



DELEGATION OF AUTHORITY

DELEGATION NO:	2009-35 (V5.0)
DELEGATION TITLE:	Sustainable Planning
Delegation from Council to: Chief Executive Officer	
Date and Resolution No. 16 June 2016 OM16/98	
Source of Authority:	
<i>Sustainable Planning Act 2009</i> <i>Queensland Reconstruction Authority Act 2011</i> <i>Local Government Act 2009</i>	

Interpretation

1. To the extent that this delegation confers a power to take any action, including making a decision, the power extends to doing anything which is necessary or convenient to perform that action such as:
 - (a) considering factual and legal matters and issues in order to:
 - (i) form any belief which is required;
 - (ii) be satisfied about any matter or thing;
 - (b) issuing any notices;
 - (c) extending any period; and
 - (d) providing reasons.
2. Under this delegation, the words used are to take their meaning from the legislation conferring the authority or to the extent that no meaning is prescribed, the words will take their ordinary meaning unless otherwise specified in this delegation.
3. Under this delegation, the words used have the meanings set out below:

'powers of the local government' means all powers conferred on the local government from the legislation which is the subject of this delegation including, but not limited to, the local government's powers and functions as:

- (a) 'assessment manager';
- (b) 'assessing authority';
- (c) 'referral agency' (including as 'concurrence agency' and 'advice agency');
- (d) 'local government';
- (e) 'designator';
- (f) 'compliance assessor'; and
- (g) 'public sector entity'.

Delegated Power:

4. To exercise the powers of the local government under Chapter 3 of the *Sustainable Planning Act 2009 (Act)*, including, but without limitation, to decide a request to apply a superseded planning scheme.
5. To exercise the powers of the local government under Chapter 5 of the Act including, without limitation, the following:
 - (a) to decide requests to acquire designated land under hardship;
 - (b) to take alternative action other than buying the nominated interest;
 - (c) to give all relevant notices including a notice of intention to resume the nominated interest.
6. To exercise the powers of the local government under Chapter 6 of the Act in respect of the Integrated Development Assessment System (**IDAS**) and other provisions including, but without limitation, the following:
 - (a) to ask any person for advice or comment about an application at any stage of IDAS, other than the compliance stage;
 - (b) to decide whether a development application is a properly made application;
 - (c) to give a referral agency response, including any pre-application referral agency response;
 - (d) to decide whether an information request should be given and to make an information request;
 - (e) to assess and decide an application if some of the requirements relating to the public notification of an application have not been complied with;
 - (f) to accept a written submission even if the submission is not properly made;
 - (g) to assess and decide a development application, including refusing an application or approving all or part of an application subject to conditions;
 - (h) to enter into an agreement to establish the obligations, or secure the performance, of a party to the agreement about a condition;
 - (i) to decide a request to change a development application before an application is decided, including deciding whether the change would not be likely to attract a submission objecting to the thing comprising the change, if the notification stage were to apply to the change;
 - (j) to decide a request to extend the relevant period of a development approval;

- (k) to decide a request for the giving of a negotiated decision notice, including giving a new infrastructure charges notice;
 - (l) to decide a request for a permissible change to a development approval, including refusing the request or approving it with or without conditions;
 - (m) to decide a request change or cancel a 'development condition';
 - (n) to decide a request to cancel a development approval;
 - (o) to nominate an entity to carry out compliance assessment for the local government;
 - (p) to assess and decide a request for compliance assessment, including approving a request with or without conditions, or giving an action notice;
 - (q) to assess and decide representations made in respect of an action notice;
 - (r) to assess and decide a request to change a compliance permit or compliance certificate;
7. To exercise the powers of the local government under Chapter 7 of the Act, except for the power contemplated in section 590(7) of the Act to give an enforcement notice ordering the demolition of a building, but otherwise without limitation, including the following:
- (a) to conduct an appeal or proceeding in which the local government is a party;
 - (b) to initiate a legal proceeding, including without limitation, a proceeding in the Magistrates Court, Planning and Environment Court or Court of Appeal;
 - (c) to give a show cause notice or an enforcement notice.
8. To exercise the powers of the local government under Chapter 8 of the Act, including but without limitation to the following:
- (a) to impose conditions about infrastructure on an approval of a development application;
 - (b) to decide the amount of an offset or refund;
 - (c) to give an infrastructure charges notice (including a negotiated notice) with an information notice;
 - (d) to amend any existing infrastructure charges notice;
 - (e) to enter into an infrastructure agreement.
9. To exercise the powers of the local government under Chapter 9 of the Act, including but without limitation, the following:
- (a) the power to decide a claim for compensation;
 - (b) the taking or purchasing of land in the circumstances set out in section 714 of the Act;
 - (c) the entering of land in the circumstances set out in section 715 of the Act;
 - (d) the making available for inspection and purchase of documents which are required by the Act to be kept available for inspection and purchase;
 - (e) the maintenance of a register of development applications;
 - (f) the giving of a limited, standard or full planning and development certificate for a premises;
 - (g) the provision of a copy of a document from the register of all development applications at the request of members of the public;

