

Attachment 11.7.2



Reference Number	Legislative Reference	Delegate
BA 1 - Buildings – Issue of Building Orders	Building Act 2011 s. 110	Chief Executive Officer Building Surveyor

Delegator

Council

Power / Duty

The Chief Executive Officer is delegated authority to issue Building Orders pursuant to Part 8 of the Building Act 2011 where a breach of building requirements is considered by the Chief Executive Officer to be of a magnitude sufficient to warrant the issue of a notice.

Conditions

Nil

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Building Act 2011

110. Building orders

- (1) A permit authority may make an order (a ***building order***) in respect of one or more of the following —
 - (a) particular building work;
 - (b) particular demolition work;
 - (c) a particular building or incidental structure, whether completed before or after commencement day.
- (2) A building order must be in an approved form and must be directed to any one or more of the following persons as is appropriate in the case —
 - (a) if a building permit is in effect for the particular building work, the person named as the builder on the permit;
 - (b) if a demolition permit is in effect for the particular demolition work, the person named as the demolition contractor on the permit;
 - (c) a person who is an owner of the land on which the particular building or demolition work is being, or has been, done;

(d) a person who is an owner or occupier of the land on which the particular building or incidental structure is located.

Verification

Recent Council Resolution	Initial Council Resolution
18037	5456

Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

Related Documents

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 28



Reference Number	Legislative Reference	Delegate
BA 2 - Buildings Unfit for Human Occupation, Unlawful Works and Dangerous Buildings	Building Act 2011 Section 112	Chief Executive Officer Building Surveyor

Delegator

Council

Power / Duty

The Chief Executive Officer is delegated authority to serve upon the owners and occupiers of buildings which are unfit for human occupation written notices under Section 112 of the Building Act 2011.

The Chief Executive Officer is delegated the authority to issue Building Orders to stop work pursuant to Section 112 of the Building Act 2011 where a breach of building requirements is considered by the Chief Executive Officer to be of a magnitude sufficient to warrant the issue of a Building Order.

The Chief Executive Officer is delegated the authority to withdraw Building Orders requiring works to be stopped pursuant to Section 112 of the Building Act 2011 where the breach for which the notice has been issued is corrected to the satisfaction of the Chief Executive Officer.

The Chief Executive Officer is delegated the authority to carry out the following functions as provided in Section 112 of the Building Act 2011:

- Issue a certificate which states that the subject building is in a dangerous state.
- Serve written notice upon the owner or the occupier of the building requiring that the building be taken down, secured or repaired.

The Chief Executive Officer is delegated authority to shore up or otherwise secure the building, as well as providing a hoarding or fence around the building to protect the public from danger in accordance with the Building Act 2011

Conditions

Nil

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Building Act 2011

112. Content of building order

- (1) In this section — ***specified*** means specified in the building order.
- (2) A building order may require a person to whom the order is directed to do any one or more of the following within the specified time —
- (a) to stop all or specified building or demolition work that is being done in suspected contravention of a provision of this Act;
 - (b) to demolish, dismantle or remove a building or incidental structure that has been, or is being, built or occupied in suspected contravention of a provision of this Act;
 - (c) to do specified building or demolition work, or alter a building or incidental structure in a specified way, so as to prevent or stop a suspected contravention of this Act;
 - (d) to cause a building or incidental structure to be evacuated, or remain unoccupied, so as to prevent or stop a suspected contravention of this Act;
 - (e) to take or not take specified action so as to prevent or stop a suspected contravention of this Act;
 - (f) to finish the outward facing side of a close wall in a way specified under section 88(3);
 - (g) if a building or incidental structure is reasonably believed to be in a dangerous state or unfit for human occupation —
 - (i) to conduct a survey of the building or incidental structure;
 - (ii) to cause the building or incidental structure to be evacuated or remain unoccupied;
 - (iii) to stop all or specified building or demolition work that is causing or contributing to the state or condition of the building or incidental structure;
 - (iv) to shore up, fence or otherwise secure the building or incidental structure in a specified way for the protection of persons, of other property or of the environment;
 - (v) to renovate or repair the building or incidental structure to a specified standard or in a specified way so as to prevent or stop the building or incidental structure from being a danger to persons, to other property or to the environment or to render it fit for human occupation;
 - (vi) to demolish, dismantle or remove the building or incidental structure;
 - (h) to take specified action that is reasonably incidental to doing a thing mentioned in any of paragraphs (a) to (g).
- (3) A building order —
- (a) that is to have effect for a limited period only must set out that period; and
 - (b) must set out the right of review under section 122; and
 - (c) must require a person to whom the order is directed to notify the permit authority in a specified manner when the person has done what the building order requires the person to do; and
 - (d) must contain each other thing that is prescribed to be in the order.

