

**M20/5749 2020 REVIEW OF THE CITY OF MELVILLE COUNCIL DELEGATIONS OF
AUTHORITY**

Attachment 6 – Amended delegations (Bush Fires Act, Food Act, Building Act)

Key to amendments:

Blue, underlined = new text

~~Red, strike-through = deleted text~~

DA-022 **Notices** Legal Proceedings Bush Fires

Delegator: Council Process Owner: Director Community Development	Delegation No. DA –022 Last Review Date: 16 June 2020
Description	Authority to commence <u>and carry on</u> legal proceedings <u>against a person for alleged</u> pursuant to offences against the <i>Bush Fires Act 1954</i>
Statutory Power or Duty Delegated	<i>Bush Fires Act 1954</i> Section 59(1) Prosecution of offences.
Statutory Power to Delegate	<i>Bush Fires Act 1954</i> Section 59(3) Local government may delegate authority to its bush fire control officer or other officer to consider allegations of offences and if they see fit to institute proceedings against the person.
Delegated to	Chief Executive Officer Chief Bush Fire Control Officer appointed under s.38(1) of the Bush Fires Act 1954 Deputy Chief Bush Fire Control Officer appointed under s.38(1) of the Bush Fires Act 1954
Statutory Power to sub delegate:	The Bush Fires Act does not permit sub-delegation (s.48)
Sub Delegated to:	Not applicable
Conditions on Delegation/Sub Delegation	None
Compliance links	<i>Bush Fires Act 1954</i> Section 59A Alternative procedure – infringement notices Section 65 Proof of certain matters Section 66 Proof of ownership or occupancy Bush Fires (Infringements) Regulations 1978
Policy Reference	
Recordkeeping	Records of exercise of delegated authority and associated contracts to be retained in ECM index: COUNCIL ADMINISTRATION – Delegated Authority – Exercises 5.119 P
Period of Validity	Ongoing
Adopted by Council	Administration & Community Services Committee 5 November 1996 A96/1017
Substantive Amendments	Ordinary Meeting of Council 16 June 2020 M20/5749 Amended to remove delegation from CEO and grant it to the Chief and Deputy Chief Bush Fire Control Officers in accordance with s.59(3)

DA-073 Delegations Under the Food Act 2008

Delegator:	Council as enforcement agency	Delegation No. DA – 073	
Process Owner:	Director Urban Planning	Last Review Date: 16 June 2020	
Description	Any function conferred or imposed on the Council local government as an enforcement agency under the <i>Food Act 2008</i> .		
Statutory Power or Duty Delegated	<i>Food Act 2008</i> All functions conferred or imposed on the local government as an enforcement agency, subject to limitations or conditions below.		
Statutory Power to Delegate	<i>Food Act 2008</i> Section 118(2)(b) A function conferred or imposed on an enforcement agency may be delegated		
Delegated to	Chief Executive Officer Manager Building and Environmental Health Services: s.65; s.66; s.110; and s.112 Coordinator Environmental Health Services Senior Environmental Health Officer		
Statutory Power to sub delegate:	Yes Not permitted – Food Regulations do not allow for sub-delegation		
Sub Delegated to:	Director Urban Planning Manager Building and Environmental Health Services: S65; S66; S110; and S112 Coordinator Environmental Health Services Senior Environmental Health Officer		
Conditions on Delegation/Sub Delegation	Conditions or limitations imposed on the performance of functions by the enforcement agency from time to time by the chief executive officer of the department principally assisting in the administration of the Act.		
Compliance links	Any guidelines required to be adopted by enforcement agencies under section 120(1) (food standards) or section 122(2) (qualifications of authorised officers) of the Act. Section 53(2) Destroy, sell or dispose of forfeited item Section 56 Compensation for seized item Section 65(1) Prohibition order Section 66 Certificate of clearance to be given Section 70 Determine application for compensation Section 100 Priority classification system and frequency of auditing Section 110(1) Registration of food businesses Section 112 Vary conditions, cancel registration of food businesses Part 10 Division 2 Functions of enforcement agencies		
Policy Reference			
Recordkeeping	Records of exercise of delegated authority and associated contracts to be retained in ECM index: COUNCIL ADMINISTRATION – Delegated Authority – Exercises 5.119 P		
Period of Validity	Ongoing		
Adopted by Council	Ordinary Meeting of Council	15 June 2010	C10/5116
Substantive Amendments	Ordinary Meeting of Council	16 June 2020	M20/5749 Amended to extend delegation to Manager Building and Environmental Health Services, Coordinator Environmental Health Services and Senior Environmental Health Officer.

DA-098 Authorised Persons (Building Act)

