

DELEGATION OF AUTHORITY	
TITLE: Building Services	Delegation No: 2009-20 Version: (2)
Delegation by Council to: Chief Executive Officer	Council Resolution date: 16 November 2011 OM11/274
Delegation from Chief Executive Officer to:	Date approved:
Source of Authority: <i>Local Government Act 2009 – 257 and 259</i> <i>Building Act 1975</i> <i>Sustainable Planning Act 2009</i> <i>Sustainable Planning Regulation 2009</i>	

Delegated Power:

1. To exercise the Local Government's powers under the *Building Act 1975 (the Act)*, *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009* including the authority to:
 - (a) process applications for building works;
 - (b) receive, assess, approve with or without conditions or refuse development applications;
 - (c) assess development applications for building works in respect of Classes 1 and 10 and Classes 2 to 9 buildings and special structures inclusive;
 - (d) inspect building works;
 - (e) issue final inspection certificates for building work;
 - (f) consider and make decisions regarding representations by a building certifier;
 - (g) decide and determine applications;
 - (h) issue an information notice;
 - (i) inspect budget accommodation buildings;
 - (j) determine applications in respect of exemption from complying with swimming pool fencing standards;
 - (k) assess applications in respect of the compliance of swimming pool fencing;



- (l) issue revocation notices.
2. To exercise the Local Government's powers under the Act, including the authority to:
 - (a) issue show cause notices;
 - (b) issue enforcement notices;
 - (c) remove persons in buildings to be demolished.
3. To exercise the Local Government's powers under the *Sustainable Planning Act 2009*, pursuant to the provisions outlined in the Act including the authority to:
 - (a) issue show cause notices;
 - (b) issue enforcement notices.
4. To exercise the Local Government's powers to conduct and resolve legal proceedings for breaches of the Act and *Sustainable Planning Act 2009*.

Delegated Criteria:

5. In relation to the powers delegated in paragraph 1 (c), the Delegated Officer may approve a development application for building works in respect of Classes 1 and 10 and Classes 2 to 9 buildings and special structures only if:
 - (a) the building works comply with the *Building Act 1975*, the *Building Regulation 2006* and the *Sustainable Planning Act 2009*;
 - (b) the building works do not contravene the Planning Scheme, a planning scheme policy, a local law or a subordinate local law; and
 - (c) the Delegated Officer possesses the requisite qualifications prescribed by the Act in respect of the approval of development applications for building works.
6. The Delegated Officer may exercise the powers of the Council in relation to the powers delegated in paragraph 2 (a) of this delegation provided that:
 - (a) The Delegated Officer issues a show cause notice pursuant to section 206 of the Act only if, in the opinion of the Delegated Officer, proper grounds exist for an application to the building tribunal to start a disciplinary proceeding against a building certifier.
7. The Delegated Officer may issue a notice under the *Sustainable Planning Act 2009* in relation to the powers delegated in paragraph 3 (a) and (b) of this delegation to cease erection of a building, structure or building work which:
 - (a) was or is being carried out:
 - (i) without an approval required by the *Sustainable Planning Act 2009* having been obtained in respect of the building work; or

- (ii) otherwise than in accordance with a development permit;
 - (iii) without an approval required by the *Building Regulation 2006* having been obtained in respect of the building work; or
 - (iv) otherwise than in accordance with plans and specifications approved, and conditions (if any) imposed by the Council in connection with an application made for the purposes of the *Building Regulation 2006*;
- (b) is dangerous;
 - (c) is in a dilapidated condition;
 - (d) is unfit for use or occupation; of
 - (e) is filthy, infected with disease or infested with vermin.
8. The Delegated Officer may conduct and resolve legal proceedings in relation to the powers delegated in paragraph 4 of this delegation provided the following matters are referred to the Council for determination:
- (a) all offers of settlement or compromise by defendants or respondents;
 - (b) all requests by defendants or respondents for special consideration or discontinuance of the Council's legal proceedings; and
 - (c) the exercise of any appeal rights in respect of the Council's legal proceedings.

Delegation Administrative Procedure:

9. The following procedure is to be undertaken for the powers delegated in paragraph 2 (a) of this delegation:
- (a) The Delegated Officer shall investigate any complaints made against the building certifier.
 - (b) In deciding whether to issue the show cause notice, the Delegated Officer shall give due consideration to a report which shall:
 - (i) set out any investigations undertaken by the Delegated Officer or a representative of the Delegated Officer; and
 - (ii) set out the extent (if any) of alleged professional misconduct of the building certifier; and
 - (iii) include a recommendation for the issuing of the shown cause notice, signed by the responsible officer; and
 - (iv) detail reasons for not proceeding if so recommended.

