

THE BAROSSA COUNCIL DELEGATIONS REGISTER

INSTRUMENT OF DELEGATION TO THE BAROSSA ASSESSMENT PANEL UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008

Preamble

1. To identify when these delegations were made, reviewed or amended, refer to the relevant Council resolution in the Schedule of Amended Delegations on Council's website at www.barossa.sa.gov.au.

#	Item Delegated by Council to Barossa Assessment Panel
10982	10.Matters Against Which Development Must be Assessed 10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development): 10.1.1 the provisions of the appropriate Development Plan;
11310	10.Matters Against Which Development Must be Assessed 10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development): 10.1.3 in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) on the satisfaction of the conditions specified in Section 33(1)(c) of the Act;
11311	10.Matters Against Which Development Must be Assessed 10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development): 10.1.4 in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 on the satisfaction of the conditions specified in Section 33(1)(d) of the Act;
11312	10.Matters Against Which Development Must be Assessed 10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development): 10.1.5 the requirement that any encroachment of a building over, under, across or on a public place has been dealt with in a satisfactory manner; and
11313	10.Matters Against Which Development Must be Assessed 10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in

Head delegations reviewed and confirmed by Council at its Annual Review on 21 May 2019

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	respect of each of the following matters (insofar as they are relevant to that development): 10.1.6 such other matters as may be prescribed.
10983	10. Matters Against Which Development Must be Assessed 10.2 The power pursuant to Section 33(3) of the Act, when granting a development plan consent, to reserve a decision on a specified matter until further assessment of the development under the Act.
10986	11. Determination of Relevant Authority 11.2 The power pursuant to Section 34(1a) of the Act, where the Minister has made a declaration under Section 34(1)(b)(vi) of the Act, to provide the Development Assessment Commission with a report, relating to the application for development authorisation, within the time prescribed by the Regulations.
10994	12. Special Provisions Relating to Assessment Against Development Plans 12.4 The power pursuant to Section 35(2) of the Act to assess whether or not a development is seriously at variance with the relevant Development Plan.
10995	12. Special Provisions Relating to Assessment Against Development Plans 12.5 The power pursuant to Section 35(3)(a) of the Act in appropriate cases, to concur in the granting of consent to a development described as a non-complying development.
11002	14. Consultation With Other Authorities or Agencies 14.1 Subject to Section 37AA of the Act, the duty pursuant to Section 37(1)(a) and (b) of the Act where an assessment is required of an application for the consent or approval of a proposed development of a prescribed class to: 14.1.1 refer the application, together with a copy of any relevant information provided by the applicant to a body prescribed by the Regulations and including the Development Assessment Commission, and 14.1.2 not make a decision until a response has been received from the prescribed body in relation to the matter or matters for which the referral was made or the presumption is made that the body does not desire to make a response or concur (as the case requires).

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11005	<p>15. Preliminary Advice and Agreement</p> <p>15.1 The power pursuant to and in accordance with Section 37AA(2)(e) of the Act to be satisfied that an application accords with an agreement indicated by a prescribed body in accordance with Section 37AA(2)(c) of the Act.</p>
11006	<p>15. Preliminary Advice and Agreement</p> <p>15.2 The power pursuant to and in accordance with Section 37AA(4) of the Act to determine that an agreement under Section 37AA of the Act is no longer appropriate due to the operation of Section 53 of the Act.</p>
11007	<p>16. Proposed Development Involving Creation of Fortifications</p> <p>16.1 The duty pursuant to Section 37A(1) of the Act where the Delegate has reason to believe that a proposed development may involve the creation of fortifications, to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police ('the Commissioner').</p>
11008	<p>16. Proposed Development Involving Creation of Fortifications</p> <p>16.2 The power pursuant to Section 37A(2)(b) of the Act to receive the Commissioner's written determination under Section 37A(2)(a) of the Act.</p>
11009	<p>16. Proposed Development Involving Creation of Fortifications</p> <p>16.3 The duty pursuant to Section 37A(5) of the Act if the Commissioner determines that the proposed development involves the creation of fortifications to:</p> <p style="padding-left: 20px;">16.3.1 if the proposed development consists only of the creation of fortifications - refuse the application; or</p> <p style="padding-left: 20px;">16.3.2 in any other case - impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications.</p>
11016	<p>17. Public Notice and Consultation</p> <p>17.6 The power pursuant to Section 38(10)(a) of the Act, in respect of a Category 2 development, to determine whether to allow a person who made a representation to appear personally or by representative before the Delegate.</p>
11017	<p>17. Public Notice and Consultation</p> <p>17.7 The duty pursuant to Section 38(10)(b) of the Act, in respect of a Category 3 development, to allow a person who made a representation and</p>

