

COUNCIL DELEGATIONS REGISTER

2018/19



SHIRE OF WYNDHAM EAST KIMBERLEY

This delegations register is current as at 28 August 2018.

Contents

OVERVIEW.....	3
LOCAL GOVERNMENT ACT REGISTER OF DELEGATIONS	3
LIMITS ON DELEGATIONS TO THE CEO.....	3
REGISTER OF, AND RECORDS RELEVANT TO, DELEGATIONS.....	4
ACTING THROUGH.....	4
COUNCIL APPOINTED AUTHORISED PERSONS & OFFICERS	5
1. RIGHT TO INSPECT CONFIDENTIAL INFORMATION	6
2. AUTHORITY TO SIGN & CERTIFY DOCUMENTS & AFFIX THE COMMON SEAL.....	7
3. ACTING CHIEF EXECUTIVE OFFICER	9
4. REPRESENTING LOCAL GOVERNMENT IN COURT	10
5. AUTHORITY TO INITIATE PROCEEDINGS.....	11
6. STATE ADMINISTRATIVE TRIBUNAL – RESPONSE TO APPLICATIONS FOR REVIEW	12
7. PROVISION OF GOODS AND SERVICES	13
8. DISPOSAL OF PROPERTY	14
9. PRIVATE WORKS.....	15
10. EXPENSES OF ELECTED MEMBERS AND STAFF	16
11. WAIVE, GRANT CONCESSIONS OR WRITE OFF DEBTS.....	17
12. PAYMENTS FROM THE MUNICIPAL FUND AND TRUST FUND	18
13. RATE BOOK	19
14. RATES AND SERVICES CHARGES (INCLUDING FEES AND CHARGES) PAYMENT AGREEMENTS	20
15. INVESTMENTS.....	21
16. EXPENDITURE BEFORE ADOPTION OF BUDGET	22
17. CONTRACT VARIATIONS	23
18. RECOVERY OF DEBTS.....	24
19. SALE OF IMPOUNDED OR CONFISCATED VEHICLES, ANIMALS OR GOODS.....	25
20. ENFORCEMENT AND INFRINGEMENT NOTICES	26
21. CERTAIN THINGS TO BE DONE IN RESPECT OF LAND.....	27
22. POWERS OF ENTRY.....	29
23. PUBLIC THOROUGHFARES	30
24. GATES ACROSS PUBLIC THROUGHFARE.....	31
25. DANGEROUS EXCAVATION IN OR NEAR PUBLIC THOROUGHFARE	32
26. CROSSOVERS	33
27. PERMISSION TO DEPOSIT MATERIALS ON, OR EXCAVATE ADJACENT TO, A STREET	34
28. PARTICULAR THINGS LOCAL GOVERNMENTS CAN DO ON LAND EVEN THOUGH IT IS NOT LOCAL GOVERNMENT PROPERTY.....	35

29. EVENTS ON ROADS	36
30. ROAD TRAINS & EXTRA MASS PERMITS.....	37
31. TEMPORARY ROAD CLOSURES	38
32. TRAFFIC REGULATORY SIGNS	39
33. APPOINTMENT OF AUTHORISED PERSONS.....	40
STATUTORY DELEGATIONS– OTHER LEGISLATION.....	41
34. PLANNING AND DEVELOPMENT (Local Planning schemes) REGULATIONS 2015	41
35. STRATA TITLES – ISSUE OF LOCAL AUTHORITY CERTIFICATE.....	42
36. PLANNING AND DEVELOPMENT ACT 2005 – ILLEGAL DEVELOPMENT	43
37. PLANNING AND DEVELOPMENT ACT 2005 – AUTHORISATIONS.....	44
38. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 – DESIGNATE AUTHORISED PERSON	45
39. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 - BUILDING ORDERS.....	46
40. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 – BUILDING AND DEMOLITION PERMITS.....	47
41. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 – OCCUPANCY AND BUILDING APPROVAL CERTIFICATES.....	48
42. BUSH FIRES ACT 1954 - VARIATION TO FIREBREAK ORDERS.....	49
43. BUSH FIRES ACT 1954 - VARIATION TO PROHIBITED BURNING TIMES.....	50
44. FOOD ACT 2008 – PROHIBITION ORDERS, CERTIFICATES OF CLEARANCE	51
45. LIQUOR CONTROL ACT 1988 - CERTIFICATION.....	52
46. GAMING AND WAGERING COMMISSION ACT 1987 – GAMING.....	53
47. CAT ACT 2011 – POWERS, DUTIES AND FUNCTIONS	54
48. DOG ACT 1976 – POWERS, DUTIES AND FUNCTIONS	55
49. POUNDKEEPERS – APPOINTMENT OF RANGERS.....	56
DELEGATIONS TO COMMITTEES	57
50. AUDIT (FINANCE AND RISK) COMMITTEE	57
COUNCIL APPOINTED AUTHORISED PERSONS AND.....	58
OFFICERS.....	58
51. CAT ACT 2011 – APPOINTMENT OF AUTHORISED PERSONS	58
52. DOG ACT 1976 – APPOINTMENT OF AUTHORISED PERSONS	59
53. PUBLIC HEALTH ACT 2016 & HEALTH (MISCELLANEOUS PROVISIONS) Act 1911 – APPOINTMENT OF AUTHORISED OFFICERS	60
54. FOOD ACT 2008 – APPOINTMENT OF AUTHORISED OFFICERS.....	61
55. FOOD ACT 2008 – APPOINTMENT OF DESIGNATED OFFICERS.....	62
56. CARAVAN PARKS AND CAMPING GROUNDS ACT 1995 – APPOINTMENT OF AUTHORISED PERSON	63
57. CARAVAN PARKS AND CAMPING GROUNDS ACT 1995 – INFRINGEMENT NOTICES 64	
58. CONTROL OF VEHICLES (OFF-ROAD AREAS) ACT – AUTHORISED OFFICER	65

OVERVIEW

LOCAL GOVERNMENT ACT REGISTER OF DELEGATIONS

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

The *Local Government Act 1995* allows for a local government to delegate to the Chief Executive Officer (Sections 5.42 and 5.43) the exercise of any of its powers or the discharge of any of its duties under the Act.

The Act allows for the Chief Executive Officer to delegate any of their powers to another employee; this must be done in writing. The Act allows for the Chief Executive Officer to place conditions on any delegations if they desire. The powers cannot, however, be further sub-delegated.

The purpose of this document is to detail which authorities have been delegated by the Council to the Chief Executive Officer.

The manual details the related document(s) where the power to delegate is derived from. This enables easier cross referencing.

LIMITS ON DELEGATIONS TO THE CEO

In accordance with section 5.43 of the *Local Government Act 1995* the following are decisions that cannot be delegated to the Chief Executive Officer:

- Any power or duty that requires a decision of an absolute majority or 75% majority of the local government;
- accepting a tender which exceeds an amount determined by the local government;
- appointing an auditor;
- acquiring or disposing of any property valued at an amount determined by the local government;
- any of the local government's powers under Sections 5.98, 5.99 and 5.100 of the Act;
- borrowing money on behalf of the local government;
- hearing or determining an objection of a kind referred to in Section 9.5;
- any power or duty that requires the approval of the Minister or Governor; or
- Such other duties or powers that may be prescribed by the Act.

