

Delegations of Authority for Crown Land

Policy IND-O-179 Version 7.0

Policy Statement

This policy sets out how the NSW Department of Planning and Environment – Crown Lands (the department) may exercise delegated functions performed under the instruments of delegation in force from 28 March 2022.

This policy ensures the proper exercise of delegations so that decisions are made by staff with the requisite experience and seniority.

Scope

This policy applies to department staff exercising a delegated function under the following instruments:

- *Crown Land Ministerial Instrument of Delegation 2022*
- *Crown Land Secretary Instrument of Delegation 2022*
- *Crown Land Ministerial Instrument of Delegation 2022 (No. 2)*
- *Crown Land Secretary Instrument of Delegation 2022 (No. 2)*

These instruments include 22 delegation schedules under 22 Acts/Regulations. If an instrument is silent on a function that is in an Act or Regulation, the function has not been delegated and it is reserved for the minister.

Requirements

In exercising a delegation under an instrument of delegation, a delegate must:

1. ensure they apply the current delegations that relate to their role by referencing the most recent instrument
2. comply with the requirements of relevant legislation and with any relevant departmental policies, guidelines and procedures
3. ensure they have adequate information in order to properly exercise their delegation, and that the delegated decision they are making is consistent with the duties of their role
4. ensure that the recommendation for a decision and the final decision made under delegation are done by different people
5. ensure no conflict of interest exists or appears to exist in relation to the delegated decision
6. record the specific section of the Act under which the function was exercised and retain it with any other documentation relating to the delegated decision.

Roles and responsibilities

- **Officers of the department:** Can only exercise a delegation of authority if their role is identified as a delegate within one of the delegate groups at Annexure A and that delegate group is authorised to exercise a delegated function under the instruments. Officers must also have a functional role in the area in which a delegation is being exercised.
- **Delegates:** May seek advice from another officer, however the delegate remains responsible and accountable for any decision they make in exercising a delegated function.
- **Contractors, consultants, advisers or casual staff employed through an employment agency:** Can only provide advice or recommendations on exercising a delegation of authority, they cannot exercise a delegation.
- **Managers:**
 - a. Promptly take steps to correct any inconsistencies that may arise between staff delegation groups, and those assigned in Crown land information systems
 - b. Alert the Crown Lands executive if they consider any amendment is required to any of the instruments of delegation or if legal advice regarding delegations is required.
- **Crown Lands executive:** monitor and ensure conformance with the instruments, including through the conduct of an annual audit of delegated decisions.

Definitions

- **Function:** function includes a power, authority or duty – ‘exercise a function’ includes performance of a duty.
- **Officer of the department:** a person employed by the department in accordance with the *Government Sector Employment Act 2013*.
- **Delegate:** an officer of the department who is in a role that is identified as a delegate for the delegate group at Annexure A.

Legislation

There are 22 delegation schedules under 22 Acts/Regulations.

- Schedule 1: *Crown Land Management Act 2016*
- Schedule 2: *Crown Land Management Regulation 2018*
- Schedule 3: *Aboriginal Land Rights Act 1983*
- Schedule 4: *Biodiversity Conversation Act 2016*
- Schedule 5: *Coastal Management Act 2016*
- Schedule 6: *Commons Management Act 1989*
- Schedule 7: *Conveyancing Act 1919*
- Schedule 8: *Environmental Planning and Assessment Act 1979*
- Schedule 9: *Environmental Planning and Assessment Regulation 2021*

- Schedule 10: *Heritage Act 1977*
- Schedule 11: *Public Spaces (Unattended Property) Act 2021*
- Schedule 12: *Local Government Act 1993*
- Schedule 13: *Protection of the Environment Operations Act 1997*
- Schedule 14: *Real Property Act 1900*
- Schedule 15: *Roads Act 1993*
- Schedule 16: *Roads Regulation 2018*
- Schedule 17: *Rural Fires Act 1997*
- Schedule 18: *Surveillance Devices Act 2007*
- Schedule 19: *Surveying and Spatial Information Regulation 2017*
- Schedule 20: *Local Land Services Act 2013*
- Schedule 21: *Forestry Act 2012*
- Schedule 22: *Land Acquisition (Just Terms Compensation) Act 1991*

Related policies

- Department of Planning and Environment Code of Ethics and Conduct
- Department of Planning and Environment Records and Information Management Policy

Other related documents

- *Government Sector Finance Act 2018 Instrument of Delegation 2020*
- *Government Sector Employment Instrument of Delegation (Secretary of the Department of Planning, Industry and Environment) 2020*
- *Public Works and Procurement Instrument of Delegation (Procurement Functions of the Department of Planning, Industry and Environment) 2021*
- *Crown Land Management (Kurnell Heritage Stone Yard) Instrument of Delegation 2020*

Superseded documents

This policy replaces *Delegations of Authority for Crown Lands Policy, IND-O-179, Version 6.1* which has been updated to reflect the new Instruments of Delegation and Delegate Groups in force from 28 March 2022.

Contact

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Annexure A – Delegate groups

Delegate Groups	Delegates
A	PSSE 4 – such as a Secretary role PSSE 3 – such as a Deputy Secretary role
B	PSSE 2 – such as an Executive Director role
C	PSSE 1 – such as a Director role
D	Grade 11/12 – such as a Manager role
E	Grade 9/10 – such as a Group Leader or Team Leader role
F	Grade 7/8 – such as a Supervisor role
G	Grade 5/6 and below – such as an Administrative officer role

Note: Staff must have a functional role in the area in which a delegation is being exercised.