



Shire of  
Peppermint Grove

# DELEGATIONS REGISTER

Last Review: June 2023

## Contents

<b>PART ONE – FUNCTION OF LOCAL GOVERNMENT</b> .....	<b>5</b>
1.1 Appointment of Acting Chief Executive Officer.....	5
1.2 Payments from the Municipal Fund, and Trust Fund.....	6
1.3 Appointment of Authorised Persons – Miscellaneous Provisions About Enforcement .....	7
1.4 Disposal of Confiscated or Uncollected Goods.....	9
1.5 Appointment of Authorised Persons – Certain Provisions Relating to Land .....	11
1.6 Appointment of Authorised Persons - Power to Remove or Impound Goods .....	13
1.7 Authorised Persons - Power to Enter Property.....	15
1.8 Appointment of Authorised Persons – Health Act 2016 .....	17
1.9 Enforcement of Local Laws.....	19
1.10 Authorising the Affixing of the Common Seal to Documents.....	21
1.11 Appointment Authorised Officer .....	24
<b>PART TWO – FINANCIAL MANAGEMENT</b> .....	<b>26</b>
2.1 Investment of Surplus Funds .....	28
2.2 Agreement as to Payment of Rates and Service Charges.....	29
2.3 Authority to Write Off Monies (Not Rates or Service Charges).....	28
2.4 Authority to Write Off Rates and Service Charges .....	30
2.5 Rates or Service Charges Recoverable in Court.....	31
<b>PART THREE –BUILDING AND TOWN PLANNING</b> .....	<b>32</b>
3.1 Building Permits, Demolition Permits, Occupancy Permits, Building Approval Certificates and Building Orders.....	32
3.2 Building Licence Approvals Variation .....	33
3.3 Enforcement and Legal Proceedings (Swimming Pools) .....	35
3.4 Development and Subdivision Applications.....	36

## INTRODUCTION

This document is a register of the delegations, authorizations and appointments of the Shire of Peppermint Grove. Some legislation confers powers on local governments to allow the Council to delegate power to a committee of the local government, the local CEO or in limited circumstances other employees.

The purpose of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation. This is consistent with the Shire's commitment to customer service. The Register of Delegation of Authority details the related document(s) where the power to delegate is derived from, including legislation and policies of the Council.

Section 5.42 of the Local Government Act 1995 provides for delegation:

- (1) A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under —*
  - (a) this Act other than those referred to in section 5.43; or*
  - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

All delegations made by the Council must be by absolute majority decision. The Act specifies in Section 5.43 when a local government cannot delegate:

- A local government cannot delegate to a CEO any of the following powers or duties —*
  - (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
  - (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
  - (c) appointing an auditor;*
  - (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*

- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) borrowing money on behalf of the local government;*
- (g) hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) any power or duty that requires the approval of the Minister or the Governor; (i) such other powers or duties as may be prescribed.*

The Act allows for the CEO to delegate any of his/her powers to another employee, which must be done in writing. The Act also allows for the CEO to place conditions on any delegations if he/she desires.

The Register of Delegation of Authority, being this manual, relevant to the CEO is required to be kept and reviewed at least once every financial year.


If a person is exercising a power or duty that they have been delegated, the Act requires them to keep necessary records to the exercise of the power or discharge of the duty. The written record is to contain:

- how the person exercised the power or discharged the duty;
- when the person exercised the power or discharged the duty; and
- the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

The aim of this delegated authority manual is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation.

## PART ONE – FUNCTION OF LOCAL GOVERNMENT

### 1.1 Appointment of Acting Chief Executive Officer

 SHIRE OF PEPPERMINT GROVE	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.1	Local Government Act 1995 s. 5.36 (1)	Chief Executive Officer	Appointment of Acting Chief Executive Officer

#### Delegator

Council

#### Power/Duty

To exercise the powers and duties of the local government under Section 5.36 (1) of the *Local Government Act 1995* to enable the Chief Executive Officer to appoint an Acting Chief Executive Officer during periods of the Chief Executive Officer's absence.

#### Conditions

1. The Chief Executive Officer will be delegated power to appoint an Acting Chief Executive Officer for periods of up to four (4) weeks;
2. The Chief Executive Officer will notify the Shire President and Councilors of all appointments under this delegation.


#### Statutory Framework

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

#### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## 1.2 Payments from the Municipal Fund, and Trust Fund.

