

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

INSTRUMENT OF DELEGATION

On behalf of the Independent Planning Commission of New South Wales (**Commission**) and with the approval of the Minister for Planning and Public Spaces (**Minister**) under section 2.11(4) of the *Environmental Planning and Assessment Act 1979 (Act)*, I, the Chair of the Commission, delegate the functions described in Column 2 of Schedule 2 to this instrument to the delegate levels specified in Column 3 of Schedule 2 to this instrument.

The previous delegation of the Commission's functions under clause 55 of the *Environmental Planning and Assessment Regulation 2000* dated 4 August 2020 is revoked.

A reference in this instrument to:

- delegate levels are those defined in Schedule 1 to this instrument; and
- the person in a delegate level specified in Schedule 1 includes any person who is appointed to, or appointed to act in, that office or to a person who is assigned to, temporarily assigned to, or who is otherwise appointed to act in, that role at the delegate level described in Column 2 of Schedule 1.

Words and expressions have the same meanings as those defined in the Act or other legislation that each delegation relates to, unless otherwise defined in Schedule 3.

This delegation is made under section 2.11(4) of the Act and is not intended to derogate from section 4.6 of the Act.

This delegation and revocation takes effect on the date that it is executed by the Chairperson of the Commission, following approval by the Minister.

Approval of the Minister:



Chair of the Commission:



Dated: 19 November 2021

**Schedule 1
Delegate Levels**

Column 1 Delegate Level	Column 2 Delegate
1	Planning Secretary
2	Group Deputy Secretary Planning & Assessment (or any other Deputy Secretary having responsibility for supporting the administration of the Act) reporting to a level 1 delegate
3	Executive Director having responsibility for supporting the administration of the Act reporting directly to a level 2 delegate and above
4	Director having responsibility for supporting the administration of the Act reporting directly to a level 3 delegate and above
5	Manager, Team Leader or Principal Planning Officer having responsibility for supporting the administration of the Act reporting directly to a level 4 delegate and above
5A	Manager, Team Leader or Principal Planning Officer having responsibility for supporting the administration of the Act in relation to Alpine Projects reporting directly to a level 4 delegate and above

**Schedule 2
Delegations**

Column 1 Item	Column 2 Function	Column 3 Delegate Level(s)
<i>Functions under the Environmental Planning and Assessment Act 1979</i>		
1	Determining applications to extend the lapsing period of development consents under section 4.54 of the Act where the Commission was the consent authority which granted the development consent to which the application relates.	1, 2, 3, 4, 5
2	Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act: (a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and (b) Where there are 50 or more public submissions (other than a council) in the nature of objections.	1, 2
3	Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act: (a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and (b) Where there are less than 50 public submissions (other than a council) in the nature of objections.	1, 2, 3
4	Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act: (a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and (b) There are less than 15 public submissions (other than a council) in the nature of objections; and	1, 2, 3, 4

Column 1 Item	Column 2 Function	Column 3 Delegate Level(s)
	(c) The council has not made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 of the Act.	
5	<p>Determining modification applications under sections 4.55(1) and 4.55(1A) of the Act:</p> <p>(a) Where the Commission was the consent authority which granted the development consent to which the modification application relates; and</p> <p>(b) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(c) There are no public submissions (other than a council) in the nature of objections; and</p> <p>(d) The council has made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 of the Act.</p>	1, 2, 3
6	<p>Determining modification applications under sections 4.55(1) and 4.55(1A) of the Act:</p> <p>(a) Where the Commission was the consent authority which granted the development consent to which the modification application relates; and</p> <p>(b) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(c) There are no public submissions (other than a council) in the nature of objections; and</p> <p>(d) The council has not made a submission by way of objection under the mandatory requirements for community participation in Schedule 1 of the Act.</p>	1, 2, 3, 4, 5
7	<p>Determining modification applications under section 4.55 of the Act (where the Commission was the consent authority which granted the development consent to which the modification application relates) and section 4.56 of the Act:</p> <p>(a) That have not been made by a person who has disclosed a reportable political donation under section 10.4 of the Act in connection with the modification application; and</p> <p>(b) There are less than 15 public submissions in the nature of objections; and</p> <p>(c) Includes land to which the Alpine SEPP applies.</p>	1, 2, 3, 4, 5A

Column 1 Item	Column 2 Function	Column 3 Delegate Level(s)
<i>Functions under the Environmental Planning and Assessment Regulation 2000</i>		
8	The Commission's functions under clause 51 of the EP&A Regulation which relates to the rejection of development applications.	1, 2, 3, 4, 5
9	The Commission's functions under clause 54 of the EP&A Regulation which relates to requests for additional information about the proposed development which is subject to a development application.	1, 2, 3, 4, 5
10	Determining whether to agree to amendments or variations to development applications under clause 55 of the EP&A Regulation.	1, 2, 3, 4, 5
11	Determining whether to agree to amendments or variations to development applications for State significant development under clause 55AA of the EP&A Regulation.	1, 2, 3, 4, 5
12	Rejecting modification applications under clause 119B of the EP&A Regulation where the Commission was the consent authority which granted the development consent to which the modification application for the State significant development relates.	1, 2, 3, 4, 5
13	The Commission's functions under clause 121A of the EP&A Regulation which relates to requests for additional information about the development consent granted by the Commission as the consent authority and that is subject to the modification application.	1, 2, 3, 4, 5
14	Determining whether to agree to amendments to modification applications under clause 121B of the EP&A Regulation.	1, 2, 3, 4, 5

Schedule 3 Interpretation

In this instrument:

- (a) **Alpine SEPP** means the *State Environmental Planning Policy (Kosciuszko National Park – Alpine Resorts) 2007*.
- (b) **Council** means the council of the local government area where the proposed development is to be carried out.
- (c) **EP&A Regulation** means the *Environmental Planning & Assessment Regulation 2000*.
- (d) **Objection** means a submission in the nature of an objection and does not include draft conditions requested to be imposed by the council on the consent or approval.
- (e) **Planning Secretary** means the Secretary of the Department with responsibility for planning and for the administration of the provisions of the Act.
- (f) **Public submissions** means submissions that are duly made and counted in accordance with the method set out in clause 8A(5) of the *State Environmental Planning Policy (State and Regional Development) 2011*.

Note: Clause 8A(5) provides that for the purpose of clause 8A(1)(b), each of the following is to be counted as 1 submission:

- (a) a petition; or
- (b) any submissions that contain the same or substantially the same text.