

APPENDIX 22

INSTRUMENT OF DELEGATION UNDER THE STRATA TITLES ACT 1988

PREAMBLE

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

Titles of sub delegates, where sub delegation is applicable:

- MDE Manager Development & Environment
- MWI Manager Works & Infrastructure
- MGC Manager Governance & Community
- MFA Manager Finance & Administration

CLARE & GILBERT VALLEYS COUNCIL

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

Last amended: 1 January 2014

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Provision	Item Delegated / Authorisation	Date of Delegation to CEO	CEO Authorised Sub Delegate / Authorised Officer	Conditions and Limitations	Date of Sub Delegation
s12(2)(b)	1. Application for Amendment 1.1 The power pursuant to Section 12(2)(b) of the Strata Titles Act 1988 (the Act), where the Council has an encumbrance registered in relation to units or common property affected by a proposed amendment, to consent to the amendment.	27 April 2015	MDE		5 December 2016
s12(2)(c)	1. Application for Amendment 1.2 The power pursuant to Section 12(2)(c) of the Act, where units or common property affected by the proposed amendment are subject to a statutory encumbrance held by the Council, to consent to the amendment.	27 April 2015	MDE		5 December 2016
s12(3a)	1. Application for Amendment 1.3 The power pursuant to Section 12(3a) of the Act, where: 1.3.1 the erection or alteration of a building on the site causes an encroachment over public land in the area of the Council not included in the site; and 1.3.2 the application for amendment relates (wholly or in part) to the erection or alteration of that building, to consent to the encroachment.	27 April 2015	MDE		5 December 2016
s12(8)	1. Application for Amendment 1.4 The power pursuant to Section 12(8) of the Act, where on amendment of a deposited strata plan, part, but not the whole, of an allotment within the meaning of Part 194AB of the Real Property Act 1886 is to be included in the site from outside the site, and the Council is the registered proprietor of the allotment to be divided, to make the application jointly with the strata corporation.	27 April 2015	MDE		5 December 2016
s12A	2. Application May Deal with Statutory Encumbrances 2.1 The power pursuant to Section 12A of the Act, where the Council is the holder of a statutory encumbrance, to sign a certificate certifying that the requirements of the Act under which the encumbrance was entered into, or is in force, as to the variation or termination of the statutory encumbrance (if any) have been complied with.	27 April 2015	MDE		5 December 2016
s13(3a)	2A. Amendment by Order of ERD Court 2A.2 The power pursuant to Section 13(3a) of the Act to make submissions to the Court in relation to the matter.	27 April 2015	Not Delegated - Remains with CEO		5 December 2016
s13(1) and (2), 13(3)	2A. Amendment by Order of ERD Court 2A.1 The power pursuant to Sections 13(1) and (2) of the Act and subject to Section 13(3) of the Act to make an application to the ERD Court.	27 April 2015	Not Delegated - Remains with CEO		5 December 2016
s16(2)(c)	3. Amalgamation of Adjacent Sites	27 April	Not Delegated		5 December

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	3.1 The power pursuant to Section 16(2)(c) of the Act, where the Council has a registered interest in the units, to consent to an application for amalgamation.	2015	- Remains with CEO		2016
s16(2)(c)	3. Amalgamation of Adjacent Sites The power pursuant to Section 16(2)(c) of the Act, to endorse an application for amalgamation with the consent of the Council where the Council has a registered interest in the units.	27 April 2015	Not Delegated - Remains with CEO		5 December 2016
s17(2)(b)	4. Cancellation 4.1 The power pursuant to Section 17(2)(b) of the Act, where the Council has a registered interest in the unit or the common property to approve an instrument of cancellation.	27 April 2015	MDE		5 December 2016
s17(2)(b)	4. Cancellation 4.2 The power pursuant to Section 17(2)(b) of the Act to, endorse an instrument of cancellation with the approval of the Council where the Council has a registered interest in a unit or the common property.	27 April 2015	MDE		5 December 2016
s17(4)	4. Cancellation 4.3 The power pursuant to Section 17(4) of the Act to make an application for an order of the ERD Court cancelling a strata plan.	27 April 2015	MDE		5 December 2016
s17(4a)	4. Cancellation 4.4 The power pursuant to Section 17(4a) of the Act to make submissions to the Court in relation to the matter.	27 April 2015	MDE		5 December 2016
s17AAA(2)	5. Application for Division 5.1 The power pursuant to Section 17AAA(2) of the Act where the Council is the owner of the units comprising the site or is a person whose consent is required by Part 19AB Division 2 of the Real Property Act 1886 to consent to a plan of division lodged with the application.	27 April 2015	MDE		5 December 2016
s17AAA(2)	5. Application for Division 5.2 The power pursuant to Section 17AAA(2) of the Act to endorse the plan of division lodged with the application with the consent of the Council where the Council is the owner of the units comprising the site or is a person whose consent is required by Part 19AB Division 2 of the Real Property Act 1886.	27 April 2015	MDE		5 December 2016
s19(3b)(e)	6. Articles of Strata Corporation 6.1 The power pursuant to Section 19(3b)(e) of the Act, to, within 60 days after service of the notice, apply to the Magistrates Court for revocation of the notice.	27 April 2015	MDE		5 December 2016
s19A(1) and (2)	7. Certain Articles May be Struck Out by Court 7.1 The power pursuant to Sections 19A(1) and (2) of the Act to make an application to the Magistrates Court or the District Court under Part 3A of the Act.	27 April 2015	MDE		5 December 2016
s27D(5)	8. Offences 8.1 The power pursuant to Section 27D(5) of the Act to make an application to the delegate of a strata corporation to be provided with, on a quarterly basis, a statement setting out details of dealings by the delegate with the corporation's money.	27 April 2015	MDE		5 December 2016
s27D(7)	8. Offences 8.2 The power pursuant to Section 27D(7) of the Act to request a delegate of a strata corporation who holds records of the corporation to:	27 April 2015	MDE		5 December 2016

