Delegations Register

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EXPLANATORY NOTES

Decisions made in accordance with this Instrument constitute a decision of the Council in respect of any legislative or other requirement.

'Instrument' means this document and its contents.

Within this Instrument the Act means a reference to the Local Government Act of 1993 as amended, unless otherwise specified.

Councillor means a duly elected member of The Hills Shire Council.

1. MAYOR

Subject to the requirements of the Act and Regulations thereunder and any expressed policy or direction of the Council, the Council pursuant to the provision of Section 377 of the Act and every other enabling statutory power, delegates to the person who occupies the position of Mayor, to exercise or perform on behalf of the Council the following powers, authorities, duties or functions as well as those specifically described under Section 226 of the Act:-

COMMON SEAL

To attest to the affixing of the Council Seal to any document relating to the business of the Council and upon which Council has resolved to affix the Seal.

CONVEYANCING

To negotiate and execute (with the General Manager) the purchase or sale of land within a maximum range adopted by Council and, subject to any other conditions the Council may require, where Council has resolved to purchase or sell land.

CONFERENCES, SEMINARS AND MEETINGS

To approve the attendance of Councillors at any seminar, conference, meeting or training course, where funds have been provided in the budget, provided that such delegation shall not be exercised if there is a Council meeting prior to the closing date of registration unless the Mayor and General Manager are of the view that a delay in registration will preclude Councillors' attendance.

CORRESPONDENCE

To sign outgoing correspondence on behalf of the Council.

LEGAL

To authorise legal advice or legal representation in any matter in which the Council (as the corporate body) is already or likely to become involved.

To have briefing sessions for Councillors provided by external consultancies in matters considered by the Mayor to be important to Council.

MEETING RECESS

To deal (with the General Manager) with matters requiring determination between the last Ordinary Meeting of the Council for the year and the first Ordinary Meeting of Council for the following year.

MEDIA RELATIONS

To advise and respond to enquiries from the media and to issue media releases and statements in respect of the affairs of Council on behalf of the governing body and the local government area generally.

TEMPORARY APPOINTMENT OF GENERAL MANAGER

To appoint a temporary replacement should the holder of the position of General Manager be suspended from duty, sick or absent pursuant to Section 351 of the Act.

2. DEPUTY MAYOR

In the absence of the Mayor and subject to compliance with the requirements of the Act and any expressed policy or direction of the Council, the Council pursuant to the provisions of Section 377 of the Act and every other enabling statutory power, delegates to the person who occupies the position of Deputy Mayor to exercise and perform on behalf of the Council the powers, authorities, duties and functions of the Mayor including the powers, authorities, duties and functions which the Council has delegated by this Instrument to the Mayor as well as those prescribed by Section 226 of the Act.

3. AUDIT COMMITTEE

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS

Subject to compliance with the requirements of the Act , any expressed policy of the Council or direction of the Council, the Council pursuant to the provisions of Section 377 of the Act and every other enabling statutory power, delegates to the Audit Committee the following:

a) The Audit Committee is an independent advisory committee to Council. The primary object of the Audit Committee is to assist Council in the effective conduct of its responsibilities for financial reporting, maintaining a reliable system of internal controls and facilitating the organisation's efficiency, effectiveness and accountability.

   The Audit Committee does not have executive powers or authority to implement actions in areas over which management has responsibility. It does not have any delegated financial responsibility but can request the General Manager to act if it has accepted recommendations from the Internal Auditor, where management has failed to act. The Audit Committee does not have any management functions and is, therefore, independent of management.

   The Committee's role is to report to Council and provide appropriate advice and recommendations on matters relevant to its Charter (and not subject to delegation) in order to facilitate decision-making by Council in relation to the discharge of its responsibilities.

b) The Audit Committee will be compromised of the Mayor, Deputy Mayor, three (3) Councillors as determined by Council from time to time, and two (2) community representatives.

c) The Committee shall meet at least quarterly.

d) The Audit Committee shall, after every meeting, forward the minutes of that meeting to the next appropriate Ordinary Meeting of the Council, including a report explaining any specific recommendations and key outcomes.

e) The Committee shall report annually to the Council summarising the activities of the Committee during the previous financial year.

f) The duties and responsibilities of the Audit Committee are as outlined in its Charter.

g) The Audit Committee, through the General Manager or following authorisation from the Council, and within the scope of its responsibilities, may seek information or obtain expert advice on matters of concern, subject to budget requirements.

