Attachment 11.7.1

DRAFT *Building Act 2011* Delegations

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Building Act 2011 Delegations

Council to CEO

2.1.1 Grant a Building Permit

Delemeter	D
Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to	Building Act 2011:
Delegate:	s.127(1) & (3) Delegation: special permit authorities and local government
Power that enables a delegation	3.127(1) a (5) belogation. Special permit authorities and local government
to be made	
Express Power or Duty	Building Act 2011:
Delegated:	s.18 Further Information
	s.20 Grant of building permit
	s.22 Further grounds for not granting an application
	s.27(1) and (3) Impose Conditions on Permit
	D 11 11 D 1 11 0010
	Building Regulations 2012:
	r.23 Application to extend time during which permit has effect (s.32)
	r.24 Extension of time during which permit has effect (s.32(3))
	r.26 Approval of new responsible person (s.35(c))
Delegate:	Chief Executive Officer
Function:	Authority to require an applicant to provide any
This is a precis only.	documentation or information required to determine a
Delegates must act with full	building permit application [s.18(1)].
understanding of the	building pointit application [c. 10(1)].
legislation and conditions	Authority to grant or refuse to grant a building permit
relevant to this delegation.	[s.20(1) & (2) and s.22].
	- ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' '
	3. Authority to impose, vary or revoke conditions on a building
	permit [s.27(1) and(3)].
	4. Authority to determine an application to extend time during
	• • • • • • • • • • • • • • • • • • • •
	which a building permit has effect [r.23].
	 Subject to being satisfied that work for which the
	building permit was granted has not been completed
	OR the extension is necessary to allow rectification of
	defects of works for which the permit was granted
	·
	[r.24(1)]
	ii. Authority to impose any condition on the building
	permit extension that could have been imposed under
	s.27 [r.24(2)].
	5. Authority to approve, or refuse to approve, an application
	for a new responsible person for a building permit [r.26].
Council Conditions	Nil
on this Delegation:	INII
Express Power to Sub-	Building Act 2011:
Delegate:	s.127(6A) Delegation: special permit authorities and local governments
Delegate.	(powers of sub-delegation limited to CEO)
Sub-Delegate/s:	Building Surveyor
Appointed by CEO	
CEO Conditions on	Nil
this Sub-Delegation:	1 111
una aub-Delegation.	

Conditions on the original delegation also apply to the sub-delegations.	
Compliance Links:	Building Act 2011 s.119 Building and demolition permits – application for review by SAT s.23 Time for deciding application for building or demolition permit s.17 Uncertified application to be considered by building surveyor
	<u>Building Regulations 2012</u> – r.25 Review of decision to refuse to extend time during which permit has effect (s.32(3)) – reviewable by SAT
	Building Services (Registration Act) 2011 – Section 7
	Home Building Contracts Act 1991 – Part 3A, Division 2 – Part 7, Division 2
	Building and Construction Industry Training Levy Act 1990
	Heritage Act 2018
Record Keeping:	All records must be kept on the appropriate file.

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2.1.2 Demolition Permits

Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.18 Further Information s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit Building Regulations 2012 r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the	Authority to require an applicant to provide any documentation or information required to determine a demolition permit application [s.18(1)].
legislation and conditions relevant to this delegation.	 Authority to grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.20(1) & (2) and s.22].
	Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and(3)].
	4. Authority to determine an application to extend time during which a demolition permit has effect [r.23].
	 Subject to being satisfied that work for which the demolition permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)]
	 Authority to impose any condition on the demolition permit extension that could have been imposed under s.27 [r.24(2)].
	5. Authority to approve, or refuse to approve, an application for a new responsible person for a demolition permit [r.26].
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Building Surveyor
CEO Conditions on this Sub-Delegation:	Nil
Conditions on the original delegation also apply to the sub-delegations.	
Compliance Links:	Building Act 2011 s.119 Building and demolition permits – application for review by SAT
	5.119 building and demonition permits – application for review by SAT

	s.23 Time for deciding application for building or demolition permit
	Building Services (Complaint Resolution and Administration) Act 2011 Part 7, Division 2
	Building and Construction Industry Training Levy Act 1990
	Heritage Act 2018
Record Keeping:	All records must be kept on the appropriate file.