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	8.2.1 make those records available for the Council or the Council's delegate to inspect within 10 business days of the request; and 8.2.2 provide the Council or the Council's delegate with a copy of any of the records on payment of a fee.				
s28(5), 28(4)	9. Power to Enforce Duties of Maintenance and Repair 9.1 The power pursuant to Section 28(5) of the Act, where: 9.1.1 the strata corporation recovers costs from the Council under Section 28(4) of the Act; and 9.1.2 the circumstances out of which the work was required are attributable to the act or default of another person, to recover those costs from that other person as a debt.	27 April 2015	MDE		5 December 2016
s32(1)	10. Right of Unit Holders etc to Satisfy Themselves as to Insurance 10.1 The power pursuant to Section 32(1) of the Act, to request a strata corporation to produce for inspection all current policies of insurance taken out by the corporation.	27 April 2015	MDE		5 December 2016
s33(2), 33(3), (3a), (4a) and (4b)	11. Holding of General Meetings 11.1 The power pursuant to and in accordance with Section 33(2) of the Act, subject to Sections 33(3), (3a), (4a) and (4b) of the Act, to convene a meeting.	27 April 2015	MDE		5 December 2016
s33(2)(e)	11. Holding of General Meetings. 11.2 The power pursuant to Section 33(2)(e) of the Act to apply to the Magistrates Court for a meeting to be convened.	27 April 2015	MDE		5 December 2016
s34(2a), 34(3a), (3b) and (3c)	12. Voting at General Meetings 12.1 The power pursuant to Section 34(2a) of the Act, subject to Sections 34(3a), (3b) and (3c) of the Act, to nominate another person to attend and vote at meetings on the Council's behalf.	27 April 2015	MDE		5 December 2016
s34(4)	12. Voting at General Meetings. 12.2 The power pursuant to Section 34(4) of the Act to exercise an absentee vote on a proposed resolution by giving the secretary written notice of the proposed vote at least six hours before the time of the meeting.	27 April 2015	MDE		5 December 2016
s37(1)	13. Administrator of Strata Corporation's Affairs 13.1 The power pursuant to Section 37(1) of the Act to make application to a relevant court to appoint an administrator of the strata corporation, or remove or replace an administrator previously appointed.	27 April 2015	MDE		5 December 2016
s41(1), 39A	14. Information to be Furnished 14.1 The power pursuant to Section 41(1) of the Act to make application to a strata corporation to: 14.1.1 furnish: 14.1.1.1 particulars of any contribution payable in relation to the unit (including details of any arrears of contribution related to the unit); 14.1.1.2 particulars of the assets and liabilities of the corporation; 14.1.1.3 particulars of any expenditure that the corporation has incurred, or has resolved to incur, and to which the unit holder of the unit must contribute, or is likely to be required to contribute; 14.1.1.4 particulars in relation to any prescribed matter; 14.1.2 provide copies of: 14.1.2.1 the minutes of general meetings of the corporation and meetings of its management committee for	27 April 2015	MDE		5 December 2016

