

# ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## INSTRUMENT OF DELEGATION

On behalf of the Independent Planning Commission of New South Wales (**Commission**) and with the approval of the Minister for Planning (**Minister**) under section 2.11(4) of the *Environmental Planning and Assessment Act 1979 (Act)*, I, the Chair of the Commission, delegate the functions described in Column 2 of Schedule 2 to this instrument to the delegate levels specified in Column 3 of Schedule 2 to this instrument.

The previous delegations of the Commission's functions under section 2.11(4) of the Act dated 19 November 2021 and 12 March 2020 are revoked.

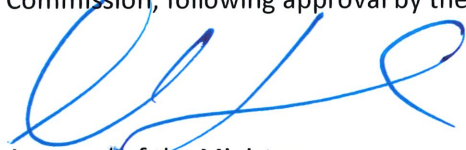
A reference in this instrument to:

- delegate levels are those defined in Schedule 1 to this instrument; and
- the person in a delegate level specified in Schedule 1 includes any person who is appointed to, or appointed to act in, that office or to a person who is assigned to, temporarily assigned to, or who is otherwise appointed to act in, that role at the delegate level described in Column 2 of Schedule 1.

Words and expressions have the same meanings as those defined in the Act or other legislation that each delegation relates to, unless otherwise defined in Schedule 3.

This delegation is made under section 2.11(4) of the Act and is not intended to derogate from section 4.6 of the Act.

This delegation and revocation takes effect on the date that it is executed by the Chair of the Commission, following approval by the Minister.



Approval of the Minister:



Chair of the Commission:

14/6/22

Dated:

**Schedule 1**  
**Delegate Levels**

| <b>Column 1<br/>Delegate Level</b> | <b>Column 2<br/>Delegate</b>  |
|------------------------------------|---|
| 1                                  | Planning Secretary  |
| 2                                  | Any Deputy Secretary having responsibility for supporting the administration of the Act reporting to a level 1 delegate   |
| 3                                  | Executive Director having responsibility for supporting the administration of the Act reporting directly to a level 2 delegate and above  |
| 4                                  | Director having responsibility for supporting the administration of the Act reporting directly to a level 3 delegate and above  |
| 5                                  | Manager, Team Leader or Principal Planning Officer having responsibility for supporting the administration of the Act reporting directly to a level 4 delegate and above                                |
| 5A                                 | Manager, Team Leader or Principal Planning Officer having responsibility for supporting the administration of the Act in relation to Alpine Projects reporting directly to a level 4 delegate and above |

**Schedule 2  
Delegations**

| Column 1<br>Item  | Column 2<br>Function  | Column 3<br>Delegate Level(s) |
|---|---|-------------------------------|
| <b>Functions under the Environmental Planning and Assessment Act 1979</b> |   |                               |
| 1   | <p>All of the Commission's functions as a consent authority under Part 4 of the Act including under section 4.38 of the Act in respect of any development application that:</p> <p>(a) Has not already been referred by the Planning Secretary to the Commission for determination as at the date of this delegation; and</p> <p>(b) Is for State significant development for which the Commission is declared to be the consent authority only by operation of the <i>State Environmental Planning Policy (Planning Systems) 2021</i> section 2.7(1)(a); and</p> <p>(c) In respect of which the council has advised in writing to the Department that its objection has been resolved.</p> | 2,3,4                         |
| 2   | Determining applications to extend the lapsing period of development consents under section 4.54 of the Act where the Commission was the consent authority which granted the development consent to which the application relates.  | 1, 2, 3, 4, 5                 |
| 3   | <p>Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act:</p> <p>(a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(b) Where there are 50 or more public submissions (other than a council) by way of objection.</p>   | 1, 2                          |
| 4   | <p>Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act:</p> <p>(a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p>  | 1, 2, 3                       |