- (h) the publishing on Council's website information about each development application made to the Council as assessment manager in accordance with the requirements of the Act.
10. To exercise the powers of the local government under Chapter 10 of the Act, which includes transitional provisions.
11. To exercise the powers of the local government under the *Local Government Act 2009*, to support the local government's powers and functions under the Act including, but without limitation, to the following:
- (a) act for the local government in legal proceedings including the authority to:
- (i) give instructions and act as the authorised agent for the local government including, for the purposes of section 41 of the *Planning and Environment Court Rules 2010*, act in the capacity of the local government as an 'active party' on the authority to:
1. settle the issues; or
 2. make a recommendation to the local government about settling the issues;
- (ii) effect substituted service; and
- (iii) sign all documents for the local government; and
- (b) negotiate agreements, give instructions and sign all documents for the local government to give effect to any agreement.
12. To exercise the powers of the local government under the *Queensland Reconstruction Authority Act 2011* including but without limitation to the following:
- (a) request the Minister to declare a project for proposed development to be a declared project;
- (b) agree about the declaration of acquisition land;
- (c) request the Minister to declare a part of the State to be a reconstruction area and/or acquisition land;
- (d) give the authority a written recommendation to impose a condition for infrastructure to which the Act applies;
- (e) request the Minister to direct the local government to take particular action about a local planning instrument; and
- (f) make submissions to the Minister about a proposal to direct the local government to take particular action about a local planning instrument.

Delegation Criteria:

13. The delegated officer may exercise the powers of the local government under the Act for an application other than the following:
- (a) an application where, in the opinion of the delegated officer, the estimated construction value of the proposed development exceeds \$50 million (excluding land content);

- (b) under the transitional provisions set out in Chapter 10 of the Act - an application for the approval of a master plan for a master planned area;
 - (c) an application for a preliminary approval mentioned in section 242 (Preliminary approval may affect a local planning instrument) of the Act that states the way in which the application seeks the approval to vary the effect of any applicable local planning instrument for the land;
 - (d) an application for a proposed development where more than 20 submissions have been received during the notification stage objecting to the proposed development.
14. The delegated officer may exercise the powers delegated under paragraph 7 and paragraph 11 of this delegation subject to consultation with council's Chief Legal Officer.
15. In exercising the powers delegated under Chapter 6 of the *Sustainable Planning Act 2009*, where a development application has been decided by council the delegated officer must give due consideration to the materiality of the changes sought through a negotiated decision notice and consult with the divisional councillor where those changes would have a material impact on the outcome of the original decision.
16. However, even if paragraph 13(a) above applies, the delegated officer may exercise the powers of the local government under the Act without that limitation for an application where the application has the potential for "deemed approval" in accordance with sections 330-331 of the Act.

Delegation Administrative Procedure:

- 17. The powers conferred by this delegation must be exercised in accordance with the legislation conferring the authority, including any obligations which are imposed in exercising the power (e.g. advancing the purpose of SPA under section 4 of that Act).
- 18. The powers conferred by this delegation must not be exercised in circumstances where the power is not capable of delegation under sections 257, 257A, 258 and 259 of the *Local Government Act 2009*.
- 19. The delegated officer must make and keep a register of all instances of where this delegation has been exercised.
- 20. The following procedure is to be undertaken for this delegation unless compliance would be contrary to any law:
 - (a) The policies of the local government must be complied with and in particular any policy related to entering into an infrastructure agreement in accordance with the power delegated in paragraph 8(e) of this delegation.
 - (b) The policies and codes of conduct of the local government must be complied with and in particular:
 - (i) a development application is to be referred to the Chief Executive Officer for determination where a councillor has a material personal interest in the development application;
 - (ii) a development application is to be referred to the Director Planning and Environment for determination where a council officer has a material personal interest in the development application.