4. LOCAL TRAFFIC COMMITTEE

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS

Subject to compliance with the requirements of the Act, regulations thereunder, any expressed policy or direction of the Council, the delegation of powers from the Roads and Traffic Authority of New South Wales and subject to any Council direction, the Council pursuant to the provisions of Section 377 of the Act, and every other enabling statutory power delegates to The Hills Local Traffic Committee as duly constituted to exercise and perform on behalf of the Council the powers, authorities, duties and functions which are specified in the Roads and Traffic Authority Instrument of Delegation to Council (being numbers 2 and 3 of Schedule 3).

LIMITATIONS

Those expressly reserved for the Council and specified in the Roads and Traffic Authority Instrument of Delegation to Council (being number 1 of Schedule 3; and Schedule 4).

MEMBERSHIP AND MEETING TIMES

Members: Chairperson/Representative of Council (Councillor or Council Officer); Representative of Police Department; Representative of Roads and Traffic Authority of New South Wales; the local State Member of Parliament (or his/her representative) to whose electorate the item relates.

Meetings of the Committee shall be held on the third Monday of each month commencing at 2.00pm (unless resolved otherwise) and will be open to the public.

MANDATORY NOTICE OF BUSINESS

Delegations contained in this Instrument are restricted to those matters which are included on the business agenda of the Committee as prepared and distributed in accordance with the requirements of this Instrument.

A business agenda for each meeting of the Committee shall be prepared and distributed to each member of the Committee and all Councillors on the Tuesday immediately preceding the meeting.

VOTING ON ADVICE FROM LOCAL TRAFFIC COMMITTEE

The voting on matters being considered in terms of this Instrument must be recorded as either a unanimous or not unanimous vote in the minutes of the meeting and reported to Council.

VOTING RIGHTS

At any meeting of the Committee a Councillor other than the Chairperson/Representative of Council may attend and participate in the discussion and consideration of any matter before the Committee but without voting rights.

A local State Member of Parliament is only permitted to vote on matters which affect their electorate.

IMPLEMENTATION OF DECISION

No decision of the Committee is to be implemented until adopted by Council. If Council wishes to act contrary to the Local Traffic Committee advice, then Council must notify, in writing, both the NSW Police and the Roads and Traffic Authority representatives on the Local Traffic Committee and then must refrain from taking action for 14 days.

5. 355 COMMITTEES

Subject to compliance with the requirements of the Act, any expressed policy of the Council or direction of the Council, the Council, pursuant to the provisions of Section 377 of the Act and every other enabling statutory power, delegates authority to each 355 Committee (as specified in their individual delegation instruments held in Council's 355 Committee Register) to carry out its function.

Each Committee has a delegation by Council as approved from time to time.

This instrument does not include powers, authorities, duties and functions expressly reserved for the Council by virtue of Section 377 of the Act and any duties and functions expressly reserved for the Council under any other Act/Regulation.

6. GENERAL MANAGER

Subject to compliance with the requirements of the Act and any expressed policy or direction of the Council and any regulations of any public authority other than the Council and, subject to any direction given by the Council, the Council pursuant to Section 377 of the Local Government Act 1993, as amended, and Section 23 of the Environmental Planning and Assessment Act 1979, as amended, and every other enabling statutory power delegates to its General Manager to exercise and perform on behalf of the Council, the following powers, authorities, duties and functions.

GENERAL DELEGATIONS

In accordance with Section 335 of the Local Government Act 1993 as amended:

The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

The General Manager has the following particular functions:

- the day-to-day management of the Council.
- to exercise such of the functions of the Council as are delegated by the Council to the General Manager.
- to appoint staff in accordance with an organisation structure and resources approved by Council.
- to direct and dismiss staff.
- to implement the Council's equal employment opportunity management plan.

The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

The following specific delegations do not limit the general delegations outlined above.

EXECUTIVE FUNCTIONS

Inspections and Conferences

To arrange inspections and conferences in accordance with a resolution of Committee or the Council or as otherwise deemed appropriate.

Consultant Services

To select and appoint consultants for specialist studies and investigations in accordance with Council's Purchasing Guidelines. All consultants appointments over $10,000 to be approved by the General Manager, subject to a budget allocation being identified.

