

# Shire of Wyndham-East Kimberley Delegation Register

(including Council appointed authorised persons & officers)

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**2022/2023**

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## INTRODUCTION

### Purpose of Delegated Authority

The aim of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by relevant legislation and to ensure decisions are made lawfully by the delegate. This is consistent with the Shire's commitment to a strong customer service focus. This Register details the related document(s) where the power to delegate is derived from, including the relevant legislation and policies of the Council. This enables easier cross-referencing. This Register will be reviewed in accordance with the *Local Government Act 1995* once every financial year. The co-ordination of the review will be performed through the office of the Chief Executive Officer.

### Legislation

The *Local Government Act 1995* ('the Act') allows for a local government to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act except those listed in section 5.43. All delegations made by the Council must be by absolute majority decision as per section 5.42 of the Act.

### Matters which cannot be Delegated

The following are decisions that cannot be delegated by Council to the Chief Executive Officer as per section 5.43 of the Act.

- Any power or duty that requires a decision of an absolute majority of the council;
- 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 section 5.98, 5.98A, 5.99A, 5.99 and 5.100 of the Act (these relate to fees, expenses and allowances for Elected Members);
- Borrowing money on behalf of the local government;
- Hearing or determining an objection of a kind referred to in section 9.5;
- The power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government
- 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 Chief Executive Officer:

- Regulation 18G of the *Local Government (Administration) Regulations 1996* prohibits the delegation to a CEO of the powers and duties under:
  - (a) Sections 7.12A(2), 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 Chief Executive Officer'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 Chief Executive Officer) who has been delegated the duty of maintaining the local government's day to day accounts or financial management operations.

## Delegation by the Chief Executive Officer to an Employee

Section 5.44(1) of the Act allows for the Chief Executive Officer to delegate any of the powers to another employee other than the power of delegation. This must be done in writing as per section 5.44(2). The Act also allows for the Chief Executive Officer to place conditions on any delegations if desired under section 5.44(4).

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 is 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. This includes recording of delegated authority of the Chief Executive Officer where applicable, once approved through a signed authority by the Chief Executive Officer.

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.

There is no power for a person other than the Chief Executive Officer to delegate a power as stated in section 5.44(1) of the Act.

Officers must refer to relevant legislation prior to making any decisions under delegated authority.

## 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, establishes the principal issue in determining whether a statutory function or duty is suitable for 'acting through' is that, where 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 Chief Executive Officer to implement the Council's policies.

**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. Although these authorisations do not have delegated authority, they are included in this register for ease of reference and review.

**STATUTORY DELEGATIONS – LOCAL GOVERNMENT ACT 1995**

1. EXPRESSIONS OF INTEREST, PRE-QUALIFIED SUPPLIERS AND TENDERS	
Function Delegated	<ul style="list-style-type: none"> <li>• Publicly invite tenders before the local government enters into a contract for the supply of goods and services over the threshold amount (excluding GST) stipulated in the <i>Local Government (Functions &amp; General) Regulations 1996</i></li> <li>• Where considered beneficial, publicly invite tenders in lieu of seeking quotations for purchases under the threshold (excluding GST) stipulated in the <i>Local Government (Functions &amp; General) Regulations 1996</i></li> <li>• Before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted</li> <li>• Form a view that it is likely that there is only one unique supplier so that tenders do not need to be invited (r.11(2)(f))</li> <li>• Assess by means of a written evaluation the extent to which each tender satisfies the criteria for deciding which tender to accept and decide which of them it thinks would be the most advantageous for the local government to accept:               <ul style="list-style-type: none"> <li>- Decline to accept any tender</li> <li>- Make necessary minor variations to a specification for goods or services before it enters the contract with the successful tenderer</li> <li>- If the successful tenderer does not want to accept the contract with the variation or the local government and the tenderer cannot reach agreement, select the next most appropriate tenderer</li> </ul> </li> <li>• Seek expressions of interest before entering the tender process               <ul style="list-style-type: none"> <li>- Consider any expressions of interest that have not been rejected and decide which ones could satisfactorily supply the goods or services</li> </ul> </li> <li>• Publicly invite persons to apply to join panel of pre-qualified suppliers               <ul style="list-style-type: none"> <li>- Before persons are publicly invited, determine in writing the criteria for deciding which applications to accept</li> <li>- Assess by means of a written evaluation the extent to which each person satisfies the criteria for deciding which persons to accept and reject</li> </ul> </li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 3.57(1) - tenders for providing goods or services</p> <p><i>Local Government (Functions &amp; General) Regulations 1996</i></p> <p>Regulation 11(2)(f) - Unique supplier</p> <p>Regulation 13 - Requirements when local government invites tenders though not required to do so</p> <p>Regulation 14(2a) - Publicly inviting tenders</p> <p>Regulation 18 - Rejecting and accepting tenders</p> <p>Regulation 20 - Variation of requirements before entry into contract</p> <p>Regulation 21A – Varying a Contract</p> <p>Regulation 21(1) - Limiting who can tender</p> <p>Regulation 23(3) - Rejecting and accepting expressions of interest to be an acceptable tenderer</p> <p>Regulation 24AB and 24AD (1) – Establishing panels of Pre-Qualified Suppliers</p> <p>Regulation 24AC(1)(b) - Requirements before establishing panels of Pre-Qualified Suppliers</p>