| Column 1<br>Item | Column 2<br>Function   | Column 3<br>Delegate Level(s) |
|------------------|--|-------------------------------|
|                  | (b) Where there are less than 50 public submissions (other than a council) by way of objection.  |                               |
| 5                | <p>Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act:</p> <p>(a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(b) There are less than 15 public submissions (other than a council) by way of objection; and</p> <p>(c) The council <b>has not</b> made a submission by way of objection.</p> | 1, 2, 3,4                     |
| 6                | <p>Determining modification applications under sections 4.55(1) and 4.55(1A) of the Act:</p> <p>(a) Where the Commission was the consent authority which granted the development consent to which the modification application relates; and</p> <p>(b) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(c) There are no public submissions (other than a council) by way of objection; and</p> <p>(d) The council <b>has</b> made a submission by way of objection. .</p>          | 1, 2, 3                       |
| 7                | <p>Determining modification applications under sections 4.55(1) and 4.55(1A) of the Act:</p> <p>(a) Where the Commission was the consent authority which granted the development consent to which the modification application relates; and</p> <p>(b) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(c) There are no public submissions (other than a council) by way of objection; and</p> <p>(d) The council <b>has not</b> made a submission by way of objection.</p>        | 1, 2, 3, 4, 5                 |
| 8                | <p>Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act:</p>   | 1, 2, 3, 4, 5A                |

| Column 1<br>Item   | Column 2<br>Function  | Column 3<br>Delegate Level(s) |
|--|---|-------------------------------|
|  | (a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and<br>(b) There are less than 15 public submissions by way of objection; and<br>(c) Includes land to which Chapter 4 of the <i>State Environmental Planning Policy (Precincts - Regional) 2021</i> applies. |                               |
| <b>Functions under the Environmental Planning and Assessment Regulation 2021</b> |   |                               |
| 9  | Requesting additional information about the proposed development the subject of a development application under section 36 of the EP&A Regulation.  | 1,2,3,4,5                     |
| 10   | Determining whether to approve or reject amendments to development applications including applications for State significant development under section 38 of the EP&A Regulation.   | 1,2,3,4,5                     |
| 11   | Rejecting development applications under section 39 of the EP&A Regulation.   | 1,2,3,4,5                     |
| 12   | Giving and publishing notice of development applications under section 56 of the EP&A Regulation.   | 1,2,3,4,5                     |
| 13   | The Commission's functions under section 104 of the EP&A Regulation which relate to the requests for additional information about a modification application in respect of a development consent granted by the Commission.   | 1,2,3,4,5                     |
| 14   | Determining whether to approve or reject amendments to modification applications under section 113 of the EP&A Regulation.  | 1,2,3,4,5                     |
| 15   | Rejecting modification applications under section 114 of the EP&A Regulation where the Commission was the consent authority that granted the development consent for the State significant development.   | 1,2,3,4,5                     |
| 16   | Refunding fees in certain circumstances under section 254 of the EP&A Regulation.   | 1,2,3,4,5                     |
| <b>Functions under the Environmental Planning and Assessment Regulation 2000</b> |   |                               |
| 17   | All of the Commission's functions under clauses: 51, 54, 55, 55AA, 119B, 121A and 121B of the EP&A Regulation 2000 that are continued under clause 3 of Schedule 6 of the EP&A Regulation.  | 1,2,3,4,5                     |

### Schedule 3 Interpretation

In this instrument:

- (a) **Council** means the council of the local government area where the proposed development is to be carried out.
  - (b) **EP&A Regulation** means the *Environmental Planning & Assessment Regulation 2021*.
  - (c) **Objection** means a submission in the nature of an objection made under the mandatory requirements for community participation in Schedule 1 to the Act and does not include draft conditions requested to be imposed by the local council on the consent or approval.
  - (d) **Planning Secretary** means the Secretary of the Department with responsibility for planning and for the administration of the provisions of the Act.
  - (e) **Public submissions** means submissions that are duly made and counted in accordance with the method set out in section 2.7(6) of the *State Environmental Planning Policy (Planning System) 2021*.
- Note:** Section 2.7(6) provides that for the purpose of section 2.7(1)(b), each of the following is to be counted as 1 submission:
- (a) a petition; or
  - (b) any submissions that contain the same or substantially the same text.
- (f) **EP&A Regulation 2000** means the repealed *Environmental Planning & Assessment Regulation 2000*.