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.2	Local Government (Financial Management) Regulations, Regulation 12	Chief Executive Officer	Payments from the Municipal Fund, and Trust Fund.

### Delegator

Council

### Power/Duty

To exercise the powers and duties of the local government in accordance with Regulation 12 of the *Local Government (Financial Management) Regulations 1996* in relation to Section 6.10 of the *Local Government Act 1995*. This enables the Chief Executive Officer to make payments from the Shire's Municipal Fund, and Trust Fund.

### Conditions

1. A list of all payments made from the Municipal Fund, and Trust Fund will be provided to Council on a monthly basis.

### Statutory Framework


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

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial ye

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### 1.3 Appointment of Authorised Persons – Miscellaneous Provisions about Enforcement

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.3	Local Government Act 1995, s. 9.10	Chief Executive Officer	Appointment of Authorised Persons – Miscellaneous Provisions About Enforcement.

#### Delegator

Council

#### Power/Duty

To exercise the powers and duties of the local government under Section 9.10 of the *Local Government Act 1995* to enable the Chief Executive Officer to appoint authorised persons to perform particular functions related to Miscellaneous Provisions About Enforcement (s. 9.11 – 9.23)

#### Conditions

1. The Chief Executive Officer will issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has or is about to be affected by any exercise of authority by the authorised person.
2. The Chief Executive Officer will maintain a register of all authorised persons.

#### Statutory Framework

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

#### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## Related Documents

Dogs Local Law 2021

Dog Act 1976

Parking and Parking Facilities Local Law 2021


### *Subdivision 1 — Miscellaneous provisions about enforcement*

#### 9.10. Appointment of authorised persons

- (1) The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.
- (2) The local government is to issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person.



## 1.4 Disposal of Confiscated or Uncollected Goods

	Delegation #	Legislative Ref	Delegate	Delegation Subject
 <p>SHIRE OF PEPPERMINT GROVE</p>	1.4	Local Government Act 1995, s. 3.47	Chief Executive Officer	Disposal of Confiscated or Uncollected Goods

### Delegator

Council

### Power/Duty

To exercise the powers and duties of the local government under Section 3.47 of the *Local Government Act 1995* to enable the Chief Executive Officer to dispose of confiscated or uncollected goods.

### Conditions

1. Disposal will be subject to goods, including vehicles, watercraft, not being reported stolen.
2. A Register of all disposed goods to be maintained, including value of disposed goods.

### Statutory Framework

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

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

### Related Documents


#### *3.47. Disposing of confiscated or uncollected goods*

- (1) The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43.
- (2) The local government may sell or otherwise dispose of any vehicle that has not been collected within —

- (a) 2 months of a notice having been given under section 3.40(3); or
  - (b) 7 days of a declaration being made under section 3.40A(4) that the vehicle is an abandoned vehicle wreck.
- (2a) The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in subsection (2b) of —
- (a) a notice having been given under section 3.42(1)(b) or 3.44; or
  - (b) being impounded if the local government has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.
- (2b) The period after which goods may be sold or otherwise disposed of under subsection (2a) is —
- (a) for perishable goods — 3 days;
  - (b) for animals — 7 days;
  - (ca) for prescribed non-perishable goods — one month;
  - (c) for other non-perishable goods — 2 months.
- (3) Section 3.58 applies to the sale of goods under this section as if they were property referred to in that section.
- (4) Money received by a local government from the sale of goods under subsection (2a) is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by the local government in removing, impounding and selling the goods.
- (5) Money received by a local government from the sale of a vehicle under subsection (2) is to be credited to its trust fund except to the extent required to meet the costs referred to in section 3.46 and the expenses incurred by the local government in selling the vehicle.
- (6) Unless this section requires it to be credited to its trust fund, money received by a local government from the sale under this section of any goods is to be credited to its municipal fund.

*[Section 3.47 amended by No. 64 of 1998 s. 11; No. 49 of 2004 s. 25(4); No. 17 of 2009 s. 9.]*

## 1.5 Appointment of Authorised Persons – Certain Provisions Relating to Land

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.5	Local Government Act 1995, s. 3.24	Chief Executive Officer	Appointment of Authorised Persons – Certain Provisions Relating to Land

**Delegator Council**

### Power/Duty

To exercise the powers and duties of the local government under Section 3.24 of the *Local Government Act 1995* to enable the Chief Executive Officer to appoint authorised persons to undertake activities relating to Certain Provisions Relating to Land, Section 3.25 – 3.27.

