



Australian Government

**Minister's Norfolk Island (*Local Government Act 1993*
(NSW) (NI)) Direction and Delegation 2019 (No. 1)**

I, **SUSSAN LEY**, Assistant Minister for Regional Development and Territories, Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, make this instrument under subsections 18B(3) and 18B(4) of the *Norfolk Island Act 1979*.

Dated

2019

A handwritten signature in blue ink, which appears to be 'Susan Ley', followed by the date '29/1/19' also written in blue ink.

SUSSAN LEY

Assistant Minister for Regional Development and Territories
Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure,
Transport and Regional Development

1 Name of instrument

This instrument is the *Minister's Norfolk Island (Local Government Act 1993 (NSW) (NI)) Direction and Delegation 2019 (No. 1)*.

2 Commencement

This instrument commences when it is signed.

3 Definitions

Note: A number of expressions used in this instrument have meanings given by the Commonwealth Act and the *Acts Interpretation Act 1901* (see sections 2B, 19A and 46), including the following:

- (a) Department;
- (b) Norfolk Island Regional Council;
- (c) responsible Commonwealth Minister; and
- (d) SES employee.

In this instrument:

Administrator of Norfolk Island means the Administrator of the Territory of Norfolk Island appointed under section 7 of the *Norfolk Island Administrator Ordinance 2016*.

Classification Rules means the rules made under section 23 of the *Public Service Act 1999*.

Commonwealth Act means the *Norfolk Island Act 1979*.

Deputy Secretary means a Deputy Secretary of the Department.

General Manager means a person appointed under section 334 of the LGA.

LGA means the *Local Government Act 1993* (NSW), in force in Norfolk Island under section 18A of the Commonwealth Act.

LGR means the *Local Government (General) Regulation 2005* (NSW), in force in Norfolk Island under section 18A of the Commonwealth Act.

Power includes function or duty, and, in that context, ***conferred*** means imposed.

Secretary means the Secretary of the Department.

SES 2 means an SES employee who is classified as a Senior Executive Band 2 employee under the Classification Rules.

4 Vesting of powers

I direct, under paragraph 18B(3)(a) of the Commonwealth Act, that the power or powers that are specified in Column 1 of an item in Schedule 1 are also vested in:

- (a) the authority; or
 - (b) a person for the time being holding, occupying or performing the duties of an office or position; or
 - (c) a person acting in an office or position;
- specified in Column 2 of that item.

5 Delegation of powers

I delegate, under paragraph 18B(3)(b) of the Commonwealth Act, the power or powers that are specified in Column 1 of an item in Schedule 2 to:

- (a) the authority; or
 - (b) a person for the time being holding, occupying or performing the duties of an office or position; or
 - (c) a person acting in an office or position;
- specified in Column 2 of that item.

6 Delegation of powers by General Manager

For the purposes of subsection 18B(4) of the Commonwealth Act, I empower the General Manager to delegate, in writing, to a specified person, any or all powers vested in him or her by section 4 of this instrument.

7 Delegation of powers by the Norfolk Island Regional Council

For the purposes of subsection 18B(4) of the Commonwealth Act, I empower the Norfolk Island Regional Council to delegate, in writing, to a specified person, a power vested in it by section 4 of this instrument (the *vested power*), provided that:

- (a) a council in NSW can, if a power corresponding to the vested power has been conferred on the council by a law of NSW, delegate the power under Part 3 of Chapter 12 of the *Local Government Act 1993* (NSW); and
- (b) if Part 3 of Chapter 12 of the *Local Government Act 1993* (NSW) imposes a formal, procedural or substantive requirement (the *requirement*) on a council in NSW in relation to the delegation of that power—the Norfolk Island Regional Council, in delegating the vested power, complies with the requirement.

Example 1 If section 4 of this instrument vests in the Norfolk Island Regional Council a power to fix a fee, the Norfolk Island Regional Council is not empowered by this section to delegate the power. This is because if a corresponding power to fix a fee has been conferred on a council in NSW by a law of NSW, the council is prevented from delegating the power by paragraph 377(1)(e) of the *Local Government Act 1993* (NSW). Therefore, the condition in paragraph (a) of this section is not satisfied.

Example 2 If section 4 of this instrument vests a power in the Norfolk Island Regional Council and the condition in paragraph (a) of this section is satisfied, the Norfolk Island Regional Council is empowered to delegate the power if it complies with relevant requirements that apply to a council in NSW delegating a corresponding power. For example, subsection 377(1) of the *Local Government Act 1993* (NSW) requires that any delegation of functions under that subsection be by resolution. Therefore, a delegation by the Norfolk Island Regional Council of a corresponding function must also be by resolution.

8 Delegation of powers by the Administrator of Norfolk Island

For the purposes of subsection 18B(4) of the Commonwealth Act, I empower the Administrator of Norfolk Island to delegate, in writing, to a specified person, any or all powers vested in him or her by section 4 of this instrument.

