



Delegation No. C-035-2019
Version 3.0

DELEGATION AUTHORITY

DELEGATION NO.	C-035-2019 (v3.0)
DELEGATION TITLE:	Planning Scheme – Development Control Plan 1 – Kawana Waters – Approval of Precinct Estate Plan in Respect of Freehold Land and Site Development Plan
Delegation from Council to:	Chief Executive Officer
Date and Resolution No.	19 February 2004 OM04/40 16 August 2018 OM18/130 6 December 2018 OM18/205
Source of Authority:	<i>Local Government Act 2009 – Sections 257 and 259 Former Caloundra City Council Delegation 2004-14 2016-73 CEO Delegation</i>

Delegated Power:

1. Authority to:
 - (a) exercise Council's powers under Development Control Plan 1 – Kawana Waters to approve a Precinct Estate Plan and a Site Development Plan.
 - (b) approve any minor or administrative amendments resulting from the implementation of Master Plan No. 104 (Site Development Plan – Detailed Area 2-Precinct 8) 2018.
 - (c) decide future Site Development Master Plans for Precincts 5-7 and 9-16 of Detailed Planning Area 2 – Bokarina Beach.

Delegation Criteria:

2. The Delegated Officer may, in respect of an application made under Development Control Plan 1. Kawana Waters for approval of a Precinct Estate Plan or a Site Development Plan in relation to land in the developable area (other than land designated Town Centre, Detailed Planning Area 1, Detailed Planning Area 3, Detailed Planning Area 4, Detailed Planning Area 5 and Detailed Planning Area 9 and in the case of a Precinct Estate Plan, land within Development Lease No. 2):
 - (a) for the purposes of deciding the application, request the applicant to provide such further particulars as are necessary to determine the Precinct Estate Plan or the Site Development Plan pursuant to section 7.6.2 (Further particulars) of Development Control Plan 1. Kawana Waters; and
 - (b) decide the application pursuant to section 7.6.5 (Council's determination) of Development Control Plan 1. Kawana Waters; and

- (c) give written notice to the applicant and the Minister of the determination pursuant to section 7.6.6 (Notice of determination) of Development Control Plan 1. Kawana Waters.

Delegation Criteria:

The following procedure is to be undertaken for this delegation:

3. An application must be made by or on behalf of the applicant on the prescribed form and accompanied by the prescribed fee.
4. At the completion of the final draft assessment of the Precinct Estate Plan or Site Development Plan, a copy of the draft determination must be forwarded to the Mayor and the Divisional Councillor in whose electoral division the land is located.
5. The Mayor or the Divisional Councillor may, within two business days of the draft determination being forwarded pursuant to paragraph 2, forward a response to the Delegated Officer:
 - (a) advising that the Mayor and the Divisional Councillor have no objection to the Delegated Officer exercising the delegated power; or
 - (b) advising that the Mayor or the Divisional Councillor object to the Delegated Officer exercising the delegated power; or
 - (c) requesting further consideration of the proposed determination and outlining details of the further consideration requested.
6. Where a response from the Mayor or the Divisional Councillor is received pursuant to paragraph (3)(c), the Delegated Officer must:
 - (a) consider the request; and
 - (b) if the Delegated Officer agrees with the request:
 - (i) amend the draft determination; and
 - (ii) forward a copy of the revised draft determination to the Mayor and the Divisional Councillor.
7. The Mayor or the Divisional Councillor may, within two business days of the revised draft determination being forwarded pursuant to paragraph 4(b)(ii), forward a response to the Delegated Officer, advising that the Mayor and the Divisional Councillor:
 - (a) have no objection to the Delegated Officer exercising the delegated power; or
 - (b) object to the Delegated Officer exercising the delegated power.
8. The Delegated Officer may exercise the delegated power where:
 - (a) a response from the Mayor and the Divisional Councillor is not received within two business days of:
 - (i) the draft determination being forwarded pursuant to paragraph 2; or
 - (ii) the revised draft determination being forwarded pursuant to paragraph 4(b)(ii); or
 - (b) a response from the Mayor and the Divisional Councillor is received in accordance with paragraph 3(a); or

- (c) a response from the Mayor and the Divisional Councillor is received in accordance with paragraph 5(a).
9. The matter shall be referred to the Council where:
- (a) a response from the Mayor or the Divisional Councillor is received in accordance with paragraph 3(b); or
- (b) the Delegated Officer does not agree with a request pursuant to paragraph 3(c); or
- (c) a response from the Mayor or the Divisional Councillor is received in accordance with paragraph 5(b); or
- (d) the application relates to a development which has an estimated value of \$5 million or greater.
10. The Delegated Officer shall cause the applicant to be notified of the Delegated Officer's decision within the time specified in Development Control Plan 1. Kawana Waters.
11. The Delegated Officer shall ensure that the provisions of the Development Documents, as defined in the Development Agreement, are complied with in respect of the determination of the application.
12. The Delegated Officer shall, in respect of the determination of an application made under the Development Agreement in relation to land within Development Lease No. 2 which is made in conjunction with an application made under Development Control Plan 1. Kawana Waters in relation to Freehold Land, ensure compliance with:
- (a) Council Policy Statement - Kawana Waters - Application for Subdivision Approval in respect of Development Lease No. 2; and
- (b) Council Policy Statement - Kawana Waters - Application for Approval of Precinct Estate Plan in respect of Development Lease No. 2.

Delegation Limitations:

13. The delegated officer must not exercise any powers detailed within this delegation instrument that:
- (a) agree to or approve any matters that would fall within the scope of the *Industrial Relation Act 2016* or any Council/Chief Executive Officer policy¹ relating to industrial relation matters;
- (b) agree to or approve any variations to Chief Executive Officer and Council approved Full Time Establishment (this number captures all non - FTE positions) within any Branch/Group²;
- (c) agree to or approve any contracts or variations to contract terms and conditions regarding officers (above Level 8) employment;

¹ Reference to policies include all policies/protocols contained on Council's policy register and includes all strategic, organisational and Chief Executive Officer policies.

² Refer to delegation C-009-2017 (v3) HR Delegations to ensure compliance with Chief Executive Officer to officer delegated powers.

- (d) deviate and/or are inconsistent with any legislation, awards, certified agreements, Council policies³, Council's local laws, SCC Code of Conduct, Council Resolutions and Chief Executive Officer Directives;
- (e) commit Council and/or Council resources to initiatives that are not clearly detailed in Council's Corporate Plan, Operational Plan and Annual Budget;
- (f) commit Council to initiatives that do not comply with Council/Chief Executive Officer approved appropriation of funds as specified in the relevant financial year adopted budget;
- (g) agree to or approve any variations or changes to any Council/Chief Executive Officer policy⁴.

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).
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 record of all instances where this delegation has been exercised.
17. Unless compliance would be contrary to any law, compliance with Council/Chief Executive Officer policies⁵, the SCC Employee Code of Conduct, Council Resolutions and Chief Executive Officer Directives.

³ Reference to policies include all policies/protocols contained on Council's policy register and includes all strategic, organisational and Chief Executive Officer policies.

⁴ Same as 3 above.

⁵ Same as 3 above.