1. EXPRESSIONS OF INTEREST, PRE-QUALIFIED SUPPLIERS AND TENDERS	
	<p>Regulation 24AD(3) – Establishing Criteria for Panels</p> <p>Regulation 24AH – Rejecting and Accepting Applications to Join a Panel of Pre-Qualified Suppliers</p> <p>Regulation 24AJ – Entering into Contracts With Pre-Qualified Suppliers</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers and duties to CEO</p> <p>Section 5.43 - Limits on delegations to CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Corporate Services</p> <p>Director Infrastructure &amp; Strategic Projects</p> <p>Director Planning and Community Development</p> <p>Senior Procurement and Contracts Officer</p> <p>Manager Assets and Engineering</p> <p>Manager Operations</p> <p>Manager Community Development</p> <p>Manager Finance</p> <p>Manager Planning and Regulatory Services</p>
Conditions on Delegation/Sub Delegation	<ul style="list-style-type: none"> <li>• Subject to goods and services specified in the Strategic Community Plan, Corporate Business Plan or Annual Budget, the delegations in respect of Regulations 18(4), 23(3) and 24AJ are limited to: <ul style="list-style-type: none"> <li>- Purchases exempt from public tender under Regulation 11(2);</li> <li>- Purchases utilising a pre-qualified supplier who is part of a panel of pre-qualified suppliers;</li> <li>- All other tenders not exceeding a value of \$500,000 delegated to the CEO only.</li> </ul> </li> <li>• Vary a contract under Regulation 21A of the <i>Local Government (Functions &amp; General) Regulations 1996</i> and as per the Shire's Purchasing policy.</li> <li>• Ensure safe custody of tender documents submitted.</li> <li>• Maintains a Tender Register and records in it the details of any decisions under this delegation.</li> <li>• Establish panels of pre-qualified suppliers and set criteria for panels under Regulation 24AC(1)(b) and 24AD(3) and enter into contracts of pre-qualified suppliers under Regulation 24AJ of the <i>Local Government (Functions &amp; General) Regulations 1996</i>.</li> </ul>
Compliance links	<p><i>Local Government (Functions &amp; General) Regulations 1996</i></p> <p>Regulation 12 - Anti avoidance provision for Regulation 11(1)</p> <p>Policy – FIN-3204 – Purchasing Policy</p> <p>Policy – FIN-3217 – Regional Price Preference</p> <p>Policy – FIN-3218 – Pre-Qualified Supplier Panel Policy</p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>Tenders Register</p>
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>

**1. EXPRESSIONS OF INTEREST, PRE-QUALIFIED SUPPLIERS AND TENDERS**

Date of Sub Delegation	27 September 2022
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Formerly referenced in the Shire's October 2020 Register:

DA-07 - Provision of Goods and Services

DA-08 – Disposal of Property

2. APPOINTMENT OF AUTHORISED PERSONS	
Function Delegated	<p>Appoint persons or classes of persons to be authorised for the purpose of fulfilling functions of an authorised person prescribed in the following legislation inclusive of subsidiary legislation made under each Act i.e. Regulations:</p> <ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i> and its subsidiary legislation, including <i>Local Government Act Regulations</i>, the <i>Local Government (Miscellaneous Provisions) Act 1960</i> and Local Laws made under the <i>Local Government Act</i>;</li> <li>• <i>Caravan Parks and Camping Grounds Act 1995</i>;</li> <li>• <i>Cat Act 2011</i>;</li> <li>• <i>Cemeteries Act 1986</i>;</li> <li>• <i>Control of Vehicles (Off-road Areas) Act 1978</i>;</li> <li>• <i>Dog Act 1976</i>;</li> <li>• <i>Graffiti Vandalism Act 2016</i> – refer s.15; and</li> <li>• any other legislation prescribed for the purposes of s.9.10 of the <i>Local Government Act 1995</i>.</li> </ul> <p>Appoint persons or classes of persons to be authorised for the purpose of fulfilling prescribed functions within the Shire's Local Laws made under the <i>Local Government Act</i></p>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 9.10 - Appointment of authorised persons</p> <p>Section 3.24 - Authorising persons under this subdivision</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 - Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Nil
Conditions on Delegation/Sub Delegation	Only persons who are appropriately qualified and trained may be appointed as Authorised persons
Compliance links	<p><i>Local Government Act 1995</i></p> <p><i>Local Government (Miscellaneous Provisions) Act 1960</i></p> <p><i>Graffiti Vandalism Act 2016</i></p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>List of CEO Authorised/Approved Persons/Officers</p>
Date adopted by Council	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-32 – Appointment of Authorised Persons Local Laws

3. POWERS OF ENTRY	
Function Delegated	<ul style="list-style-type: none"> <li>• Authorise entry onto land to fulfil any statutory function that the local government has under the <i>Local Government Act 1995</i></li> <li>• Give a Notice of Entry</li> <li>• Seek and execute an entry under warrant</li> <li>• Execute an entry in an emergency, using such force as is reasonable</li> <li>• Give notice and execute the opening of a fence</li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 3.28 - When this subdivision applies</p> <p>Section 3.32 - Notice of Entry</p> <p>Section 3.33 - Entry under Warrant</p> <p>Section 3.34 - Entry in an Emergency</p> <p>Section 3.36 - Opening Fences</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 - Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Infrastructure and Strategic Projects</p> <p>Director Planning and Community Development</p> <p>Environmental Health Officer</p> <p>Manager Assets and Engineering</p> <p>Manager Planning and Regulatory Services</p> <p>Ranger</p> <p>Planning and Regulatory Services Officer</p> <p>Senior Building Surveyor</p> <p>Senior Environmental Health Officer</p> <p>Senior Planning Officer</p> <p>Senior Ranger</p>
Conditions on Delegation/Sub Delegation	<p>A warrant to enter may only to be sought after the employee has a sworn affidavit setting out circumstances that gave rise to the need for a warrant (unless in the case of substantial risk to public safety or property).</p> <p>Entry in an emergency may only be used where there is imminent or substantial risk to public safety or property.</p>
Compliance links	<p><i>Local Government Act 1995</i></p> <p>Part 3, Division 3, Subdivision 3; specifically Section 3.31 – General procedure for entering property</p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-22 – Powers of Entry

4. ROAD CLOSURES (TEMPORARY)	
Function Delegated	<ul style="list-style-type: none"> <li>Close a thoroughfare managed by the Shire (wholly or partially) for a period of less than four weeks</li> <li>Close a thoroughfare managed by the Shire (wholly or partially) for a period of more than four weeks</li> <li>Close a thoroughfare to a particular class or classes of vehicles</li> <li>Make a decision to not undertake the s.3.50, s.3.50(A) and s.3.51 public notice requirements</li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 3.50 - Closing certain thoroughfares to vehicles</p> <p>Section 3.50A - Partial closure of thoroughfares for repairs or maintenance</p> <p>Section 3.50(4) - Give local public notice</p> <p>Section 3.51 - Affected owners to be notified of certain proposals (fixing or altering of levels or alignment, or draining water)</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 – Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Infrastructure and Strategic Projects</p> <p>Manager Assets and Engineering</p> <p>Manager Operations</p>
Conditions on Delegation/Sub Delegation	Nil
Compliance links	<p><i>Local Government Act 1995</i></p> <p>Part 3, Division 3, Subdivision 5</p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-30 – Temporary Road Closures