Furthermore the following regulations prescribe powers and duties which cannot be delegated to the CEO:

- Regulation 18G of the *Local Government (Administration) Regulations 1996* prohibits the delegation to a CEO of the powers and duties under:
 - (a) Sections 7.12(a), 7.12A(3)(a) and 7.12A (4) of the *Local Government Act 1995* (relating to meetings with auditors); and
 - (b) Regulations 18C and 18D (relating to the selection and appointment of CEO's and reviews of their performance)
- Regulation 6 of the *Local Government (Financial Management) Regulations 1996* prohibits the delegation of the duty to conduct an internal audit to an employee (including a CEO) who has been delegated the duty of maintaining the local government's day to day accounts or financial management operations.

REGISTER OF, AND RECORDS RELEVANT TO, DELEGATIONS

A register of delegations relevant to the Chief Executive Officer and other employees is to be kept and reviewed at least once every financial year as per section 5.46(1) and (2) of the Act. If a person exercising a power or duty that they have been delegated, the Act requires that records be kept whenever the delegated authority is exercised as per section 5.46(3) of the Act.

The record is to contain the following information:

- 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 under Regulation 19 of *Local Government (Administration) Regulations 1996*.

Business units responsible for a work process are to ensure that data is captured and records managed in accordance with all legislation, as well as preparing reports to Council where required under a specific delegation.

A person to whom a power is delegated under the Act is considered to be a 'designated employee' under section 5.74(1) of the Act and is required to complete a primary and annual return each year.

ACTING THROUGH

The Act does not specifically define the meaning of the term "acting through", however section 5.45(2) states;

"Nothing in this Division is to be read as preventing –

- (a) A local government from performing any of its functions by acting through a person other than the CEO; or
- (b) A CEO from performing any of his or her functions by acting through another person."

The Department of Local Government & Communities Guideline No.17 – Delegations, established the principal issue in determining whether a statutory function or duty is suitable for 'acting through' is that, were the statute provides no discretion in carrying out a function or duty, then the function or duty may be undertaken through the 'acting through' concept.

Conversely, where the statute allows for discretion on the part of the decision maker, then the function must be:

- Delegated; or,
- Where applicable a person authorised; or,
- A policy implemented that provides sufficient control,

For another person to have that authority and fulfil the function or duty.

Where considered appropriate and effective in operation, discretionary matters will be determined by Council through policy. The policy decision may then be implemented by officers through the 'acting through' concept. In these instances there is no need for a delegated authority as it is the responsibility of the CEO to implement the Shire's policies.

PERIOD OF ANY DELEGATION

A delegation of authority has effect for the period of time specified in the instrument of delegation or, where no period is specified, indefinitely.

Any decision by Council to revoke or amend a delegated authority must be passed by an absolute majority.

COUNCIL APPOINTED AUTHORISED PERSONS & OFFICERS

Under certain legislation, Council is not able to delegate the responsibility for appointing authorised persons to the Chief Executive Officer. In these instances, appointment of authorised persons must be approved directly by Council. These authorisations do not have delegated authority, however they are included in this register for ease of reference and review.

STATUTORY DELEGATIONS– LOCAL GOVERNMENT ACT 1995

1. RIGHT TO INSPECT CONFIDENTIAL INFORMATION

LEGISLATIVE POWER *Local Government Act 1995 Section 5.42*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to determine whether information prescribed as confidential may be made available for inspection under section 5.95(7) of the *Local Government Act 1995*.

Subject to:

- (a) Compliance with Regulations 29A and 29B of the *Local Government (Administration) Regulations*.

2. AUTHORITY TO SIGN & CERTIFY DOCUMENTS & AFFIX THE COMMON SEAL

LEGISLATIVE POWER *Local Government Act 1995*, Section 9.49A and 9.31

DELEGATE Shire President and Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Shire President and the Chief Executive Officer to execute documents and affix the Common Seal thereto, where such documents result from the following transactions:

1. Where land is disposed of pursuant to Section 3.58 of the *Local Government Act 1995* (As Amended).
2. Where land is acquired pursuant to Section 3.55 and 3.59 of the *Local Government Act 1995* (As Amended).
3. In respect of leases of land and licence to occupy municipal property where approved by the Council.
4. In respect of leases for the purchase of plant and equipment approved by the Council.
5. In respect of easements and legal agreements over land for the purpose of drainage or conditions arising from subdivision of land and planning approvals.
6. In respect of withdrawal of caveats and surrender of easements where the Chief Executive Officer considers that the Council's interests have been satisfied.
7. In respect of agreements required for funding of Council works and services considered with the resolution of the Council or requiring renewal of the agreement for funding currently provided.
8. In respect of the final adoption of local laws by the Council.
9. Where land is disposed of pursuant to Section 3.58 of the *Local Government Act 1995* (As Amended).
10. Where land is acquired pursuant to Section 3.55 and 3.59 of the *Local Government Act 1995* (As Amended).
11. Restrictive Covenants – under s.129BA of the Transfer of Land Act 1893 and any discharge or modifications of covenants;
12. Lodgement, modification and withdrawal of Caveats;
13. Lodgement, modification and withdrawal of Memorials;
14. Leases where Council has previously resolved to enter into including renewals, extensions or modifications of leases;
15. Deeds of Agreement, Development Contribution Deeds and Deeds of Release;
16. Licences;
17. Covenants and any discharge or modification of covenants;
18. Easements and the surrender or modification of easements;
19. Notifications on title and withdrawal or modification of notifications;
20. Rights of Carriageway agreements and withdrawal or modification of Rights of Carriageway agreements;
21. Reciprocal Access agreements and withdrawal or modification of Reciprocal Access agreements;
22. Management Statements and withdrawal or modification of Management Statements;
23. General Legal and Service Agreements;
24. Transfer of land documents where Council has previously resolved to either purchase or dispose of land or land is being transferred to the Shire for a public purpose;
25. Debenture documents for loans which Council has resolved to raise;

26. New Funding or Contracts of Agreement between the Council and State or Commonwealth Governments or Private Organisations for programs to which Council has previously adopted, or additions to existing programs, which in the view of the Chief Executive Officer are in accordance with the original intent of the adopted program;
27. Local Planning Scheme Amendments;
28. Any other documents stating that the Common Seal of the Shire of Wyndham East Kimberley is to be affixed or arising from conditions of subdivision, survey strata, strata title or development approvals or provisions of a Structure Plan or Detailed Area Plan.

Subject to-

- (a) Council being notified via a report to be submitted to each Council Meeting in relation to the execution of documents and affixing of the Common Seal, subsequent to the Common Seal being utilised.

3. ACTING CHIEF EXECUTIVE OFFICER

LEGISLATIVE POWER *Local Government Act 1995, Sections 5.36 and 5.39*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to appoint one of the Shire of Wyndham East Kimberley's Directors to perform the role of Acting Chief Executive Officer during any periods of approved leave of absence or absence from the Shire for periods up to one month. Periods in excess of one month will be referred to Council for consideration.

