



DELEGATION OF AUTHORITY

DELEGATION NO:	2009-23 (V3.0)
DELEGATION TITLE:	Land
Delegation from Council to:	Chief Executive Officer
Date and Resolution No.:	
Delegation from the Chief Executive Officer to:	Date
Refer attached schedule	
Source of Authority: <i>Acquisition of Land Act 1967</i> <i>Land Act 1994</i> <i>Land Regulation 1995</i> <i>Land Title Act 1994</i> <i>Land Valuation Act 2010</i> <i>Local Government Act 2009</i> <i>Local Government Regulation 2012</i> <i>Integrated Planning Act 1997</i> <i>Sustainable Planning Act 2009</i> <i>Trust Act 1973</i> <i>Water Act 2000</i>	

Delegated Power:

1. To exercise the powers of the local government as a person¹, land owner, registered owner of a deed, trustee, lessee, licensee or permittee under the *Land Act 1994*, *Trust*

¹ Person – a separate legal entity, recognised by the law as having rights and obligations. An artificial person being an entity to which the law attributes personality e.g. a body of persons incorporated, or an

Act 1973, Land Regulation 1995, Land Title Act 1994, Acquisition of Land Act 1967 and all other relevant local government acts including, without limitation the following:

- (a) execute documents related to the following on behalf of the local government including:
 - i. certificates;
 - ii. agreements;
 - iii. licences and permits;
 - iv. commercial leases;
 - v. community and sporting ground leases;
 - vi. easement documents;
 - vii. covenants;
 - viii. survey plans (as land owner or trustee);
 - ix. land title documents;
 - x. applications;
 - xi. any documents originating from or pertaining to the scope of responsibility of the delegated officer.

2. To exercise the powers of the local government as a person, land owner, registered owner of a deed, trustee or lessee under the *Land Act 1994, Sustainable Planning Act 2009* (SPA) and the *Integrated Planning Act 1997*(IPA) including, without limitation the following:
 - (a) provide council's comments on land dealings; and
 - (b) provide "Land Owner's Consent" pursuant to statutory applications over council's owned or controlled land.

3. To exercise the powers of the local government as a person, land owner, registered owner of a deed, trustee or lessee under the *Land Act 1994* and *Land Regulation 1995* including, without limitation the following:
 - (a) exercise the right of access, right of grazing and bring action against a person who trespasses under section 13A of the *Land Act 1994*.;
 - (b) make an appeal;
 - (c) enter into an agreement;
 - (d) exchange all or part of the term of a lease;
 - (e) apply to the Governor in Council;
 - (f) apply to the chief executive;
 - (g) agree to the Minister;
 - (h) occupy a forest entitlement area;
 - (i) buy a forest entitlement area;
 - (j) apply to the Minister;
 - (k) make a submission;

unincorporated body recognised by law as a person. *Australian Legal Dictionary, Butterworths, LexisNexis*

- (l) consult with and ask the Minister;
 - (m) make an application;
 - (n) remove or carry out improvements (with Minister's approval where required);
 - (o) accept appointment as trustee;
 - (p) advise the chief executive of change in details;
 - (q) comply with Minister;
 - (r) maintain and manage trust land;
 - (s) surrender all or part of a deed of grant;
 - (t) lease all or part of the trust land;
 - (u) seek Minister's approval;
 - (v) transfer, mortgage and sublease;
 - (w) issue and lodge a permit;
 - (x) seek consent;
 - (y) cancel a lease or permit;
 - (z) wind up a trust;
 - (aa) repair or remove structures, monuments or tombstones from a cemetery on trust land;
 - (bb) take on trusteeship and agree to terms of the transfer;
 - (cc) exhume a body from a cemetery;
 - (dd) take action required under a remedial notice;
 - (ee) give notice of intention;
 - (ff) surrender land;
 - (gg) start proceedings in a magistrates court; and
 - (hh) agree to the allocation or dedication of land from the State.
4. To exercise the powers of the local government under the *Acquisition of Land Act 1967* and the *Land Act 1994* including, without limitation the following:
- (a) act as council's delegate to hear grounds of objection to taking of any land (including an easement) and to report on the hearing convened in that regard;
 - (b) act as council's delegate to settle compensation claims for amounts no greater than the delegated officers approved financial delegation or by council resolution;
 - (c) issue and serve a Notice of Intention to Resume following a council resolution proposing to take land (including an easement) under the Act;
 - (d) assess and decide an application for an advance on compensation and subject to being satisfied as to the claimant's entitlement to pay an advance pursuant to s. 23 of the Act;
 - (e) apply to the Minister to take land (including an easement) following a council resolution that the land is required.
5. To exercise the powers of the local government to acquire land to widen a road under the *Local Government Act 2009*, *Local Government Regulation 2012* and *Acquisition of Land Act 1967* including, without limitation the following:

- (a) give the owner of the land a notice of intention to acquire land to widen a road (including an easement);
 - (b) lodge a notice with the Registrar of titles;
 - (c) claim, assess and pay compensation;
 - (d) acquire land (including an easement);
 - (e) serve a notice of decision;
 - (f) withdraw a notice of decision; and
 - (g) decide any other information considered appropriate for the inclusion in a land record.
6. Sign all documents as a person, land owner, registered owner of a deed, trustee or lessee under *the Local Government Act 2009, Trust Act 1973, Land Act 1994, Land Regulation 1995, Acquisition of Land Act 1967, Land Title Act 1994, Sustainable Planning Act 2009* and the *Integrated Planning Act 1997* on behalf of Council pursuant to section 236, 257 and section 259 of the *Local Government Act 2009*.
7. The authority to acquire and dispose of land in accordance with a council approved capital works program or land acquisition and/or disposal program (where the land acquisition or disposal has been identified within the specific program).
8. The authority to settle compensation claims on behalf of council, where council has been served with notice of intention to resume council land or an interest in council land (e.g. easements).
9. The power to consult with the Valuer-General about an annual valuation of land under the *Land Valuation Act 2010*.
10. To exercise the powers of the local government under the *Local Government Act 2009*, including, without limitation 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;
 - (ii) effect substituted service; and
 - (iii) sign all documents for the local government.
11. To exercise the powers of the local government under the *Trust Act 1973* including, without limitation the following:
 - (a) where appointed trustee for certain purposes, to administer trust property.
12. To act as council's representative to exercise all the powers as a committee member on a body corporate established under the *Body Corporate and Community Management (Accommodation Module) Regulation 2008, Body Corporate and Community Management (Commercial Module) Regulation 2008, Body Corporate and Community Management (Small Schemes Module) Regulation 2008, Body Corporate and Community Management (Standard Module) Regulation 2008* (the Regulations) and the *Body Corporate and Community Management Act 1997* without limitation.

Delegation Criteria:

13. The delegated officer may exercise the powers of the local government in relation to the powers delegated in paragraph 7 and 8 of this delegation subject to the following:
 - (a) the acquisition on disposal of land is undertaken in accordance with the requirements of the *Local Government Regulation 2012*; and
 - (b) a valuation has been obtained from a Queensland registered valuer; and
 - (c) where financial settlement of the land is greater than 10% of the value assessed by the valuer then reasons for the agreed settlement amount must be documented in the official Council file.

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 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.