Verification

Recent Council Resolution	Initial Council Resolution
18037	5456

Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

Related Documents

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference – 29, 30 & 31 combined



Reference Number	Legislative Reference	Delegate
BA 3 - Strata Titles	Building Act 2011 s. 50	Chief Executive Officer

Delegator

Council

Power / Duty

Pursuant to the provisions of Section 50 of the Building Act 2011, the Chief Executive Officer is authorised to issue the appropriate certificates in respect to buildings as may be shown on a strata plan to be lodged for registration under the Act, provided that the buildings shown on the strata plan are first inspected to ensure compliance with Town Planning, Health and other Council requirements and that the Chief Executive Officer is of the opinion that the buildings are of sufficient standard and suitable to be divided into lots pursuant to the Strata Titles Act 1985.

(Note: This delegation is to be supported by an instrument in writing under the Common Seal of the Shire).

Conditions

Strata Titles Act 1985

5B. Further provisions as to registration of plans

- (2) A strata plan lodged for registration shall be accompanied by —
- (a) an occupancy permit granted under an application mentioned in the *Building Act 2011* section 50(1)(a); or
 - (b) a building approval certificate granted under an application mentioned in the *Building Act 2011* section 50(1)(b).

8A. Requirements for plan of re-subdivision

A plan of re-subdivision shall —

- (f) in the case of a re-subdivision of a lot in a strata scheme, be accompanied by —
 - (i) an occupancy permit granted under an application mentioned in the *Building Act 2011* section 50(2)(a); or
 - (ii) a building approval certificate granted under an application mentioned in the *Building Act 2011* section 50(2)(b);

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Building Act 2011

50. Application for occupancy permit or building approval certificate for registration of strata scheme, plan of re-subdivision

- (1) A person who wishes to lodge a strata plan for registration under the *Strata Titles Act 1985* may apply for —
- (a) an occupancy permit for a building that is a subject of the strata plan to accompany the strata plan as required under the *Strata Titles Act 1985* section 5B(2)(a); or
 - (b) a building approval certificate for a building that is a subject of the strata plan to accompany the strata plan as required under the *Strata Titles Act 1985* section 5B(2)(b).
- (2) A person who wishes to re-subdivide a lot in a strata scheme under the *Strata Titles Act 1985* may apply for —
- (a) an occupancy permit for a building that comprises the whole or part of the lot to accompany the plan as required under the *Strata Titles Act 1985* section 8A(f)(i); or
 - (b) a building approval certificate for a building that comprises the whole or part of the lot to accompany the strata plan as required under the *Strata Titles Act 1985* section 8A(f)(ii).
- (3) An application for an occupancy permit under subsection (1)(a) or (2)(a) may be made if —
- (a) an occupancy permit is in effect for the building; or
 - (b) the building is otherwise one which would require an occupancy permit under section 41(2).
- (4) An application for a building approval certificate under subsection (1)(b) or (2)(b) may be made if the building is not of a kind mentioned in subsection (3).

Verification

Recent Council Resolution	Initial Council Resolution
18037	5456

Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

Related Documents

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_41503.pdf/\\$FILE/Strata%20Titles%20Act%201985%20-%20%5B07-f0-03%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_41503.pdf/$FILE/Strata%20Titles%20Act%201985%20-%20%5B07-f0-03%5D.pdf?OpenElement)

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 48



Reference Number	Legislative Reference	Delegate
BA 4 - Demolition Permits	Building Act 2011 s. 21	Chief Executive Officer

Delegator

Council

Power / Duty

The Chief Executive Officer is delegated authority to determine the issue of a demolition permit under Section 21 of the Building Act 2011 to take down a building or a part of a building and such permit may be subject to such conditions as the Chief Executive Officer considers necessary for the safe and proper execution of the work.

