

APPENDIX 36

INSTRUMENT OF DELEGATION UNDER THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1.	Planning Regions and Greater Adelaide
1.1	The power pursuant to Section 5(5)(b) of the Planning, Development and Infrastructure Act 2016 (the Act) to make submissions to the Minister on a proposed proclamation under Section 5 of the Act.
2.	Subregions
2.1	The power pursuant to Section 6(3)(b) of the Act to make submissions to the Minister on the Minister's proposed course of action.
3.	Environment and Food Production Areas – Greater Adelaide
3.1	The power pursuant to Section 7(5) of the Act, in relation to a proposed development in an environment and food production area that involves a division of land that would create 1 or more additional allotments:
3.1.1	to seek the concurrence of the Commission in the granting of the authorisation;
3.1.2	to concur in the granting of the development authorisation to the development;
3.1.3	to, if the proposed development will create additional allotments to be used for residential development, refuse to grant development authorisation in relation to the proposed development.
4.	Planning Agreements
4.1	The power pursuant to Section 35(1)(a) of the Act to enter into an agreement (a planning agreement) with the Minister relating to a specified area of the

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

	State in accordance with Section 35 of the Act.
4.2	The power pursuant to Section 35(3) of the Act to, in a planning agreement, include provisions that outline the purposes of the agreement and the outcomes that the agreement is intended to achieve and to provide for:
4.2.1	the setting of objectives, priorities and targets for the area covered by the agreement; and
4.2.2	the constitution of a joint planning board including, in relation to such a board:
4.2.2.1	the membership of the board, being between 3 and 7 members (inclusive); and
4.2.2.2	subject to Section 35(4) of the Act, the criteria for membership; and
4.2.2.3	the procedures to be followed with respect to the appointment of members; and
4.2.2.4	the terms of office of members; and
4.2.2.5	conditions of appointment of members, or the method by which those conditions will be determined, and the grounds on which, and the procedures by which, a member may be removed from office; and
4.2.2.6	the appointment of deputy members; and
4.2.2.7	the procedures of the board; and
4.2.3	the delegation of functions and powers to the joint planning board (including, if appropriate, functions or powers under another Act); and
4.2.4	the staffing and other support issues associated with the operations of the joint planning board; and
4.2.5	financial and resource issues associated with the operations of the joint planning board, including:
4.2.5.1	the formulation and implementation of budgets; and
4.2.5.2	the proportions in which the parties to the agreement will be responsible for costs and other liabilities associated with the

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

	activities of the board; and
4.2.6	such other matters as the Delegate thinks fit.
4.3	The power pursuant to Section 35(5)(a) of the Act, at the expiry of a planning agreement, to replace it with a new agreement (in the same or different terms).
4.4	The power pursuant to Section 35(5)(b) of the Act, to vary or terminate a planning agreement by agreement between the parties to the agreement.
5.	Community Engagement Charter
5.1	The power pursuant to Section 44(6)(a) of the Act, to, in accordance with the Charter, make submissions in relation to any proposal to prepare or amend a designated instrument under Part 5 Division 2 Subdivision 5 (unless the proposal has been initiated by the Council).
6.	Preparation and Amendment of Charter
6.1	The power pursuant to Section 45(2)(c) of the Act to make representations (in writing or via the SA planning portal) on a proposal to prepare or amend the Charter.
6A.	Preparation and Amendment
6A.1	The power pursuant to Section 73(2)(b)(iv) of the Act to initiate a proposal to amend a designated instrument with the approval of the Minister, acting on the advice of the Commissioner.
6A.2	The power pursuant to Section 73(6) of the Act where the Council is authorised or approved under Section 73 of the Act, and after all of the requirements of Section 73 have been satisfied:
6A.2.1	to prepare a draft of the relevant proposal; and
6A.2.2	to comply with the Community Engagement Charter for the purposes of consultation in relation to the proposal; and
6A.2.3	to the extent that paragraph (b) of Section 73(6) of the Act does not apply, in the case of a proposed amendment to a regional plan that has been prepared by a joint planning board where the amendment is not being proposed by the joint planning board – to consult with the joint planning board; and
6A.2.4	to the extent that paragraph (b) of Section 73(6) of the Act does not apply, in the case of a proposed amendment to the Planning and