Delegator: Council (as permit authority) Process Owner: Chief Executive Officer		Delegation No. DA – 098 Last Review Date: 16 June 2020
Description	Authority to: (1) designate an employee as an authorised person for the purposes of the Building Act 2011 in relation to buildings and incidental structures located or proposed to be located in the district, and (2) appoint authorised and approved officers for the purposes of issuing and dealing with infringements under sections 6(a) and 6(b) of the Criminal Procedure Act 2004 pursuant to the requirements of the Building Regulations 2012.	
Statutory Power or Duty Delegated	<i>Building Act 2011</i> Section 96(3) – local government may designate an employee as an authorised person for the purposes of the Act Building Regulations 2012 Regulation 70 Approved officers and authorised officers (for the purposes of the Criminal Procedure Act	
Statutory Power to Delegate	<i>Building Act 2011</i> Section 127(1) – A local government may delegate any of its powers or duties as a permit authority Section 127(3) – A local government may only delegate its powers or duties to a local government employee <i>Local Government Act 1995</i> Section 5.44 CEO may delegate powers and duties under this Act	
Delegated to	Chief Executive Officer	
Statutory Power to sub delegate:	<i>Building Act 2011</i> Section 127(6A) – the CEO of a local government may delegate to any other employee a power or duty that has been delegated to the CEO	
Sub Delegated to:		
Conditions on Delegation/Sub Delegation	<ol style="list-style-type: none"> 1. A person may only be appointed under the Building Regulations r.70(1) as an approved officer if they hold a delegation from the CEO under s.5.44(1) of the Local Government Act 1995 to perform functions under s.9.19 or 9.20 of that Act. 2. A person may only be appointed under the Building Regulations r.70(2) as an authorised officer if they have been appointed and authorised under s.9.10(1) of the Local Government Act 1995 for the purpose of performing functions under section 9.16 of that Act. <p>All authorised officers must be issued with identification showing proof of authorisation.</p>	
Compliance links	<i>Building Act 2011</i> Section 97 – Identity cards Section 99 – Limitations on powers of authorised persons Part 8 Division 3 – Powers of authorised persons <i>Building Regulations 2012</i> Regulation 5A Authorised persons	

	<p>Schedule 6 Prescribed Offences and Modified Penalties <i>Local Government Act 1995</i> Section 5.36 Local government employees Section 9.10 Appointment of authorised persons (see DA-055) Section 9.16 Notice to alleged offender Section 9.19 Extension of time Section 9.20 Withdrawal of notice <i>Criminal Procedure Act 2004 Part 2</i> Building Code of Australia</p>
Policy Reference	
Recordkeeping	<p>Records of exercise of delegated authority and associated contracts to be retained in ECM index: COUNCIL ADMINISTRATION – Delegated Authority – Exercises 5.119 P</p>
Period of Validity	Ongoing
Adopted by Council	Special Meeting of Council 27 March 2012 P12/3298
Substantive Amendments	<p>Ordinary Meeting of Council 16 June 2020 M20/5749 Amended to incorporate delegation of appointment of approved and authorised officers under Building Regulations r.70 previously recorded in DA-123</p>

DA-103 Inspection and Copies of Building Information

Delegator: Council as permit authority Process Owner: Director Urban Planning		Delegation No. DA – 013 Last Review Date: 16 June 2020	
Description	Authority to: <ol style="list-style-type: none"> 1. provide a copy of a permit, building approval certificate or building order kept in the register specified in section 128, and 2. allow an <i>interested person</i> (as defined) to inspect and be provided with a copy of a building record as defined in section 130. 		
Statutory Power or Duty Delegated	<i>Building Act 2011</i> Section 129(2) – Copies of permits, certificates in register Section 131(2) – Inspection, copies of building records		
Statutory Power to Delegate	<i>Building Act 2011</i> Section 127(1) A local government may delegate any of its powers or duties as a permit authority. Section 127(3) A local government may only delegate its powers or duties to a local government employee		
Delegated to	Chief Executive Officer		
Statutory Power to sub delegate:	<i>Building Act 2011</i> Section 127(6A) The CEO of a local government may delegate to any other local government employee a power or duty that has been delegated to the CEO.		
Sub Delegated to:			
Conditions on Delegation/Sub Delegation			
Compliance links	Building Act 2011 Section 131(1) Inspection, copies of building records (definitions) Building Regulations 2012 Regulations 12, 13		
Policy Reference	Nil		
Recordkeeping			
Period of Validity	Ongoing		
Adopted by Council	Special Meeting of Council	27 March 2013	P12/3298
Substantive Amendments	Ordinary Meeting of Council	16 June 2020	M20/5749
	Amended to include authority under s.129 to provide copies of documents on register.		

DA-105 Prosecutions and Legal Proceedings – Building Matters

Delegator: Council as permit authority Process Owner: Director Urban Planning		Delegation No. DA – 105 Last Review Date: 16 June 2020
Description	Authority to commence and have the carriage and conduct of legal proceedings and other matters pursuant to the <i>Building Act 2011</i> and <i>Building Regulations 2012</i> and exercise the powers set out in section 133. and to: 1. Give written directions; 2. Prosecute an offence; 3. Seek an injunction; 4. Issue an infringement; and 5. Generally undertake the powers and functions set out in Section 133 of the Building Act 2011 and Building Regulations 2012.	
Statutory Power or Duty Delegated	<i>Building Act 2011</i> Section 133(1)(b) Prosecutions may be commenced by a local government or a person authorised to do so by the local government.	
Statutory Power to Delegate	<i>Building Act 2011</i> Section 127(1) A local government may delegate any of its powers or duties as a permit authority. Section 127(3) A local government may only delegate its powers or duties to a local government employee	
Delegated to	Chief Executive Officer	
Statutory Power to sub delegate:	<i>Building Act 2011</i> Section 127(6A) The CEO of a local government may delegate to any other local government employee a power or duty that has been delegated to the CEO.	
Sub Delegated to:		
Conditions on Delegation/Sub Delegation		
Compliance links	<i>Building Act 2011</i> Part 12 Legal Proceedings	
Policy Reference		
Recordkeeping	Records of exercise of delegated authority and associated contracts to be retained in ECM index: COUNCIL ADMINISTRATION – Delegated Authority – Exercises 5.119 P	
Period of Validity	Ongoing	
Adopted by Council	Ordinary Meeting of Council 21 May 2013 C13/5291	
Substantive Amendments	Ordinary Meeting of Council 16 June 2020 M20/5749 Amended to remove redundant matters and provide for authorising a person to commence prosecution in accordance with s.133.	