In making this delegation the Council has determined that the Shire's Directors are suitably qualified to perform the role of Acting Chief Executive Officer.

The Shire's Directors are, Director Corporate Services, Director Infrastructure and Director Community Development.

4. REPRESENTING LOCAL GOVERNMENT IN COURT

LEGISLATIVE POWER *Local Government Act 1995* Section 9.29

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to appoint persons pursuant to section 9.29 of the *Local Government Act 1995*, to represent the Shire of Wyndham East Kimberley generally in proceedings in the court of petty sessions and Local Court.

Definitions-

proceedings means —

- (a) proceedings in the Magistrates Court, the Children's Court or the State Administrative Tribunal; or
 - (b) proceedings in respect of a claim against a person who takes the benefit of an Act for the relief of bankrupt debtors.
- (2) In proceedings a person who is—
- (a) the CEO; or
 - (b) an employee of the local government appointed in writing signed by the CEO to represent the local government generally or in a particular case, may represent the local government in all respects as though the person were the local government.
- (3) The person representing the local government in the proceedings is entitled to be reimbursed by the local government for any money paid or required to be paid by the person as a result of representing the local government in the proceedings.

5. AUTHORITY TO INITIATE PROCEEDINGS

LEGISLATIVE POWER *Local Government Act 1995* Section 9.24

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to commence a prosecution for an offence against this Act or under a Local Law under Section 9.24 of the *Local Government Act 1995*.

6. STATE ADMINISTRATIVE TRIBUNAL – RESPONSE TO APPLICATIONS FOR REVIEW

LEGISLATIVE POWER *Local Government Act 1995 and State Administrative Tribunal Act 2004*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

1. The Council delegates its authority and power to the Chief Executive Officer to respond to applications for review, lodged with the State Administrative Tribunal, including preparation of statements by respondent, liaison with the State Administrative Tribunal and representation of the Council at review hearings, where a decision made by the Council, or a condition or conditions associated with that decision, is substantively in accordance with the Responsible Officer's recommendation
2. Council delegates its authority and power to the Chief Executive Officer to engage independent professional advice, including legal advice, where a decision made by the Council, or a condition or conditions associated with that decision, is substantially different from the Responsible Officer's recommendation.

7. PROVISION OF GOODS AND SERVICES

LEGISLATIVE POWER	<i>Local Government Act 1995</i> Sections 5.42 and 5.43 (b), 3.57(1), <i>Local Government Functions and General Regulations 1996</i> , Regulations 11, 14(2a), 18(4) & (5), 20, 20(1), 20(2), 21(1), 23(3), 24AD, 24AH(3) & (5), 24(AJ)
DELEGATE	Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

1. Publicly invite tenders or pre-qualified supplier panel applications before the local government enters into a contract(s) for the supply of goods and services;
2. Publicly invite expressions of interest before entering into the tender process;
3. Publicly invite tenders where considered beneficial, in lieu of seeking quotations or purchases under the \$150,000 threshold (excluding GST);
4. Where appropriate, pursue a tender exempt provision for goods and/or services exceeding the \$150,000 threshold (excluding GST);
5. Determine in writing, before tenders or pre-qualified supplier panel applications are publicly invited, the criteria for deciding which tender / application should be accepted;
6. Decline any expression of interest, tender, application or tender exempt consideration;
7. Consider any expressions of interests, tenders, pre-qualified supplier panel applications or tender exempt considerations that have not been rejected and decide which, if any, are from persons who it thinks could satisfactorily supply the goods or services and execute the associated contract up to a value of \$500,000 (excluding GST) provided that appropriate provision has been made in the Council's budget and the contract value does not exceed the Council's budget by more than the applicable Regional Price Preference consideration;
8. Execute a contract for goods or services with a prequalified supplier who is part of a panel of pre-qualified supplier panel up to a value of \$500,000 (excluding GST);
9. Make minor variations to a specification for goods and/or services before it enters into a contract with the chosen tenderer. NOTE: Minor variations to a specification for goods and/or services shall be variations that are less than 10% of the value of the chosen tender and do not alter the scope of the total goods and/or services that tenderers were publicly invited to supply; and
10. Select the next most appropriate tender if the chosen tenderer is unable or unwilling to enter into a contract to supply the variation requirement or the CEO and the tenderer cannot agree on the variation requirement.

Provided that appropriate provision is made with reference to Council Policy CP/FIN-3204 Purchasing.

Condition-

The CEO must ensure safe custody of expression of interest, tender, and pre-qualified supplier panel applications documents submitted.

8. DISPOSAL OF PROPERTY

LEGISLATIVE POWER	<i>Local Government Act 1995 Section 3.58 and Local Government (Functions and General) Regulations 1996, Regulation 30</i>
DELEGATE	Chief Executive Officer
FUNCTION TO BE PERFORMED	

The Council delegates its authority and power to the Chief Executive Officer to:

1. Dispose of property by public tender or public auction where the individual value of the property disposal is greater than \$10,000 (Excluding GST) but less than \$100,000 (Excluding GST) per item or land valued at an amount not exceeding \$500,000(Excluding GST), provided that appropriate provision is made in the Council's Adopted Budget.
2. Dispose of property by other means than public tender or public auction, if before agreeing to dispose of the property, local public notice is given of the proposed disposition and submissions are considered, or if the market value is less than \$20,000 (Excluding GST).
3. Dispose of property by other means than public tender or public auction where the entire consideration received by the local government for the disposition is used to purchase other like for like property, and where the total consideration for the other property is not more, or worth more, than \$75 000(Excluding GST).
4. Dispose, gift or donate property with a maximum written down value of \$1,000(Excluding GST).

In this delegation:

Dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not.

Property includes the whole or any part of the interest of a local government in property, but does not include money.

9. PRIVATE WORKS

LEGISLATIVE POWER *Local Government Act 1995, Section 5.42 and 5.43(b)*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to enter into commercial arrangements under which the Shire is to provide works or services, subject to Council Policy CP/OPS-3650 Private Works and that the value of each arrangement must not exceed the amount determined by the Council for the purposes of section 5.43(b) of the *Local Government Act 1995*.

10. EXPENSES OF ELECTED MEMBERS AND STAFF

LEGISLATIVE POWER *Local Government Act 1995* Sections 5.98, 5.101, 5.102 & 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

That Council delegates its authority and power to the Chief Executive Officer to:

1. Approve expenses which are to be reimbursed to elected members, provided that the expenses are of the kind prescribed as those which the local government can approve for reimbursement (subject to section 5.98(3));
2. Approve reimbursement, either generally or in a particular case, to an elected member of an expense;
3. Reimburse an employee for an expense that was incurred in relation to a Shire matter; and
4. Make a cash advance to a person for an expense which can be reimbursed.

11. WAIVE, GRANT CONCESSIONS OR WRITE OFF DEBTS

LEGISLATIVE POWER *Local Government Act 1995, Section 6.12(1)(b) and (c)*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive to:

1. Waive or grant concessions in relation to sundry debts owed to the Shire (other than rates and services charges)
2. Write off money owed to the Shire
3. Determine the conditions to be applied to waive, grant a concession or write off money owed to the Shire

Conditions:

- a) Limited to individual debts not exceeding \$1000
- b) Write-off rates and service charges not exceeding \$200
- c) Report to the Audit (Finance and Risk) Committee on the exercise of this delegation

In this delegation:

Waive means to provide a special concession to a person or organisation that extinguishes a debt that would have been owed to the Shire. A waiver may be provided prior to, or subsequent to the date that the debt is incurred.

