

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### Instrument of Delegation

I, the Secretary of the Department of Planning, Housing and Infrastructure, under section 2.4 of the *Environmental Planning and Assessment Act 1979* (the **Act**), delegate my functions identified in Column 2 of the Schedule to this instrument to employees of the Department of Planning, Housing and Infrastructure in the roles identified in Column 3 of the Schedule.

#### Operation and interpretation

In this instrument:

- (a) a reference to a Senior Executive Band 1, 2 or 3 role (being a reference that is not to a specific, named role) is a reference to such a role in the Planning Group of the Department of Planning, Housing and Infrastructure only, and
- (b) a reference to an employee of the Department of Planning, Housing and Infrastructure in a role is a reference to an employee of the Department who is assigned or temporarily assigned to that role under the *Government Sector Employment Act 2013*, and
- (c) a reference to a role using its specific title includes a reference to a role with substantially the same responsibilities, and
- (d) a reference to the Planning Group includes a reference to any part of the Department of Planning, Housing and Infrastructure that from time to time is primarily responsible for supporting the administration of the Act, and
- (e) words and expressions used in Part 3 of the Schedule have the same meanings as they have in clause 4 of Schedule 4 to the Act.

#### Relationship with other delegations

The instrument of delegation dated 10 August 2022 given by the Secretary of functions under Part 7 of the Act is revoked. Apart from the revocation of that instrument, this instrument does not affect the operation of any other instrument of delegation under the Act and is additional to any other such instrument.

The delegation by this instrument of functions relating to the SBC Fund and the Special Contributions Areas Infrastructure Fund also does not affect any applicable delegation to staff of the Department of Planning, Housing and Infrastructure under the *Government Sector Finance Act 2018*.

This instrument takes effect on and from the day it is signed.

Dated: 12 February 2024



Secretary, Department of Planning, Housing and Infrastructure

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## Schedule

Item	Function	Delegate
<p><b>Part 1</b></p> <p><b><i>Functions relating to satisfactory arrangements and concurrence clause and planning agreements</i></b></p>		
1.	<p>My functions under a provision of an environmental planning instrument that prohibits a consent authority from granting development consent unless the Secretary has certified that satisfactory arrangements have been made for the provision of particular kinds of public infrastructure, facilities or services.</p> <p>Without limiting the operation of this delegation, it extends to functions under a provision of an environmental planning instrument that has been repealed, but whose operation is continued by <i>State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023</i>.</p>	<p>(a) Senior Executive Band 3 roles                      (b) Senior Executive Band 2 roles                      (c) Senior Executive Band 1 roles with responsibility for planning agreements and development contributions</p>
2.	<p>My functions as a concurrence authority, including any functions relating to consultation, under a provision of an environmental planning instrument (a <b>relevant provision</b>) that:</p> <ul style="list-style-type: none"> <li>• prohibits development consent being granted to development in an intensive urban development area, an urban release area or other specified area, or on specified parcels of land, unless the consent authority has obtained the concurrence of the Secretary, and</li> <li>• provides that the Secretary is to consider (among other things), in deciding whether to grant concurrence, the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into contributing to infrastructure.</li> </ul> <p>For the purposes of this delegation, my functions as a concurrence authority under a relevant provision include any functions conferred on a concurrence authority by the Act and the regulations under the Act (such as section 52 of the <i>Environmental Planning and Assessment Regulation 2021</i>) in connection with a relevant provision.</p> <p>Without limiting the operation of this delegation, it extends to functions under a relevant provision that has been repealed, but whose operation is continued by <i>State Environmental Planning Policy Amendment (Housing and Productivity Contributions) 2023</i>.</p>	<p>(a) Senior Executive Band 3 roles                      (b) Senior Executive Band 2 roles                      (c) Senior Executive Band 1 roles with responsibility for planning agreements and development contributions</p>
3.	<p>All my functions under a planning agreement entered into under <b>section 7.4</b> of the Act, whether the agreement is executed before or after the date of this Instrument and including any agreement entered into by the Minister for</p>	<p>(a) Senior Executive Band 3 roles                      (b) Senior Executive Band 2 roles                      (c) Senior Executive Band 1 roles with responsibility for planning</p>

	Planning and Public Spaces.	agreements and development contributions
4.	All my functions as a planning authority under <b>section 7.4</b> of the Act, including entering into, amending or revoking a planning agreement.	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for planning agreements and development contributions
5.	My functions under <b>section 7.14 (3)</b> of the Act to deal with a dispute between councils concerning cross-boundary issues (including giving directions).	(a) Senior Executive Band 3 roles
<b>Part 2</b>		
<b>Functions under Subdivision 4 of Division 7.1, EP&amp;A Act - housing and productivity contributions</b>		
6.	Administration of the SBC Fund established by <b>section 7.31</b> of the Act, including undertaking consultation with the Treasurer	(a) Chief Financial Officer (b) Senior Executive Band 3 roles (c) Senior Executive Band 2 roles
7.	My functions under the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> (the <b>2023 Order</b> ) and any other Ministerial planning order made under Subdivision 4 of Division 7.1 of the Act, including the following: <ul style="list-style-type: none"> <li>the publication on the NSW planning portal of information about contribution amounts under clause 9 of the 2023 Order,</li> <li>the establishment of an electronic form for the calculation of the housing and productivity contribution under clause 10 of the 2023 Order,</li> <li>the giving of certificates under clause 5 of Schedule 5 relating to contributions made before the commencement of the 2023 Order.</li> </ul>	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for development contributions
<b>Part 3</b>		
<b>Functions under former SIC provisions</b>		
8.	All my functions under a 7.23 determination made under <b>former section 7.23</b> of the Act.	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for administration of determinations of special infrastructure contributions
9.	All my functions under <b>former section 7.24</b> of the Act to make a determination as to whether a development contribution is required under <b>former section 7.23</b> of the Act and of the obligations arising under that section, where such a function is required to be exercised under a condition of a development consent (including a complying development certificate) imposed on the consent in accordance with a direction of the Minister.	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for administration of determinations of special infrastructure contributions (d) Planning Officer 2 and 3 roles (or equivalent roles) with responsibility

		for administration of determinations of special infrastructure contributions
10.	Administration of the Special Contributions Areas Infrastructure Fund established under former <b>section 7.28</b> of the Act, as continued by the <i>Environmental Planning and Assessment Regulation 2021</i> .	(a) Chief Financial Officer (b) Senior Executive Band 3 roles
<b>Part 4</b> <b><i>Environmental Planning and Assessment Regulation 2021 (the Regulation)</i></b>		
11.	Giving public notice of a proposed agreement, amendment or revocation under <b>section 204</b> of the Regulation, including the exercise of my functions as a planning authority under that section (such as agreeing to the way in which notice is to be given).	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for planning agreements and development contributions
12.	All my functions as a planning authority under <b>section 205</b> of the Regulation regarding the preparation and exhibition of an explanatory note.	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for planning agreements and development contributions
13.	All my functions under <b>section 206</b> of the Regulation, being functions conferred on me as a planning authority and functions that the Minister has as a planning authority that must be exercised by me under section 206 (3).	(a) Senior Executive Band 3 roles (b) Senior Executive Band 2 roles (c) Senior Executive Band 1 roles with responsibility for planning agreements and development contributions