- (c) The Delegated Officer shall give the building certifier a show cause notice:
 - (i) stating the grounds for making the application;
 - (ii) outlining the facts and circumstances forming the basis for the grounds; and
 - (iii) inviting the building certifier to show within the show cause period why the application should not be made.
 - (d) The Delegated Officer shall cause a report to be prepared for the Council's information detailing all decisions made under this delegation. The report shall include the building certifier's name, date and nature of the decision, the reasons for issuing the notice and the details and date of compliance with the notice.
10. The following procedure is to be undertaken for this delegation in relation to the powers delegated in paragraph 4 of this delegation:
- (a) The Delegated Officer shall instruct the Council's solicitor (refer to Council's panel of providers) to initiate legal proceedings on the Council's behalf.
 - (b) The Delegated Officer shall issue instructions to the solicitors in relation to the on-going conduct of the legal proceedings.
 - (c) The Delegated Officer shall cause to be undertaken such works as may be necessary to remove a public nuisance where a person fails to comply with an order made by a Court and that order specifies that the failure to comply constitutes a public nuisance.
 - (d) The Delegated Officer shall cause a report to be prepared for the Council's information detailing the outcome of all legal proceedings conducted and resolved under this delegation.

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- 1. The powers and authorities set out above are hereby delegated to the Officer(s) designated.
 - 2. This Delegation is authorised for inclusion in the Delegation of Authority Register.

CHIEF EXECUTIVE OFFICER

DATE

DELEGATION OF AUTHORITY	
TITLE: ENVIRONMENTAL PROTECTION	
Delegation No. 2009-21 Version (v1)	
Delegation by Council to: Chief Executive Officer	Council Resolution date: 17 September 2009 OM 4.2.1
Delegation from Chief Executive Officer to: Refer to attached schedule	Date approved: 7 October 2009
Source of Authority: <i>Local Government Act 1993</i> – Sections 472 and 1132 <i>Environmental Protection Act 1994</i> – Chapter 4; Chapter 7 Parts 2, 3, 4, 5, 5A, 6, 7 and 8; Chapter 9; Chapter 11 Part 4; Chapter 12 Parts 2 and 3; and sections 445(2), 440, 440Q, 440ZG, 514, 517, 518 and 521 <i>Environmental Protection Regulation 2008</i> – Chapter 7 Part 1 Division 1 and section 156 <i>Environmental Protection (Waste Management) Regulation 2000</i> – Parts 2, 3 and 7 Division 2 and section 67(2)	

Delegated Power:

1. To exercise the powers that have been devolved to the Council pursuant to the *Environmental Protection Act 1994* (**Act**), the *Environmental Protection Regulation 1994* (**Regulation**) and the *Environmental Protection (Waste Management) Regulation 2000* (**Waste Regulation**) including to:
 - (a) in respect of a chapter 4 activity which has been devolved to the Council pursuant to section 101 of the Regulation:
 - (i) exercise the Council's powers as administering authority:
 - (A) under chapter 4 of the Act;
 - (B) with respect to environmental evaluations, transitional environmental programs and financial assurances pursuant to chapter 7 parts 2, 3, 4 and 6 of the Act; and
 - (C) with respect to transitional environmental program submissions, suitability investigations and disclosure exemptions pursuant to chapter 12 parts 2 and 3 of the Act;
 - (ii) issue an environmental protection order pursuant to chapter 7 part 5 of the Act to a person:
 - (A) if the person does not comply with a requirement to conduct or commission an environmental evaluation or to prepare a transitional environmental program and submit the evaluation or program to the Council;

- (B) if, because of an environmental evaluation, the Council is satisfied unlawful environmental harm is being, or is likely to be, caused by an activity carried out, or proposed to be carried out; or
- (C) to secure compliance with:
 - (1) a development condition of a development approval;
 - (2) a standard environmental condition of a code of environmental compliance for a chapter 4 activity;
 - (3) condition of a site management plan; or
 - (4) a regulation;
- (iii) exercise the Council's powers as local government and administering authority with respect to contaminated land pursuant to chapter 7 part 8 of the Act; and
- (iv) exercise the Council's powers to appoint a person as an authorised person pursuant to section 445(2) of the Act to exercise the powers of an authorised person pursuant to chapter 9 of the Act;
- (b) exercise the Council's powers as local government and administering authority with respect to waste management pursuant to chapter 7 part 7 of the Act;
- (c) issue a direction notice in relation to a contravention of section 440, 440Q or 440ZG of the Act pursuant to chapter 7 part 5A of the Act;
- (d) in respect of an original decision, review the original decision, consider any properly made submissions and make a review decision pursuant to section 521 of the Act;
- (e) keep registers and give an annual report required of the Council as administering authority pursuant to chapter 11 part 4 of the Act;
- (f) exercise the powers of the Council with respect to:
 - (i) waste management in the local government area including the following:
 - (A) to supply waste containers;
 - (B) to recover the cost of waste containers;
 - (C) to ensure a waste service is provided;
 - (D) to issue a compliance notice for a contravention of part 2A of the Waste Regulation; and
 - (E) to give approvals pursuant to part 2A of the Waste Regulation; and

- (ii) waste received and disposal to the extent it relates to a waste facility owned, operated or otherwise controlled by the Council pursuant to part 3 of the Waste Regulation; and
- (g) take, conduct and resolve legal proceedings where the proceeding is about a matter that has been devolved or delegated to the Council pursuant to the Act, the Regulation or the Waste Regulation.