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	who as part of that representation indicated an interest in appearing before the Delegate, a reasonable opportunity to appear personally or by representative to be heard in support of the representation.
11018	17. Public Notice and Consultation 17.8 The duty pursuant to Section 38(11) of the Act to allow an applicant to appear personally or by representative before the Delegate or the Council in order to respond to any relevant matter.
11020	17. Public Notice and Consultation 17.10 The power, pursuant to subsection 38(17) of the Act, where a relevant authority is acting under Section 38 of the Act in relation to a Category 2A or Category 2 development, to not take into account under Section 38 of the Act a representation made by a person who is not entitled to be given notice of the relevant application under Section 38 of the Act.
11021	17. Public Notice and Consultation 17.11 The power, pursuant to subsection 38(18) of the Act, to not take into account under Section 38 of the Act, a representation that is not made in accordance with any requirement prescribed by the Regulations for the purposes of Section 38.
11022	18. Application and Provision of Information 18.1 The power pursuant to Section 39(2) of the Act to request an applicant to: 18.1.1 provide such additional documents or information to enable assessment of the application; 18.1.2 remedy any defect or deficiency in any application or accompanying document or information required by or under the Act; 18.1.3 consult with an authority or body prescribed by the Regulations; 18.1.4 (where required by the Regulations) prepare a statement of effect in relation to non-complying development; and 18.1.5 comply with any other requirement prescribed by the Regulations.
11025	18. Application and Provision of Information 18.4 Pursuant to Section 39(3)(b) of the Act, where a request is made under Section 39(2) of the Act and the request is not complied with within the

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	<p>time specified by the Regulations, the power pursuant to Section 39(3)(b) of the Act to:</p> <p>18.4.1 subject to Section 39(3)(b)(ii) of the Act, refuse the application; and</p> <p>18.4.2 refuse the application in prescribed circumstances (including, if the Regulations so provide, in a case involving development that is complying development).</p>
11028	<p>18. Application and Provision of Information</p> <p>18.7 The power pursuant to Section 39(4)(a) and Section 39(5) of the Act to permit an applicant to vary an application or vary any plans, drawings, specifications or other documents that accompanied an application.</p>
11031	<p>18. Application and Provision of Information</p> <p>18.10 The power pursuant to Section 39(4)(d) of the Act and Regulation 17(3)(a) of the regulations to refuse an application that relates to a development of the kind that is described as a non-complying development under the Development Plan without proceeding to make an assessment of the application.</p>
11033	<p>18. Application and Provision of Information</p> <p>18.12 The power pursuant to Section 39(7) of the Act to approve an application for variation of the conditions of the development authorisation previously given under the Act, or to extend the period for which such authorisation remains operative.</p>
11034	<p>18. Application and Provision of Information</p> <p>18.13 The power, pursuant to section 39(7)(c) to determine whether representations relate to any aspect of the development under consideration on account of an application for variation, and to determine whether, in the circumstances of the case, it is unnecessary to deal with the matter as Category 3 development.</p>
11035	<p>18. Application and Provision of Information</p> <p>18.14 The power, pursuant to section 39(7)(d) of the Act, to approve the seeking of a variation to extend the period for which the relevant authorisation remains operative.</p>

