

## DELEGATION OF AUTHORITY

**TITLE:** Building Services

**Delegation by Council to:**  
Chief Executive Officer

**Council Resolution date:**

**Delegation from Chief Executive Officer to:**

**Date approved:**

**Source of Authority:**

*Local Government Act 2009 – 257 and 259*  
*Building Act 1975*  
*Sustainable Planning Act 2009*  
*Sustainable Planning Regulation 2009*

### Delegated Power:

1. To exercise the following powers of the Council under the *Building Act 1975 (the Act)*, *Sustainable Planning Act 2009 (SPA)* and the *Sustainable Planning Regulation 2009* including without limitation the authority to:
  - (a) perform building certifying functions;
  - (b) receive, assess and decide building development applications under IDAS with or without conditions;
  - (c) appoint or employ a building certifier;
  - (d) issue a building development approval; and
  - (e) release security;
  - (f) consult with private certifiers;
  - (g) grant, refuse, use or provide concessional approval for BCA classification change or use change;
  - (h) take enforcement action;
  - (i) approve the use of a building for residential purposes<sup>1</sup>;
  - (j) give a building certificate of classification if built before the 30 April 1998;
  - (k) give a show cause notice to a building certifier;
  - (l) consider any representations made under the show cause notice;
  - (m) apply to the QCAT<sup>2</sup> to start a disciplinary proceeding against a building certifier; and

<sup>1</sup> Other than a class 1,2,3 or 4 building for residential purposes

<sup>2</sup> Queensland Civil and Administrative Tribunal

(n) notify the Queensland Building Services Authority (BSA) with

regards to an application to QCAT.

2. To exercise the powers of the Council under the Act with respect to building works under section 65, section 87, section 92(2) and section 93(1).
3. To exercise the following powers of the Council under the Act with respect to budget accommodation buildings, including without limitation the authority to:
  - (a) consult with any other entity
  - (b) grant an application for a longer period of conformity with the fire safety standard with or without conditions;
  - (c) refuse an application; for a longer period of conformity with the fire safety standard
  - (d) on written application<sup>3</sup> from the owner, decide and give notice if the building conforms with the fire safety standard; and
  - (e) inspect budget accommodation buildings.
4. To exercise the powers of the Council under the Act with respect to residential care buildings including without limitation the authority to approve an application with or without conditions, for a later day to obtain a fire safety certificate or certificate of classification
5. To exercise the following powers of the Council under the Act with respect to pool safety standards, including without limitation the authority to:
  - (a) determine all applications in respect of exemption from complying with swimming pool fencing standards (with or without conditions);
  - (b) give a show cause notice about revoking an existing exemption;
  - (c) consider representations made under a show cause notice and give a further notice<sup>4</sup> to the applicant;
  - (d) make copy of exemption available for inspection and purchase;
  - (e) as owner of adjoining land, the authority to exercise the powers under the Act relating to pool barriers along the common boundary under section 245XG(1), 245XN(2), 245XS(1), 245XS(3) and 245XV(2);
  - (f) where the local government receives for a regulated pool a (a) notice of pool immersion incident under section 245I of the Act or (b) a pool safety complaint notice or a (c) notice under section 245UA under the Act the authority to:
    - I. inspect a regulated pool for compliance; and
    - II. take necessary enforcement action to ensure a pool is compliant with pool safety standards or fencing standards for the pool;
  - (g) cancel a pool safety certificate for a regulated pool;
  - (h) give a show cause notice about cancelling a pool safety certificate;
  - (i) consider submissions and decide whether to cancel a pool safety certificate;

<sup>3</sup> Within 20 business days after receiving the application.

<sup>4</sup> Revocation Notice

- (j) extend the time for an owner of a swimming pool to comply with the Act<sup>5</sup>;

and

- (k) appoint or employ a pool safety inspector.
7. To exercise the powers of the Council under the Act to designate land as a transport noise corridor by gazette notice.
8. To exercise the following powers of the Council with respect to offences made under the Act, including without limitation the authority to:
- (a) give a show cause notice;
- (b) give an enforcement notice; and
- (c) make a complaint for an offence made under section 256 (2)<sup>6</sup>.
9. To exercise the powers of the Council to conduct and resolve legal proceedings for breaches of the Act and *Sustainable Planning Act 2009*.

#### Delegated Criteria:

10. The Delegated Officer may exercise the powers delegated only in accordance with the relevant provisions outlined in the Act and *Sustainable Planning Act 2009* and regulations.
11. The Delegated Officer may conduct and resolve legal proceedings in relation to the powers delegated in paragraph 9 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:

12. The following procedure is to be undertaken for this delegation in accordance with the powers delegated:
- (a) Delegated Officers should consider the impacts of any obligations and contractual responsibilities being imposed on council as a result of exercising the powers in this delegation;
- (b) The Delegated Officer must act impartially and consider any potential conflicts of interest when exercising this delegation; and
- (c) The Delegated Officer must follow lawful and fair procedures, gather information relevant to any decision and give procedural fairness to ensure due process is followed when exercising this delegation.

<sup>5</sup> Only where an extension under section 49H(11)(b) of the *Local Government Act 1936* is still in force.

<sup>6</sup> Other than 256(2)(a), (b), (c)(i) and (j).



**Delegation No:** 2009-20  
Version: (3)