

Environmental Planning and Assessment Act 1979 Instrument of Delegation for Plan-making, Approval and Concurrence Functions (Secretary) February 2023

Under the *Environmental Planning and Assessment Act 1979*.

I, Michael Cassel, Secretary of the Department of Planning and Environment, under section 2.4 of the *Environmental Planning and Assessment Act 1979*, make the following Instrument of Delegation.

Dated this 23 day of February 2023



Michael Cassel

Secretary of the Department of Planning and Environment

Environmental Planning and Assessment Act 1979 Instrument of Delegation for Plan-making, Approval and Concurrence Functions (Secretary) February 2023

under the

Environmental Planning and Assessment Act 1979.

1. Name

This Instrument is the *Environmental Planning and Assessment Act 1979* Instrument of Delegation for Plan-making, Approval and Concurrence Functions (Secretary) February 2023.

2. Commencement

This Instrument commences on the day on which it is signed.

3. Interpretation

1. A reference in this Instrument to:
 - (a) a Secretary, Deputy Secretary, General Counsel, Executive Director, Director, Team Leader, Manager, Specialist Planning Officer, Senior Planning Officer or Planning Officer includes a reference to any person who is temporarily assigned to the role of Secretary, Deputy Secretary, General Counsel, Executive Director, Director, Team Leader, Manager, Specialist Planning Officer, Senior Planning Officer or Planning Officer, respectively, in the Department of Planning and Environment, and
 - (b) a Secretary, Deputy Secretary, General Counsel, Executive Director or Director includes a reference to any person employed in senior executive band 4, senior executive band 3, senior executive band 2 or senior executive band 1 (within the meaning of the *Government Sector Employment Act 2013*), respectively, in the Department of Planning and Environment.
2. Unless otherwise defined in this Instrument, words and expressions that are defined in an Act, Regulation, State environmental planning policy or local environmental plan have the same meaning in this Instrument.
3. Unless otherwise specified, a reference to an Act includes a reference to the Act as it exists from time to time and any regulations or instruments under that Act.

4. Delegate levels are as follows:

Delegate Level	Role
A	Deputy Secretary
B	Executive Director
C	Director
D	Manager, Team Leader and Specialist Planning Officer
E	Senior Planning Officer
F	Planning Officer

4. Delegation of functions

1. I, **Michael Cassel**, Secretary of the Department of Planning and Environment, **delegate** the exercise of the statutory functions conferred or imposed under the section, clause or provision of an Act, Regulation, State environmental planning policy or local environmental plan as set out in Schedule 1 to this Instrument to the officers of the Department of Planning and Environment holding the positions or having the roles identified in the manner detailed in that Schedule.
2. If a statutory function has not been delegated in this Instrument, only the Secretary can exercise that function.

5. Revocation

1. The *Environmental Planning and Assessment Act 1979 Instrument of Delegation for the Secretary's Plan-making, Approval and Concurrence Functions* signed by the Secretary of the Department of Planning and Environment on 31 March 2022 is revoked.
2. The *Secretary's Delegation of Plan-making, Approval and Concurrence Functions Protocol* signed by the Secretary of the Department of Planning and Environment on 31 March 2022 is revoked.

Note: Schedule 1 follows.

1. Schedule 1

Note: A reference to an Act, Regulation or instrument in a delegated function listed in the Tables below is a reference to the Act, Regulation or instrument set out in full in the heading immediately preceding the relevant delegated function.

