

Manningham City Council

Instrument of Delegation

to

The Chief Executive Officer

Instrument of Delegation

In exercise of the power conferred by section 98(1) of the *Local Government Act 1989* (**the Act**) and all other powers enabling it, the Manningham City Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that:-

- 1. this Instrument of Delegation is authorised by a Resolution of Council passed on 26 April 2016;
- 2. the delegation
 - 2.1 comes into force immediately when the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 is subject to any conditions and limitations set out in the Schedule;
 - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 2.4 remains in force until Council resolves to vary or revoke it.
- 3 The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by section 98 (3) of the Act of any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her

THE COMMON SEAL of)
MANNINGHAM CITY COUNCIL)
was hereunto affixed in the presence of:)

..... . Mayor

..... . Chief Executive Officer

Dated 26 April 2016

S5. Instrument of Delegation to Chief Executive Officer

SCHEDULE

The power to

1. determine any issue;
2. take any action; or
3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Without limiting the above, this includes the power:

- a. To negotiate the sale of Council properties;
- b. To affix the common seal to documents that are of a routine administrative nature, incidental to a decision taken by Council or a duly authorised Council delegate, applications for funding grants, consequential to the conditions applicable to a planning permit or as a consequence of a decision of a tribunal or similar body;
- c. To negotiate the sale of easements and laneways or of land identified under the Planning Scheme to be acquired by public authorities, upon the recommendation of the City Valuer as a Qualified Valuer and after all statutory requirements have been met; and
- d. To negotiate the purchase of land following an in principle decision by Council to purchase the property and in accordance with any conditions approved by Council including the price range.

Conditions and Limitations

The delegate must not determine the issue; take the action or do the act or thing

1. if the issue, action, act or thing is an issue, action, act or thing which involves
 - 1.1 any expenditure not contained in a budget approved by the Council;
 - 1.2 making a local law under Part 5 of the Act;
 - 1.3 approval of the Council Plan under s.125 of the Act;
 - 1.4 adoption of the Strategic Resource Plan under s.126 of the Act;
 - 1.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act;
 - 1.6 adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;
 - 1.7 resort and recreation payments and "cash-in-lieu" of car parking payments where either of the matters will be inconsistent with Council Policy;
 - 1.8 liquor licensing or gaming licence applications contrary to Council policy;
 - 1.9 adoption of Council Policy other than policy relevant to the day to day administration of Council;
 - 1.10 major policy or strategic matters which will have an impact on the operation of Council;
 - 1.11 determining pursuant to s.37 of the Act that an extraordinary vacancy on Council not be filled;
 - 1.12 exempting a member of a special committee who is not a Councillor from submitting a return under s.81 of the Act;
 - 1.13 appointment of councillor or community delegates or representatives to external organisations; or
 - 1.14 the return of the general valuation.

S5. Instrument of Delegation to Chief Executive Officer

2. if the issue, action, act or thing is an issue, action, act or thing which is required by law to be done by Council resolution or which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
3. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a policy; or strategy adopted by Council; or
4. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 98(1)(a)-(f) (inclusive) of the Act or otherwise; or
5. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff;
6. powers delegated under paragraphs (a), (b), (c) and (d) above are subject to reports in the Weekly Information Summary;
7. in respect to the power delegated under paragraph (a) above, the Chief Executive Officer can negotiate the sale of a Council property below the reserve previously set by Council, where such reserve was not reached at public auction, subject to:
 - 7.1 The sale price not being more than 10 per cent below the reserve so set:
and
 - 7.2 The Chief Executive Officer has consulted the Mayor and is acting upon the recommendation of a Qualified Valuer.

