



DELEGATION OF AUTHORITY

DELEGATION NO:	2009-20 (V4.0)
DELEGATION TITLE:	Building
Delegation from Council to:	Chief Executive Officer
Date and Resolution No.:	
Delegation from the Chief Executive Officer to: Refer attached schedule	Date
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> <i>Residential Services (Accreditation) Act 2002</i>	

Delegated Power:

1. To exercise the following powers of the local government under the *Building Act 1975 (the Act)*, *Sustainable Planning Act 2009 (SPA)* and the *Sustainable Planning Regulation 2009 (the Reg)* including, but without limitation the following:
 - (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 purposes¹;
 - (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 QCAT² to start a disciplinary proceeding against a building certifier;
 - (n) notify the Queensland Building and Construction Commission (QBCC) with regards to an application to QCAT; and
 - (o) authorise an officer to enter a building or structure and remove all persons found there.
2. To exercise the powers of the local government 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 local government under the Act with respect to budget accommodation buildings, including, but without limitation the following:
- (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 application³ 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 local government 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 powers of the local government under the Act, on an application by the owner of an RCB for a later day to obtain a fire safety compliance certificate or certificate of classification including, but without limitation the following:
- (a) consult on the application;
 - (b) decide the application;
 - (c) impose conditions on the grant of an application; and
 - (d) give an information notice about the decision.

¹ Other than a class 1,2,3 or 4 building for residential purposes

² Queensland Civil and Administrative Tribunal

³ Within 20 business days after receiving the application.

6. To exercise the following powers of the local government under the Act with respect to pool safety standards, including, but without limitation the following:
- (a) determine all applications in respect of exemption from complying with swimming pool fencing standards (with or without conditions);
 - (b) require further information for an application for an exemption from complying with swimming pool fencing standards;
 - (c) give a written notice;
 - (d) give an information notice;
 - (e) give the chief executive a notice;
 - (f) give a show cause notice about revoking an existing exemption;
 - (g) consider representations made under a show cause notice and give a further notice¹ to the applicant;
 - (h) make copy of exemption available for inspection and purchase;
 - (i) 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);
 - (j) 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;
 - (k) cancel a pool safety certificate for a regulated pool;
 - (l) give a show cause notice about cancelling a pool safety certificate;
 - (m) consider submissions and decide whether to cancel a pool safety certificate;
 - (n) extend the time for an owner of a swimming pool to comply with the Act²; and
 - (o) appoint or employ a pool safety inspector.
7. To exercise the powers of the local government under the Act to designate land as a transport noise corridor by gazette notice.
8. To exercise the following powers of the local government with respect to offences made under the Act, including, but without limitation the following:
- (a) give a show cause notice;
 - (b) give an enforcement notice; and
 - (c) make a complaint for an offence made under section 256 (2)³.

¹ Revocation Notice

² Only where an extension under section 49H(11)(b) of the *Local Government Act 1936* is still in force.

³ Other than 256(2)(a), (b), (c)(i) and (j).

9. To act on behalf of the local government in legal proceedings under the *Local Government Act 2009* including, but without limitation the following:
 - (a) give instructions and act as the authorised agent for the local government;
 - (b) effect substituted service; and
 - (c) sign all documents for the local government.
10. To exercise the powers of the local government under the *Residential Services (Accreditation) Act 2002* including, but without limitation the following:
 - (a) on application by a person conducting, or proposing to conduct, a residential service in premises, to assess and determine whether a building complies with the prescribed building requirements;
 - (b) issue a building compliance notice;
 - (c) approve the form to be used for an application; and
 - (d) issue a notice stating the extent to which the premises comply with the prescribed building requirements.

Delegation Criteria:

11. The delegated officer may only exercise the powers of the local government as delegated under this delegation in accordance with the relevant provisions as outlined in the Act, SPA, the Reg and the *Local Government Act 2009*.

Delegation Administrative Procedure:

12. 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).
13. 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*.
14. The delegated officer must make and keep a register of all instances of where this delegation has been exercised.

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