5. ACQUISITION AND DISPOSAL OF PROPERTY	
Function Delegated	Acquire or dispose of property
Statutory power Delegated	<i>Local Government Act 1995</i> Section 3.55 – Acquisition of land Section 3.58(2) and (3) – Disposing of property
Statutory Power to Delegate	<i>Local Government Act 1995</i> Section 5.42 - Delegation of some powers or duties to the CEO Section 5.43 – Limitation on delegations to the CEO
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<i>Local Government Act 1995</i> Section 5.44 – CEO may delegate powers and duties to other employees
Sub Delegate/s: <i>Appointed by CEO</i>	Nil
Council Conditions on Delegation/Sub Delegation	<p>The Council delegates its authority and power to the Chief Executive Officer to:</p> <ul style="list-style-type: none"> <li>Dispose of property by public tender or public auction where the individual value of the property disposal is greater than \$20,000 (Excluding GST) but less than \$75,000 (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.</li> <li>Dispose of property by means other 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).</li> <li>Dispose of property by means other 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).</li> <li>Dispose, gift or donate property with a maximum written down value of \$1,000 (Excluding GST).</li> </ul> <p>In this delegation:</p> <p>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.</p>
Compliance links	<i>Local Government (Functions &amp; General) Regulations 1996</i> Regulation 30(3) states: (3) A disposition of property other than land is an exempt disposition if: (a) its market value is less than \$20,000; or (b) the entire consideration received by the local government for the position is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75,000.
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-08 – Disposal of Property

6. PAYMENTS FROM THE MUNICIPAL FUND AND TRUST FUND	
Function Delegated	Make payments from the municipal fund and trust fund including the making of payments for operating expenditure and appropriate capital expenditure carried over from the previous Annual Budget from the municipal fund prior to the adoption of the annual budget.
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p style="padding-left: 40px;">Section 6.8 – Expenditure from municipal fund not included in annual budget</p> <p><i>Local Government (Financial Management) Regulations 1996</i></p> <p style="padding-left: 40px;">Regulations 12(1)(a) - Payments from municipal fund or trust fund, restrictions on making</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p style="padding-left: 40px;">Section 5.42 - Delegation of some powers or duties to the CEO</p> <p style="padding-left: 40px;">Section 5.43 – Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p style="padding-left: 40px;">Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p><b>Office of the CEO</b></p> <p>Executive Officer to the CEO Marketing and Communications Officer Senior Economic Development Officer Manager Human Resources Human Resources Officer Safety and Wellbeing Officer Manager Airports Coordinator Airport Operations &amp; Compliance Coordinator Airport Security &amp; Compliance Airport Operations Coordinator</p> <p><b>Directorate Planning and Community Development</b></p> <p>Director Planning and Community Development Manager Community Development Manager Planning and Regulatory Services Coordinator Recreation and Leisure Wyndham Pool Coordinator Kununurra Leisure Centre Coordinator Aquatic and Recreation Office Wyndham Youth Officer Senior Projects Officer Senior Library Officer Business Support Officer - Planning and Community Development Senior Building Surveyor Senior Environmental Health Officer Senior Planning Officer Community Grants and Events Officer</p> <p><b>Directorate Corporate Services</b></p> <p>Director Corporate Services Manager Finance Coordinator Customer Service and Records ICT Systems Officer Senior Procurement and Contracts Officer</p> <p><b>Directorate Infrastructure</b></p> <p>Director Infrastructure and Strategic Projects Manager Assets and Engineering Coordinator Assets Manager Operations</p>

**6. PAYMENTS FROM THE MUNICIPAL FUND AND TRUST FUND**

	Supervisor Operations Senior Ranger and Emergency Services Coordinator Ranger Business Support Officer - Infrastructure Depot Administration Officer
Conditions on Delegation/Sub Delegation	<p><u>Conditions on Delegation</u></p> <p>The CEO must include the expenditure in the draft budget to be presented to the Council.</p> <p>The Council delegates its authority and power to the Chief Executive Officer to:</p> <ul style="list-style-type: none"> <li>• Sign and issue purchase orders to incur liabilities from the Municipal Fund or the Trust Fund on behalf of the Shire, subject to:           <ul style="list-style-type: none"> <li>- Compliance with Council Policy CP/FIN-3204 Purchasing; and</li> <li>- 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.</li> </ul> </li> <li>• Authorise and make payments by cheque, direct debit or electronic funds transfer (EFT) from the Municipal Fund or the Trust Fund, subject to:           <ul style="list-style-type: none"> <li>- 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;</li> <li>- Payments made by cheque and EFT transactions must be approved jointly by two delegates; and</li> <li>- Compliance with the requirements of Regulation 13 of the <i>Local Government (Financial Management) Regulations 1996</i>.</li> </ul> </li> </ul> <p><u>CEO Conditions on Sub-Delegation</u></p> <p>Sub-delegate spending allocations are as detailed below:</p> <p><b>Office of the CEO</b></p> <p>Executive Officer to the CEO \$10,000          Marketing and Communications Officer \$5,000          Senior Economic Development Officer \$10,000          Manager Human Resources \$50,000          Human Resources Officer \$10,000          Safety and Wellbeing Officer \$5,000          Manager Airports \$50,000          Coordinator Airport Operations &amp; Compliance \$10,000          Coordinator Airport Security &amp; Compliance \$10,000          Airport Operations Coordinator \$5,000</p> <p><b>Directorate Planning and Community Development</b></p> <p>Director Planning and Community Development \$150,000          Manager Community Development \$50,000          Manager Planning and Regulatory Services \$50,000          Coordinator Recreation and Leisure \$10,000          Wyndham Pool Coordinator \$5,000          Kununurra Leisure Centre Coordinator \$5,000          Aquatic and Recreation Officer \$2,000          Wyndham Youth Officer \$2,000          Senior Projects Officer \$10,000          Senior Library Officer \$10,000          Business Support Officer - Planning and Community Development \$10,000          Senior Building Surveyor \$10,000</p>