ATTACHMENT B

Recommended delegations due to Statutory Planning Unit work approval changes

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| <i>DPE means Director Planning & Environment MSP means Manager Statutory Planning SPC means Statutory Planning Coordinator</i> | <i>TLSP means Team Leader Statutory Planner SPO means Statutory Planning officer SO means Subdivision Officer</i> |
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| Task under the Planning and Environment Act | Current Delegations | Proposed additional delegations |
|--|--------------------------------------|--|
| Request for further information under Section 54(1), 54(1A) & 54(1B) of the Act | DPE, MSP, SPC, TLSP | SO |
| Power to extend time or refuse to extend time for providing further information under Section 54A(3), 54A(4) | DPE, MSP | SPC, TLSP, SO |
| Determine to amend an application under Sections 50(4), 50A(1), 50A(3) of the Act (before advertising) | DPE, MSP, SPC, TLSP | SO |
| Determination to advertise an Application under Section 52 of the Act | DPE, MSP, SPC, TLSP | SO |
| Duty to refer an application under Section 55(1) | DPE, MSP, SPC, TLSP | SO |
| Power to amend an application under Section 57A (after advertising) | DPE, MSP, SPC, TLSP | SO |
| Determination to advertise an Application under Section 57B of the Act | DPE, MSP, SPC, TLSP | SO |
| Duty to refer an amended application under 57C(1) of the Act | DPE, MSP, SPC, TLSP | SO |
| Duty to consider every application for permit under Section 58 of the Act | DPE, MSP, SPC, TLSP | SO |
| Duty to consider matters under Section 60, 60(1A) of the Act | DPE, MSP, SPC, TLSP | SO |
| Power to decide an application 61(1) | Only 61(1)(a) DPE, MSP, SPC, TLSP | 61(1)(a) & (b) – approval and inclusion of conditions SO Condition Permit must be consistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006 |
| Duty to include conditions on a permit where necessary under Section 62 of the Act | DPE, MSP, SPC, TLSP | SO |
| Duty to issue a planning permit (if no one has objected) under Section 63 of the Act | DPE, MSP, SPC, TLSP | SO Conditions Where the planning scheme exempts the land, use or development under s.96(1), DPE and MSP, SPC may issue permit in respect of minor and standard Council developments. |

| Task under the Planning and Environment Act | Current Delegations | Proposed additional delegations |
|---|--|---|
| Duty not to issue a permit until after the specified period under Section 64(3) – issue the permit | DPE, MSP, SPC, TLSP | SO Conditions Nil |
| Duty to give objector a copy of an exempt decision under Section 64(5) - applications exempt from notice and appeal | DPE, MSP, SPC, TLSP | SO Conditions Nil |
| Duty to give notice of decision to referral authorities under Section 66(1) | DPE, MSP, SPC, TLSP, SO | Major – DPE, MSP, SPC Standard - DPE, MSP, SPC, TLSP Minor – DPE, MSP, SPC, TLSP, SPO, SO |
| Approve an extension of time for a permit under Section 69 of the Act | DPE, MSP, SPC, TLSP | SO |
| Refuse an extension of time for a permit under Section 69 of the Act | DPE, MSP, SPC, TLSP | SO |
| Power to correct mistakes under Section 71 of the Act | DPE, MSP, SPC, TLSP | SO |
| Power to decide to amend a permit under Section 73 of the Act | DPE, MSP, SPC, TLSP | SO Conditions <ul style="list-style-type: none"> • TLSP have authority to determine applications where no more than ten (10) objections have been received. • SO not delegated to determine if there are any objections. |
| Duty to issue amended permit (no objections) under Section 74 of the Act | DPE, MSP, SPC, TLSP | SO |
| Duty to give notice of an amendment to a permit under Section 76A(1), (2) & (6) | 76A(2) DPE, MSP, SPC, TLSP, SO | SO |
| Duty to issue a permit at the direction of the Tribunal under Section 84 (6) & 86 | Section 84(6) DPE, MSP Section 86 DPE, MSP, SPC, TLSP | SPC, TLSP, SO SO |
| Power to decide, in relation to any planning scheme or permit that a specified thing has or has not been done to the satisfaction of Council (such as final inspections, landscape inspections, etc.) | No delegation | DPE, MSP, SPC, TLSP, SPO, SO |