### Conditions

1. The Chief Executive Officer will maintain a register of authorised persons.

### Statutory Framework

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

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## Related Documents


File on Authorised officer

### *Subdivision 2 — Certain provisions about land*

#### 3.24. Authorising persons under this Subdivision

The powers given to a local government by this Subdivision can only be exercised on behalf of the local government by a person expressly authorised by it to exercise those powers.

## 1.6 Appointment of Authorised Persons - Power to Remove or Impound Goods

	Delegation #	Legislative Ref	Delegate	Delegation Subject
 <p>SHIRE OF PEPPERMINT GROVE</p>	1.6	Local Government Act 1995, s. 3.39	Chief Executive Officer	Appointment of Authorised Persons - Power to Remove or Impound Goods

**Delegator** Council

### Power/Duty

To exercise the powers and duties of the local government under Section 3.39 of the *Local Government Act 1995* to enable the Chief Executive Officer to appoint authorised persons to remove or impound goods as defined in s. 3.38.

### Conditions

1. The Chief Executive Officer will maintain a register of authorised persons.

### Statutory Framework

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

### Review Requirements


In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

### Related Documents

[3.39. Power to remove and impound](#)

- (1) An employee authorised by a local government for the purpose may remove and impound any goods that are involved in a contravention that can lead to impounding.
- (2) A person may use reasonable force to exercise the power given by subsection (1).

## 1.7 Authorised Persons - Power to Enter Property

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.7	Local Government Act 1995, s. 3.31 (2)	Chief Executive Officer	Authorised Persons - Power to Enter Property

### Delegator

Council

### Power/Duty

To exercise the powers and duties of the local government under Section 3.31 (2) of the *Local Government Act 1995* to enable the Chief Executive Officer to appoint authorised persons to seek and execute an entry warrant or to otherwise enter property to perform any function of the local government under the Act as detailed in subdivision 3 – Powers of Entry.

### Conditions

1. The Chief Executive Officer will maintain a register of authorised persons.

### Statutory Framework

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

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

### Sub-Delegation

Nil

## Related Documents


### Authorised Officers

#### **3.31. General procedure for entering property**

- (1) Except in an emergency or if the entry is authorised by the warrant of a justice, entry by or on behalf of a local government on to any land, premises or thing is not lawful unless —
  - (a) the consent of the owner or occupier has been obtained; or
  - (b) notice has been given under section 3.32.
- (2) If notice has been given under section 3.32, a person authorised by the local government to do so may lawfully enter the land, premises or thing without the consent of the owner or occupier unless the owner or occupier or a person authorised by the owner or occupier objects to the entry.
- (3) The powers conferred on a local government under this section may be exercised instead of the powers conferred under the *Public Works Act 1902* and are not subject to any qualification or restriction by any provision of that Act.



## 1.8 Appointment of Authorised Persons – Public Health Act 2016

	Delegation #	Legislative Ref	Delegate	Delegation Subject
 <p>SHIRE OF PEPPERMINT GROVE</p>	1.8	Health Act 2016 s21 Enforcement agency may delegate	Chief Executive Officer  Sub Delegates to Enforcement Officers	Appointment of Authorised Persons – Health Act 2016 s17 Appointment of Environmental health officers

### Delegator

Council

### Power/Duty

To exercise authority to the CEO to appoint or designate authorised officers under the provisions of Part 2 Division 2, Section 17 of the Public Health Act 2016. An appointee may be a person employed by the Shire under *the Local Government Act 1995* s5.36 or a person engaged by the Shire under a contract for services.

### Conditions

Nil

### Statutory Framework

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

### Review Requirements

In accordance with the requirements of Section 5.46 of the *Local Government Act 1995*, at least once every financial year.

### Related Documents

Public Health Act 2016


***26. Powers of local government***

Every local government is hereby authorised and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder:

Provided that a local government may appoint and authorise any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or function.

*[Section 26 amended by No. 17 of 1918 s. 5; No. 14 of 1996 s. 4.]*

## 1.9 Enforcement of Local Laws

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.9	Local Government Act 1995, s. 3.18	Chief Executive Officer	Enforcement of Local Laws

### Delegator

Council

### Power/Duty

To exercise the powers and duties of the local government under Section 3.18 of the *Local Government Act 1995* to enforce the provisions of local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.