Write Off occurs following the realisation that the asset can no longer be converted into cash (eg. a bad debt), can provide no further use to the Shire, or has no market value.

12. PAYMENTS FROM THE MUNICIPAL FUND AND TRUST FUND

LEGISLATIVE POWER *Local Government (Financial Management) Regulations 1996, Regulations 5, 11, 12, 12(1)(a) and 13*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to-

- 1 Sign and issue purchase orders to incur liabilities from the Municipal Fund or the Trust Fund on behalf of the Shire,

Subject to-

- (a) Compliance with Council Policy CP/FIN-3204 Purchasing; and
- (b) Purchase orders only being issued for items of expenditure detailed within the adopted annual budget provision and the purchase does not exceed the Council's budget by more than the applicable Regional Price Preference consideration, or for payments that have been authorised by a resolution of Council in advance, or authorised in advance by the president in an emergency

- 2 Authorise and make payments by cheque, direct debit or electronic funds transfer (EFT) from the Municipal Fund or the TrustFund,

Subject to-

- (a) The payment(s) only being for items of expenditure detailed within the adopted annual budget, or for payments that have been authorised by a resolution of Council in advance, or authorised in advance by the president in an emergency; and
- (b) The Chief Executive Officer signing payments made by cheque, or authorising payments made by EFT; and
- (c) Compliance with the requirements of Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

13. RATE BOOK

LEGISLATIVE POWER *Local Government Act 1995* Section 5 and 6

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to perform the following functions:

1. Extend the time for making an objection to the rate record for a period of time as it sees fit in accordance with section 6.76(4) of the *Local Government Act 1995*; and
2. Consider any objection to the rate record and may either disallow it or allow it, wholly or in part.
3. After making a decision on the objection, is to promptly serve upon the person whom the objection was made, written notice of the decision and a statement of reasons for that decision.

14. RATES AND SERVICES CHARGES (INCLUDING FEES AND CHARGES) PAYMENT AGREEMENTS

LEGISLATIVE POWER *Local Government Act 1995* Section 5 and 6

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to perform the following functions:

1. Enter into an agreement under section 6.49 of the *Local Government Act 1995* for the payment of a rate or service charge; subject to the requirements of Council Policy CP/FIN-3212 Rates and Charges Debt Collection.

15. INVESTMENTS

LEGISLATIVE POWER *Local Government Act 1995* Section 5.42 and *Local Government (Financial Management) Regulations 1996*, Regulation 19

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

That Council delegates its authority and power to the Chief Executive Officer:

1. To invest any monies held in the municipal fund or the trust fund that is not, for the time being, required by the local government for any other purpose; and determine to invest these monies in accordance with Council Policy CP/FIN-3203 Investment;
2. To establish and document internal control procedures to be followed by employees to ensure control over investments. The control procedures are to enable the identification of:
 - (a) the nature and location of all investments, and
 - (b) Transactions related to each investment.

16. EXPENDITURE BEFORE ADOPTION OF BUDGET

LEGISLATIVE POWER *Local Government Act 1995* Section 5 and 6

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to authorise operating expenditure and appropriate capital expenditure that is to be carried over from the previous Annual Budget from the municipal fund prior to the adoption of the annual budget.

Condition-

The CEO must include the expenditure in the draft budget to be presented to the Council.

17. CONTRACT VARIATIONS

LEGISLATIVE POWER *Local Government Act 1995, Section 5.42*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

1. Approve individual contract variations up to a value of \$150,000 (excluding GST), on the condition the variation is necessary for the goods or services to be provided and does not alter the scope of the contract.
2. Approve contract variations up to \$500,000 (excluding GST) that are a renewal or extension to the term of a contract, for contracts that contain a provision for an option to renew or extend its term.

Conditions:

1. The funds required to meet the cost of the variation is within the amount set aside in the budget adopted by council.
2. For the purposes of this delegation a contract is defined as a legally binding agreement between the Shire and another Party for the supply of goods and/or services.
3. The Chief Executive Officer is to ensure that documented procedures are established and agreed in writing, prior to entering into a contract with regard to variations.
4. The Chief Executive Officer is to ensure that proposed variations to contracts are agreed in writing, prior to commencement.
5. All variations that are material in terms of the Shire's materiality guidelines will be reported to Council.

18. RECOVERY OF DEBTS

LEGISLATIVE POWER *Local Government Act 1995, Part 6 Financial Management*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to determine if -

1. Court action should be taken to recover an unpaid rate or service charge that is due and payable,

Subject to-

- (a) Recovery action having been taken in accordance with Council Policy CP/FIN-3212 Rates and Charges Debt Collection.

19. SALE OF IMPOUNDED OR CONFISCATED VEHICLES, ANIMALS OR GOODS

LEGISLATIVE POWER *Local Government Act 1995* Section 3.47(1), (2), (2a),
3.47A (1), 3.48, 3.58

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

1. Sell or otherwise dispose of any confiscated or impounded goods
2. Destroy an impounded animal where it is determined to be too ill or injured to treat
3. Where an offender is convicted, recover from the offender expenses incurred for removing, impounding and disposing confiscated or impounded goods.

20. ENFORCEMENT AND INFRINGEMENT NOTICES

LEGISLATIVE POWER *Local Government Act 1995, Part 9, Division 2, Subdivision 1 and 2*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to appoint authorised persons to exercise the-

1. Powers and duties set out in the *Local Government Act 1995* in respect of-
 - (a) Section 3.25(1) – Notices requiring certain things to be done by owner or occupier of land.
 - (b) Section 3.27 – Things local government can do on land that is not local government property.
 - (c) Section 3.31 – Entering property.
 - (d) Section 3.39 – Power to remove and impound.
 - (e) Section 3.40A (1) – Abandoned vehicle wreck may be taken.
 - (f) Section 9.11 – Persons found committing breach of Act to give name on demand.
 - (g) Section 9.13 – Onus of proof in vehicle offences may be shifted.
 - (h) Section 9.16 – Giving a Notice.
 - (i) Section 9.17 – Content of Notice.
 - (j) Section 9.19 – Extension of Time.
 - (k) Section 9.20 – Withdrawal of Notice.
 - (l) Section 9.24(1), (2) – Enforcement and legal proceedings – Commencing prosecutions – Offence against the Act or Shire's Local Laws.
 - (m) Section 9.29(2) – Enforcement and legal proceedings – Representing local government in court.
2. Duties and functions set out in the Shire's local laws.

21. CERTAIN THINGS TO BE DONE IN RESPECT OF LAND

LEGISLATIVE POWER *Local Government Act 1995* Sections 3.24, 3.25, 3.26, 3.27, 3.31, 3.34, 3.36 & 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to appoint Authorised Persons in accordance with Section 3.24 and 3.25 of the Act for the purposes of exercising those powers as defined in Sub Division 2 'Certain Provisions About Land' of the Local Government Act 1995 and as prescribed in Schedule 3.1 'Powers under notices to owners or occupiers of land'.