6. PAYMENTS FROM THE MUNICIPAL FUND AND TRUST FUND	
	Senior Environmental Health Officer \$10,000 Senior Planning Officer \$10,000 Community Grants and Events Officer \$10,000 <b>Directorate Corporate Services</b> Director Corporate Services \$150,000 Manager Finance \$50,000 Coordinator Customer Service and Records \$10,000 ICT Systems Officer \$10,000 Senior Procurement and Contracts Officer \$10,000 <b>Directorate Infrastructure</b> Director Infrastructure and Strategic Projects \$150,000 Manager Assets and Engineering \$50,000 Coordinator Assets \$10,000 Manager Operations \$50,000 Supervisor Operations \$10,000 Senior Ranger and Emergency Services Coordinator \$10,000 Ranger \$5,000 Business Support Officer - Infrastructure \$10,000 Depot Administration Officer \$10,000
Compliance links	<i>Local Government (Financial Management) Regulations 1996</i> Regulation 5 - CEO's duties as to financial management Regulation 11 - Payments, procedures for making, etc Regulation 12 - Payments from municipal fund or trust fund - restrictions on making Regulation 13 - Payments from municipal fund or trust fund by CEO, CEO's Duties as to, etc Policy – FIN-3204 – Purchasing Policy
Recordkeeping	Records of decisions are retained in minutes of Council meetings Record to be retained in Shire records system
Date adopted by Council	27 September 2022
Authorised:	Vernon Lawrence Chief Executive Officer
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-12 – Payments from the Municipal Fund and Trust Fund

7. DEBTS – WRITE OFF, WAIVE OR GRANT CONCESSIONS	
Function Delegated	<ul style="list-style-type: none"> <li>Waive or grant a concession (except for rates and service charges) in relation to any amount of money owed to the Shire</li> <li>Determine the conditions to be applied to write off money owed to the Shire</li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 6.12(1)(b) and (c) and (3) - Power to defer, grant discounts, waive or write off debts</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 – Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Director Corporate Services
Conditions on Delegation/Sub Delegation	<p><u>Conditions on Delegation</u></p> <ul style="list-style-type: none"> <li>Limited to individual debts not exceeding \$2000</li> <li>Report to the Audit (Finance and Risk) Committee on the exercise of this delegation</li> </ul>
Compliance links	<p><i>Local Government Act 1995</i></p> <p>Section 6.12 – Power to defer, grant discounts, waive or write off debts</p> <p><i>Local Government (Financial Management) Regulations 1996</i></p> <p>Regulation 26 - Discounts for early payments etc., information about required</p> <p>Policy – FIN-3211 – Fees and Charges Pricing Policy</p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-11 – Waive, Grant Concessions or Write off Debts

8. INVESTMENTS	
Function Delegated	<ul style="list-style-type: none"> <li>Determine monies which are, for the time being not required by the local government for any other purpose, and determine to invest these monies</li> <li>Establish and document internal control procedures to ensure control over investments that enable the identification of the nature and location of all investments and the transactions related to each investment</li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i> Section 6.14 – Power to invest</p> <p><i>Local Government (Financial Management) Regulations 1996</i> Regulation 19 – Management of investments</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i> Section 5.42 - Delegation of some powers or duties to the CEO Section 5.43 – Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i> Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Corporate Services Director Infrastructure and Strategic Projects Director Planning and Community Development Manager Finance</p>
Conditions on Delegation/Sub Delegation	Compliance with Policy FIN-3203 - Investments
Compliance links	<p><i>Local Government Act 1995</i> Section 6.14 – Power to invest</p> <p><i>Local Government (Financial Management) Regulations</i> Regulation 19 - Investments, control procedures for Regulation 19C - Investment of money, restrictions on Regulation 28 - Investment information required in notes (Annual Budget) Regulation 49 - Invested money, information about in annual financial report</p> <p><i>Trustees Act 1962</i> Part III - Investments</p> <p>Policy - FIN-3203 - Investments</p>
Recordkeeping	<p>Investment Register</p> <p>Monthly financial management report to Council and retained in minutes of Council meetings</p>
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-15 – Investments

9. OBJECTION TO RATE RECORD	
Function Delegated	<ul style="list-style-type: none"> <li>Extend the time for making an objection to the rate record for a period of time as it sees fit</li> <li>Consider any objection to the rate record and may either disallow it or allow it, wholly or in part</li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 6.76(4) and (5) – Grounds of objection</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 – Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Director Corporate Services Manager Finance
Conditions on Delegation/Sub Delegation	A delegate who has participated in any matter contributing to a decision related to the rate record, which is the subject of a rates record objection, must not be party to any determination under this delegation.
Compliance links	<p><i>Local Government Act 1995</i></p> <p>Part 6, Division 6, Sub-division 7 – Objections and review</p> <p>Policy – FIN-3200 – Strategic Rating</p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022
Authorised:	Vernon Lawrence Chief Executive Officer
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-13 – Rate Book

10. DISPOSING OF CONFISCATED OR UNCOLLECTED GOODS	
Function Delegated	<ul style="list-style-type: none"> <li>Sell or otherwise dispose of any confiscated or impounded goods</li> <li>Humanely destroy an impounded animal where it is determined to be too ill or injured to treat and dispose of carcass</li> <li>Where an offender is convicted, recover from the offender expenses incurred for removing, impounding and disposing confiscated or impounded goods</li> </ul>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 3.46 - Goods May be withheld until costs paid</p> <p>Section 3.47(1), (2), (2a) - Disposing of confiscated or uncollected goods</p> <p>Section 3.47A(1) - Disposal of sick or injured animals</p> <p>Section 3.48 - Impounding expenses, recovery of</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 – Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Infrastructure and Strategic Projects</p> <p>Senior Ranger and Emergency Services Coordinator</p> <p>Manager Operations</p> <p>Manager Assets and Engineering</p>
Conditions on Delegation/Sub Delegation	<p>Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may, in accordance with Regulation 30 <i>Local Government (Functions &amp; General) Regulations</i>, be disposed of by any means considered to provide best value, provided the process is transparent and accountable.</p> <p>Delegation only to be used where the delegate's reasonable efforts to identify and contact an owner have failed.</p>
Compliance links	<p><i>Local Government Act 1995</i></p> <p>Section 3.58 - Disposing of property</p> <p><i>Local Government (Functions and General) Regulation 1996</i></p> <p>Regulation 30 - Dispositions of property excluded from Act</p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-19 – Sale of Impounded or Confiscated Vehicles, Animals or Goods