Submissions

To prepare and submit written submissions on behalf of Council to any Commission, Inquiry or Body in consultation with the Mayor (where there is insufficient time to report to Council) provided such action is reported to Council.

Grant Applications/Funding Arrangements

To prepare and lodge applications on behalf of Council and to accept grants.

To negotiate funding agreements with various government or incorporated Associations and sign funding applications on behalf of Council.

Legal

To sign legally binding agreements on Council's behalf.

To sign operational agreements on behalf of Council where the Common Seal is not required.

To instigate proceedings in respect of any applicable Act/Regulation on behalf of Council.

To administer applications for liquor licences in accordance with the requirements of the relevant legislation.

Common Seal

To attest to the affixing of the Council Seal to any document relating to the business of the Council and upon which Council has resolved to affix the Seal.

Media Relations

To advise and respond to enquiries from the media and issue media releases and statements in respect of the affairs of Council and the local government area generally.

Filming Permits

To authorise filming within public roads, public reserves, and community facilities throughout the local government area in accordance with Council's *Guidelines for Activities in Public Roads* and the NSW Filming Protocol or any other related documents.

FINANCIAL

To authorise any work (not budgeted) which, in the General Manager's opinion, is urgent at a cost not exceeding $50,000 provided that such expenditure is reported to the Council at its next Ordinary meeting.

To authorise the writing off of amounts due to Council up to $5,000 provided that such amounts are reported to the Council at its next Ordinary meeting.

CONVEYANCING

To negotiate and execute (with the Mayor) the purchase or sale of land within a maximum range adopted by Council and subject to any other conditions the Council may require where Council has resolved to purchase or sell land.

To extend for a period of not more than four (4) weeks the date of completion set down in a contract for sale where deemed appropriate.

ROADS AND TRAFFIC AUTHORITY DELEGATIONS

To authorise prescribed traffic control devices in accordance with the Road Transport (Safety & Traffic Management) Act 1999, as amended.

To authorise special event parking schemes in accordance with the Road Transport (Safety & Traffic Management) Act 1999, as amended, on public roads other than classified roads in accordance with the Roads and Traffic Authority Delegations to Councils dated 23 February 2009.

DEVELOPMENT CONTROL

Approval of Applications

Unless otherwise specified, a reference to an application shall include Complying, Integrated or Designated Developments.

To grant development consent to applications pursuant to the provisions of the Environmental Planning and Assessment Act 1979, as amended, where the application:

a) is not of major regional or environmental significance; or

b) complies with the provisions of the relevant environmental planning instruments or satisfies the requirements of *SEPP No. 1;* or

c) complies with adopted policies or Development Control Plans or satisfies the requirements of Variations to Development Control Plan(s); or

d) does not conflict with any exhibited draft Local Environmental Plan.

Exceptions:-

i) The matter has attracted an objection(s) and the value of the development exceeds $2,000,000 indexed annually (CPI).

ii) The matter has been the subject of a Conciliation Conference.

iii) The application is related to a liquor licence and has attracted an objection(s).

To grant a development consent to applications that are subject to the exception(s) outlined above provided the applications are the subject of a report to the Development Assessment Unit (DAU).

Refusal of Applications

To refuse development applications, provided the refusals are the subject of a report to the Development Assessment Unit, where the application-:

a) does not comply with the provisions of the relevant environmental planning instrument; or where any variation is not considered justified, or

b) does not comply with adopted objectives, policies, Development Control Plans and Codes of Council; or where any variation is not considered justified; or

c) conflicts with any exhibited draft Local Environmental Plan; or

d) has attracted objections which are considered to warrant the refusal of the application.

Or where,

i) inadequate information has been submitted notwithstanding a request for this information; or

ii) is unclear or not legible.

Review of Determination

To review the determination of an application pursuant to the provisions of Section 82A of the Environmental Planning & Assessment Act 1979, as amended, other than Complying, Integrated or Designated development.

SEPP No. 1

To determine Development Applications accompanied by a SEPP 1 objection where an application:-

a) seeks to vary a statutory development standard where the proposed variation to the development standard does not exceed 10%; and

b) is supported by a suitable written objection to the relevant development standard;

c) the proposal is minor in nature and unlikely to undermine the development standard or result in any adverse environmental impact; and

d) the proposed development is consistent with the State, Regional or local planning objectives for the locality; and

e) the cumulative effect of any approval will not undermine the objective of the planning objectives for the locality and furthermore set an undesirable precedent.