Schedule 3.1 – Things a notice may require to be done

1. Prevent water from dripping or running from a building on the land onto any other land.
2. Place in a prominent position on the land a number to indicate the address.
3. Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.
4. (1) Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law —
 - (a) is suitably enclosed to separate it from the public place; and
 - (b) where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place.
- (2) The notice cannot be given to an occupier who is not an owner.
5. (1) Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly.
- (2) In this item —

unsightly, in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality.
- (3) The notice cannot be given to an occupier who is not an owner.
- 5A. (1) Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy.
- (2) In this item —

disused material includes disused motor vehicles, old motor vehicle bodies and old machinery.
- 5B. Ensure that graffiti that is —
 - (a) applied with the consent of the owner or occupier; and
 - (b) visible from a public place; and
 - (c) considered by the local government to be unsightly or offensive,is obliterated in a manner acceptable to the local government.

6. Take specified measures for preventing or minimising the movement of sand, silt, clay or rocks on or from the land if, in the opinion of the local government, that movement would be likely to adversely affect other land.
7. Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown.
8. Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government's control or management and adjoins the land where the tree is situated.
9. Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.
10. Take specified measures for preventing or minimizing —
 - (a) danger to the public; or
 - (b) damage to property,
 which might result from cyclonic activity.
11. Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.
12. Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired.
13. Take specific measures to prevent —
 - (a) artificial light being emitted from the land; or
 - (b) natural or artificial light being reflected from something on the land, creating a nuisance.
14. (1) Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised.
- (2) In this item —

private thoroughfare has the same meaning as in Schedule 9.1 clause 7(1).

[Division 1 amended in Gazette 29 Apr 1997 p. 2144; amended by No. 49 of 2004 s. 72; No. 17 of 2009 s. 46.]

In addition, authority is delegated to:

1. do anything considered necessary to achieve the purpose for which the notice was given in order to make a person comply with the notice;
2. undertake works that are not carried out by the owner or occupier and recover the costs as a debt;
3. go onto private land in circumstances prescribed in Schedule 3.2 and carry out works, even without the consent of the owner;
4. authorise a person to enter land, premises or thing without consent, after notice has been given, unless the owner or occupier has objected to the entry;
5. enter land in an emergency without notice or consent; and
6. make an opening in a fence to do works on property subject to providing the owner or occupier with 3 day's written notice.

22. POWERS OF ENTRY

LEGISLATIVE POWER *Local Government Act 1995* Sections 3.32, 3.33, 3.34, 3.36

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer pursuant to Section 5.42 and 5.43 of the *Local Government Act 1995* to:

1. Authorise entry onto land to fulfil any statutory function that the local government has under the *Local Government Act 1995*
2. Give a Notice of Entry
3. Seek and execute an entry under warrant
4. Execute an entry in an emergency
5. Give notice and execute the opening of a fence.

Subject to:

- (a) A warrant to enter may only be sought after the employee has a sworn affidavit setting out circumstances that gave rise to the need for a warrant (unless an emergency)

23. PUBLIC THOROUGHFARES

LEGISLATIVE POWER *Local Government Act 1995* Sections 3.50, 3.51 & 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

1. close a thoroughfare wholly or partially, for a period not exceeding 4 weeks;
2. provide public notice of intentions and reasons for, and invite and consider submissions prior to ordering the closure of a thoroughfare, wholly or partially, to vehicles for a period exceeding 4 weeks' and
3. give notice of proposal and invite and consider submissions before –
 - (a) Fixing or altering the level of, or the realignment of, a public thoroughfare;
 - or
 - (b) Draining water from a public thoroughfare or other public place onto adjoining land.
4. To revoke an order to close a thoroughfare subject to the provisions of Section 3.50(6) of the *Local Government Act 1995*.

Any proposal to close a thoroughfare for any period exceeding 3 months must be referred to Council for determination.

24. GATES ACROSS PUBLIC THROUGHFARE

LEGISLATIVE POWER *Local Government Act 1995 Section 5.42 and Local Government (Uniform Local Provisions) Regulations 1996 Regulation 9*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to-

1. Grant permission to a person to have a gate or other device across a public thoroughfare under the care, control and management of the Shire, and impose conditions in respect to the permission,
Subject to-
 - (a) The requirements of Regulation 9 of the *Local Government (Uniform Provisions) Regulations 1996*; and
 - (b) A register of gates and other devices being kept in accordance with Clause 9(8) of the *Local Government (Uniform Provisions) Regulations 1996*.
2. Issue a notice under Section 3.25(1)(b) to a person who has not complied with a condition imposed on a permission given under (1) above.
3. Do anything that is considered necessary to achieve, so far as is practicable, the purpose for which the notice was given under (2) above.
4. Recover the cost of anything done under (3) above as a debt due from the person who failed to comply with the notice issued subject to notification being given to Council prior to legal action commencing.

25. DANGEROUS EXCAVATION IN OR NEAR PUBLIC THOROUGHFARE

LEGISLATIVE POWER *Local Government Act 1995* Section 5.42 and *Local Government (Uniform Local Provisions) Regulations 1996* Regulation 11

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to exercise each of the functions under regulation 11 of the *Local Government (Uniform Local Provisions) Regulations 1996*, including the powers –

1. to fill in or fence an excavation;
2. to give a written request to an owner or occupier to fill in or securely fence the excavation; and
3. to determine applications for permission to make, or make and leave, an excavation in a public thoroughfare or land adjoining a public thoroughfare or land adjoining a public thoroughfare.

26. CROSSOVERS

LEGISLATIVE POWER *Local Government Act 1995* Section 5.42 and *Local Government (Uniform Local Provisions) Regulations 1996* Regulation 12 and 13

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to-

1. Approve or refuse an application from an owner of land, to construct a crossover giving access from a public thoroughfare to the land, or a private thoroughfare serving the land, and impose conditions in respect to the approval,

Subject to-

(a) The requirements of Regulation 14(2) of the *Local Government (Uniform Provisions) Regulations 1996*.

2. Issue a notice under Section 3.25(1)(b) to a person who has not complied with a condition imposed on a permission given under (1) above.
3. Do anything that is considered necessary to achieve, so far as is practicable, the purpose for which the notice was given under (2) above.
4. Issue a notice under Regulation 13(1) of the *Local Government (Uniform Provisions) Regulations 1996* to the owner or occupier of private land to construct or repair a crossover from a public thoroughfare to the land, or a private thoroughfare serving the land

Subject to-

(a) The requirements of Regulation 14(2) of the *Local Government (Uniform Provisions) Regulations 1996*.

Recover the cost of anything done under (3) and (4) above as a debt due from the person who failed to comply with the notice issued

Subject to-

(a) Notification being given to Council prior to legal action commencing.

27. PERMISSION TO DEPOSIT MATERIALS ON, OR EXCAVATE ADJACENT TO, A STREET

LEGISLATIVE POWER *Local Government Act 1995, Section 5.42 and Local Government (Uniform Local Provisions) Regulations 1996 Regulation 6*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to exercise each of the functions under regulation 6 of the *Local Government (Uniform Local Provisions) Regulations 1996*, including the power to determine applications for permission to place on a specified part of a public thoroughfare one or more specified things that may obstruct the public thoroughfare.