Environmental Planning and Assessment Act 1979

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
1.	2.2(3)	My functions in respect of providing advice, recommendations and reports to the Minister under section 2.2(3) of the Act.	Yes	Yes	No	No	No	No
2.	3.25	My functions in respect of threatened species consultation under section 3.25 of the Act.	Yes	Yes	Yes	No	No	No
3.	3.36(1)	My functions in respect of arranging the drafting of any required local environmental plan to give effect to the planning proposal under section 3.36(1) of the Act.	Yes – and includes General Counsel	Yes	Yes	Yes	Yes	Yes
4.	3.36(1)	My functions in respect of consulting with the relevant planning authority, in accordance with the regulations, on the terms of a draft local environmental plan under section 3.36(1) of the Act.	Yes	Yes	Yes	Yes	Yes	Yes

Environmental Planning and Assessment Regulation 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
5.	18(2)	My functions in respect of requesting, pursuant to section 18(2) of the Regulation, the owners who are submitting a development control plan to provide such additional information as is considered necessary for the purposes of making the plan.	Yes	Yes	Yes	Yes	Yes	No

Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
6.	3.43 of the Act; Pt 2, Div. 2 of the Reg	My functions as a relevant planning authority under section 3.43 of the Act in relation to the preparation and making of development control plans, including my functions in Division 2 of Part 2 of the Regulation.	Yes	Yes	Yes	No	No	No
7.	3.44 of the Act; Pt 2 of the Reg	My functions as a relevant planning authority under section 3.44 of the Act to make (including with such changes as the authority thinks fit) or refuse to make a development control plan, including such of my functions in Part 2 of the Regulation that relate to the making or refusal to make the development control plan (including, for example, section 19(1) of the Regulation).	Yes	Yes	Yes	No	No	No

Environmental Planning and Assessment Act 1979 and a local environmental plan that adopts or is based on the provisions of the Standard Instrument (Local Environmental Plans) Order 2006 pursuant to section 3.20 of the Environmental Planning and Assessment Act 1979

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
8.	4.13(8) of the Act; 4.6 of the Standard Instrument	<p>My functions in respect of determining, pursuant to clause 4.6 of a local environmental plan that adopts the provisions of the Standard Instrument, whether to grant concurrence (with or without conditions), in accordance with section 4.13(8) of the Act.</p> <p>This delegation extends to my functions to grant concurrence, with or without conditions, or refuse to grant concurrence pursuant to;</p> <ul style="list-style-type: none"> (a) the former clause 24 of the Standard Instrument, or (b) any other clause that is based on a substantially similar format and has a substantially similar effect to the clause described in (a), <p>where such a clause is adopted by a local environmental plan to provide for exceptions to development standards.</p>	Yes	Yes	Yes	Yes	No	No

State Environment Planning Policy (Biodiversity and Conservation) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
9.	4.14	My functions in respect of determining, pursuant to section 4.14 of the SEPP, whether to approve a koala plan of management.	Yes	Yes	Yes	No	No	No
10.	Former Part 10.4; now Pt 6.3, Div. 5	My functions under the former Part 10.4 of the SEPP (now Division 5 of Part 6.3 of the SEPP) in relation to development control plans (master plans).	Yes	Yes	Yes	Yes	No	No

State Environmental Planning Policy (Transport and Infrastructure) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
11.	2.19(3)	My functions in respect of requesting further documents and information to be furnished under section 2.19(3) of the SEPP in connection with an application for a site compatibility certificate.	Yes	Yes	Yes	Yes	Yes	No
12.	2.19(4)	My functions in respect of providing a copy of an application for a site compatibility certificate to the relevant council under section 2.19(4) of the SEPP.	Yes	Yes	Yes	Yes	Yes	No
13.	2.19(5)	My functions in respect of determining an application for a site compatibility certificate by issuing a certificate or refusing to do so under section 2.19(5) of the SEPP.	Yes	Yes	No	No	No	No

