

## 6.10. COUNCIL TO CEO DELEGATION UPDATE - LAND TITLE ACT 1994

<b>REPORT AUTHOR</b>	Sara Roberts, Team Leader Property
<b>MANAGER</b>	Lisa Golding, Manager People and Community Services
<b>DEPARTMENT</b>	People and Community Services

### RECOMMENDATION

That:

- 1. Council resolves to delegate, under s 257 of the *Local Government Act 2009*, the exercise of the powers contained in the attached Delegations Register – Council to the Chief Executive Officer, with such powers to be exercised subject to any limitations and conditions; and**
- 2. Any prior delegations of power relating to the same matters are revoked.**

### EXECUTIVE SUMMARY

The *Local Government Act 2009* gives Council the authority to do its work and provides for the delegation of this authority from Council to the Chief Executive Officer (CEO). The CEO can further delegate to Council officers in order to provide the effective and efficient delivery of services to the community.

A recent review of delegations revealed that all powers under the *Land Title Act 1994* remain with Council. For officers to conduct standard operational tasks, it is imperative that certain powers be delegated to the CEO.

The delegations contained within the attached table have been formulated by King and Company Solicitors, through the Local Government Association of Queensland, and are therefore recommended for Council adoption.

### BACKGROUND

There are over 70 Acts and Regulations that relate to local government. The legislative framework to undertake delegations is as follows:

- Section 257 of the *Local Government Act 2009* (the Act) allows a Council to delegate a power, other than where an Act specifically states that the power must be exercised by Council resolution.
- Section 257(1)(b) of the Act provides for a power to be delegated to the CEO.
- Section 259 of the Act allows a CEO to on-delegate their powers to appropriately qualified officers, other than where the local government specifically directs that the power not be further delegated or it is a power to keep a register of interests.

## COMMENTS

Councillors are required to make local laws and determine policy and other matters at a strategic level. The changes being sought are mostly related to the timely administration of operational matters such as title searches or the lodging of a caveat.

Additionally, delegated matters can be brought to Council by the CEO on a case-by-case basis.

It should also be noted that delegations under the *Land Title Act 1994* do not have any impact on the disposal or acquisition of land, which is dealt with in other Acts and Regulations.

## PROPOSAL

That:

1. Council resolve to delegate, under s 257 of the *Local Government Act 2009*, the exercise of the powers contained in the attached Delegations Register – Council to the Chief Executive Officer, with such powers to be exercised subject to any limitations and conditions; and
2. Any prior delegations of power relating to the same matters are revoked.

## FINANCIAL/RESOURCE IMPLICATIONS

There are no financial implications to this process. Appropriate implementation of delegations to the CEO ensures the efficient use of Council resources.

## RISK MANAGEMENT IMPLICATIONS

Appropriate delegations form part of the risk management framework associated with the administration of Council's responsibilities under legislation. The risk of not adopting this recommendation is that every function listed in the attached register will require a Council resolution. These functions are day to day operational issues and bring them to a Council meeting will increase the staffing resources to do so, as well as cause significant delays for the customer.

## SUSTAINABILITY IMPLICATIONS

- Economic:** The appropriate delegation of powers by Council assists with the efficient and timely utilisation of Council's resources thereby extending the economic sustainability of these usually limited resources.
- Environmental:** The appropriate delegation of powers by Council allows officers to respond to emergent events as well as provide continuous enhancement to the protection of the environment and its ongoing sustainability.
- Social:** Appropriate delegation of powers by Council enables officers to provide efficient delivery of standard services to the community and gives authority to officers to respond to new projects approved by Council in response to community desires.

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### Corporate Plan 2019-2024 Initiatives:

#### Theme 5 - Robust Governance and Efficient Service Delivery

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

**Goal 1** - *We will conduct Council business in an open and transparent manner with strong oversight and open reporting.*

### Operational Plan 2023-2024 Actions:

Legislative requirement.

## COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Regulator** Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

## CONSULTATION

**Internal:** Councillor Workshop 22 August 2023  
Senior Governance Officer

**External:** King and Company Solicitors, Local Government Association  
Queensland

## ATTACHMENTS

1. Register of Delegations - Land Title Act 1994 [6.10.1 - 11 pages]

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power, as a person served with a written notice by the registrar, to give public notice of a request listed in subsection (1) and to satisfy the registrar that the public notification has been given.	Section 18 <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to undertake the searches and obtain copies of the documents described in section 35(1)	Section 35(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner, to agree to a plan of subdivision and dedicating the public use land	Section 50(1)(b) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the relevant planning body, to approve a plan of subdivision	Section 50(1)(h) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered proprietor whose interests are affected by the plan, to consent to a plan of subdivision	Section 50(1)(j) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner of a lot, to dedicate the lot as a road for public use	Section 54(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the relevant planning body, to approve a dedication notice to dedicate a lot as a road for public use	Section 54(3) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner, to sign a building management statement for registration	Section 54B(1) <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power, as the registered owner, to sign an instrument of amendment for a building management statement	Section 54E(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner of all lots to which a building management statement applies, to ask the registrar to extinguish the building management statement.	Section 54G <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner, to sign an instrument of extinguishment or partial extinguishment for a building management statement.	Section 54H(3) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner of a lot with two or more registered owners, to request the registrar create a separate indefeasible title for the interest of each owner.	Section 57 <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a registered owner subject to a joint tenancy, to unilaterally sever the joint tenancy.	Section 59(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a registered owner subject to a joint tenancy, to give notice of the severing of the joint tenancy in the way prescribed by subsection (2).	Section 59(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to register an instrument of transfer for the transfer of a lot or interest to or from Council.	Section 60(1) <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power to register an instrument of lease for the lease of a lot, or part of a lot, to or from Council.	<i>Section 64 Land Title Act 1994</i>		
	Chief Executive Officer	Power to register an instrument of amendment of a lease to or from Council.	<i>Section 67(1) Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the relevant local government, to approve the instrument of lease where it is for reconfiguring a lot within the meaning of the <i>Planning Act 2016</i> .	<i>Section 65(3A) Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a lessor under a registered lease who has lawfully re-entered and taken possession under the lease, to lodge a request for the registrar to register the re-entry.	<i>Section 68(1) Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a lessor or lessee under a registered lease, to execute and register an instrument of surrender of the lease.	<i>Section 69(1) Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a sublessee, to consent to the surrender of the lease.	<i>Section 69(2) Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a lessor or lessee under a registered lease, to give written notice of the surrender of the lease to every registered mortgagee and registered sublessee.	<i>Section 69(3) Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power to register an instrument of easement benefiting or burdening land owned by Council.	Section 82(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner, lessee, person entitled to the land or public utility provider, to sign an instrument of easement for particular easements.	Section 83(1)(b) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the relevant local government, to approve the plan of survey for the creation of an easement giving access to a lot from a constructed road where it is the reconfiguring of a lot under the <i>Planning Act 2016</i> .	Section 83(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner of a lot burdened by an easement in favour of a public utility provider that is not a public thoroughfare easement, to recover from the public utility provider a reasonable contribution towards the cost of keeping the part of the lot affected by the easement in a condition appropriate for enjoyment of the easement.	Section 85B(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner of the lot benefited and the lot burdened by an easement, to ask the registrar to extinguish the easement.	Section 87 <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power to register an instrument of surrender of an easement benefiting or burdening land owned by Council.	Section 90(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to sign an instrument of surrender of an easement.	Section 90(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a lessee or sublessee of a lot benefited by an easement, to consent to surrender of the easement.	Section 90(3) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to register an instrument of amendment of an easement benefiting or burdening land owned by Council.	Section 91(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a local government and covenantee, to register an instrument of covenant.	Section 97A <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a local government and covenantee, to register an instrument of amendment of a covenant.	Section 97C <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a local government and covenantee, to sign and register an instrument of surrender of a covenant.	Section 97D <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to register an instrument of profit a prendre benefiting or burdening land owned by Council.	Section 97E <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power, as the registered owner of the lot benefited and the lot burdened by a profit a prendre, to ask the registrar to extinguish the profit a prendre.	<i>Section 97I Land Title Act 1994</i>		