28. PARTICULAR THINGS LOCAL GOVERNMENTS CAN DO ON LAND EVEN THOUGH IT IS NOT LOCAL GOVERNMENT PROPERTY

LEGISLATIVE POWER *Local Government Act 1995 Schedule 3.2
Particular things local governments can do
on land even though it is not local government
property.*

DELEGATE Chief Executive Officer

DELEGATION TO BE PERFORMED

1. Carry out things prescribed in Schedule 3.2 even though the land is not local government property and the local government does not have consent to act:
 - a. Carry out works for the drainage of land;
 - b. Do earthworks or other works on land for preventing or reducing flooding;
 - c. Take from land any native growing or dead timber, earth, stone, sand or gravel that, in its opinion, the local government requires for making or repairing a thoroughfare, bridge, culvert, fence or gate;
 - d. Deposit and leave on land adjoining a thoroughfare any timber, earth, stone, sand, gravel that is required for making or repairing a thoroughfare, bridge, culvert, fence, or gate;
 - e. Make a temporary thoroughfare through land for use by the public as a detour while work is being done on a public thoroughfare;
 - f. Place on land signs to indicate the names of public thoroughfares;
 - g. Make safe a tree that presents serious and immediate danger to life or property;
 - h. Obliterate graffiti that is visible from a public place and that has been applied without the consent of the owner or occupier;
 - i. Obtain drainage easements;
 - j. Fuel Reduction Activities (slashing, mulching).

SUBJECT TO:

The Chief Executive Officer must report to Council the discharge of the delegation at the next available Ordinary Council Meeting. The Chief Executive Officer must document how they formed the opinion that the things to be performed are necessary to protect and/or enhance the health, safety or amenity of the persons or property in the district or to remove a nuisance.

29. EVENTS ON ROADS

LEGISLATIVE POWER *Local Government Act 1995, Section 5.42*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to give, or refuse to give, the Shire's approval under regulation 4 of the *Road Traffic (Events on Roads) Regulations 1991* in relation to the temporary closure of a road for the purpose of conducting an event.

Note-

In exercising this function, delegates may be required to comply with the requirements of sections 3.50 of the *Local Government Act 1995*.

30. ROAD TRAINS & EXTRA MASS PERMITS

LEGISLATIVE POWER *Local Government Act 1995 Section 5.42*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to determine any application to use road trains and for extra mass permits on any local road within the district, recommending approval or refusal, with or without conditions, for referral to Main Roads WA. Taking regard to any Council policy on the issue that may be established from time to time.

31. TEMPORARY ROAD CLOSURES

LEGISLATIVE POWER *Local Government Act 1995* Section 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

1. The Council delegates its authority and power to the Chief Executive Officer temporarily close roads for repairs and maintenance in accordance with Subdivision 5 (Certain provisions about thoroughfares) of the *Local Government Act 1995*.
2. The Council delegates its authority and power to the Chief Executive Officer temporarily close unsealed roads to avoid traffic damage to the roads when required according to road conditions and weather conditions in accordance with Subdivision 5 (Certain provisions about thoroughfares) of the *Local Government Act 1995*.

Subdivision 5 - *Local Government Act 1995*:

- s3.50 Closing certain thoroughfares to vehicles
- s3.50(a) Partial closure of thoroughfares for repairs or maintenance
- s3.51 Affected owners to be notified of certain proposals
- s3.52 Public access to be maintained and plans kept

32. TRAFFIC REGULATORY SIGNS

LEGISLATIVE POWER *Local Government Act 1995 Section 5.42*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to install appropriate traffic regulatory signs at such places as considered necessary.

Conditions-

In exercising this function approval from Main Roads and other statutory bodies is to be gained where relevant. All signs are to be in accordance with relevant legislation, guidelines and standards.

33. APPOINTMENT OF AUTHORISED PERSONS

LEGISLATIVE POWER *Local Government Act 1995*, Section 3.24, 3.25, 3.26, 3.27, 3.39, 9.10

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to appoint persons or classes of persons pursuant to Section 5.42 and 5.43 of the *Local Government Act 1995* to be authorised for the purpose of fulfilling prescribed functions within the *Local Government Act 1995* and the administration of the Shire's Local Laws.

STATUTORY DELEGATIONS– OTHERLEGISLATION

34. PLANNING AND DEVELOPMENT (Local Planning schemes) REGULATIONS 2015

LEGISLATIVE POWER *Planning and Development (Local Planning Scheme) Regulations 2015*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Schedule 2, Part 10 Division 2 to:

1. Determine applications for planning approval, including applications, involving;
 - a. the variation of Local Planning Scheme provisions, Local Planning Policy or provisions of the Residential Design Codes; and
 - b. the exercise of discretion under the Local Planning Scheme, Local Planning Policy or the Residential Design Codes; and
 - c. unauthorised existing developments.
2. Advertise an application for development approval.
3. Refusal of all development applications where;
 - a. the proposed use is not permitted by the Local Planning Scheme; or
 - b. the development does not comply with the non-discretionary provisions of the Residential Design Codes or;
 - c. additional information required is not provided within 21 days of the request.
4. Amend or revoke a development approval.
5. Grant an extension of development approval for up to two (2) years.
6. Make recommendations to the WA Planning Commission on:
 - a. Applications for subdivision or amalgamation of land;
 - b. Minor variations to approved subdivisions;
 - c. Clearance of conditions of subdivision approval
7. At all reasonable times enter any building or land for the purpose of ascertaining whether the provisions of the Local Planning Scheme are being served.
8. Issue and serve notices, and take any other enforcement action, against a person who is suspected of committing an offence under the Local Planning Scheme.

35. STRATA TITLES – ISSUE OF LOCAL AUTHORITY CERTIFICATE

LEGISLATIVE POWER *Strata Titles Act 1985* – Section 9 (3), 10 (2) and 24 (2)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to issue or refuse a local authority certificate pursuant to Section 9 (3) and 10(2) of the *Strata Titles Act 1985* and make preliminary determinations pursuant to Section 24 (2) of the Act.

Subject to the following conditions:

- (a) Applicant being advised of the objection and/or appeal rights

36. PLANNING AND DEVELOPMENT ACT 2005 – ILLEGAL DEVELOPMENT

LEGISLATIVE POWER *Planning and Development Act 2005* Section 214(2), (3) and (5) and Section 215

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 5.42 and 5.43 to the Chief Executive Officer to:

1. Give a written direction to the owner or any other person undertaking an unauthorised development to stop and not recommence the development or that part of the development that is undertaken in contravention of the Local Planning Scheme
2. Give a written direction to the owner or any other person who undertook an unauthorised development:
 - a. to remove, pull down, take up, or later the development; and
 - b. to restore the land as nearly as practicable to this condition immediately before the development stated, to the satisfaction of the responsible authority
3. Give a written direction to the person whose duty it is to execute that work where it appears that delay in the execution of the work to be executed under a Local Planning Scheme would prejudice the effective operation of the Local Planning Scheme.
4. Recover expenses under Section 215 of the *Planning and Development Act 2005* in a court of competent jurisdiction.