11. APPOINTMENT OF DESIGNATED EMPLOYEES	
	Appoint designated employees required to submit a primary and annual return
Statutory power Delegated	<i>Local Government Act</i> Section 5.74(1) – terms used – designated employees (d)
Statutory Power to Delegate	<i>Local Government Act 1995</i> Section 5.42 - Delegation of some powers and duties to the CEO Section 5.43 – Limits of delegation to the CEO
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<i>Local Government Act 1995</i> Section 5.44 – CEO may delegate powers and duties to other employees
Sub Delegate/s: <i>Appointed by CEO</i>	Nil
Conditions on Delegation	Nil
Compliance links	<i>Local Government Act</i> Section 5.75 - Primary Returns Section 5.76 - Annual Returns Section 5.70 - Disclosure of Interest
Recordkeeping	Record to be retained in Shire records system Register of Financial Interests
Date adopted by Council	27 September 2022

**12. EMPLOYEE SEPARATION PAYMENTS POLICY**

Function Delegated	<p>Prepare a policy in relation to employees whose employment with the local government is finishing, setting out:</p> <ul style="list-style-type: none"> <li>the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and</li> <li>the manner of assessment of the additional amount</li> </ul> <p>and cause local public notice to be given in relation to the policy.</p> <p>Give local public notice of a payment outside the policy and make that payment</p>
Statutory power Delegated	<p><i>Local Government Act 1995</i></p> <p>Section 5.50 – Payments to employees in addition to contract or award</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of powers or duties to the CEO</p> <p>Section 5.43 – Limitation on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 – CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Nil
Conditions on Delegation/Sub Delegation	<p>Excludes payments to CEO and senior employees whose employment is governed by a written contract in accordance with section 5.39 of the <i>Local Government Act 1995</i></p> <p>Sub delegation is not permitted</p>
Compliance links	<p><i>Local Government (Administration) Regulations 1996</i></p> <p>The Shire's Code of Conduct</p> <p>Relevant registered industrial agreements</p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

**STATUTORY DELEGATIONS – OTHER LEGISLATION**



**BUILDING ACT 2011 AND BUILDING REGULATIONS 2012**

13. DESIGNATE AUTHORISED PERSON	
Function Delegated	<ul style="list-style-type: none"> <li>• Designate a person as an authorised person under section 96(3) of the <i>Building Act 2011</i> 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)</li> <li>• Authority to revoke or vary a condition of designation as an authorised person or give written notice to an authorised person limiting powers that may be exercised by that person for the purpose of section 99(3)</li> <li>• Designate a person as a specified employee under regulation 70 of the <i>Building Regulations 2012</i> in relation to issuing and withdrawing infringement notices</li> </ul>
Statutory power Delegated	<p><i>Building Act 2011</i></p> <p>Section 93(2)(d) - changing building standards, requirements, as to existing buildings</p> <p>Section 96(3), (5) and (6) - Authorised persons</p> <p>Section 99 - Limitation on powers of authorised persons</p> <p><i>Building Regulations 2012</i></p> <p>Regulation 5A - authorised persons</p> <p>Regulation 70 - Approved officers and authorised officers</p>
Statutory Power to Delegate	<p><i>Building Act 2011</i></p> <p>Section 127(1) and (3) - Delegation: special permit authorities and local governments</p> <p><i>Local Government Act 1995</i></p> <p>Section 9.10 – appointment of authorised persons</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Building Act 2011</i></p> <p>Section 127(6A) - CEO may delegate to any other local government employee that power or duty that has been delegated to the CEO</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Planning and Community Development</p> <p>Manager Planning and Regulatory Services</p> <p>Planning and Regulatory Services Officer</p> <p>Senior Building Surveyor</p>
Conditions on Delegation/Sub Delegation	<p>Other than a person authorised under Regulation 5A of the <i>Building Regulations 2012</i> an authorised person under the <i>Building Act 2011</i> must be a local government employee as defined in Section 5.36 of the <i>Local Government Act 1995</i>.</p> <p>Specified Employees under Regulation 70 of the <i>Building Regulations 2012</i> in relation to issuing infringement notices should not also be specified employee for withdrawing infringement notices.</p> <p>An authorised officers cannot also be an approved officers under the <i>Criminal Procedures Act 2004</i>.</p>
Compliance links	<p><i>Building Act 2011</i></p> <p><i>Building Regulations 2012</i></p> <p><i>National Construction Code / Building Code of Australia Commerce Regulations Amendment (Infringement Notices) Regulations 2019</i></p> <p><i>Criminal Procedures Act 2004</i></p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>List of CEO Authorised/Approved Persons/Officers</p>

**13. DESIGNATE AUTHORISED PERSON**

Date adopted by Council	27 September 2022
Authorised	Vernon Lawrence Chief Executive Officer
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-37 – Building Act 2011 and Building Regulations 2012 – Designate Authorised Person

14. BUILDING ORDERS	
Function Delegated	<ul style="list-style-type: none"> <li>• Make building orders in respect of one or more of the following: <ul style="list-style-type: none"> <li>- particular building work</li> <li>- particular demolition work</li> <li>- a particular building or incidental structure, whether completed before or after commencement day</li> </ul> </li> <li>• Specify the way in which an outward facing side of a particular close wall must be finished</li> <li>• Give notice of a proposed building order and consider submissions received in response and determine actions</li> <li>• Revoke a building order at any time</li> <li>• 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 117(2)</li> <li>• If there is non-compliance with a building order, cause an authorised person to: <ul style="list-style-type: none"> <li>- take any action specified in the order; or</li> <li>- commence or complete any work specified in the order; or</li> <li>- 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</li> </ul> </li> <li>• 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</li> <li>• Initiate a prosecution pursuant to section 133(1) for non-compliance with a building order made pursuant to section 110 of the <i>Building Act 2011</i></li> </ul>
Statutory power Delegated	<p><i>Building Act 2011</i></p> <p>Section 88 - finishes of walls close to boundaries</p> <p>Section 110(1) - A permit authority may make a building order</p> <p>Section 111(1) - Notice of proposed building order other than building order (emergency)</p> <p>Section 117(1) and (2) - A permit authority may revoke a building order or notify that it remains in effect</p> <p>Section 118(2) and (3) - Permit authority may give effect to building order if non-compliant</p> <p>Section 133(1) - A permit authority may commence a prosecution for an offence against this Act</p>
Statutory Power to Delegate	<p><i>Building Act 2011</i></p> <p>Section 6(3) – Permit authority for a building or incidental structure</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Building Act 2011</i></p> <p>Section 127 - Delegation: special permit authorities and local governments (powers of sub delegation limited to CEO)</p> <p>Note: Section 127(7) provides nothing in section 127 limits the ability of the delegator to perform a function through an officer or agent</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Planning and Community Development</p> <p>Manager Planning and Regulatory Services</p> <p>Senior Building Surveyor</p>