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2.1.3 Occupancy Permits or Building Approval Certificates

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Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.55 Further information s.58 Grant of occupancy permit, building approval certificate s.62(1) and (3) Conditions imposed by permit authority s.65(4) Extension of period of duration Building Regulations 2012 r.40 Extension of period of duration of time limited occupancy permit or building approval certificate (s.65)
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the	Authority to require an applicant to provide any documentation or information required in order to determine an application [s.55].
legislation and conditions relevant to this delegation.	2. Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58].
	3. Authority to impose, add, vary or revoke conditions on an occupancy permit [s.62(1) and (3)].
	4. Authority to extend, or refuse to extend, the period in which an occupancy permit or modification or building approval certificate has effect [s.65(4) and r.40].
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Building Surveyor
CEO Conditions on this Sub-Delegation: Conditions on the original delegation also apply to the sub-delegations.	Nil
Compliance Links:	Building Act 2011 s.59 time for granting occupancy permit or building approval certificate s.60 Notice of decision not to grant occupancy permit or grant building approval certificate s.121 Occupancy permits and building approval certificates – application for review by SAT Building Services (Complaint Resolution and Administration) Act 2011 – Part 7, Division 2 Building and Construction Industry Training Levy Act 1990 Heritage Act 2018
Record Keeping:	All records must be kept on the appropriate file.
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2.1.4 Designate Employees as Authorised Persons

Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.96(3) authorised persons s.99(3) Limitation on powers of authorised person
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full	Authority to designate an employee as an authorised person [s.96(3)]. Authority to revelue an employee as an authorised person [s.96(3)].
understanding of the legislation and conditions relevant to this delegation.	 Authority to revoke or vary a condition of designation as an authorised person or give written notice to an authorised person limiting powers that may be exercised by that person [s.99(3)].
	NOTE: An <i>authorised person</i> for the purposes of sections 96(3) and 99(3) is <u>not</u> an <i>approved officer</i> or <i>authorised officer</i> for the purposes of Building Reg. 70.
Council Conditions on this Delegation:	a. Decisions under this delegated authority should be in accordance with r.5 of the <i>Building Regulations 2012</i> .
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Nil
CEO Conditions on this Sub-Delegation: Conditions on the original delegation also apply to the sub-delegations.	a. Decisions under this delegated authority should be in accordance with r.5 of the Building Regulations 2012.
Compliance Links:	Building Act 2011:
	s.97 each designated authorised person must have an identity card.
	r.5A Authorised persons (s.3) – definition
Record Keeping:	

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2.1.5 Building Orders

Delegator: Power / Duty assigned in	Permit Authority (Local Government)
legislation to:	
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.110(1) A permit authority may make a building order s.111(1) Notice of proposed building order other than building order (emergency) s.117(1) and (2) A permit authority may revoke a building order or notify that it remains in effect s.118(2) and (3) Permit authority may give effect to building order if non- compliance s.133(1) A permit authority may commence a prosecution for an offence against this Act
Delegate:	Chief Executive Officer
Function:	Authority to make Building Orders in relation to:
This is a precis only. Delegates must act with full	a. Building work
understanding of the legislation and conditions	b. Demolition work
relevant to this delegation.	c. An existing building or incidental structure [s.110(1)].
	 Authority to give notice of a proposed building order and consider submissions received in response and determine actions [s.111(1)(c)].
	3. Authority to revoke a building order [s.117].
	4. If there is non-compliance with a building order, authority to cause an authorised person to:
	a. take any action specified in the order; or
	 commence or complete any work specified in the order; or
	c. if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)].
	 Authority to take court action to recover as a debt, reasonable costs and expense incurred in doing anything in regard to non-compliance with a building order [s.118(3)].
	6. Authority to initiate a prosecution pursuant to section 133(1) for non-compliance with a building order made pursuant to section 110 of the <i>Building Act 2011</i> .
Council Conditions on this Delegation:	Nil
Express Power to Sub-	Building Act 2011:
Delegate:	s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Building Surveyor
CEO Conditions on this Sub-Delegation:	Nil

Conditions on the original delegation also apply to the sub-delegations.	
Compliance Links:	Building Act 2011: Section 111 Notice of proposed building order other than building order (emergency) Section 112 Content of building order Section 113 Limitation on effect of building order Section 114 Service of building order Part 9 Review - s.122 Building orders - application for review by SAT
Record Keeping:	All records must be kept on the appropriate file.

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2.1.6 Inspection and Copies of Building Records

Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.131(2) Inspection, copies of building records
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.	Authority to determine an application from an interested person to inspect and copy a building record [s.131(2)].
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Development Services Coordinator Building Surveyor Records Officer
CEO Conditions on this Sub-Delegation: Conditions on the original delegation also apply to the sub-delegations.	a) Interested person will need to have evidence of ownership or written authority from the owner.