State Environmental Planning Policy (Housing) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
14.	39(3)	My functions in respect of requesting further documents and information to be furnished under section 39(3) of the SEPP in connection with an application for a site compatibility certificate.	Yes	Yes	Yes	Yes	Yes	No
15.	39(4)	My functions in respect of providing a copy of an application for a site compatibility certificate to the relevant council under section 39(4) of the SEPP.	Yes	Yes	Yes	Yes	Yes	No
16.	39(5)	My functions in respect of determining an application for a site compatibility certificate by issuing a certificate or refusing to do so under section 39(5) of the Housing SEPP.	Yes	Yes	No	No	No	No
17.	139(3)	My functions in respect of publishing an application for a site compatibility certificate on the NSW planning portal under section 139(3) of the SEPP.	Yes	Yes	Yes	Yes	Yes	No
18.	139(4)	My functions in respect of requesting further information or documents from the applicant for the purposes of assessing an application for a site compatibility certificate under section 139(4) of the SEPP.	Yes	Yes	Yes	Yes	Yes	No

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
19.	140(1) and (2)	My functions in respect of consultation with the relevant bodies before determining an application for a site compatibility certificate under section 140(1) of the SEPP, including sending a copy of the application for a site compatibility certificate to each relevant body, as required, and requesting comments on the application to be provided by those bodies under section 140(2) of the SEPP.	Yes	Yes	Yes	Yes	Yes	No
20.	141(1)-(3)	My functions in respect of determining an application for a site compatibility certificate by issuing, or refusing to issue, a site compatibility certificate under section 141(1), (2) and (3) of the SEPP.	Yes	Yes	No	No	No	No

State Environmental Planning Policy (Resources and Energy) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
21.	2.26(1)	My functions in respect of determining whether to issue a site verification certificate under section 2.26(1) of the SEPP.	Yes	Yes	No	No	No	No
22.	2.32(2)	My functions in respect of directing the Gateway Panel, by order in writing, to issue a Gateway certificate under section 2.32(2) of the SEPP.	Yes	Yes	No	No	No	No

Environmental Planning and Assessment Act 1979 and Warringah Local Environmental Plan 2000

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
23.	4.13(8) of the Act; Warringah LEP	My functions in respect of determining whether to grant concurrence (with or without conditions) in accordance with section 4.13(8) of the Act and pursuant to any provision of the LEP that requires my concurrence.	Yes	Yes	Yes	Yes	No	No

Roads Act 1993

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
24.	149	My functions in respect of determining, pursuant to section 149 of the Act, whether to approve the granting of a lease by a roads authority (other than the Roads and Maritime Services) of the air space above, or land below the surface of, any public road (other than a Crown road) that is owned by the roads authority.	Yes	Yes	Yes	Yes	Yes	No

Local Government Act 1993

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
25.	47	My functions in respect of furnishing a report to the Minister for Local Government pursuant to section 47 of the Act, if a council proposes to grant a lease, licence or other estate in respect of community land and the Minister for Local Government requests that I provide a report.	Yes	Yes	Yes	No	No	No

State Environmental Planning Policy (Precincts – Central River City) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
26.	Part 4.3	My functions under Part 4.3 of the SEPP in relation to development control plans (master plans).	Yes	Yes	Yes	Yes	No	No

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
27.	6.13	My functions under section 6.13 of the SEPP in relation to master plans.	Yes	Yes	Yes	Yes	No	No
28.	Pt 4.3, Divs 7 and 8	My functions under Divisions 7 and 8 of Part 4.3 of the SEPP in relation to urban development plans and development control plans (master plans).	Yes	Yes	Yes	Yes	No	No

Sydney Local Environmental Plan 2005

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
29.	Ch. 3, Pt 6	My functions under Part 6 of Chapter 3 of the LEP in relation to development control plans (master plans).	Yes	Yes	Yes	Yes	No	No

State Environmental Planning Policy (Industry and Employment) 2021

No.	Legislative Provision	Summary of Function being Delegated	A – Deputy Secretary	B – Executive Director	C – Director	D – Manager, Team Leader and Specialist Planning Officer	E – Senior Planning Officer	F – Planning Officer
30.	2.17(1)	My functions in respect of making a determination, by notice in writing, under section 2.17(1) .	Yes	Yes	No	No	No	No