14. BUILDING ORDERS	
Conditions on Delegation/Sub Delegation	Nil
Compliance links	<p><i>Building Act 2011</i></p> <p>Section 111 - Notice of proposed building order other than building order (emergency)</p> <p>Section 112 - Content of building order</p> <p>Section 113 - Limitation on effect of building order</p> <p>Section 114 - Service of building order</p> <p>Part 9 - Review - Section 122 - Building orders - application for review by SAT</p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>Relevant property index</p> <p>Building Permit Application Number (if applicable)</p>
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-38 – Building Act 2011 and Building Regulations 2012 – Building Orders

15. BUILDING AND DEMOLITION PERMITS	
Function Delegated	<ul style="list-style-type: none"> <li>• Require an applicant to provide any documentation or information required to determine a building or demolition permit</li> <li>• Grant a building or demolition permit</li> <li>• Refuse a building or demolition permit</li> <li>• Impose, vary or revoke conditions on a building or demolition permit</li> </ul>
Statutory power Delegated	<p><i>Building Act 2011</i></p> <p>Section 18 - Further information</p> <p>Section 20 - Grant a building permit</p> <p>Section 21 - Grant a demolition permit</p> <p>Section 22 - Further grounds for not granting an application</p> <p>Section 27(1) and (3) - Impose conditions on permit</p> <p><i>Building Regulations 2012</i></p> <p>Reg 23 - Application to extend time during which permit has effect (s.32)</p> <p>Reg 24 - Extension of time during which permit has effect (s. 32(3))</p> <p>Reg 26 - Approval of new responsible person (s.35(c))</p>
Statutory Power to Delegate	<p><i>Building Act 2011</i></p> <p>Section 6(3) – Permit authority for a building or incidental structure</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Building Act 2011</i></p> <p>Section 127 - Delegation: special permit authorities and local governments (powers of sub delegation limited to CEO)</p> <p>Note: Section 127(7) provides nothing in section 127 limits the ability of the delegator to perform a function through an officer or agent</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Director Planning and Community Development Manager Planning and Regulatory Services Senior Building Surveyor
Conditions on Delegation/Sub Delegation	<p>Nil</p> <p><b>Note:</b> Caution should be exercised if building is on register under the <i>Heritage of Western Australia Act 1990</i>.</p>
Compliance links	<p><i>Building Act 2011</i></p> <p>Section 119 – Building and demolition permits – application for review by SAT</p> <p>Section 23 - Time for deciding application for building or demolition permit</p> <p><i>Building Regulations 2012</i></p> <p>Reg 25 - Review of decision to refuse or extend time during which permit has effect - reviewable by SAT</p> <p><i>Building Services (Registration) Act 2011</i></p> <p>Section 7</p> <p><i>Building Services (Complaint Resolution and Administration) Act 2011</i></p> <p>Part 7, Division 2</p> <p><i>Building and Construction Industry Training Levy Act 1990</i></p> <p><i>Heritage of Western Australia Act 1990</i></p> <p><i>Home Building Contracts Act 1991</i></p> <p>Part 3A, Division 2</p>

**15. BUILDING AND DEMOLITION PERMITS**

Recordkeeping	Record to be retained in Shire records system Relevant property index Building Permit Application Number (if applicable)
Date adopted by Council	27 September 2022
Authorised:	Vernon Lawrence Chief Executive Officer
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-39 – Building Act 2011 and Building Regulations 2012 – Building and Demolition Permits

16. OCCUPANCY AND BUILDING APPROVAL CERTIFICATES	
Function Delegated	<ul style="list-style-type: none"> <li>• Require applicant to provide any documentation or information required to determine the application and to verify the information by statutory declaration</li> <li>• Grant, refuse to grant or modify an occupancy permit or building approval certificate</li> <li>• 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</li> <li>• Impose, add, vary or revoke conditions on an occupancy permit</li> <li>• 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</li> <li>• Extend, or refuse to extend the period in which the occupancy permit or modification or the building approval certificate has effect</li> </ul>
Statutory power Delegated	<p><i>Building Act 2011</i></p> <p>Section 55 - Further information</p> <p>Section 58 - Grant of occupancy permit, building approval certificate</p> <p>Section 59 - Time for granting occupancy permit or building approval certificate</p> <p>Section 60 - Notice of decision</p> <p>Section 62(1), (3), (4) and (5) - Conditions imposed by permit authority</p> <p>Section 65(4) - Extension of period of duration</p> <p><i>Building Regulations 2012</i></p> <p>Regulation 40(2) and (5) - Extension of period of duration of time limited occupancy permit or building approval certificate</p>
Statutory Power to Delegate	<p><i>Building Act 2011</i></p> <p>Section 6(3) – Permit authority for a building or incidental structure</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Building Act 2011</i></p> <p>Section 127 - Delegation: special permit authorities and local governments (powers of sub delegation limited to CEO)</p> <p>Note: Section 127(7) provides nothing in section 127 limits the ability of the delegator to perform a function through an officer or agent</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Director Planning and Community Development Manager Planning and Regulatory Services Senior Building Surveyor
Conditions on Delegation/Sub Delegation	Nil
Compliance links	<p><i>Building Act 2011</i></p> <p>Section 59 - time for granting occupancy permit or building approval certificate</p> <p>Section 60 - Notice of decision not to grant occupancy permit or grant building approval certificate</p> <p>Section 121 - Occupancy permits and building approval certificates - application for review by SAT</p> <p><i>Building Regulations 2012</i></p>

**16. OCCUPANCY AND BUILDING APPROVAL CERTIFICATES**

	<i>Building Services (Registration) Act 2011</i> <i>Building Services (Complaint Resolution and Administration) Act 2011</i> Part 7, Division 2 <i>Building and Construction Industry Training Levy Act 1990</i> <i>Heritage of Western Australia Act 1990</i> Building Code of Australia
Recordkeeping	Record to be retained in Shire records system Relevant property index Building Permit Application Number (if applicable)
Date adopted by Council	27 September 2022
Authorised:	Vernon Lawrence Chief Executive Officer
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-40 – Building Act 2011 and Building Regulations 2012 – Occupancy and Building