Conditions

Nil

Statutory Framework

Building Act 2011

21. Grant of demolition permit

- (1) The permit authority to which an application for a demolition permit is made must grant the demolition permit if it is satisfied —
- (a) that the applicant has complied with section 16; and
 - (b) if the person mentioned in section 16(c) is required under another written law to have an authority under that law to do the demolition work, that the person has that authority; and
 - (c) that the demolition work will comply with each applicable building standard; and (d) if the demolition work may adversely affect land beyond the boundaries of the land on which the work is proposed to be done, that there is compliance with section 77; and
 - (e) that any part of the building or incidental structure that is the subject of the application which is proposed to remain as a permanent retaining or other protection structure is suitable for that purpose; and
 - (f) that the applicant satisfies the insurance requirements prescribed by regulation or under any other written law in respect of the demolition work; and
 - (g) that any building services levy required to be paid in respect of the demolition permit under regulations mentioned in the *Building Services (Complaint Resolution and Administration) Act 2011* Part 7 Division 2 has been paid; and
 - (h) if a levy is imposed by the *Building and Construction Industry Training Levy Act 1990* in respect of the demolition work, that the levy has been paid; and

- (i) that the permit authority has complied with the provisions of the *Heritage of Western Australia Act 1990* in relation to the application and that the demolition permit, if granted, would not be inconsistent with an order, agreement or permit under that Act except to the extent allowed by that Act; and
 - (j) that the applicant has obtained in relation to the demolition work each authority under a written law that is prescribed for the purposes of this paragraph; and
 - (k) that the applicant has complied or is complying with each authority mentioned in paragraph (j); and
 - (l) that the applicant, in relation to the demolition work, has complied or is complying with each provision of a written law that is prescribed for the purposes of this paragraph; and
 - (m) that the applicant, in relation to the demolition work, has complied or is complying with each provision of a local government policy or requirement, not being a written law, that is prescribed for the purposes of this paragraph; and
 - (n) that each notification that is prescribed for the purposes of this paragraph to be given in relation to the demolition work has been given; and
 - (o) that the applicant has complied with each other prescribed requirement for the granting of a demolition permit.
- (2) A permit authority to which an application for a demolition permit is made must not grant the demolition permit unless it is satisfied as to each of the matters mentioned in subsection (1)(a) to (o).

Verification

Recent Council Resolution	Initial Council Resolution
18037 February 2018	5456 July 1999

Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

Related Documents

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 70



Reference Number	Legislative Reference	Delegate
BA 5 - Building – Extension of Time for Building or Demolition Permit	Building Act 2011 s. 65	Chief Executive Officer

Delegator

Council

Power / Duty

That in accordance with Regulation 24 of the Building Regulations 2012 Council's Chief Executive Officer is delegated authority to determine an application for an extension of time where it was not possible to complete the building within the period specified in the building licence, subject to the payment of an additional building permit fee calculated in the following manner:

The fee payable is to be in accordance with Schedule 2 of the Building Regulations 2012.

Conditions

Nil

Statutory Framework

Building Act 2011

65. Extension of period of duration

- (1) A person may apply to extend the time in which the following can have effect —
- (a) an occupancy permit that has been granted or modified to have effect for a limited period only;
 - or
 - (b) a building approval certificate that has been granted to have effect for a limited period only.
- (2) An application must be —
- (a) made in an approved manner and form; and
 - (b) signed by each owner of the land on which the building or incidental structure is located.
- (3) An application must be accompanied by —
- (a) the prescribed fee, if any, for the application; and
 - (b) each other thing that is prescribed to accompany the application.
- (4) A permit authority to which an application is made may extend the period in which the occupancy permit or modification or the building approval certificate has effect and may do so even though the application was made after the expiration of the period.
- (5) The period in which an occupancy permit granted on an application mentioned in section 47 has effect cannot be extended beyond 30 days from the expiry of the building permit for the building.

- (6) The period during which the modification of an occupancy permit has effect cannot be extended beyond one year from the day the modification took effect.
- (7) The regulations may provide for matters relating to dealing with applications including giving notice of the right of review under section 121(2).

Verification

Recent Council Resolution	Initial Council Resolution
18037 February 2018	5456 July 1999

Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

Related Documents

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 73



Reference Number	Legislative Reference	Delegate
BA6 - Building Permits	Building Act 2011 s. 20	Chief Executive Officer

Delegator

Council

Power / Duty

That pursuant to Section 32 of the Building Act 2011, the Chief Executive Officer is delegated authority to determine an application for a Building Permit but where an application so submitted conforms to:

1. all Local Laws, Regulations and Codes in force in the district or part of the district in respect of building matters, and the Council's pre-determined policy in respect of building matters; and
2. all Local Laws and schemes in force in the district or part of the district in respect of town and regional planning matters, and the Council's predetermined policy in respect of town and regional planning matters,

the Chief Executive Officer shall not refuse to determine that application.