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

	Design Code that will have a specific impact on 1 or more particular pieces of land in a particular zone or subzone (rather than more generally) – to take reasonable steps to give:
6A.2.4.1	an owner or occupier of the land; and
6A.2.4.2	an owner or occupier of each piece of adjacent land, a notice in accordance with the regulations; and
6A.2.5	to consult with any person or body specified by the Commission and any other person or body as the delegate thinks fit; and
6A.2.6	to carry out such investigations and obtain such information specified by the Commission; and
6A.2.7	to comply with any requirement prescribed by the regulations.
6A.3	The power pursuant to Section 73(8) of the Act to, after the Council has furnished a report to the Minister under Section 73(7) of the Act, ensure that a copy of the report is published on the SA planning portal in accordance with a practice direction that applies for the purposes of Section 73 of the Act.
6A.4	The power pursuant to Section 73(9) of the Act to enter into an agreement with a person for the recovery of costs incurred by the Council in relation to an amendment of the Planning and Design Code or a design standard under Section 73 of the Act (subject to the requirement to charge costs under Section 73(4)(b) of the Act (if relevant)).
6B. Parliamentary Scrutiny	
6B.1	The power pursuant to Section 74(8) of the Act if the ERD Committee is proposing to suggest an amendment under Section 74(4) of the Act and the amendment is specifically relevant to the Council, to provide a comment and response within the period of 2 weeks.
6C. Entities Constituting Relevant Authorities	
6C.1	The power pursuant to Section 82(d) of the Act, subject to the Act, to appoint an assessment panel.
6D. Panels Established by Joint Planning Boards or Councils	
6D.1	The power pursuant to Section 83(1) of the Act in relation to an assessment panel appointed by the Council under Division 1 of Part 6 of the Act, to:
6D.1.1	appoint more than 1 assessment panel and if the delegate does so,

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

	to clearly specify which class of development each assessment panel is to assess;
6D.1.2	determine:
6D.1.2.1	the membership of the assessment panel, being no more than 5 members, only 1 of which may be a member of a council, and, if the delegate thinks fit, on the basis that the assessment panel will be constituted by a different number of members depending on the particular class of development that is being assessed by the assessment panel; and
6D.1.2.2	the procedures to be followed with respect to the appointment of members; and
6D.1.2.3	the terms of office of members; and
6D.1.2.4	conditions of appointment of members, or the method by which those conditions will be determined, (including as to their remuneration) and the grounds on which, and the procedures by which, a member may be removed from office; and
6D.1.2.5	the appointment of deputy members; and
6D.1.2.6	who will act as the presiding member of the panel and the process for appointing an acting presiding member.
6D.2	The power pursuant to Section 83(1)(h) of the Act to arrange the staffing and support required for the purposes of the operations of the panel.
6D.3	The power pursuant to Section 83(1)(i) of the Act to substitute the existing members of the panel with new members if directed to do so by the Minister acting on recommendation of the Commission under Section 86 of the Act.
6D.4	The power pursuant to Section 83(2) of the Act to form the opinion and be satisfied that a person to be appointed as a member of an assessment panel who is a member, or former member, of a council is appropriately qualified to act as a member of the assessment panel on account of the person's experience in local government.
6E. Panels Established by Minister	
6E.1	The power pursuant to Section 84(1)(c)(ii)(B) of the Act to make submissions to the Minister about the constitution of a regional assessment panel in

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

relation to the area of the Council (or part of the area).	
6F.	Substitution of Local Panels
6F.1	The power pursuant to Section 86(2)(a) of the Act to make submissions to the Commission in relation to an inquiry.
7.	Initiation of Scheme
7.1	The power pursuant to Section 163(3)(b) of the Act to request the Minister initiate a proposal to proceed under Section 163 of the Act.
7.2	The power pursuant to Section 163(10) of the Act to consult with the Minister in relation to the draft outline.
8.	Consideration of Proposed Scheme
8.1	The power pursuant to Section 166(1)(c) of the Act to consult with a scheme coordinator in relation to a scheme in accordance with the Community Engagement Charter.
9.	Adoption of Scheme
9.1	The power pursuant to Section 167(7) of the Act to consult with the Minister in relation to a variation to a scheme.
10.	Funding Arrangements
10.1	The power pursuant to Section 169(2)(b) of the Act in relation to a scheme that provides for the collection of contributions under Subdivision 8 of the Act to apply for a periodic review of the levels and amounts of those contributions and as part of such review for any matter to be considered or determined by ESCOSA.
10.2	The power pursuant to Section 169(8) of the Act to approve a funding arrangement that provides for or includes the collection of contributions under subdivision 8 in relation to prescribed infrastructure.
10.3	The power pursuant to Section 169(9) of the Act to consult with the Commission in relation to a funding arrangement that is specifically relevant to the Council.
11.	Contributions by Constituent Councils
11.1	The power pursuant to Section 177(4) of the Act to consult with the Minister in relation to the Council's share.