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11036	18. Application and Provision of Information 18.15 Where granting an application for variation of a development authorisation pursuant to section 39(6), the power, pursuant to section 39(7a), to make specific provision for the variation of a condition imposed with respect to the original authorisation in its decision on the application for variation.
11037	18. Application and Provision of Information 18.16 The power pursuant to Section 39(8) of the Act to issue a consent which provides for the undertaking of development in stages.
11040	19. Determination of Application 19.2 The power pursuant to Section 40(3) of the Act to extend the period of time within which a development authorisation remains operative.
11041	20. Time Within Which Decision Must be Made 20.1 The duty, pursuant to Section 41(1) of the Act to deal with an application as expeditiously as possible and within the time prescribed by the Regulations.
11043	21. Conditions 21.1 The power pursuant to Sections 42(1) and (3) of the Act to attach such conditions as the Delegate thinks fit or as may be prescribed by regulation to any decision under Division 1 of Part 4 of the Act.
11047	22. Cancellation by a Relevant Authority 22.1 The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.
11051	24. Crown Development and Public Infrastructure 24.1 The power pursuant to Section 49(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.
11052	24. Crown Development and Public Infrastructure 24.2 The power pursuant to Section 49(5) of the Act to report to the Development Assessment Commission on any matters contained in a notice from the Development Assessment Commission under Section 49(4a) of the Act.
11053	24. Crown Development and Public Infrastructure 24.3 The power pursuant to Section 49(9) of the Act to withdraw opposition to a State agency proposed development.

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11054	<p>25. Electricity Infrastructure Development</p> <p>25.1 The power pursuant to Section 49A(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.</p>
11055	<p>25. Electricity Infrastructure Development</p> <p>25.2 The power pursuant to Section 49A(5) of the Act, where notice of a proposal to undertake development for the purposes of the provision of electricity infrastructure has been given to the Council pursuant to Section 49A(4a) of the Act, to report to the Development Assessment Commission on any matters contained in the said notice.</p>
11056	<p>25. Electricity Infrastructure Development</p> <p>25.3 The power pursuant to Section 49A(9) of the Act, in circumstances where the Council's report to the Development Assessment Commission under Section 49A(5) of the Act expressed opposition to the proposed development, to withdraw that opposition.</p>
11057	<p>26. Open Space Contribution System</p> <p>26.1 The power pursuant to Section 50(1) of the Act, with respect to an application for the division of land into more than 20 allotments where one or more allotments is less than one hectare in area, to require:</p> <p style="padding-left: 20px;">26.1.1 that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or</p> <p style="padding-left: 20px;">26.1.2 that the applicant make the contribution prescribed by the regulations in accordance with the requirements of by Section 50 of the Act; or</p> <p style="padding-left: 20px;">26.1.3 that the land be vested in the Council and that the applicant make a contribution determined in accordance with Section 50(7) of the Act, according to the determination and specification of the Council or Delegate.</p>
11058	<p>26. Open Space Contribution System</p> <p>26.2 The power pursuant to Section 50(1) of the Act, when proposing to take any action that is at variance with the Council's Development Plan to seek the concurrence of the Development Assessment Commission.</p>
11062	<p>26. Open Space Contribution System</p> <p>26.6 The power pursuant to Section 50(11) of the Act to determine that the division of land is being undertaken in stages such that Section 50 of the</p>

