



MOUNT BARKER
DISTRICT COUNCIL

TITLE: DEVELOPMENT ACT DELEGATIONS POLICY

REFERENCE NUMBER:	Doc/19/30973
RESPONSIBLE DEPARTMENT:	Planning and Development
APPLICABLE LEGISLATION:	Development Act 1993
MOUNT BARKER 2035 DISTRICT STRATEGIC PLAN:	The Urban Environment UE:3 : Quality Built Environment
RELATED POLICIES:	Nil
SUPPORTING PROCEDURES:	Nil
PREVIOUS REVIEW DATE	<ul style="list-style-type: none">• 3 April 2018
ENDORSED BY COUNCIL:	1 April 2019
NEXT REVIEW DATE:	6 April 2020

1. PURPOSE

This Policy explains how the Council will make the various delegations required by Section 34(23) of the Act.

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. That means, the Council’s development assessment functions must be exercised by a person or body that has been given delegated authority by the Council, rather than the Council itself.

In addition, the Council has various other duties and functions under the Act and Regulations which is both impractical and administratively difficult to expect the Council sitting as a whole, to always perform.

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

2. SCOPE

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

Under the Act and the Development Regulations 1993 (“the Regulations”), the Mount Barker District Council (“the Council”) is responsible for the management of most development within this area. The Policy applies to the CEO, Council’s Assessment Panel (CAP), the General Manager Planning and Development, the Manager City Development, the Team Leader Planning or the Senior Planner – City Development

3. DEFINITIONS

NIL

4. ROLES AND RESPONSIBILITIES

COUNCIL:

To approve the Policy.

CEO, CAP, GENERAL MANAGER PLANNING AND DEVELOPMENT, MANAGER CITY DEVELOPMENT, TEAM LEADER PLANNING, SENIOR PLANNER

To exercise the powers and functions as detailed within the Policy to determine whether or not to grant development plan consent

5. POLICY INFORMATION

5.1 COUNCIL DELEGATION

The Council’s power to delegate its powers and functions under the Act is in Section 20 of the Act, which 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.”*

The Council delegates *all* of its powers and functions under the Act and Regulations to the Chief Executive Officer of the Council (“the CEO”). The CEO is able to subdelegate those powers and functions to other Council officers.

5.2 COUNCIL ASSESSMENT PANEL (CAP) DELEGATION

Section 34(23) 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*
- (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))*

The 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 Council Assessment Panel (“the CAP). Thus the CEO and the CAP share many of powers and functions in which case these powers and functions can be exercised by either the CEO or the CAP. However, as a matter of policy it is expected that the CAP, rather than the CEO or the CEO’s delegate, will generally exercise the powers and functions in cases whether it has delegated authority to do so.

The CAP has delegated authority to exercise the powers and functions under the Act in the circumstances listed below:

- Assessment of non-complying development applications unless the Senior Planner – City Development, Team Leader – City Development, Manager City Development or the General Manager Planning and Development has determined it to be of a minor nature.
- Assessment of all applications that are the subject of an unresolved Category 3 representation, or an unresolved Category 2 representation.
- Assessment of matters which, in the opinion of the Senior Planner – City Development, Team Leader - City Development, Manager City Development or

the General Manager Planning and Development warrant consideration by the CAP because they are contentious, controversial or otherwise significant.

- Assessment of any other matters which the Chief Executive Officer or Senior Planner – City Development, Team Leader – City Development, Manager City Development or the General Manager Planning and Development considers requires a decision of the CAP.

In any other case, it will generally be the case that the powers or functions under the Act will be exercised by the CEO, or the CEO's delegate.

6. REVIEW

This Policy will be reviewed annually or earlier in the event of changes to legislation or related Policies and Procedures or if deemed necessary by the General Manager Council Services.

7. ACCESS TO THE POLICY

The Policy is available for public inspection at the Customer Service Centre, at the Local Government Centre, 6 Dutton Road, Mount Barker, South Australia and on the Council's website www.mountbarker.sa.gov.au

8. FURTHER INFORMATION

For further information on this Policy, please contact:

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