Delegation Criteria

2. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(A) of this delegation to assess development applications if:
 - (a) any relevant regulatory requirements have been complied with;
 - (b) the standard criteria¹ have been considered;
 - (c) any additional information given in relation to the application has been considered; and
 - (d) where the application is for an increase in the scale or intensity of an activity, regard is had to:
 - (i) the proposed and existing activity; and
 - (ii) the environmental harm that may be caused.
3. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(A) of this delegation with respect to registration certificates to:
 - (a) refuse an application for a registration certificate if:
 - (i) the applicant is not a suitable person having regard to the applicant's environmental record;
 - (ii) a disqualifying event has happened in relation to the applicant or the applicant's partner; or
 - (iii) a disqualifying event has happened in relation to any of a corporation's executive officers;
 - (b) amend a registration to correct a clerical or formal error if the proposed amendment does not adversely affect the interests of the registered operator or anyone else;
 - (c) cancel or suspend a registration certificate if:
 - (i) the certificate was issued because of false or misleading information;
 - (ii) the operator is convicted of an environmental offence; or

¹ See Schedule 4 (Dictionary) of the Act.

- (iii) the operator does not comply with an annual notice;
 - (d) approve or refuse the surrender of a registration certificate if the delegated officer has considered:
 - (i) the standard criteria;
 - (ii) whether conditions on the activity or approval have been complied with;
 - (iii) any transitional environmental program;
 - (iv) whether the land has been removed from the environmental management register or has a site management plan;
 - (v) any financial assurance;
 - (vi) any other matter prescribed under an environmental protection policy or regulation.
- 4. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(A) of this delegation to give notices to a person to cease an activity where that activity is being carried out:
 - (a) without an environmental registration required by the Act;
 - (b) otherwise than in accordance with:
 - (i) an approval granted by the Council; or
 - (ii) a provision of the Act.
- 5. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(B) of this delegation to require an:
 - (a) environmental audit if satisfied on reasonable grounds that:
 - (i) a condition of a development approval is being contravened; or
 - (ii) a regulation, environmental protection policy or transitional environmental program is being contravened; and
 - (b) environmental investigation if satisfied on reasonable grounds that:
 - (i) an event has caused environmental harm; or
 - (ii) environmental harm is likely to be or is being caused.
- 6. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(B) to:
 - (a) require a transitional environmental program if satisfied that:

- (i) an activity is causing or may cause unlawful environmental harm;
 - (ii) it is not practicable to comply with an environmental protection policy or regulation; and
 - (iii) a condition has been contravened; and
 - (b) refuse a transitional environmental program if consideration has been given to:
 - (i) the standard criteria;
 - (ii) any additional information; and
 - (iii) the views expressed at any conference held.
7. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(B) to require financial assurance if the requirement is justified having regard to:
- (a) the degree of environmental harm being caused; and
 - (b) the likelihood of action being required to rehabilitate, restore and protect the land or environment because of the environmental harm being caused.
8. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(ii) to issue an environmental protection order if the standard criteria have been considered.
9. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(iii) to grant an application to waive the requirement to make an application in respect of contaminated land if:
- (a) financial hardship would be caused; or
 - (b) the land owner's rights in relation to the land do not extend to control over environmental management of the land.
10. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(i)(B) or 1(a)(iii) of this delegation to extend relevant timeframes if:
- (a) additional information is required; or
 - (b) there are special circumstances for extending the time.
11. The Delegated Officer may exercise the powers of the Council to pursuant to the Act, in relation to the powers delegated in paragraph 1(a)(iv) of this delegation to appoint a person as an authorised person, including to:
- (a) approve the expertise and experience that is necessary for the appointment of an authorised person; and
 - (b) appoint a person as an authorised person where:



- (i) the person is an employee of the local government; and
 - (ii) the person has the necessary expertise, experience or training for the appointment as an authorised person as approved by the Delegated Officer.
- 12. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(c) to issue a direction notice if satisfied that:
 - (a) a person is contravening or has contravened a prescribed provision;
 - (b) a matter relating to the contravention can be remedied; and
 - (c) it is appropriate to give the person an opportunity to remedy the matter.
- 13. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(g) to take, conduct and resolve legal proceedings for breaches only if the following matters are referred to the Council for determination:
 - (a) offers of settlement or compromise by defendants or respondents;
 - (b) requests by defendants or respondents for special consideration or discontinuance of the Council's legal proceedings; and
 - (c) the exercise of any appeal rights in respect of the Council's legal proceedings.
- 14. The Delegated Officer may exercise the powers of the Council as the administering authority pursuant to the Act, in relation to the powers delegated in paragraph 1(g) to take, conduct and resolve legal proceedings for the suspension or cancellation of a registration only if:
 - (a) the Council has resolved to cancel or suspend a registration under the Act; and
 - (b) the Delegated Officer refers to the Council for determination:
 - (i) offers of settlement or compromise by defendants or respondents;
 - (ii) requests by defendants or respondents for special consideration or discontinuance of the Council's legal proceedings; and
 - (iii) the exercise of any appeal rights in respect of the Council's legal proceedings.

Delegation Administrative Procedure:

- 15. This delegation is to be exercised in accordance with the Act.
- 16. The extent of authority is in accordance with the delegated criteria where stated.
- 17. The Delegated Officer shall cause a register to be kept of all instances of where this delegation has been exercised.

18. The Delegated Officer may consider and decide an application notwithstanding that public notice requirements have not been complied with, where the Delegated Officer:
- (a) has authority to consider and decide the application; and
 - (b) is of the opinion that:
 - (i) no person will be adversely affected by the non-compliance; and
 - (ii) there has been substantial compliance with the Act.
19. The Delegated Officer may, in relation to an application regarding a development approval or certificate of registration, decide the application if:
- (a) the decision would not be contrary to the Council's:
 - (i) planning scheme or planning scheme policies;
 - (ii) local laws or subordinate local laws;
 - (iii) standards or guidelines; or
 - (iv) a local government Act²; and
 - (b) the Delegated Officer:
 - (i) has consulted with those Council Divisions that the Delegated Officer and the Executive Director of Community Services considers necessary;
 - (ii) has been notified of the requirements of any Division of the Council with which consultation was undertaken; and
 - (iii) is of the opinion that:
 - (A) the applicant is not precluded by a local government Act;
 - (B) there has been compliance with any relevant conditions;
 - (C) the activity will not have a significant adverse effect on an environmental value.
20. When exercising the power delegated in paragraph 1(g) of this delegation, the following procedure is to be undertaken:
- (a) The Delegated Officer shall instruct:
 - (i) the Council's solicitor to initiate legal proceedings on the Council's behalf; or
 - (ii) officers of the Council to initiate enforcement procedures.

² See Schedule 2 (Dictionary) of the *Local Government Act 1993*.



- (b) The Delegated Officer shall issue instructions to the Council's solicitors and Council officers in relation to the on-going conduct of the legal proceedings and other enforcement procedures.
- (c) The Delegated Officer shall cause a report to be prepared for the Council's information about the on-going conduct of the legal proceedings and other enforcement procedures, where requested to do so by resolution of the Council.

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1. The powers and authorities set out above are hereby delegated to the Officer(s) designated.
 2. This Delegation is authorised for inclusion in the Delegation of Authority Register.

CHIEF EXECUTIVE OFFICER

DATE

DELEGATION OF AUTHORITY	
TITLE: <i>Integrated Planning Act 1997</i>	Delegation No. 2009-22 Version (v1)
Delegation by Council to: Chief Executive Officer	Council Resolution date: 17 September 2009 OM 4.2.1
Delegation from Chief Executive Officer to: Refer to attached schedule	Date approved: 3 November 2009
Source of Authority: Local Government Act 1993 – Section 472 & 1132 Integrated Planning Act 1997 – Chapter 3, Chapter 4, Chapter 5, Chapter 6	

Delegated Power:

1. To exercise the Council's powers under Chapter 3 of the *Integrated Planning Act 1997* in respect of the Integrated Development Assessment System, including without limitation, the following:
 - (a) to receive and determine whether an application is properly made;
 - (b) to assess and decide a development application;
 - (c) to decide a request to change a development approval (other than a change of a condition);
 - (d) to decide a request to change or cancel a condition;
 - (e) to decide a request to extend the period of a development approval;
 - (f) to decide a request for the giving of a negotiated decision notice;
 - (g) to decide a request to cancel a development approval;
 - (h) to give the Minister all reasonable assistance the Minister requires to assess and decide a development application that has been called in by the Minister;
 - (i) to approve a plan of subdivision for the reconfiguring of a lot.

2. To exercise the Council's powers under Chapter 4 of the *Integrated Planning Act 1997*, including without limitation, the following:
 - (a) to conduct an appeal or proceeding in which the Council is a party;