Furthermore, the issuing of a building permit under Section 32 of the Building Act 2011 may be subject to such conditions as the Chief Executive Officer considers necessary.

Conditions

Nil

Statutory Framework

Building Act 2011

20. Grant of building permit

- (1) A permit authority to which a certified application or an uncertified application is made must grant the building permit if it is satisfied —
- (a) that the applicant has complied with section 16; and
 - (b) that the person mentioned in section 16(c) —
 - (i) is a building service contractor who is entitled under the Registration Act section 11 to be named as the builder on the building permit; or
 - (ii) has owner-builder approval under the Registration Act to carry out that work; or
 - (iii) is a public authority as defined in the Registration Act section 3; or
 - (iii) is a person or in a class of persons prescribed for the purposes of the Registration Act section 7(2)(c) who may be named as the builder on the building permit, unless the building work is of a kind specified by the regulations; and

- (c) that a certificate of design compliance for the building or incidental structure that is the subject of the application complies with section 19; and
- (d) that the building surveyor who signed the certificate of design compliance —
 - (i) is entitled under the Registration Act to sign certificates of design compliance for buildings or incidental structures of the kind that is the subject of the application; and
 - (ii) is an independent building surveyor in relation to the application; and
- (e) that the certificate of design compliance is issued by a person who —
 - (i) is a building service contractor who is entitled under the Registration Act section 11 to issue the certificate; or
 - (iia) is a public authority as defined in the Registration Act section 3; or
 - (ii) is a person or in a class of persons prescribed for the purposes of the Registration Act section 7(2)(c) who may issue the certificate; and
- (f) that each technical certificate mentioned in section 16(i) is —
 - (i) signed by a person prescribed as a person who may sign the certificate; and
 - (ii) issued by a person prescribed as a person who may issue the certificate; and
- (g) if a part of a building or incidental structure is proposed to be placed beyond the boundaries of the land on which the building work is proposed to be done, that there is compliance with section 76; and
- (h) if the building work may adversely affect land beyond the boundaries of the land on which the work is proposed to be done, that there is compliance with section 77; and
- (i) that either —
 - (i) a policy of insurance is in force in respect of the building work under the *Home Building Contracts Act 1991* Part 3A Division 2; or
 - (ii) corresponding cover, as defined in the *Home Building Contracts Act 1991* section 25A, is provided in respect of the building work; or
 - (iii) the policy of insurance mentioned in subparagraph (i) or the cover mentioned in subparagraph (ii) is not required under the *Home Building Contracts Act 1991* in respect of the building work; and
- (j) that the applicant satisfies any other insurance requirements prescribed by regulation or under any other written law in respect of the building work; and
- (k) that any building services levy required to be paid in respect of the building permit under regulations mentioned in the *Building Services (Complaint Resolution and Administration) Act 2011* Part 7 Division 2 has been paid; and
- (l) if a levy is imposed by the *Building and Construction Industry Training Levy Act 1990* in respect of the building work, that the levy has been paid; and
- (m) that the permit authority has complied with the provisions of the *Heritage of Western Australia Act 1990* in relation to the application and that granting the building permit would not be

inconsistent with an order, agreement or permit under that Act except to the extent allowed by that Act; and

- (n) that the applicant has obtained in relation to the building work each authority under a written law that is prescribed for the purposes of this paragraph; and
 - (o) that the applicant has complied or is complying with each authority mentioned in paragraph (n); and
 - (p) that the applicant, in relation to the building work, has complied or is complying with each provision of a written law that is prescribed for the purposes of this paragraph; and
 - (q) that the applicant, in relation to the building work, has complied or is complying with each provision of a local government policy or requirement, not being a written law, that is prescribed for the purposes of this paragraph; and
 - (r) that each notification that is prescribed for the purposes of this paragraph to be given in relation to the building work has been given; and
 - (s) that the applicant has complied with each other prescribed requirement for the granting of a building permit on the application.
- (2) A permit authority to which an application is made must not grant the building permit unless it is satisfied as to each of the matters mentioned in subsection (1)(a) to (s).

Verification

Recent Council Resolution	Initial Council Resolution
18037 February 2018	5456 July 1999

Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

Related Documents

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 74