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

11.2	The power pursuant to Section 177(5) of the Act to, at the request of the Minister, supply the Minister with information in the possession of the Council to enable the Minister to determine shares under Sections 177(2) and (3) of the Act.
12.	Imposition of Charge by Councils
12.1	The power pursuant to Section 180(7) of the Act, if the Council incurs costs in recovering a charge as a debt, to claim the reimbursement of those costs (insofar as they are reasonable) from the relevant fund established under subdivision 9.
13.	Authorised Works
13.1	The power pursuant to Section 187(1) of the Act, subject to Section 187(3) of the Act, to carry out any infrastructure works if the Council is authorised to so do by or under the Act or any other Act.
13.2	The power pursuant to Section 187(5) of the Act, subject to Section 187(6) of the Act, to in relation to a proposal that involves disturbing the surface of a road, or that otherwise relates to a road to:
13.2.1	inform the relevant road maintenance authority of the proposal at least 28 days before the proposed commencement of any work; and
13.2.2	give the relevant road maintenance authority a reasonable opportunity to consult with the Council in relation to the matter; and
13.2.3	ensure that proper consideration is given to the views of the road maintenance authority.
13.3	The power pursuant to Section 187(5)(b) of the Act to consult with the relevant road maintenance authority in relation to the matter.
13.4	The power pursuant to Section 187(5)(b) of the Act, in a case of emergency, to only comply with Section 187(5)(b) of the Act to such extent as is practicable in the circumstances.
14.	Entry onto Land
14.1	The power pursuant to Section 188(1) of the Act to authorise a person for the purpose of undertaking any work or activity in connection with the exercise of a power under Division 2 of Part 13 of the Act to:
14.1.1	enter and pass over any land; and

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

14.1.2	bring onto any land any vehicles, plant or equipment; and
14.1.3	temporarily occupy land; and
14.1.4	do anything else reasonably required in connection with the exercise of the power.
14.2	The power pursuant to Section 188(4) of the Act to pay reasonable compensation on account of any loss or damage caused by the exercise of a power under Section 188(1) of the Act.
15.	Acquisition of Land
15.1	The power pursuant to Section 189(1) of the Act, to with the consent of the Minister, acquire land for a purpose associated with infrastructure works under and in accordance with the <i>Land Acquisition Act 1969</i> .
16.	Review of Performance
16.1	The power pursuant to Clause 3(3) of Schedule 4 of the Act to explain the Council's actions, and to make submissions (including, if relevant, an indication of undertakings that the Council is willing to give in order to take remedial action), to the Minister.
16.2	The power pursuant to Clause 3(14) of Schedule 4 of the Act to make submissions to the Minister on the report on which the action to be taken by the Minister under Clause 3(13) of Schedule 4 of the Act is based.
16.3	The power pursuant to Clause 3(15) of Schedule 4 of the Act, if the Minister makes a recommendation to the Council under Clause 3(13)(a) of Schedule 4 of the Act and the Minister subsequently considers that the Council has not, within a reasonable period, taken appropriate action in view of the recommendation, consult with the Minister in relation to the directions of the Minister.
16.4	The power pursuant to Clause 3(16) of Schedule 4 of the Act to comply with a direction under Clauses 3(13) or (15) of Schedule 4 of the Act.
17.	General Schemes
17.1	The power pursuant to Clause 30(3) of Schedule 8 of the Act to request the Minister make a declaration under Clause 30(2) of Schedule 8 of the Act in relation to a scheme.

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

**INSTRUMENT OF DELEGATION UNDER
THE PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016**

SCHEDULE OF CONDITIONS

**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
Nil	Nil