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	<p>such period, not exceeding two years, specified in the application;</p> <p>14.1.2.2 the statement of accounts of the corporation last prepared by the corporation;</p> <p>14.1.2.3 the articles for the time being in force;</p> <p>14.1.2.4 current policies of insurance taken out by the corporation;</p> <p>14.1.3 make available for inspection:</p> <p>14.1.3.1 a copy of the accounting records of the corporation;</p> <p>14.1.3.2 the minute books of the corporation;</p> <p>14.1.3.3 any other prescribed documentary material;</p> <p>14.1.4 if the strata corporation is a party to a contract with a body corporate manager – make available for inspection a copy of the contract;</p> <p>14.1.5 make available for inspection the register maintained under Section 39A of the Act.</p>				
s41(1a), 41(2) and (3)	<p>14. Information to be Furnished</p> <p>14.2 The power pursuant to Section 41(1a) of the Act, subject to Sections 41(2) and (3) of the Act, to make application to a strata corporation to provide, on a quarterly basis, ADI statements for all accounts maintained by the corporation.</p>	27 April 2015	MDE		5 December 2016
s41AA and 41A, 41A(2)	<p>15. Persons Who May Apply for Relief</p> <p>15.1 The power pursuant to Sections 41AA and 41A of the Act to, subject to Section 41A(2) of the Act, apply for relief under Part 3 of the Act.</p>	27 April 2015	MDE		5 December 2016
s41A(3), 41A	<p>16. Resolution of Disputes, etc</p> <p>16.1 The power pursuant to Section 41A(3) of the Act to seek the permission of the District Court, to bring an application under Section 41A of the Act in the District Court.</p>	27 April 2015	MDE		5 December 2016
s41A(3), 41A	<p>16. Resolution of Disputes, etc</p> <p>16.2 The power pursuant to Section 41A(3) of the Act bring an application under Section 41A of the Act in the District Court.</p>	27 April 2015	MDE		5 December 2016
s 41A(4) , 41A	<p>16. Resolution of Disputes, etc</p> <p>16.3 The power pursuant to Section 41A(4) of the Act to apply to the District Court for proceedings under Section 41A of the Act that have been commenced in the Magistrates Court, to be transferred to the District Court.</p>	27 April 2015	MDE		5 December 2016
s41A(6), 41A	<p>16. Resolution of Disputes, etc</p> <p>16.4 The power pursuant to Section 41A(6) of the Act to make an application to a court to:</p> <p>16.4.1 transfer an application under Section 41A to the Supreme Court on the ground that the application raises a matter of general importance; or</p> <p>16.4.2 state a question of law for the opinion of the Supreme Court.</p>	27 April 2015	MDE		5 December 2016
s41A(10)(b)	<p>16. Resolution of Disputes, etc</p> <p>16.5 The power pursuant to Section 41A(10)(b) of the Act to make submissions to the court in relation to the matter.</p>	27 April 2015	MDE		5 December 2016
s42(1) and (2)	<p>17. Unit Holder's Power of Entry</p> <p>17.1 Where the Council is the unit holder of a unit (Unit A) and:</p> <p>17.1.1 -</p>	27 April 2015	MDE		5 December 2016

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	17.1.1.1 the proper supply of hot or cold water, gas, electricity, heating oil or air-conditioned air to Unit A fails; or 17.1.1.2 the sewerage, garbage or drainage system as it affects Unit A fails to operate properly; and 17.1.2 some other unit (Unit B) must be entered in order to investigate the cause of the failure, or to carry out necessary repairs, the power pursuant to Section 42(1) and (2) of the Act to, after giving such notice to the unit holder of Unit B as may be practicable in the circumstances, enter Unit B for that purpose.				
s42(1)	17. Unit Holder's Power of Entry 17.2 Where the Council is the unit holder of a unit (Unit A) and 17.2.1 - 17.2.1.1 the proper supply of hot or cold water, gas, electricity, heating oil or air-conditioned air to Unit A fails; or 17.2.1.2 the sewerage, garbage or drainage system as it affects Unit A fails to operate properly; and 17.2.2 some other unit (Unit B) must be entered in order to investigate the cause of the failure, or to carry out necessary repairs, the power pursuant to Sections 42(1) of the Act to authorise a person to, after giving such notice to the unit holder of Unit B as may be practicable in the circumstances, enter Unit B for that purpose.	27 April 2015	MDE		5 December 2016
s44(2)	18. Dealing with Part of Unit 18.1 The power pursuant to Section 44(2) of the Act, subject to any other law, to grant a lease or licence over a part of a unit: 18.1.1 if all of the units comprised in the strata scheme consist of non residential premises; or 18.1.2 where Section 44(2)(a) does not apply: 18.1.2.1 if the lease or licence is granted to another unit holder; or 18.1.2.2 if the lease or licence is authorised by unanimous resolution of the strata corporation.	27 April 2015	MDE		5 December 2016
S44A(2), 44A(2a), (2b) and (4)	19. Body Corporate May Act as Officer, etc 19.1 The power pursuant to Section 44A(2) of the Act, and subject to Sections 44A(2a), (2b) and (4) of the Act if the Council is appointed as the presiding officer, secretary or treasurer of a strata corporation, or as a member of a management committee, to, by instrument in writing, appoint a person to perform on its behalf any function that is conferred on the Council by virtue of the appointment.	27 April 2015	MDE		5 December 2016
s46(1), 46(2)	20. Relief Where Unanimous Resolution Required 20.1 The power pursuant to Section 46(1) of the Act, and in accordance with Section 46(2) of the Act, where a unanimous resolution is necessary under the Act before an act may be done and that resolution is not obtained but the resolution is supported to the extent necessary for a special resolution, and the Council is included in the majority in favour of the resolution to apply to a relevant court to have the resolution declared sufficient to authorise the particular act proposed.	27 April 2015	MDE		5 December 2016

Head Delegation reviewed by Council on 16 May 2016 (no amendments required)