### Conditions

Nil

### Statutory Framework

Council is exercising its power of delegation under Sections 3.18 and 5.42 of the *Local Government Act 1995*. All powers under the Shires local laws:  
*Activities in Thoroughfares and Public Places and Trading Local Law 2021*  
*Cats Local Law 2021*  
*Dogs Local Law 2021*  
*Fencing Local Law 2021*  
*Local Government Property Local Law 2021*  
*Parking and Parking Facilities Local Law 2021*  
*Waste Local Law 2021*

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## Related Documents

The Local Government Act 1995.

The Local Government (Functions and General)


The Local Government (Administration Regulations) 1996

The Local Government (Uniform Local Provisions) Regulations 1996

### *3.18. Performing executive functions*

- (1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.
- (2) In performing its executive functions, a local government may provide services and facilities.
- (3) A local government is to satisfy itself that services and facilities that it provides —
  - (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body;
  - (b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
  - (c) are managed efficiently and effectively.

## 1.10 Authorising the Affixing of the Common Seal to Documents

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.10	Local Government Act 1995, s. 2.5 (2)	Chief Executive Officer	Authorising the Affixing of the Common Seal to Documents

### Delegator

Council

### Power/Duty

To exercise the powers and duties of the local government under Section 2.5 (2) of the *Local Government Act 1995* to enable the Chief Executive Officer to affix the Common Seal to certain documents.

### Conditions

The Chief Executive Officer will authorise the affixing of the Common Seal to a document that needs the Shire's Common Seal to be legally effective and that is in one or more of the following categories:

1. Documents required satisfying conditions of sub-division and/or development approval.
2. Documents required to affect the transfer of land as part of a settlement transaction (sale and purchase).
3. Documents required to secure the repayment of a loan granted by the Shire, a loan granted to the Shire by a third party and/or to secure the pre-funding of infrastructure works by the Shire.
4. Documents required to affect the grant of leasehold interests in land either by the Shire to a third party, or by a third party to the Shire.
5. Documents required to affect the grant of a licence either by the Shire to a third party, or by a third party to the Shire.
6. Documents required to affect the subdivision of land, including the strata titling of land.
7. Documents which are capable of registration and/or lodgement at Landgate (WA Land Titles office).
8. Documents that are necessary or appropriate to enable the Chief Executive Officer to carry out his functions under any written law.

9. The affixing of the Common Seal must be consistent with a Council policy or decision.
10. While the Chief Executive Officer can authorise the affixing of the Common Seal to a document as classified, it is also necessary for the document to be signed by both the Shire President and the Chief Executive Officer.

### **Statutory Framework**

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


### **Review Requirements**

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

### **Related Documents**

Seal Register

## 1.11 Appointment Authorised Persons

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	1.11	Food Act 2008	Chief Executive Officer	<b>Appointment Authorised Officer</b>

### Delegator

Council

### Power/Duty

To exercise the powers and duties of the *Food Act 2008*.

### Conditions

In accordance with Section 118 (3) of the Food Act 2008 without limiting the *Interpretation Act 1984* s.59, the performance by a delegate of an enforcement agency of a function delegated under subsection (2)(b) is subject to:

- (a) Any condition or limitation imposed under Section 119 on the performance by the enforcement agency of the function; and
- (b) Any guidelines that the enforcement agency is required to adopt under Section 120 in performing the function.

### Statutory Framework

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

### Review Requirements

In accordance with the requirements of Section 5.46 of the *Local Government Act 1995*, at least once every financial year.

## Related Documents

*Food Regulations 2009*  
Authorised Officer File

### *Section 118 Food Act 2008*

- (3) Without limiting the Interpretation Act 1984 section 59, the performance by a delegate of an enforcement agency of a function delegated under subsection (2)(b) is subject to —
- (a) any condition or limitation imposed under section 119 on the performance by the enforcement agency of the function; and
  - (b) any guidelines that the enforcement agency is required to adopt under section 120 in performing the function.