9 Delegation of Electoral Commissioner and Electoral Commission powers

For the purposes of subsection 18B(4) of the Commonwealth Act, I empower a person (the *first person*) to delegate, in writing, to a specified person, any or all powers that are:

- (a) vested in the first person by section 4 of this instrument; and
- (b) specified in item 1.13 of Schedule 1.

10 Revocations

Any previous instrument made under subsections 18B(3) and 18B(4) of the Commonwealth Act vesting or delegating the powers of the Minister under the LGA and the LGR is revoked.

Schedule 1 Vesting

(section 4)

1. LGA and subordinate legislation under that Act in force in Norfolk Island

	Column 1	Column 2
Item	Power(s) vested	Persons vested
1.01	All powers expressed to be powers of an administrator (as appointed under section 66 of the LGA)	An administrator appointed under section 66 of the LGA
1.02	All powers expressed to be powers of an administrator (as appointed under Division 6 of Part 2 of Chapter 9 of the LGA)	An administrator appointed under Division 6 of Part 2 of Chapter 9 of the LGA
1.03	All powers in Part 7 of the LGR expressed to be powers of an appropriate person	A person designated by the General Manager to receive or deal with tenders submitted to the Norfolk Island Regional Council, or if no one is designated, the General Manager
1.04	All powers expressed to be powers of an auditor	An auditor appointed under subsection 422(2) of the LGA
1.05	All powers expressed to be powers of a person authorised as an authorised officer under section 746 of the LGA	A person authorised as an authorised officer under section 746 of the LGA
1.06	All powers expressed to be powers of a council or a local government	The Norfolk Island Regional Council
1.07	All powers expressed to be powers of a committee of the council	Any committee established by the Norfolk Island Regional Council in accordance with section 373 of the LGA
1.08	All powers expressed to be powers of a councillor	A councillor of the Norfolk Island Regional Council
1.09	All powers expressed to be powers of a Department of New South Wales	Secretary Deputy Secretary SES 2 responsible for Norfolk Island in the Department
1.10	All powers expressed to be powers of the Departmental Chief Executive	Secretary Deputy Secretary SES 2 responsible for Norfolk Island in the Department
1.11	All powers expressed to be powers of the Director-General	Secretary Deputy Secretary SES 2 responsible for Norfolk Island in the Department
1.12	All powers expressed to be powers of a deputy mayor	Deputy Mayor of the Norfolk Island Regional Council

1.13	All powers expressed to be powers of the Electoral Commissioner and the Electoral Commission except the power to receive penalties under paragraph 314(3)(b) of the LGA	Administrator of Norfolk Island Secretary Deputy Secretary SES 2 responsible for Norfolk Island in the Department
1.14	The power to receive penalties under paragraph 314(3)(b) of the LGA	The Norfolk Island Regional Council
1.15	All powers expressed to be powers of an electoral official	An electoral official appointed under section 296A or 296B of the LGA
1.16	All powers expressed to be powers of a general manager	General Manager
1.17	All powers expressed to be powers of an interim administrator	An interim administrator of the Norfolk Island Regional Council
1.18	All powers expressed to be powers of a mayor	Mayor of the Norfolk Island Regional Council
1.19	All powers expressed to be powers of the Ombudsman	Commonwealth Ombudsman, within the meaning of the <i>Ombudsman Act 1976</i>
1.20	All powers expressed to be powers of a public officer	Public Officer of the Norfolk Island Regional Council
1.21	All powers in Part 9 of the LGR expressed to be powers of a responsible accounting officer	A member of staff of the Norfolk Island Regional Council designated the responsible accounting officer by the General Manager, or if no one is designated, the General Manager
1.22	All powers expressed to be powers of a returning officer (appointed under section 296A of the LGA)	Returning Officer appointed under section 296A of the LGA
1.23	All powers expressed to be powers of a returning officer (appointed under section 296B of the LGA)	Returning Officer appointed under section 296B of the LGA
1.24	All powers expressed to be powers of a substitute returning officer (appointed under section 296A of the LGA)	Substitute Returning Officer appointed under section 296A of the LGA
1.25	All powers expressed to be powers of a substitute returning officer (appointed under section 296B of the LGA)	Substitute Returning Officer appointed under section 296B of the LGA
1.26	All powers expressed to be powers of a temporary adviser	A person appointed as a temporary adviser under section 438G of the LGA.

Schedule 2 Delegations

(section 5)

1. LGA and subordinate legislation under that Act in force on Norfolk Island

	Column 1	Column 2
Item	Power(s) delegated	Delegate(s)
1.01	All powers expressed to be powers of a Minister of New South Wales except those under Part 7 of Chapter 13 and Division 2 of Part 1 of Chapter 14 of the LGA	Secretary Deputy Secretary SES 2 responsible for Norfolk Island in the Department
1.02	All powers expressed to be powers of the Auditor-General	Administrator of Norfolk Island Secretary Deputy Secretary SES 2 responsible for Norfolk Island in the Department