	Chief Executive Officer	Power to register an instrument of amendment of a profit a prendre benefiting or burdening land owned by Council.	<i>Section 97K Land Title Act 1994</i>		
	Chief Executive Officer	Power to register an instrument of release of a profit a prendre benefiting or burdening land owned by Council	<i>Section 97L Land Title Act 1994</i>		
	Chief Executive Officer	Power to register instrument of carbon abatement interest for a lot owned by Council or over which Council has an interest.	<i>Section 97O Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a holder of a registered interest in land affected by a proposed grant of a carbon abatement interest, to consent to the proposed grant.	<i>Section 97P(c) Land Title Act 1994</i>		
	Chief Executive Officer	Power to register instrument of amendment of a carbon abatement interest for a lot owned by Council or over which Council has an interest.	<i>Section 97S(1) Land Title Act 1994</i>		
	Chief Executive Officer	Power to register instrument of surrender of a carbon abatement interest for a lot owned by Council or over which Council has an interest.	<i>Section 97U(1) Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power to apply to be registered as owner of a lot as an adverse possessor.	Section 99(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to withdraw an application to be registered as owner of a lot as an adverse possessor and request that all documents lodged in support of the claim be returned.	Section 100 <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a person claiming an interest in a lot the subject of an adverse possession claim, to lodge a caveat.	Section 104 <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a caveator given a written notice under subsection (1), to:- <ul style="list-style-type: none"> <li>(a) start a proceeding in the Supreme Court to recover the lot; and</li> <li>(b) give written notice, in the way the registrar requires, to the registrar that the proceeding has started.</li> </ul>	Section 106(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a caveator that does not agree to the registration of the applicant for a lesser interest in the lot, to:- <ul style="list-style-type: none"> <li>(a) start a proceeding in the Supreme Court to recover the lot; and</li> <li>(b) give written notice, in the way the registrar requires, to the registrar that the proceeding has started.</li> </ul>	Sections 107(2) and (3) <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power, as an applicant, to sign the plan of subdivision as if the applicant were the registered owner of the relevant lot.	Section 108A <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the registered owner holding the interest in the lot as trustee, to lodge an instrument of transfer to register the interest as being held as trustee.	Section 110(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a person who is beneficially entitled under a will to a lot or an interest in a lot of a deceased registered proprietor, to apply to the registrar to be registered as proprietor of the lot.	Section 112(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a person mentioned in section 114(1), to apply to the Supreme Court for an order to be registered as proprietor of the lot.	Section 114(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to lodge a caveat.	Section 122 <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to withdraw a caveat.	Section 125 <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power, as a caveatee, to serve on the caveator a notice requiring the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat and to notify the registrar of service of the notice.	Sections 126(2) and (3) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a caveator served with a notice under subsection (2), to:-  (a) start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat; and  (b) notify the registrar that a proceeding has been started and the identity of the proceeding.	Section 126(4) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a caveatee, to apply to the Supreme Court for an order that a caveat be removed.	Section 127(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to lodge a request to cancel a caveat.	Section 128(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to seek the leave of a court of competent jurisdiction to lodge a further caveat.	Section 129(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to deposit a priority notice for a lot.	Section 139(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to deposit a request to extend a priority notice.	Section 141(1) <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power to deposit a request to withdraw a priority notice.	Section 143(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as an affected person for a lot to which a priority notice applies, to apply to the Supreme Court for an order that the priority notice be removed.	Section 144(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to deposit a request to cancel a priority notice.	Section 145(1)(a) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as the depositor of a priority notice, to request a correction to the priority notice.	Section 149(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to comply with a requisition given to Council by the registrar.	Section 156(3) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to apply to the registrar to relodge an instrument that the registrar has permitted to be withdrawn.	Section 159(4) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to comply with a requirement of the registrar to deposit an instrument for correction or cancellation.	Section 160 <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to comply with a requirement of the registrar to lodge a plan of survey for the lot.	Section 165 <i>Land Title Act 1994</i>		

# REGISTER OF DELEGATIONS COUNCIL TO CEO

## *Land Title Act 1994*

NO.	DELEGATE	DESCRIPTION OF POWER DELEGATED	LEGISLATION	DATE AND NUMBER OF RESOLUTION	CONDITIONS TO WHICH THE DELEGATION IS SUBJECT
	Chief Executive Officer	Power to lodge a standard terms document and amend a standard terms document on Council's behalf.	Section 169(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power to request the registrar to withdraw a standard terms document on Council's behalf	Section 172(1) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a person affected by a correction, to apply to the Supreme Court for an order that the correction be amended or set aside.	Section 186(2) <i>Land Title Act 1994</i>		
	Chief Executive Officer	Power, as a person with an entitlement to compensation under section 188 or 188A, to apply to the Supreme Court for an order:-  (a) for compensation to be paid by the State; (b) directing the registrar to take stated action.	Section 188B(1) <i>Land Title Act 1994</i>		