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	Act does not apply to an application for development authorisation to the extent that an earlier application in respect of the same development has addressed the requirements of Section 50 of the Act in respect of the area of land as a whole.
11079	31. Avoidance of Duplication of Procedures Etc 31.1 The power pursuant to Section 52A(2)(a) of the Act to accept a document under the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999 (and defined in Section 52A(9) of the Act, as a 'Commonwealth Act document') as an application, notice or other document for the purposes of the Act, if (subject to the provisions of Section 52A(7)) the document complies with the requirements of the Act.
11080	31. Avoidance of Duplication of Procedures Etc 31.2 The power pursuant to Section 52A(2)(b) of the Act where a document has been accepted for the purposes of the Act, to direct that a procedure taken under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 in relation to the said document will be taken to have fulfilled the requirements for a procedure in relation to the relevant document under the Act, if the requirements of the Act in relation to the procedure have been complied with under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
11081	31. Avoidance of Duplication of Procedures Etc 31.3 The power pursuant to Section 52A(2)(c) of the Act to adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used or to be used for the purposes of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as the document required under the Act, if (subject to the provisions of Section 52A(7) of the Act) the document has been prepared in compliance with the Act, and complies with the requirements of the Act.
11082	31. Avoidance of Duplication of Procedures Etc 31.4 The power pursuant to Section 52A(5) of the Act where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity or includes an activity for which a development authorisation is required under the Act to, when considering an application for a development authorisation or for the variation of a development authorisation, for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 for the purposes of the Commonwealth Minister deciding to give approval to the controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
11083	31. Avoidance of Duplication of Procedures Etc 31.5 Where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity, or includes an activity, for which a development authorisation is required under the Act:

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	<p>31.5.1 in circumstances where:</p> <p>31.5.1.1 the Commonwealth Minister has given his or her approval to the controlled action; and</p> <p>31.5.1.2 the applicant for the development authorisation or the Commonwealth Minister has informed the relevant authority of that fact;</p> <p>the duty pursuant to Section 52A(6)(a) of the Act to consider whether the conditions (if any) to be attached to the development authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999; and</p>
11176	<p>59. Nature of Development</p> <p>59.1 The duty pursuant to Regulation 16(1) of the Regulations, where an application requires the assessment of a proposed development against the provisions of the Development Plan, to determine the nature of the development applied for.</p>
11177	<p>59. Nature of Development</p> <p>59.2 The power pursuant to Regulation 16(2) of the Regulations to form the opinion that a development is non-complying, and the duty if the Delegate is of the opinion that an application relates to a kind of development that is non-complying and the applicant has not identified the development as such, by notice in writing to inform the applicant of that fact.</p>
11180	<p>60. Non-Complying Development</p> <p>60.1 The power pursuant to Regulation 17(3) of the Regulations, after receipt of an application which relates to a kind of development that is described as non-complying development to:</p> <p>60.1.1 refuse the application pursuant to Section 39(4)(d) of the Act and notify the applicant accordingly; or</p> <p>60.1.2 resolve to proceed with an assessment of the application.</p>
11181	<p>60. Non-Complying Development</p> <p>60.2 The duty pursuant to Regulation 17(4) of the Regulations, in situations where the Delegate has resolved to proceed with the assessment of an application for non-complying development, to require the applicant to provide a statement of effect.</p>

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11182	60. Non-Complying Development 60.3 The power pursuant to Regulation 17(6) of the Regulations to determine that a proposed development is of a minor nature for the purposes of exemption from the requirements to provide a statement of effect.
11184	62. Amended Applications 62.1 The power pursuant to Regulation 20(4) of the Regulations to form the opinion that variations to an application are not substantial and that repeating of the referral process under Part 5 of the Regulations, or the giving of notice under Part 6 of the Regulations is not required.
11185	62. Amended Applications 62.2 The power pursuant to Regulation 20(5) of the Regulations, where a variation to an application changes the essential nature of a proposed development to (by agreement with the applicant) proceed with the variation on the basis that the application will be treated as a new application.
11189	64. Contravening Development 64.1 The power pursuant to Regulation 23(2) of the Regulations, by notice in writing to the applicant to decline to proceed with an application until proceedings under the Act have been concluded.
11192	67. Additional Information or Amended Plans 67.1 The duty pursuant to Regulation 27(1) of the Regulations, where an application has been referred to a prescribed body under Part 5 of the Regulations and additional information is received which is materially relevant to the referral, to repeat the referral process where the Delegate is of the opinion that the additional information or amendment is significant and the power to repeat the referral process in all other instances.
11198	69. Land Division Applications 69.1 The duty pursuant to Regulation 29(1) of the Regulations, subject to the provisions in Regulation 29(2) of the Regulations, to withhold making a decision on an application which relates to a proposed development that involves the division of land until a report has been received from the Development Assessment Commission.
11199	69. Land Division Applications 69.2 The power pursuant to Regulation 29(2) of the Regulations, when a report from the Development Assessment Commission pursuant to Regulation 29(1) of the Regulations is not received by the Council within eight weeks or within such longer period as the Development Assessment Commission may require by notice in writing to the Council, to presume that the Development Assessment Commission does not desire to make a report.