**BUSH FIRES ACT 1954**

<b>17. POWERS, DUTIES AND FUNCTIONS</b>	
Function Delegated	All powers, duties and functions of the local government under the <i>Bush Fires Act 1954</i>
Statutory power Delegated	<i>Bush Fires Act 1954</i>
Statutory Power to Delegate	<i>Bush Fires Act 1954</i> Section 48 – Delegation by local governments
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<i>Bush Fires Act 1954</i> Section 48(3) – Delegation by local governments does not include the power to sub delegate
Sub Delegate/s: <i>Appointed by CEO</i>	Nil. Section 48 of <i>the Bush Fires Act 1954</i> does not limit the ability of a local government to act through its Council, members of staff or agents in the normal course of business
Conditions on Delegation/Sub Delegation	Authority excludes powers and duties that: <ul style="list-style-type: none"> <li>• Are prescribed in the Act with the requirement for a resolution by the local government; or</li> <li>• Are prescribed in the Act for performance by prescribed officers; or</li> <li>• Are subject to separate delegated authority within this register</li> </ul>
Compliance links	<i>Bush Fires Act 1954</i> <i>Bush Fires Regulations 1954</i> <i>Bush Fires (Infringement) Regulations 1978</i>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

18. PROHIBITED BURNING TIMES	
Function Delegated	Determine to vary prohibited burning times, in accordance with section 17(7) and (8) regarding: <ul style="list-style-type: none"> <li>Shortening, extending, suspending or reimposing a period of prohibited burning times</li> </ul>
Statutory power Delegated	<i>Bush Fires Act 1954</i> Section 17(7) and (8) - Variation to prohibited burning times Section 27(2) and (3) - Prohibition on use of tractors or engines except under certain conditions <i>Bush Fire Regulations 1954</i>
Statutory Power to Delegate	<i>Bush Fires Act 1954</i> Section 48 – Delegation by local governments
Delegated to	Chief Bush Fire Control Officer
Statutory Power to sub delegate:	<i>Bush Fires Act 1954</i> Section 48(3) – Delegation by local governments does not include the power to sub delegate
Sub Delegate/s: <i>Appointed by CEO</i>	Nil. Section 48 of the <i>Bush Fires Act 1954</i> does not limit the ability of a local government to act through its Council, members of staff or agents in the normal course of business
Conditions on Delegation/Sub Delegation	Decisions under section 17(7) must be undertaken jointly by both the Mayor and the Chief Bush Fire Control Officer and must comply with the procedural requirements of section 17(7B) and (8)
Compliance links	<i>Bush Fires Act 1954</i> <i>Bush Fires Regulations 1954</i>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-42 – Bush Fires Act 1954 – Variation to Prohibited Burning Times

19. PROSECUTIONS	
Function Delegated	<ul style="list-style-type: none"> <li>Issue infringement notices</li> <li>Consider allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district</li> </ul>
Statutory power Delegated	<p><i>Bush Fires Act 1954</i></p> <p>Section 59(3) - Prosecution of offences</p> <p>Section 59A(2) - Alternative procedure - infringement notices</p>
Statutory Power to Delegate	<p><i>Bush Fires Act 1954</i></p> <p>Section 48 – delegation by the local governments</p>
Delegated to	<p>Chief Executive Officer</p> <p>Note s.59(3) – “A local government may, by written instrument of delegation, delegate authority generally, or in any class of case, or in any particular case, to its bush fire control officer, or other officer, to consider allegations of offences alleged to have been committed against this Act ...”</p>
Statutory Power to sub delegate:	<p><i>Bush Fires Act 1954</i></p> <p>Section 48(3) – Delegation by local governments does not include the power to sub delegate</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Nil. Section 48 of the <i>Bush Fires Act 1954</i> does not limit the ability of a local government to act through its Council, members of staff or agents in the normal course of business</p>
Conditions on Delegation/Sub Delegation	<p><i>Bush Fires Act 1954</i></p> <p>Section 59A(5) - alternative procedure - infringement notices</p> <p>Section 65 - proof of certain matters</p> <p>Section 66 - Proof of ownership or occupancy</p> <p><i>Bush Fires (Infringement) Regulations 1978</i></p> <p>Regulation 4(a) - only the Mayor, President or Chief Executive Officer may withdraw an infringement notice</p>
Compliance links	<p><i>Bush Fires Act 1954</i></p> <p><i>Bush Fires (Infringement) Regulations 1978</i></p>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

**CAT ACT 2011**

<b>20. POWERS, DUTIES AND FUNCTIONS</b>	
Function Delegated	All powers, duties and functions of the local government under the <i>Cat Act 2011</i>
Statutory power Delegated	<i>Cat Act 2011</i> <i>Cat (Uniform Local Provisions) Regulations 2013</i> <i>Cat Regulations 2012</i>
Statutory Power to Delegate	<i>Cat Act 2011</i> Section 44 - Delegation by local government
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<i>Cat Act 2011</i> Section 45 – Delegation by CEO of local government
Sub Delegate/s: <i>Appointed by CEO</i>	Nil. Section 46(2) of the <i>Cat Act 2011</i> does not limit the ability of a local government from performing any of its functions by acting through a person other than the CEO; or a CEO from performing any of his/her functions by acting through another person
Conditions on Delegation/Sub Delegation	Authority excludes powers and duties that: <ul style="list-style-type: none"> <li>• Are prescribed in the Act with the requirement for a resolution by the local government; or</li> <li>• Are prescribed in the Act for performance by prescribed officers; or</li> <li>• Are subject to separate delegated authority within this register</li> </ul>
Compliance links	<i>Cat Act 2011</i> <i>Cat (Uniform Local Provisions) Regulations 2013</i> <i>Cat Regulations 2012</i> Section 9.10(2) <i>Local Government Act 1995</i> Delegations Register – Appointment of Authorised Persons
Recordkeeping	Record to be retained in Shire records system List of CEO Authorised/Approved Persons/Officers
Date adopted by Council	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-46 – Cat Act 2011 – Powers, Duties and Functions

