

<b>Policy Number:</b>	<b>8.4</b>
<b>Policy Name:</b>	<b>Development Delegations</b>
<b>Classification:</b>	<b>Public – Council Policy</b>
<b>Adopted:</b>	<b>5 May 2015</b>
<b>Frequency of Review:</b>	<b>Biennial</b>
<b>Last Review:</b>	<b>May 2015</b>
<b>Next Review Due:</b>	<b>May 2017</b>
<b>Responsible Officer(s):</b>	<b>Manager, Economic Development, Regulatory Services and Communications</b>
<b>Policy and Code of Practice Manual File Ref:</b>	<b>CC10/2601</b>
<b>Council File Reference:</b>	<b>CR15/8505</b>
<b>Legislation Authority:</b>	<b>Development Act 1993 (SA) Development Regulations 2008 (SA)</b>
<b>Related Policies and Codes:</b>	<b>N/A</b>
<b>Related Procedures:</b>	<b>N/A</b>

## 1. BACKGROUND

- 1.1 The Council is a 'Relevant Authority' under the *Development Act 1993 (SA)* (**Act**), and accordingly has various functions and responsibilities in relation to the planning system in South Australia.
- 1.2 In the interests of transparency, Sections 34(23),(24) of the Act prevent the elected body of the Council from determining whether or not to grant development plan consent to an application. Rather, the Council must delegate all powers and functions relating to such determinations to administrative officers (which does not include council members) and/or its Council Development Assessment Panel (**CDAP**) (which has a majority of 'independent' members, i.e. members who are neither council members nor council officer). This legislatively required delegation minimises the potential for political influence in the determination of applications under the Act.
- 1.3 Section 34(27) of the Act requires that Council establish a policy relating to the basis upon which it will make the various required delegations. Accordingly, relevant principles relating to such delegations are set out below.

## 2. PRINCIPLES

- 2.1 In the case of development assessment, there are many applications which are “complying” in nature and must be granted planning consent within limited timeframes as prescribed in the *Development Regulations 2008 (SA)*, while there are others which are simple. Thus the majority of development applications are managed and determined by authorised Council officers under delegation except for those applications where officers decline to use their delegated powers and instead refer them to the CDAP for determination.
- 2.2 More complex development matters and those involving public notification issues where applicants/respondents wish to be heard are dealt with by the CDAP, which is a more appropriate forum for such proceedings.
- 2.3 Delegations from the Council to the administration are made to the Chief Executive Officer, who will then sub-delegate these powers to persons for the time being occupying particular offices or positions, unless specifically prohibited from doing so by legislation. In accordance with Section 34(26), of the Act all staff who exercise delegated powers are responsible to the Chief Executive Officer for the exercise of these powers.
- 2.4 It is also recognised that certain principles must be enacted to ensure the effective operation of a Council’s delegations. These are:
  - 2.4.1 The use of delegations involves a two way process involving CDAP members and staff providing feedback on the operation of the delegations.
  - 2.4.2 There is to be sufficient and thorough consultation between Council’s staff, those likely to be affected by the decision, and where warranted, with the CDAP.
  - 2.4.3 The Council’s staff must keep an adequate record of the circumstances leading to the use of the delegated powers and of the decision made, the extent of recording to have regard to the relative importance of the decision.
  - 2.4.4 In areas of complexity, or in a highly technical situation, consideration should be given to the need to obtain other specialist input or views.

## 3. DELEGATION CONDITIONS

- 3.1 All powers and functions of the Council under the Act shall be delegated to the Chief Executive Officer. The Chief Executive Officer may then sub-delegate those powers to appropriate planning staff, with appropriate conditions and limitations being placed upon such sub-delegations.
- 3.2 All applicable powers and functions of the Council relevant to the determination of whether to grant development plan consent under the Act will be delegated to the CDAP, with appropriate conditions and limitations being placed upon such delegation.

- 3.3 Conditions and limitations placed upon delegations will be directed towards achieving the following division of responsibility:
- 3.3.1 The CDAP shall deal with the following matters:
- 3.3.1.1 All Category 2 and Category 3 development applications where a representor wishes to be heard in support of their representation or where planning matters raised by a representation have not been resolved.
- 3.3.1.2 Any application for consent to undertake tree-damaging activity to a Significant Tree, or a Regulated Tree as defined under the Development Act, and the tree is not considered an urgent safety risk (thus meeting the requirements of Section 54a of the *Development Act 1993*) but excluding:
- 3.3.1.2.1 Regulated or Significant Trees in a Rural or Rural Living Zone; and
- 3.3.1.2.2 In all other zones, where Council's consultant arborist provides a written report stating that the tree is suitable for removal and having assessed relevant tree management options, has satisfactorily demonstrated that there are no reasonable tree management options available to allow the tree to be appropriately maintained for a life expectancy of more than 10 years.
- 3.3.1.3 An application for consent for major commercial/industrial development (being developments where the proposed building floor area of additional retail, office or other commercial/industrial usage exceeds 500 square metres
- 3.3.1.4 An application for consent for land division (including in relation to a division of land under the *Community Titles Act 1996* or the *Strata Titles Act 1988*) creating 5 or more additional residential allotments within a Residential Zone, Special Uses, Deferred Urban, Rural or Rural Living Zone.
- 3.3.1.5 An application for consent for land division where one or more "Significant or Regulated" Trees as defined under the Development Act are present on the land that is the subject of the application for consent but not where the tree base is more than 10 metres from the boundary of any proposed allotment.
- 3.3.1.6 Any form of development which the Manager Economic Development, Regulatory Services and Communications deems would be more appropriately considered by the Council Development Assessment Panel.
- 3.3.2 Officers shall not deal with the matters set out at paragraph 3.3.1 of this Policy but shall deal with all other matters.

- 3.4 The following shall be subject to the written consent of and endorsement by the Chief Executive Officer
- 3.4.1 The rescission (or partial rescission) of Land Management Agreements and where applicable, the entering into an associated 'Deed of Rescission', where the landholders obligations have been satisfactorily met and written evidence of such provided to the Chief Executive Officer.
- 3.4.2 The approval of amendments, and where applicable, the entering into a 'Supplementary Land Management Agreement', for matters deemed by the Chief Executive Officer to be minor and inconsequential to the intent of the Land Management Agreement.
- 3.4.3 The power to agree to the lodgement of ancillary documentation (easements, encumbrances, mortgages) at the Lands Titles Office by landholders.
- 3.4.4 The ability to agree to enter into and endorse Land Management Agreements relating to the following:
- i. The protection of trees/landscaping on a site.
  - ii. The requirement for acoustic attenuation measures on a site.
  - iii. Affordable Housing provision.
- (N.B. all other Land Management Agreements must be reported to Council for a decision)*
- 3.5 An instrument of delegation or sub-delegation prevails where inconsistent with the above.

#### **4. REVIEW AND EVALUATION**

The effectiveness of this Policy will be reviewed on a biennial basis.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

#### **5. FURTHER INFORMATION**

Further information about this Policy can be obtained by:-

Telephone: 8522 9211  
Fax: 8522 9212  
Email: [council@gawler.sa.gov.au](mailto:council@gawler.sa.gov.au)  
Appointment: Town Hall, 89 – 91 Murray Street, Gawler  
Letter: PO Box 130, Gawler SA 5118

#### **6. AVAILABILITY OF POLICY**

The Policy is available for inspection during ordinary business hours at the Council principal office, Gawler Town Hall or Library Council Offices, 89 – 91 Murray Street, Gawler or is available on the Council website at [www.gawler.sa.gov.au](http://www.gawler.sa.gov.au).

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.