## Division 2 — Functions of enforcement agencies

### 118. Functions of enforcement agencies and delegation


- (1) An enforcement agency has the functions in relation to the administration of this Act that are conferred or imposed on the agency by or under this Act or are delegated to the agency under this Act.
- (2) A function conferred or imposed on an enforcement agency may be delegated —
  - (a) if the enforcement agency is the CEO — in accordance with section 117; or
  - (b) if the enforcement agency is a local government or a person or body, or a person or body within a class of persons or bodies, prescribed by the regulations — subject to subsections (3) and (4), in accordance with the regulations.
- (3) Without limiting the *Interpretation Act 1984* section 59, the performance by a delegate of an enforcement agency of a function delegated under subsection (2)(b) is subject to —
  - (a) any condition or limitation imposed under section 119 on the performance by the enforcement agency of the function; and
  - (b) any guidelines that the enforcement agency is required to adopt under section 120 in performing the function.
- (4) If —
  - (a) regulations referred to in subsection (2)(b) expressly authorise a delegated function of an enforcement agency to be further delegated; and
  - (b) the delegated function is further delegated to a person or body in accordance with those regulations, subsection (3) applies to the



performance by the person or body of that function as if the function were performed and delegated as described in that subsection.

## PART TWO – FINANCIAL MANAGEMENT

### 2.1 Investment of Surplus Funds

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	2.1	Local Government Act 1995, s. 6.14	Chief Executive Officer  s	INVESTMENT OF SURPLUS FUNDS

#### Delegator

Council

#### Power/Duty

To exercise the powers and duties of the local government under Section 6.14 of the *Local Government Act 1996* to enable to Chief Executive Officer to invest surplus funds.

#### Conditions

Chief Executive Officer has:

1. Authority to invest money held in the municipal fund or trust fund that is not, for the time being, required for any other purpose (s6.14(1)).
2. Authority to establish and document internal control procedures to be followed in the investment and management of investments (FM r 19).
  - a) All investment activity must comply with the Financial Management Regulation 19C.
  - b) A report detailing the investment portfolio's performance, exposures and changes since the last report, is to be provided as part of the Monthly Financial Reports.
  - c) Procedures are to be systematically documented and retained in accordance with the Record Keeping plan and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles.

- d) Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once within every 3 financial years (Audit r.17)


### **Statutory Framework**

Council is exercising its power of delegation under Section 5.42 of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996: r.19 Investments, control procedures*

### **Review Requirements**

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## 2.2 Agreement as to Payment of Rates and Service Charges

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	2.2	Section 6.49 of <i>Local Government Act</i> / Section 5.42 of the <i>Local Government Act 1995</i>	Chief Executive Officer	AGREEMENT AS TO PAYMENT OF RATES AND SERVICE CHARGES

### Delegator

Council

### Power/Duty

A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person for payment of rates and service charges.

### Conditions

Subject to the arrangements agreed to being on the basis that the total debt outstanding will be extinguished by the next following 30 June.


### Statutory Framework

The Chief Executive Officer is delegated the power to make an agreement with a person for payment of rates and service charges, subject to Section 6.49 *Local Government Act 1995*.

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## 2.3 Authority to Write Off Monies (Not Rates or Service Charges)

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	2.3	Section 6.12 (1)(c) of <i>Local Government Act</i> / Section 5.42 of the <i>Local Government Act 1995</i>	Chief Executive Officer	AUTHORITY TO WRITE OFF MONIES (NOT RATES OR SERVICE CHARGES)

### Delegator

Council

### Power/Duty

Authority to write off money including fines and penalties that is owed to the local government.

### Conditions

1. The Chief Executive Officer is authorised to exercise this delegation subject to the maximum amount of any write off being \$500.
2. This delegation includes the write off of fines and penalties that have been imposed by the court that are considered unrecoverable.
3. The Chief Executive Officer shall report to the Audit, Risk and Governance Committee at least six monthly on the exercise of this delegation


### Statutory Framework

The Chief Executive Officer is delegated the power to write off any amount of money owed to the Shire, other than an amount of money owing in respect of rates and service charges.

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## 2.4 Authority to Write Off Rates and Service Charges

	Delegation #	Legislative Ref	Delegate	Delegation Subject
 <p>SHIRE OF PEPPERMINT GROVE</p>	2.5	Section 6.56 of <i>Local Government Act 1995</i> / Section 5.42 of the <i>Local Government Act 1995</i>	Chief Executive Officer	RATES OR SERVICE CHARGES RECOVERABLE IN COURT

### Delegator

Council

### Power/Duty

If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the cost of proceedings, if any, for that recovery in a court of competent jurisdiction. Rates or service charges due by the same person to the local government may be included in one writ, summons or other process.

### Conditions

Nil


### Statutory Framework

Power to recover a rate or service charge, as well as the cost of proceedings, if any, for that recovery in a court of competent jurisdiction. Power to include in one writ the rates or service charges due by the same person to the local government.

