

## PLANNING ACT 2016

**Date of Council Resolution:** 30 May 2017

**No. of Resolution:** 5

**Committee Reference and Date:** Planning and Development Heritage Committee No. 2017(05) of 23 May 2017 – Council Ordinary Meeting 30 May 2017

### Relevant Legislation:

Section 257(1) of the *Local Government Act 2009*  
*Planning Act 2016*

**Delegated to:** Chief Executive Officer

**Relationship to Act:** [This instrument is made under s257 of the \*Local Government Act 2009\*.](#)

### Power Delegated:

The power to exercise any and all of Council's powers and functions, or a power or function that Council may elect to exercise, however described (e.g, “applicant”, “assessing authority”, “assessment manager”, “building advisory agency”, “decision-maker”, “designator”, “enforcement authority”, “local government”, “public sector entity”, “referral agency” (including as any “concurrence agency” or “advice agency”), “responsible entity” or “submitter”) under the *Planning Act 2016* and any subordinate legislation and statutory instrument made under that Act.

### Delegation requirements

1. The Delegate must:

- (a) keep a record of all decisions made by the exercise of a delegated power at the time of decision in such format as, and be kept on record as, determined by the Chief Executive Officer from time to time;
- ~~(a) keep a record of, and give notice of, all decisions made by the exercise of a delegated power required by paragraphs 2 to 4 3 below;~~
- (b) where applicable, undertake the consultation process identified in paragraphs 5 to 14 below for the exercise of any delegated power~~undertake any actions required by the Policy titled ‘Framework for Development Applications and Related Activities’.~~;
- ~~(c) in the event of any inconsistency between a condition or requirement of this delegation and another delegation, exercise any delegated power as required by this delegation to the extent of the inconsistency and the application of this delegation.~~

### ~~Record keeping and notice of decision~~

- ~~2. The following paragraphs apply to the Delegate in addition to requirements to give or otherwise deal with decision notices or related documents in the Planning Act 2016.~~
- ~~3. A written record of each delegated decision must be made by the Delegate at the time of decision in such format as, and be kept on record as, determined by the Chief Executive Officer from time to time.~~
- ~~4. The Mayor, the Chairperson of the Planning, Development and Heritage Committee and the relevant divisional Councillor must be notified of the Delegate exercising any power to issue a Show Cause Notice or an Enforcement Notice within one (1) business day of the date the relevant notice is given.~~

### **Consultation process**

- ~~5. Prior to the exercise of a delegated power to determine a Development Assessment Decision the Delegate must:~~
  - ~~(d) consult with and seek the views of the Chairperson of the Planning, Development and Heritage Committee and the relevant divisional Councillor about the Development Assessment Decision;~~
  - ~~(e) forward a copy of the consultation to the Mayor for information; and~~
  - ~~(f) forward a copy of the consultation to the relevant adjoining divisional Councillor where a Development Assessment Decision relates to land within 50 metres of a divisional boundary line.~~
- ~~6. All consultation shall be generally in accordance with any established consultation procedure.~~
- ~~7. The Delegate is authorised to exercise the delegated power to determine a development application if the Chairperson of the Planning, Development and Heritage Committee and the relevant divisional Councillor:~~
  - ~~(a) responds to the effect that he or she has noted the proposed exercise of the delegated power; or~~
  - ~~(b) does not respond within the time specified in any established procedure adopted to deal with the determination of a Development Assessment Decision; or~~
  - ~~(c) responds to the effect that he or she declares a material personal interest in the matter; or~~
  - ~~(d) responds to the effect that he or she declares a conflict of interest in the matter; or~~
  - ~~(e) responds, but not in accordance with any established procedure adopted to deal with the determination of development applications.~~
- ~~8. The Delegate must:~~

- ~~(a) not exercise a delegated power if the Chairperson of the Planning, Development and Heritage Committee or the relevant divisional Councillor gives the Delegate notice that the matter must be referred to the Planning, Development and Heritage Committee for its consideration and recommendation to Council for the making of the decision by Council.~~
- ~~(b) if paragraph 8(a) applies, refer the matter to the Planning, Development and Heritage Committee as soon as practicable.~~
- ~~9. Paragraphs 7 and 8 above are subject to or modified by (as the circumstances may require) paragraphs 10 to 14 below.~~
- ~~10. Despite paragraph 8, the Delegate may exercise the delegated power if at any time prior to a Council decision on the matter any notice given pursuant to paragraph 8(a) is withdrawn by the person who gave the notice and the Chairperson of the Planning, Development and Heritage Committee and the relevant divisional Councillor have provided a response that satisfies paragraph 7(a).~~
- ~~11. Where the Chairperson of the Planning, Development and Heritage Committee is also the relevant divisional Councillor, the delegate shall consult with the Deputy Chairperson of the Planning, Development and Heritage Committee in place of the Chairperson of the Planning, Development and Heritage Committee.~~
- ~~12. In the event that the relevant divisional Councillor is absent or is temporarily incapacitated he or she may nominate an alternative Councillor for the delegate to consult with, or elect not to be consulted during this time. The delegate shall consult with any alternative nominated Councillor in place of the relevant divisional Councillor.~~
- ~~13. Where a divisional Councillor vacates office the delegate must consult with the Deputy Chairperson of the Planning, Development and Heritage Committee in his or her place until a new Divisional Councillor's term starts in accordance with section 159 of the *Local Government Act 2009*.~~
- ~~14. Where an Development Assessment Decision may become a deemed approval prior to the next Council meeting, and despite any other paragraph, the Delegate shall consult with the Chairperson of the Planning, Development and Heritage Committee, the Deputy Chairperson of the Planning, Development and Heritage Committee, the Mayor and the relevant Divisional Councillor to seek their views about the matter. Where the Chairperson and at least one other Councillor notes the proposed exercise of the delegated power, it may be exercised.~~

## **Definitions**

- ~~15. **Development Assessment Decision** means any decision relating to a matter under Chapter 3 of the *Planning Act 2016* and excludes a decision about a Minor Development Matter.~~

**16. ~~Minor Development Matter~~ means:**

- ~~(a) assessable development that is operational work, building work, plumbing or drainage work or any combination of such development;~~
- ~~(b) any application which is unlikely to cause a substantial impact on the amenity of nearby land, and which involves building work not associated with a material change of use, such as a minor boundary setback variations and minor alterations or additions to character places or the erection of carports or outbuildings;~~
- ~~(c) minor building work; or~~
- ~~(d) a minor amendment, variation or alteration to a development approval which is unlikely to cause a substantial impact on the amenity of nearby land.~~