Compliance Links:	Building Act 2011 - s.146 Confidentiality	
Record Keeping:	All records must be kept on the appropriate file.	

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2.1.7 Referrals and Issuing Certificates

Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.145A Local Government functions
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the	Authority to refer uncertified applications under s.17(1) to a building surveyor who is not employed by the local government [s.145A(1)].
legislation and conditions relevant to this delegation.	2. Authority to issue a certificate for Design Compliance, Construction Compliance or Building Compliance whether or not the land subject of the application is located in the Shire's District [s.145A(2)].
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Building Surveyor
CEO Conditions on	Nil
this Sub-Delegation:	
Conditions on the original	
delegation also apply to the sub-delegations.	

Compliance Links:	Nil	
Record Keeping:	All records must be kept on the appropriate file.	

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2.1.8 Private Pool Barrier – Alternative and Performance Solutions

Delegator: Power / Duty assigned in legislation to:	Permit Authority (Local Government)
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty	Building Regulations 2012:
Delegated:	r.51 Approvals by permit authority
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.	Authority to approve requirements alternative to a fence, wall, gate or other component included in the barrier, if satisfied that the alternative requirements will restrict access by young children as effectively as if there were compliant with AS 1926.1 [r.51(2)]
	2. Authority to approve a door for the purposes of compliance with AS 1926.1, where a fence or barrier would cause significant structural or other problem which is beyond the control of the owner / occupier or the pool is totally enclosed by a building or a fence or barrier between the building and pool would create a significant access problem for a person with a disability [r.51(3)]
	 Authority to approve a performance solution to a Building Code pool barrier requirement if satisfied that the performance solution complies with the relevant performance requirement [r.51(5)].
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Building Surveyor
CEO Conditions on	Nil
this Sub-Delegation:	
Conditions on the original delegation also apply to the sub-delegations.	
Compliance Links:	Nil
Record Keeping:	All records must be kept on the appropriate file.

Record Keeping:	All records must be kept on the appropriate file.

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2.1.9 Smoke Alarms – Alternative Solutions

Delegator: Power / Duty assigned in legislation to:	Local Government
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Regulations 2012: r.55 Terms Used (alternative building solution approval) r.61 Local Government approval of battery powered smoke alarms
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the	Authority to approve alternative building solutions which meet the performance requirement of the Building Code relating to fire detection and early warning [r.55].
legislation and conditions relevant to this delegation.	Authority to approve or refuse to approve a battery powered smoke alarm and to determine the form of an application for such approval [r.61].
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Building Surveyor
CEO Conditions on this Sub-Delegation: Conditions on the original delegation also apply to the sub-delegations.	Nil

Compliance Links:	Nil
Record Keeping:	All records must be kept on the appropriate file.

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2.1.10 Appointment of approved officers and authorised officers

Delegator: Power / Duty assigned in legislation to:	Local Government
Express Power to Delegate: Power that enables a delegation to be made	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Regulations 2012: r.70 Approved officers and authorised officers
Delegate:	Chief Executive Officer
Function: This is a precis only. Delegates must act with full understanding of the	1. Authority to appoint an approved officer for the purposes of s.6(a) of the <i>Criminal Procedure Act 2004</i> , in accordance with Building Regulation 70(1) and (1A).
legislation and conditions relevant to this delegation.	NOTE: Only employees delegated under s 5.44(1) of the Local Government Act 1995 with power under s 9.19 or 9.20 may be appointed as "approved officers".
	2. Authority to appoint an authorised officer for the purposes of s.6(b) of the <i>Criminal Procedure Act 2004</i> , in accordance with Building Regulation 70(2).
	NOTE: Only employees appointed under s 9.10 of the Local Government Act 1995 <u>and</u> authorised for the purpose of performing functions under s 9.16 of that Act may be appointed as "authorised officers" for the purposes of Building Regulation 70(2).
Council Conditions on this Delegation:	Nil
Express Power to Sub- Delegate:	Building Act 2011: s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: Appointed by CEO	Nil
CEO Conditions on this Sub-Delegation: Conditions on the original delegation also apply to the sub-delegations.	Nil

Compliance Links:	Building Regulations 2012:
	r 70(3) each authorised officer must be issued a certificate of appointment.
Record Keeping:	All records must be kept on the appropriate file.

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