Restricted Development Areas

To grant development consent to development applications involving encroachments into Restricted Development Areas where:-

a) no mature stand of vegetation is proposed to be removed from within the Restricted Development Area; or

b) land filling is not excessive within the Restricted Development Area; or

c) no natural exposed rock ledges or escarpments within the Restricted Development Area are affected by the proposal; or

d) there is no disturbance to existing natural watercourses; or

e) a geotechnical report prepared by a suitably qualified engineer accompanies an application in areas of identified geotechnical risk and supports the proposal; or

f) the proposal is considered to be minor in nature and is unlikely to result in any adverse environmental impact.

This delegation shall be exercised following consideration of the provisions listed under *Development Control*.

Amendment to Development Consents

To grant approval to an amendment to development consents in compliance with Section 96 of the Environmental Planning and Assessment Act 1979, as amended, providing no objections have been received and the proposed amendments are of a minor nature.

To grant approval to an amendment to development consents outside the above provisions provided the application is the subject of a report to the Development Assessment Unit.

Extension of Development Consents

To grant a one (1) year extension to development consents pursuant to Section 95A of the Environmental Planning and Assessment Act 1979, as amended.

Variations to Development Control Plan(s)

To determine applications involving variations to Development Control Plan(s) where an application is accompanied by a request to vary the Development Control Plan(s) and where an application:

a) is consistent with the aims and objectives of the relevant planning controls;

b) has not been the subject of an objection.

Part V Assessments

To assess and determine applications for an activity made pursuant to Part V of the Environmental Planning & Assessment Act 1979, as amended, where the proposal:-

a) is not of major regional or environmental significance;

b) complies with the provisions of the relevant environmental planning instruments or satisfies the requirements of SEPP 1;

c) complies with adopted policies or Development Control Plans or satisfies the requirements of Variations to Development Control Plan(s);

d) does not conflict with any exhibited draft Local Environmental Plan; and

e) has not attracted objections.

BUILDING CONTROL

Approval of Applications (Sections 94, 95 and 96 of the Local Government Act 1993 , as amended)

To grant approval to applications where the application:-

a) complies with the provisions of the relevant environmental planning instruments, the Building Code of Australia, the Local Government Act 1993, as amended, and Local Government (Approvals) Regulations 1993, as amended, or has a minor variation (see Restricted Development Areas);

b) is substantially in accordance with development consent;

c) complies with adopted policies or Development Control Plan(s) or has a variation (see Variations to Development Control Plan(s)");

d) does not conflict with any exhibited draft Local Environmental Plan;

e) complies with the adopted local policy;

f) has not attracted objections;

Approval of Applications outside the provisions of S94, 95 and 96 Local Government Act 1993, as amended.

To grant approval to applications outside the provisions of "Approval of Applications (S94, 95, 96 of the Local Government Act 1993, as amended"), provided the application is subject of a report to the Development Assessment Unit (DAU).

Grant Development Consent (Environmental Planning & Assessment Act 1979, as amended)

To grant development consent to applications pursuant to the provisions of the Environmental Planning and Assessment Act 1979, as amended, where the application relates to stand alone single dwelling houses, pergolas, non exempt fences (where no retaining wall is required), retaining walls, swimming pools, tennis courts, and ancillary outbuildings, and:

a) is not of major regional or environmental significance; or

b) complies with the provisions of the relevant environmental planning instruments or satisfies the requirements of SEPP 1; or

c) complies with adopted policies or Development Control Plans or satisfies the requirements under Variations to Development Control Plan(s); or

d) does not conflict with any exhibited draft Local Environmental Plan.

Exceptions:-

i) The matter has attracted an objection(s) and the value of the development exceeds $2,000,000 indexed annually (CPI).

ii) The matter has been the subject of a Conciliation Conference.

To grant a development consent to applications that are subject to the exceptions(s) outlined above provided the applications are subject to a report to the Development Assessment Unit.

Refusal of Applications

To refuse applications, pursuant to the Local Government Act 1993, as amended, the Environmental Planning & Assessment Act 1979, as amended, and the Environmental Planning & Assessment Regulations 2000, as amended, provided the refusal is subject to a report to the Development Assessment Unit, where the application:-

a) does not comply with provisions of the Building Code of Australia or where any variation is not considered justified; or

b) does not comply with adopted objectives, policies, Development Control Plans or standards contained in the Local Environmental Plan or where any variation is not considered justified; or

c) conflicts with any exhibited draft Local Environmental Plan; or

d) has attracted objections which are considered to warrant the refusal of the application.