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## 2.1 Rates or Service Charges Recoverable in Court

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	2.5	Section 6.56 of <i>Local Government Act 1995</i> / Section 5.42 of the <i>Local Government Act 1995</i>	Chief Executive Officer	RATES OR SERVICE CHARGES RECOVERABLE IN COURT

### Delegator

Council

### Power/Duty

If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the cost of proceedings, if any, for that recovery in a court of competent jurisdiction. Rates or service charges due by the same person to the local government may be included in one writ, summons or other process.

### Conditions

Nil

### Statutory Framework


Power to recover a rate or service charge, as well as the cost of proceedings, if any, for that recovery in a court of competent jurisdiction. Power to include in one writ the rates or service charges due by the same person to the local government.

### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

## PART THREE – BUILDING AND TOWN PLANNING

### 3.1 Building Permits, Demolition Permits, Occupancy Permits, Building Approval Certificates and Building Orders

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	3.1	Building Act 2011 – Section 20 & 22 Division 2 of Part 2 Divisions 1 & 2 of Part 4 Division 5 of Part 8	Chief Executive Officer	BUILDING ACT 2011 – BUILDING PERMITS, DEMOLITION PERMITS, OCCUPANCY PERMITS, BUILDING APPROVAL CERTIFICATES AND BUILDING ORDERS

#### Delegator

Council.

#### Power/Duty

Approve or refuse building permit applications, demolition permit applications, occupancy permits (including extension of permit), building approval certificates (including extension of certificate), building approval certificates (strata), and to make, serve and revoke building orders.

#### Conditions

CEO to advise Elected Members when a building application is refused, or a building order issued.

#### Statutory Framework


To exercise the powers and duties of the local government under Section 127 of the *Building Act 2011* and to administer Sections 20, 21, 22, 58, 65, 110, 114 and 117 of the Building Act 2011 to enable the Chief Executive Officer the power to impose conditions and sign/issue or refuse building permit applications and demolition permit applications, occupancy permit (including extension of permit), building approval certificate (including extension of certificate), make, issue and revoke building orders.

#### Review Requirements



In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

### 3.2 Building Licence Approvals Variation

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	3.2	Building Act 2011 – Section 127	Chief Executive Officer	BUILDING LICENCE APPROVALS VARIATION

#### Delegator

Council

#### Power/Duty

To exercise the powers and duties of the local government under Section 127 of the *Building Act 2011* and to administer sections 20, 21, 22, 58, 65, 110 and 117 of the *Building Act 2011* to enable the Manager Development Services to approve Building Licenses.

#### Conditions

1. The Chief Executive Officer be authorised to approve building plans that have minor variations to the plans approved by Council during the development application process. Minor variations are those which do not adversely impact the streetscape, or adversely impact the visual privacy or solar access of neighbouring properties.
2. The Chief Executive Officer to provide Elected Members with a monthly list of all approved Building Licenses, including any minor variations via the monthly Matters for Information report in the OCM Agenda.

#### Statutory Framework

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

#### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act*

1995, at least once every financial year.

## Related Documents

Shire of Peppermint Grove Local Planning Scheme No.4

Residential Design Codes of Western Australia

*Building Act 2011*

*Building Regulations 2012*

Building Code of Australia

Refer to Register Building Licenses Register


### ***Building Act 2011***

#### ***Plans of Buildings to be approved by local government***

##### 127. Delegation: special permit authorities and local government

- (1) A special permit authority or a local government may delegate any of its powers or duties as a permit authority under another provision on this Act.
- (2) A delegation of a special permit authority's powers or duties may be only to an employee of the special permit authority or to an employee of one of the legal entities that comprise the special permit authority.
- (3) A delegation of a local government's powers or duties may be only to a person employed by the local government under the Local Government Act 1995 section 5.36.
- (4) The delegation must be in writing executed by or on behalf of the special permit authority or by the local government.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (6) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (7) Nothing in this section limits the ability of the permit authority to perform a function through an officer or agent.

### 3.3 Enforcement and Legal Proceedings (Swimming Pools)

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	3.3	Sec. 70 of <i>Building Regulations 2012</i> Sec 133 of <i>Building Act 2011</i>	Chief Executive Officer	ENFORCEMENT AND LEGAL PROCEEDINGS (SWIMMING POOLS)

#### Delegator

Council

#### Power/Duty

Implement enforcement and legal proceeding matters under the *Building Act 2011*, Part 8; and *Building Regulations 2012* Part 10 to enforce the requirements of the *Building Regulations 2012* to require property owners to ensure that all private swimming and spa pools have a compliant barrier installed that restricts access by young children to the pool and its immediate surrounds.


