premises, seizing items, applying for search warrants, requiring the furnishing of information and records,

requiring answers to questions, giving directions and notices and serving penalty notices.

CG11 Determining Exemptions to Barrier Requirements under the Swimming Pools Act 1992

Exercise the Council's functions under the *Swimming Pools Act 1992 (NSW)*, in respect of determining applications for exemption to barrier requirements under section 22 of that Act.

CG12 Appointed as Authorised Officer under the Swimming Pools Act 1992 (Certificate of Authority Required)

Appointed as an Authorised Officer to exercise the functions conferred on the Council under Section 27 of the *Swimming Pools Act 1992 and Regulation*. This includes (but is not limited to) entering and examining premises, applying for search warrants, serving orders, and serving penalty notices.

CG13 Appointed as Authorised Officer, Authorised Person, Inspector, Enforcement Officer or similar on behalf of Council (Certificate of Authority Required)

Appointed as an Authorised Officer/Person/Inspector/Enforcement Officer and the like under any law under which Council has functions and authorised to exercise all other functions under those laws, subject to the qualifications listed below. The functions referred to in this clause include (but are not limited to): entering, inspecting and searching land, premises and property; applying for search warrants; giving directions; requiring answers to questions; requiring the furnishing of information and records; giving directions; issuing, giving and serving notices and orders; revoking orders; and issuing and serving penalty notices. Qualifications:

1. Subject to this Delegation, only the following functions can be exercised under the *Environmental Planning and Assessment Act 1979 and Regulation*: (a) The delegate is appointed as and to exercise the functions of an authorised person, including the functions under Division 1A (Local Enforcement Powers) of Part 6; and (b) Council's functions under Part 6 Division 2A (Orders); and (c) Serve penalty notices as an authorised person, under section 127A and clause 284; and (d) Council's inspection functions.
2. Subject to this Delegation, only the following functions can be exercised under the *Local Government Act 1993 and Regulation*: (a) The delegate is appointed as and to exercise the functions of an authorised person, including the functions as a 'person authorised' under Part 2 (Entry on to land and other powers) of Chapter 8; and (b) Council's functions under Part 2 (Orders) of Chapter 7; and (c) Serve penalty notices as an authorised person, under section 679; and (d) Council's inspection functions.

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.

CG15 Appointed as Council Investigation Officer under the Environmental Planning and Assessment Act 1979 (Certificate of Authority Required)

Appointed as a Council Investigation Officer pursuant Division 9.2 of the *Environmental Planning and Assessment Act 1979* and clause 284 of the *Regulation*. For the purposes of entry, search, inspecting premises, obtaining information, requiring the answering of questions.

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.

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.

CG23 Issue Orders under Environmental Planning and Assessment Act 1979

Exercise Council's functions under Schedule 5 Development Control Orders of the *Environmental Planning and Assessment Act 1979* and *Regulation*.

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.

CG28 Make complaints to the relevant government authority on behalf of Council

Make a complaint to the relevant government authority concerning the conduct of registered certifiers, under the provisions of the *Building and Development Certifiers Act 2018*.

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.

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*.

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*.

CR26 Roads Act 1993 Section 243 Serve Penalty Notices

Issue serve penalty notices as an authorised officer under Section 243 of the *Roads Act 1993*.

CR32 Roads Act 1993 Section 86 Direct Owner of a Private Road – works

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, under Section 86 of the *Roads Act 1993*.

CR37 Roads Act 1993 Section 95 Direct Occupier of Land – Obstructions

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, under Section 95 of the *Roads Act 1993*.

CR40 Roads Act 1993 Section 98 Issue Directions regarding Work or Structures – Public Roads

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, under Section 98 of the *Roads Act 1993*.

LE Legislative Functions

LE14 Appointed as a Manager (People Leader) under the Public Interest Disclosure Act 2022

Appointed as a Manager (People Leader) under the requirements of the *Public Interest Disclosure Act 2022* to receive reports of voluntary public interest disclosures from directly or indirectly supervised employees only and pass voluntary public interest disclosures reports on to a Disclosure Officer.

PR Procurement Functions

PR03 Authorise Expenditure \$10,000

Authorise expenditure for the procurement of goods, works and services, in accordance with the Procurement Policy and Guidelines up to the value of \$10,000 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.

LG Legal Functions

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.