

	D140 - DEVELOPMENT ACT DELEGATIONS	Version No:	4
		Issued:	19 th September, 2017
		Next Review:	February 2019

1. INTRODUCTION

This policy is established pursuant to Section 34(27) of the Development Act 1993 (“the Act”).

Under the Act and the Development Regulations 2008 (“the Regulations”), the City of Mount Gambier (“the Council”) is responsible for the management of most development within its area.

Under Section 34(23) of the Act the Council is *required* to delegate all of its powers and functions as a relevant authority, with respect to determining whether or not to grant development plan consent under the Act. This means, that Council’s *development assessment* functions must be exercised by a person (e.g. an officer of Council) or body (e.g. the Council Assessment Panel) that has been given delegated authority by the Council.

The Council therefore delegates its development assessment powers and functions, under the Act and the Regulations, to other persons or bodies.

2. DELEGATIONS

- (a) Council will make the various delegations required by Section 34(23) of the Act.
- (b) Section 20 of the Act determines Council’s power to delegate its development assessment powers and functions under the Act and states:

“(1) ... a council, may delegate a power or function vested or conferred under this Act.

(2) A delegation -

(a) may be made—

(i) to a particular person or body; or

(ii) to the person for the time being occupying a particular office or position; or

(iii) to a subsidiary established under the Local Government Act 1999; and...

(c) may be made subject to conditions and limitations specified in the instrument of appointment; and

(d) subject to any other provision of this Act or the regulations, is revocable at will and does not derogate from the power of the delegator to act in a matter; and

(3) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.”

- (c) Section 34(23) of the Act states:

“A council must delegate its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent under this Act to -

(a) its council development assessment panel; or

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(b) *a person for the time being occupying a particular office or position (but not including a person who is a member of the council); or*

(c) *a regional development assessment panel (if such a delegation is consistent with the extent to which the panel may act under the provisions of the regulations constituting the panel and in addition to the operation of subsection (1)(ab)).*

(c) Council delegates all of its powers and functions under the Act and Regulations to the Chief Executive Officer of the Council (“the CEO”). The Council also empowers the CEO to sub delegate those powers and functions to other Council officers.

(d) Council also delegates its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent (“the development assessment powers and functions”) to the City of Mount Gambier Council Assessment Panel (“the CAP”) established under Section 83 of the Planning, Development & Infrastructure Act 2016.

The CAP delegations are set out in Schedule I of Appendix 21 (Delegations made under the Development Act 1993) of Council’s Delegation Register.

(e) Where the CAP, the Chief Executive Officer and sub-delegates share the same delegated powers and functions, a determination on a development application may only be made by one delegate. Accordingly, it is the policy of this Council that:

i. Where the CAP, the Chief Executive Officer and sub-delegates share the same delegated powers and functions, the sub-delegate or Chief Executive Officer will, subject to (ii), exercise the delegated power or function.

ii. The Chief Executive Officer or General Manager City Growth will refer any development application to the CAP for determination in the following circumstances:

a) where an application has been publicly notified and representations received; or

b) where the Chief Executive Officer or General Manager City Growth consider in the circumstances that determination by the CAP is warranted.

3. REVIEW AND EVALUATION

This Policy is scheduled for review by Council in February 2019; however, will be reviewed as required by any legislative changes which may occur.

4. AVAILABILITY OF POLICY

This Policy will be available for inspection at Council’s principal office during ordinary business hours and on the Council’s website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council’s Schedule of Fees and Charges.

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File Reference:	AF11/1746, AF11/1020, AF14/108
Applicable Legislation:	Local Government Act 1999 Development Act 1993 Planning, Development & Infrastructure Act 2016
Reference: Strategic Plan – Beyond 2015	
Related Policies:	
Related Procedures:	Council Assessment Panel Terms of Reference Council Assessment Panel Procedures
Related Documents:	City of Mount Gambier Delegations Register Sub-Delegation Register Instrument of sub-delegation, Appendices & Schedule

DOCUMENT DETAILS

Responsibility:	Manager Governance and Property
Version:	4.0
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