37. PLANNING AND DEVELOPMENT ACT 2005 – AUTHORISATIONS

LEGISLATIVE POWER *Planning and Development Act 2005* Section 234

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 5.42 and 5.43 of the *Local Government Act 1995* to the Chief Executive Officer to appoint designated persons for the purposes of the below listed sections of the *Planning and Development Act 2005*:

- s228 – Giving of infringement notice
- s229 – Content of infringement notice
- s230 – Extending time to pay modified penalty
- s231 – Withdrawal of penalty

38. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 – DESIGNATE AUTHORISED PERSON

LEGISLATIVE POWER *Building Act 2011* Section 93(2)(d), 96(3), (5) and (6) and
Section 99

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer pursuant to section 27 of the *Building Act 2011* to designate an employee as an authorised person under section 96(3) of the *Building Act 2011* in relation to buildings and incidental structures located or proposed to be located in the district of the local government and for the purpose of section 93(2)(d) and 96 (5)(6).

39. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 - BUILDING ORDERS

LEGISLATIVE POWER *Building Act 2011*, Section 88, 110, 117(1) and (2), 118(2) And (3), 133(1)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 6(3) of the *Building Act 2011* to the Chief Executive Officer to:

1. Make building orders 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. Specify the way in which an outward facing side of a particular close wall must be finished
3. Revoke a building order at any time
4. Decide whether the building order has been fully complied with and either revoke the building order or inform each person to whom the order is directed that the building order remains in effect, within 28 days of receiving a notification under section 112(3)(c) and section 117(2)
5. If there is non-compliance with a building order, cause an authorised person to:
 - a. take any action specified in the order; or
 - b. 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 in the circumstances to cause the action to cease
6. Take court action to recover as a debt, reasonable costs and expenses incurred in doing anything in regard to non-compliance with a building order
7. Initiate a prosecution pursuant to section 133(1) for non-compliance with a building order made pursuant to section 110 of the *Building Act 2011*.

40. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 – BUILDING AND DEMOLITION PERMITS

LEGISLATIVE POWER *Building Act 2011* Sections 20, 21 and 27(1) and (3)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 6(3) of the *Building Act 2011* to the Chief Executive Officer to:

1. Grant a building or demolition permit;
2. Refuse a building or demolition permit; and
3. Impose, vary or revoke conditions on a building or demolition permit.

41. BUILDING ACT 2011 AND BUILDING REGULATIONS 2012 – OCCUPANCY AND BUILDING APPROVAL CERTIFICATES

LEGISLATIVE POWER *Building Act 2011*, Sections 55, 58, 59, 60, 62(1), (3), (4) And (5), 65(4) and *Building Regulations 2012* Regulation 40(2) and (5)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 6(3) of the *Building Act 2011* to the Chief Executive Officer to:

1. Require the applicant for an occupancy permit or building approval certificate to provide any document or information that it requires to determine the application and to verify the information by statutory declaration
2. Refuse to consider an application
3. Grant or modify the occupancy permit or grant the building approval certificate
4. Refuse to grant or modify the occupancy permit or grant the building approval certificate (including in the circumstances set in section 58(2) and (3))
5. Record the grounds on which a decision to refuse to grant or modify an occupancy permit or grant a building approval certificate is based, and the reasons for the decision and give to the person to whom the decision relates written notice of the decision together with those grounds and reasons and the person's right to review
6. Impose, add, vary or revoke conditions on an occupancy permit
7. Give written notice of the addition, variation or revocation of a condition and ensure that the notice informs the person of the person's right of review
8. Extend the period in which the occupancy permit or modification or the building approval certificate has effect
9. Refuse to accept an application to extend the time during which an occupancy permit or a building approval certificate has effect
10. Refuse to extend the time during which an occupancy permit or a building approval certificate has effect or extend the permit or certificate for shorter period than requested by the applicant and, if so, record the grounds on which a decision is based and the reason for the decision, and give written notice of the decision together with those grounds and reasons, and the person's right of review.

42. BUSH FIRES ACT 1954 - VARIATION TO FIREBREAK ORDERS

LEGISLATIVE POWER *Bush Fires Act 1954, Section 48*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to perform all the functions and duties of the local government under the *Bushfires Act 1954*,

Subject to-

- (a) This power and authority cannot be sub-delegated by virtue of Section 48(3) of the *Bushfires Act 1954*.
- (b) The exclusion of powers and duties prescribed in the Act including those that require a resolution by the local government.
- (c) Where the exercise of authority relates to the determination of firebreaks in alternative positions, or alternative action to abate fire hazards, the Chief Executive Officer shall liaise with the Chief Bushfire Control Officer or Deputy Chief Bushfire Control Officer on each specific variation request.

43. BUSH FIRES ACT 1954 - VARIATION TO PROHIBITED BURNING TIMES

LEGISLATIVE POWER *Bush Fires Act 1954* Section 48

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to-

1. Vary the prohibited burning times within the district of the Shire of Wyndham East Kimberley,
Subject to-
 - (a) The appropriate notice being given as required by Section 17(8) of the *Bushfires Act 1954*.
2. Vary the restricted burning times within the district of the Shire of Wyndham East Kimberley,
 - (a) The appropriate notice being given as required by Section 18(5C) of the *Bushfires Act 1954*.

44. FOOD ACT 2008 – PROHIBITION ORDERS, CERTIFICATES OF CLEARANCE

LEGISLATIVE POWER *Food Act 2008, Sections 65(1), 66 and 67(4)*

DELEGATE Chief Executive Officer
Director, Community Development

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 118(2)(b) and (3) of the *Food Act 2008* to the Chief Executive Officer and Director, Community Development to:

1. Serve a Prohibition Order on the proprietor of a food business
2. Give a Certificate of Clearance, where inspection demonstrates compliance with a Prohibition Order and any Improvement Notices
3. Give written notice to the proprietor of a food business on whom a Prohibition Order has been served of the decision not to give a certificate of clearance after an inspection.

45. LIQUOR CONTROL ACT 1988 - CERTIFICATION

LEGISLATIVE POWER *Liquor Control Act 1988*, Sections 39 and 40

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 5.42 of the *Local Government Act 1995* to the Chief Executive Officer to sign and issue Local Authority Certificates of compliance with respect to requests for *Liquor Control Act 1988* Section 39 (Health) and Section 40 (Town Planning) Certificates.

46. GAMING AND WAGERING COMMISSION ACT 1987 – GAMING

LEGISLATIVE POWER *Gaming and Wagering Commission Act 1987*, Section 44

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 5.42 of the *Local Government Act 1995* to the Chief Executive Officer to provide a report certifying that premises conform, or if not conforming in what respect they do not conform in respect of requests for Section 44 of the *Gaming and Wagering Commission Act 1987* reports.

47. CAT ACT 2011 – POWERS, DUTIES AND FUNCTIONS

LEGISLATIVE POWER *Cat Act 2011, Cat (Uniform Local Provisions) Regulations 2013 and Cat Regulations 2012*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The CEO is delegated Authority to exercise the powers or discharge the duties of the Local Government under the Cat Act 2011, including the power to delegate to any employee the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under the provision of this Act.