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11200	70. Underground Mains Area 70.1 The power pursuant to Regulation 30(1) of the Regulations to seek a report from the relevant electricity authority where the Delegate considers that an area should be declared an underground mains area.
11202	70. Underground Mains Area 70.3 The power pursuant to Regulation 30(4) of the Regulations, where a development includes the division of land within or partly within an underground mains area, to require, as a condition of the decision, that any electricity mains be placed underground.
11315	74. Determination of Commission as Relevant Authority 74.1 Where the Development Assessment Commission is the relevant authority under Section 34(1)(b) of the Act: 74.1.2 in any case, the power pursuant to and in accordance with Regulation 38(2)(b) to provide a report on matters under Section 33(1) (as relevant).
11214	74. Determination of Commission as Relevant Authority 74.2 Where the Development Assessment Commission is the relevant authority under Section 34(1)(b)(iv) of the Act and the proposed development is to be undertaken within one kilometre of a boundary with the Council, the power, pursuant to Regulation 38(4) of the Regulations, to provide the Development Assessment Commission with comments on the proposed development.
11224	82. Lapse of Consent or Approval 82.1 The power pursuant to Regulation 48(2) of the Regulations to extend the time when any consent or approval under Part 4 of the Act will lapse.
11225	83. Width of Roads and Thoroughfares 83.1 The power pursuant to Regulation 51(4) of the Regulations to dispense with the requirements of Regulation 51(1) and (3) dealing with the width of any proposed road or thoroughfare where the Delegate is of the opinion that the prescribed width is not necessary for the safe and convenient movement of vehicles or pedestrians or for underground services.
11226	83. Width of Roads and Thoroughfares 83.2 The power pursuant to Regulation 51(6) of the Regulations to dispense with the requirements of Regulation 51(5) dealing with the width of a road at the head of every cul-de-sac where it appears that the cul-de-sac is likely to become a through road.

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11227	84. Road Widening 84.1 The power pursuant to Regulation 52(1) of the Regulations to require a road widening if land to be divided abuts an existing road.
11228	85. Requirement as to Forming of Roads 85.1 The power pursuant to Regulation 53(1) and (2) of the Regulations to specify the width of roads.
11229	85. Requirement as to Forming of Roads 85.2 The power pursuant to Regulation 53(4) of the Regulations to dispense with the requirements of Regulation 53(3) of the Regulations that adequate provision be made for the turning of vehicles at the head of a cul-de-sac where the Delegate is of the opinion that the cul-de-sac is likely to become a through road.
11230	85. Requirement as to Forming of Roads 85.3 The power pursuant to Regulation 53(6) of the Regulations to dispense with the requirements of Regulation 53(5) dealing with the forming of footpaths, water-tables, kerbing, culverts and drains on proposed roads.
11232	87. Supplementary Provisions 87.1 The duty pursuant to Regulation 55(1) of the Regulations to consider and if appropriate approve a road location and grading plan for the forming of any proposed road, including every footpath, water-table, kerbing, culvert and drain.
11233	87. Supplementary Provisions 87.2 The duty pursuant to Regulation 55(2) of the Regulations to consider, and if appropriate approve, detailed construction plans and specifications signed by a professional engineer or licensed surveyor for all work referred to in Regulations 53 and 54 of the Regulations.
11234	87. Supplementary Provisions 87.3 The duty pursuant to Regulation 55(4) of the Regulations to consider, and if appropriate accept, that all connections for water supply and sewerage services to any allotment delineated on a plan of division have been laid under the surface of a proposed road before the roadway is sealed.