#### Statutory Framework

Delegated authority to enforce the requirements of the *Building Regulations 2012* (Reg 50) to require property owner the to require property owners to ensure that all private swimming and spa pools have a compliant barrier installed that restricts access by young children to the pool and the immediate surrounds.

#### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.

### 3.4 Development and Subdivision Applications

	Delegation #	Legislative Ref	Delegate	Delegation Subject
	3.4	<i>Planning and Development Act 2005 – Part 13</i>	Chief Executive Officer	TOWN PLANNING
		<i>Planning and Development (Local Planning Scheme) Regulations 2015 – Schedule 2, Part 10, Clause 82</i>		

#### Delegator

Council

#### Power/Duty

Authority to exercise all powers and discharge all duties under the Deemed Provisions (Schedule 2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Local Planning Scheme No. 4 and Local Planning Policies, and

#### Conditions

1. Other than prescribed single house development for which the development approval function must be performed on or behalf of the local government by the local government CEO or an authorised employee any development application or amendment is to be referred to Council for determination if one or more Elected Member requests such referral in writing to the Chief Executive Officer;
2. Other than prescribed single house development any development application or amendment is to be referred to Council for determination if requested in writing by the proponent; and
3. The Chief Executive Officer is to report to the Council on a monthly basis where the exercise of powers and functions related to this delegation has been undertaken.

#### Statutory Framework

Delegated authority to approve development applications and retrospective development applications, to determine amendments development applications, and undertake

administrative actions pertaining to subdivision applications limited to the guidelines stipulated under this delegation.

### **Guidelines**

- 1) Approve development applications and determine amendments to development applications not otherwise exempt under Clause 61 of the Deemed Provisions for a single house, residential building, ancillary dwelling, grouped dwelling, multiple dwelling, or any associated ancillary or incidental development that:
  - a) Upon the conclusion of consultation no valid objection(s) have been received; and
  - b) Where the place is in the Shire Heritage List adopted under Clause 8 of the Deemed Provisions or is subject to a Notice to List, the development must not:
    - i. Alter the original fabric of the place, or
    - ii. Must be accompanied by a Heritage Impact Statement confirming that the original fabric of the place will not be significantly altered or adversely impacted.
- 2) Approve development applications and amendments to development applications for non-residential development that:
  - a) Is a 'P', 'I' or 'D' use in the zoning table;
  - b) Satisfies the provisions of Part 4 – General Development Requirements and Schedule 1 – Parking Standards contained in the Local Planning Scheme No. 4.
  - c) Upon the conclusion of consultation no valid objection(s) have been received; and
  - d) Where the place is in the Shire Heritage List adopted under Clause 8 of the Deemed Provisions or is subject to a Notice to List, the development must not alter the original fabric of the place, or be accompanied by a Heritage Impact Statement confirming that the original fabric of the place will not be significantly altered.
- 3) Approve development applications and amendments to development applications for a home business that:
  - a) Upon the conclusion of consultation, no valid objection(s) have been received.
- 4) Approve retrospective applications in accordance with Clause 65 of the Deemed Provisions.
- 5) Respond to consultation for subdivision applications undertaken in accordance with Section 142 of the *Planning and Development Act 2005* and clear local government subdivision conditions, and provided the limitations in guideline 1) or 2) have been satisfied

- 6) Provide written advice or recommendations to determining authorities (e.g. DAP, WAPC, Development WA, SAT or the Minister) on a development or subdivision application provided the advice is consistent with local planning policy, the LPS 4 and Residential Design Codes.
- 7) Provide written advice to state government agencies and representative organisations (e.g. DoT, MRWA, DPLH, DMIRS, SWALSC) in response to requests for feedback on policy formation or related administrative matters.
- 9) Provide a partial refund of planning fees where an application is withdrawn in writing prior to determination and the fee received is not reflective of the work undertaken.

#### Notification

Where the Chief Executive Officer has received matters which may be dealt with under this delegation, a list of matter(s) pending action shall be circulated to Elected Members providing a minimum period of **72 hours** within which that matter may be 'called-in' by any one member without a declarable interest for consideration by Council.

#### Review Requirements

In accordance with the requirements of Section 5.46 (1) of the *Local Government Act 1995*, at least once every financial year.