48. DOG ACT 1976 – POWERS, DUTIES AND FUNCTIONS

LEGISLATIVE POWER *Dog Act 1976 and Dog Regulations 2013*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to perform all the functions and duties of the local government under the *Dog Act 1976* and associated Regulations and to further delegate powers and duties under the *Dog act 1976* including the appointment of authorised persons.

49. POUNDKEEPERS – APPOINTMENT OF RANGERS

LEGISLATIVE POWER *Local Government (Miscellaneous Provisions) Act 1960*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

- 1) Appoint persons or classes of persons to be authorised as rangers for the purpose of being a poundkeeper as per the *Local Government (Miscellaneous Provisions) Act 1960*.
- 2) Determine conditions on any authorisation
- 3) Cancel or vary an authorisation

Subject to-

1. The local government having the care, control, and management of a public pound shall cause public notice to be given of the appointment or removal of pound keepers and rangers, and a notice so given is *prima facie* evidence a poundkeeper or ranger has been lawfully appointed or removed, as the case may be.

DELEGATIONS TO COMMITTEES

50. AUDIT (FINANCE AND RISK) COMMITTEE

LEGISLATIVE POWER *Local Government Act 1995, Section 5.18*

DELEGATE Audit (Finance and Risk) Committee

FUNCTION TO BE PERFORMED

Pursuant to Section 7.12A of the *Local Government Act 1995*, the Council provides delegated authority to the Audit (Finance and Risk) Committee to meet annually with the Shire of Wyndham East Kimberley's auditor(s).

COUNCIL APPOINTED AUTHORISED PERSONS AND OFFICERS

51. CAT ACT 2011 – APPOINTMENT OF AUTHORISED PERSONS

LEGISLATIVE POWER *Cat Act 2011*, Section 48

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

- 1) Appoint persons or classes of persons to be authorised for the purposes of performing particular functions under the *Cat Act 2011*
- 2) Determine conditions on any authorisation
- 3) Cancel or vary an authorisation

52. DOG ACT 1976 – APPOINTMENT OF AUTHORISED PERSONS

LEGISLATIVE POWER *Dog Act 1976 and Dog Regulations 2013*

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power to the Chief Executive Officer to:

- 1) Appoint persons or classes of persons to be authorised for the purposes of performing particular functions under the *Dog Act 1976*.
- 2) Appoint persons or classes of persons to be authorised as registration officers.
- 3) Determine conditions on any authorization.
- 4) Cancel or vary an authorization.

53. PUBLIC HEALTH ACT 2016 & HEALTH (MISCELLANEOUS PROVISIONS) Act 1911 – APPOINTMENT OF AUTHORISED OFFICERS

LEGISLATIVE POWER	Public <i>Health Act 2016</i> , Section 312 Health (Miscellaneous Provisions) Act 1911
DELEGATE	Chief Executive Officer

FUNCTION TO BE PERFORMED

The Council delegates its authority and power pursuant to Section 21(1)(b)(i) of the *Public Health Act 2016 and Section 26 of the Health (Miscellaneous Provisions) Act 1911* to the Chief Executive Officer to appoint authorized officers to exercise and discharge all or any of the powers and functions of the local government.

The Chief Executive Officer is to ensure authority is in writing and that a register of Authorised Officers is to be maintained by the Shire of Wyndham East Kimberley.

54. FOOD ACT 2008 – APPOINTMENT OF AUTHORISED OFFICERS

LEGISLATIVE POWER *Food Act 2008*, Part 5, Divisions 1 and 2

DELEGATE Director Community Development
 Environmental Health Officers

FUNCTION TO BE PERFORMED

The Council pursuant to Section 122(1) of the *Food Act 2008* appoint a person to be an authorised officer for the purposes of the *Food Act 2008*.

55. FOOD ACT 2008 – APPOINTMENT OF DESIGNATED OFFICERS

LEGISLATIVE POWER *Food Act 2008*, Section 126(13)

DELEGATE Chief Executive Officer
 Director Community Development
 Environmental Health Officers

FUNCTION TO BE PERFORMED

The Council pursuant to Section 122(1) of the *Food Act 2008* delegates its authority and power to undertake the powers of a ‘designated person’ as prescribed in the *Food Act 2008* and regulations.

Under the provisions of Section 126(2) of the *Food Act 2008*, the Council designates the Shire’s “Authorised Officers” to be “designated officers” for the purpose of issuing infringement notices.

Under the provisions of Section 126(6) and 126(7) of the *Food Act 2008*, Council designates the Director of Community Development to be a “designated officer” to extend and revoke infringement notices.

Under the provisions of Section 126(3) of the *Food Act 2008*, Council designates the Chief Executive Officer as the “designated officer” to receive payment from infringement notices.

56. CARAVAN PARKS AND CAMPING GROUNDS ACT 1995 –
APPOINTMENT OF AUTHORISED PERSON

LEGISLATIVE POWER *Caravan Park and Camping Grounds Act 1995, Caravan
Parks and Camping Grounds Regulations 1997, Regulation
6*

DELEGATE Director Community Development
Environmental Health Officer

FUNCTION TO BE PERFORMED

The Council appoint a person pursuant to Section 17 of the *Caravan Parks and Camping Grounds Act 1995* to undertake the powers of an 'authorised person' as prescribed in the *Caravan Parks and Camping Grounds Act 1995* and regulations.

57. CARAVAN PARKS AND CAMPING GROUNDS ACT 1995 – INFRINGEMENT NOTICES

LEGISLATIVE POWER *Caravan Park and Camping Grounds Act 1995*,
Section 23.

DELEGATE Environmental Health Officers

Pursuant to the provisions of Section 23(11) of the *Caravan Park and Camping Grounds Act 1995*, Council authorizes Environmental Health Officers for the purpose of subsection:

(2) Issue an infringement.

Pursuant to the provision of Section 23(11) of the *Caravan Park and Camping Grounds Act 1995* Council authorizes its Chief Executive Officer and Director Community Development for the purpose of subsections:

- (3) payment of infringements;
- (5) extend time for payment of infringement; and
- (7) withdraw infringement.

58. CONTROL OF VEHICLES (OFF-ROAD AREAS) ACT – AUTHORISED OFFICER

LEGISLATIVE POWER *Control of Vehicles (Off-Road Areas) Act 1978, Section 38(3). Control of Vehicles (Off-Road Areas) Regulations 1979*

DELEGATE Director Infrastructure
Senior Ranger & Emergency Services Coordinator
Ranger/s

FUNCTION TO BE PERFORMED

Council delegates its authority and power to the Director Infrastructure, Senior Ranger & Emergency Services Coordinator and Ranger/s to perform the duties of an authorised officer under the *Control of Vehicles (Off-road Areas) Act 1978*, for the whole of the district of the Shire of Wyndham East Kimberley,

Subject to-

1. The Officers and/or Employees exercising the Delegation, keeping a written record of details of how the Delegation was exercised, when the delegation was exercised, the persons or classes of person's directly affected by the exercise of the power on the discharge of the duty.