

**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:

**Development Assessment and Certification Manager**

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**

**15 March 2024**

**DELEGATIONS**

**FS Finance Functions**

**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.

## **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.

## **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.

## **CG Compliance - General Functions**

### **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.

### **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*.

## **CN Contract Functions**

### **CN04 Execute Contracts in relation to development certification work**

Sign contracts and other documents, on behalf of Council, in relation to certification work between Council and an applicant provided there is no requirement for the expenditure of funds.

## **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.

## **LP Land and Property Functions**

### **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.

### **LP19 Issue Certificate under the Conveyancing Act 1919**

Issue a certificate of amount due or works required, under Section 88G of the *Conveyancing Act 1919*

## **PD Planning and Development Functions**

### **PD01 Assess and Determine Applications for Certificates**

Assess and determine an application for and issue certificates, (such as but not limited to construction certificate, subdivision works certificate, occupation certificate, subdivision certificate, building information certificate) pursuant to Part 6 of the *Environmental Planning and Assessment Act 1979* and *Regulation* and where relevant, in accordance with the accreditation as per the *Building and Development Certifiers Act 2018* and *Regulation* specifically issued to the delegate.

### **PD02 Assess and Determine Complying Development Certificates**

Assess and determine an application for and issue a complying development certificate (including an application to modify a complying development certificate), pursuant to Part 4 of the *Environmental Planning and Assessment Act 1979* and *Regulation* and in accordance with the accreditation as per the *Building and Development Certifiers Act 2018* and *Regulation* specifically issued to the delegate.

### **PD05 Assess and Determine Strata Certificates**

Assess and determine an application for and issue a strata certificate, pursuant to Part 4 of the *Strata Schemes Development Act 2015* and *Regulation*.

### **PD06 Assess and Terminate Strata Certificates**

Assess and determine an application to terminate a strata certificate, pursuant to Part 9 of the *Strata Schemes Development Act 2015* and *Regulation*.

### **PD08 Development Assessment, Review and Appeals**

Exercise Councils functions under Part 4 (Development Assessment) and under Part 8 (Review and Appeals) of the *Environment Planning and Assessment Act 1979* and *Regulation* by way of determining applications.

### **PD10 Refer Applications to Other Bodies**

Refer applications to other councils, external bodies and consultants for assessment and comment.

### **PD11 Application Acceptance and Requests**

Exercise Council's functions with respect to Application Acceptance and Request for additional information under Part 6 (Procedures relating to development applications) of the *Environmental Planning and Assessment Regulation*;

1. Reject an application pursuant to clause 51 of the Regulation and
2. Request further information pursuant to clause 54 of the Regulation

### **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*.

### **PD13 Assess under Telecommunications Act 1997 and Low Impact Facilities Determination 2018**

Assess, finalise and deal with a notification by a licensed carrier within the meaning of the *Telecommunication Act 1997* and the

*Low Impact Facilities Determination 2018* for the construction, maintenance and operation of telecommunication facilities on land under the ownership of Council and land under Council's care, control and management.

#### **PD15 Issue Notices and Certificates as a Registered Certifier**

Issue notices and certificates as a registered certifier pursuant to Part 6 Building and Subdivision Certification of the *Environmental Planning and Assessment Act and Regulation*, and in accordance with the appropriate accreditation as per the *Building and Development Certifiers Act 2018 and Regulation 2020*.

#### **PD16 Exercise Council's Approval functions under the Local Government Act 1993**

Exercise Council's functions under Part 1 (Approvals) of Chapter 7 of the *Local Government Act 1993 and Regulation*

#### **PD17 Prepare Quotations for provision of Certification Services by Sutherland Shire Council**

Prepare quotations for the provision of certification services provided by Sutherland Shire Council where Council's adopted schedule of Fees and Charges for goods and services provides for individual quotations.

#### **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.

##### **PC18 Authorise the Engagement of Temporary Staff**

Authorise the engagement of temporary 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.

##### **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**

##### **PR04 Authorise Expenditure \$20,000**

Authorise expenditure for the procurement of goods, works and services, in accordance with the Procurement Policy and Guidelines up to the value of \$20,000 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**

### **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.

### **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.

### **LG17 Instruct Lawyers - Land and Environment Court**

Instruct Lawyers to provide advice and to commence, defend, prosecute, settle, discontinue and withdraw any:

(i) planning and development and order appeals, objections and applications, including under sections 4.55, 8.7, 8.8, 8.9, 8.16, 8.18, 8.21, 8.22, 8.23 and 8.25 of, and clause 35 of Schedule 5 to, the Environmental Planning and Assessment Act 1979; and

(ii) planning and development and order appeals or objections, including sections 176, 177, 178, 180 and 182 of the Local Government Act 1993.

## **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.