Or where,

i) inadequate information has been submitted notwithstanding a request for this information; or

ii) is unclear or not legible.

Review of Determination

To review the determination of an application, pursuant to Section 100 of the Local Government Act 1993, as amended, and Clause 82A of the Environmental Planning & Assessment Act 1979, as amended, providing that determination was not made initially by Council.

Amendment of Approvals, Notices and Orders

To grant an amendment to an approval, notice or order providing the amendment is in accordance with the conditions outlined in *Approval of Applications.*

In accordance with the Local Government Act, 1993, as amended:-

a) to grant an extension or renewal of approval.
b) to issue notices and orders.

In accordance with the Environmental Planning and Assessment Act 1979, as amended, and Regulations, as amended:-

a) issue and enforce orders in accordance with Division 2A Orders.
b) assess and determine applications under Part 4 and 5.
c) issue or refuse building certificates.

Change of Use

To approve applications to change the use of buildings, pursuant to the Environmental Planning & Assessment Act 1979, as amended, and Regulations, as amended.

Building Certification

To make recommendations to the Building Professionals Board in relation to Council staff undertaking building certification work for accreditation under the Board's Accreditation Scheme.

FORWARD PLANNING

Local Environmental Plans

a) to proceed with the preparation of minor Local Environmental Plans, pursuant to the Environmental Planning and Assessment Act 1979, as amended,

provided Council is informed of such action.

b) to certify that a draft plan may be publicly exhibited, pursuant to the Environmental Planning and Assessment Act 1979, as amended.

c) to determine the exhibition period of draft Local Environmental Plans, pursuant to the Environmental Planning and Assessment Act 1979, as amended, applying to the land to which the draft plan applies.

d) to report on the suitability of any draft Local Environmental Plan, pursuant to the Environmental Planning and Assessment Act 1979, as amended.

Development Control Plans

To determine a Development Control Plan may be made or amended or proceeded with, pursuant to the Environmental Planning and Assessment Act 1979, as amended, and Regulations, as amended.

6(a) Development Assessment Unit

Determination of Applications

To establish a unit (Development Assessment Unit) to determine development, building and subdivision applications subject to compliance with the requirements of the Local Government Act 1993 and Environmental Planning and Assessment Act 1979 and subject to the following limitations:-

Limitations

This Instrument does not include powers, authorities, duties and functions relevant to the approval of a development, sub-division or building application where an application:-

a) does not comply with the provisions of the relevant environmental planning instrument and an objection under State Environmental Planning Policy No. 1 cannot be justified;

b) conflicts with any exhibited draft local environmental plan;

c) upon public notification as necessary under Council Policy and/or the Environmental Planning and Assessment Act 1979, as amended, has attracted objections which cannot be satisfied by conditions of consent, and which relate to a matter or matters which could be reasonable grounds for refusal pursuant to any State, regional or Environmental Planning Instrument, Section 313 of the Act or Section 79C of the Environmental Planning and Assessment Act 1979, as amended;

d) there is another Statutory Government Instrument that applies to the matter that requires it to be dealt with by full Council.

Notice of Business

The Development Assessment Unit will meet every Tuesday and only matters contained in the formal Agenda of the Unit may be considered by the Unit. The Agenda shall be prepared and distributed to all Councillors on the Friday one week preceding the meeting.

Referral of Matters to Council or Committee

If any three (3) Councillors notify the General Manager in writing (at any time before 5.00pm on the working day after the meeting) and they seek to have a matter the subject of Unit determination considered by the full Council then:

a) the Unit will not proceed to determine the matter and the matter shall be referred to Council for its consideration and determination.

b) the Unit shall have no further power in relation to the subject matter unless the same be subsequently redirected to the Unit for further consideration and determination pursuant to this Instrument.

c) the Councillors referring the matter to Council shall state, in writing, the specific reasons for referral, with such reasons to be communicated to the applicant and/or the objectors prior to the matter being considered by Council and to enable those parties to respond.

Where the referral notice provides that the reason for referral is to allow a site inspection by Councillors, the General Manager be authorised to arrange that site inspection prior to the matter being referred for consideration by Council.