



## DELEGATION OF AUTHORITY

<b>DELEGATION NO:</b>	2009-21 (V3.0)
<b>DELEGATION TITLE:</b>	Environmental Protection
<b>Delegation from Council to:</b>	Chief Executive Officer
<b>Date and Resolution No.:</b>	
<b>Delegation from the Chief Executive Officer to:</b> Refer attached schedule	<b>Date</b>
<b>Source of Authority:</b> <i>Environmental Protection Act 1994</i> <i>Environmental Protection Regulation 2008</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:
- 'application for an environmental authority'** means an application for an environmental authority under the *Environmental Protection Act 1994 (Act)*, including:
- (a) a standard application;
  - (b) a variation application; and
  - (c) a site-specific application.
- 'powers of the local government'** means all powers conferred on the local government from the legislation which is the subject of this delegation whether devolved or delegated and any powers, rights or interests arising out of the local government's ownership or occupation of premises including, but not limited to, the local government's powers and functions as:
- (a) 'administering authority';
  - (b) 'local government'; and
  - (c) 'entity'.

**Delegated Power:**  
***Environmental Protection Act 1994***

4. To exercise the powers of the local government under Chapter 5 of the Act including, but without limitation, the following:
- (a) to decide whether an application for an environmental authority is a properly made application;
  - (b) to give written agreement to the change to an application for an environmental authority;
  - (c) to decide whether an information request should be given and to make an information request;
  - (d) to assess and decide an application for an environmental authority including:
    - (i) for a standard application – that the application be approved subject to the standard conditions for the relevant activity or authority;
    - (ii) for a variation application – that the application be approved subject to the standard conditions for the relevant activity or authority or subject to different conditions;
    - (iii) for a site-specific application – that the application be refused or approved subject to conditions;
  - (e) to amend an environmental authority;
  - (f) to assess and decide applications to amalgamate or de-amalgamate an environmental authority;
  - (g) to assess and decide a transfer application for an environmental authority;
  - (h) to assess and decide a surrender application for an environmental authority including requesting further information;
  - (i) to cancel or suspend an environmental authority;
  - (j) to assess and decide a suspension application in respect of an environmental authority;

- (k) to require the holder of an environmental authority to give a financial assurance and decide applications to amend the amount or form of the financial assurance or discharge the financial assurance, including requiring a compliance statement to be given;
  - (l) to require the holder of an environmental authority issued for a standard or variation application which does not comply with the eligibility criteria from the activity to make a site-specific application for a new environmental authority or an amendment application;
  - (m) to ask any entity for advice, comment or information about an application made under Chapter 5 of the Act at any time.
5. To exercise the powers of the local government under Chapter 5A of the Act including, but without limitation, to apply to be a registered suitable operator for the carrying out of an environmentally relevant activity.
6. To exercise the powers of the local government under Chapter 7 of the Act (other than part 8) including, but without limitation, the following:
- (a) to require the holder of an environmental authority to commission an environmental audit or conduct or commission the audit itself;
  - (b) to conduct or commission an environmental investigation;
  - (c) to request further information needed to decide whether to approve an environmental report about an environmental investigation;
  - (d) to decide to accept or refuse to accept an environmental report;
  - (e) to require a person to propose and submit to it for approval, a draft transitional environmental program and decide whether to approve any submitted draft program;
  - (f) to decide any application for approval to amend a transitional environmental program;
  - (g) to decide an application for a temporary emissions licence;
  - (h) to give an environmental protection order;
  - (i) to give a clean-up notice;
  - (j) to give a cost recovery notice.
7. To exercise the powers of the local government under Chapter 7, part 8 of the Act in respect of the local government's status as the owner or occupier of premises, including, but without limitation to, the following:
- (a) advise, waive a requirement, request a waiver, provide further information, notify, apply and make submissions to the administering authority;
  - (b) conduct or commission or permit a site investigation;
  - (c) consent, conduct or commission remediation work;
  - (d) consent to the preparation, submission and amendment of a site management plan; and
  - (e) prepare, submit and amend a site management plan and draft amendment of a site management plan.
8. To exercise the powers of the local government under Chapter 9 of the Act including, but without limitation, to, if the administration and enforcement of a matter is devolved to a local government, appoint a person as an authorised person.

9. To exercise the powers of the local government under Chapter 11 of the Act including, but without limitation, the following:
  - (a) to act on behalf of the local government in commencing and responding to legal proceedings under the Act and the *Local Government Act 2009* to support the local government's powers and functions under the Act including, but without limitation, to the following:
    - (i) give instructions and act as the authorised agent for the local government;
    - (ii) effect substituted service; and
    - (iii) sign all documents for the local government; and
    - (iv) settling any issues in dispute.
  - (b) in respect of an original decision, to assess and decide an application for review of an original decision;
  - (c) keep and maintain all registers required to be kept under the Act and provide all annual reports; and
  - (d) negotiate agreements, give instructions and sign all documents for the local government to give effect to any agreement.
10. To exercise the powers of the local government under Chapter 12 of the Act.
11. To exercise the powers of the local government under Chapter 13 of the Act.

**Environmental Protection Regulation 2008**

12. To exercise the powers of the local government under the *Environmental Protection Regulation 2008 (Regulation)* including, but without limitation, the following:
  - (a) waste management for the local government area as outlined devolved to the local government;
  - (b) waste receipt and disposal to the extent it relates to a waste facility owned, operated or otherwise controlled by the local government.

**Delegation Criteria:**

13. The delegated officer may exercise the powers of the local government as outlined in the Act, Regulation and the *Local Government Act 2009*.

**Delegation Administrative Procedure:**

14. 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. performing the function or exercise the power in a way that best achieves the object of the Act under section 5).
15. 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*.
16. The delegated officer must make and keep a register of all instances of where this delegation has been exercised.

17. Unless compliance would be contrary to any law, compliance with the policies and codes of conduct of the local government must be achieved.