**DOG ACT 1976**

21. POWERS, DUTIES AND FUNCTIONS	
Function Delegated	<ul style="list-style-type: none"> <li>All powers, duties and functions of the local government under the <i>Dog Act 1976</i></li> <li>Authorise the CEO to further delegate powers and duties under the <i>Dog Act 1976</i> and associated Regulations</li> </ul>
Statutory power Delegated	<i>Dog Act 1976</i> <i>Dog Regulations 2013</i>
Statutory Power to Delegate	<i>Dog Act 1976</i> Section 10AA - Delegation of local government powers and duties
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<i>Dog Act 1976</i> Section 10AA(3) - CEO can delegate further if expressly authorised
Sub Delegate/s: <i>Appointed by CEO</i>	Nil Section 10AA(5) of the <i>Dog Act 1976</i> does not limit the ability of a local government's Chief Executive Officer to perform a function through an officer or agent
Conditions on Delegation/Sub Delegation	Nil
Compliance links	<i>Dog Act 1976</i> <i>Dog Regulations 2013</i> Section 9.10(2) <i>Local Government Act 1995</i> <i>Local Government (Miscellaneous Provisions) Act 1960</i> Dogs Local Laws 2003
Recordkeeping	Record to be retained in Shire records system List of CEO Authorised/Approved Persons/Officers
Date adopted by Council	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-47 – Dog Act 1976 – Powers, Duties and Functions

**FOOD ACT 2008**

22. PROHIBITION ORDERS, CERTIFICATES OF CLEARANCE	
Function Delegated	<ul style="list-style-type: none"> <li>• Serve a Prohibition Order on the proprietor of a food business in accordance with section 65 of the <i>Food Act 2008</i></li> <li>• Give a Certificate of Clearance, where inspection demonstrates compliance with a Prohibition Order and any Improvement Notices</li> <li>• Give written notice to 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</li> </ul>
Statutory power Delegated	<p><i>Food Act 2008</i></p> <p>Section 65(1) - Prohibition order</p> <p>Section 66 - Certificate of clearance</p> <p>Section 67(4) - Request for re-inspection</p>
Statutory Power to Delegate	<p><i>Food Act 2008</i></p> <p>Section 118(2)(b) - Local government (enforcement agency) may delegate a function conferred on it</p> <p>Section 118(3) - Delegation subject to conditions (s.119) and guidelines adopted (s.120)</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Food Act 2008</i></p> <p>Section 118(4) - Sub-delegation only permissible if expressly provided in regulations</p> <p><i>Food Act Regulations 2009</i></p> <p>No sub-delegation available</p>
Sub Delegate/s: <i>Appointed by CEO</i>	Nil
Conditions on Delegation/Sub Delegation	Nil
Compliance links	<p><i>Food Act 2008</i></p> <p><i>Food Act Regulations 2009</i></p> <p>Health (Food) Local Law 2009</p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>Relevant property -</p> <p>Relevant customer -</p>
Date adopted by Council	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-32 – Food Act 2008 – Prohibition Orders, Certificates of Clearance

**HEALTH (ASBESTOS) REGULATIONS 1992**

<b>23. APPOINTMENT OF AUTHORISED AND APPROVED OFFICERS</b>	
Function Delegated	Appoint a person or class of persons to be an authorised officer or approved officer for the purposes of Part 2 of the <i>Criminal Procedures Act 2004</i>
Statutory power Delegated	<i>Health (Asbestos) Regulations 1992</i> Regulation 15D(5) - appoint persons or classes of persons to be authorised officers or approved officers for purpose of <i>Criminal Procedures Act 2004</i>
Statutory Power to Delegate	<i>Health (Asbestos) Regulations 1992</i> Section 15D(7) – A local government may delegate a power or duty conferred or imposed on it to the CEO
Delegated to	Chief Executive Officer
Compliance links	<i>Public Health Act 2016</i> Section 25 – Certain authorised officers to have qualifications and experience <i>Health (Miscellaneous Provisions) Act 1911</i> <i>Health (Asbestos) Regulations 1992</i> <i>Criminal Procedure Act 2004</i>
Recordkeeping	Record to be retained in Shire records system List of CEO Authorised/Approved Persons/Officers
Date adopted by Council	27 September 2022

**PLANNING AND DEVELOPMENT ACT 2005, PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015; PLANNING AND DEVELOPMENT (DEVELOPMENT ASSESSMENT PANELS) REGULATIONS 2011 AND LOCAL PLANNING SCHEME NO. 9**

24. STATUTORY PLANNING	
Functions Delegated	<p><b>Planning and Development Act 2005; Planning and Development (Local Planning Schemes) Regulations 2015; Planning and Development (Development Assessment Panels) Regulations 2011 and Local Planning Scheme No. 9</b></p> <p>To perform the functions of Council in respect of the following matters:</p> <ul style="list-style-type: none"> <li>• Exercise all powers and discharge all duties under Local Planning Scheme 9</li> <li>• Exercise all powers and discharge all duties under the Deemed Provisions (Schedule 2) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li> <li>• Make recommendations to the Western Australian Planning Commission and other statutory authorities in respect of subdivision and development applications and associated matters</li> <li>• Endorse deposited plans after the conditions of subdivision/amalgamation approval for which the Council is responsible have been fulfilled</li> <li>• Issue or refuse to issue a certificate under Section 40 of the <i>Liquor Control Act 1988</i></li> <li>• Authorise Responsible Authority Reports to the Development Assessment Panel pursuant to Regulation 12 of the <i>Planning and Development (Development Assessment Panels) Regulations 2011</i></li> </ul>
Statutory power Delegated	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 – Deemed provisions for local planning schemes</p> <p><i>Planning and Development (Development Assessment Panels) Regulations 2011</i> Section 12 – Responsible authority must report to DAP</p>
Statutory Power to Delegate	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 - Deemed provisions for local planning Schemes - Part 10 - Enforcement and administration Clause 82 - Delegations by local government</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 - Deemed provisions for local planning schemes - Part 10 - Enforcement and administration Clause 82 - Local government CEO may delegate powers</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Planning and Community Development Manager Planning and Regulatory Services Senior Planning Officer Regulatory Services Technical Officer</p>
Conditions on Delegation/Sub Delegation	All those functions delegated to the CEO with the exception of taking any action to prosecute against owners and occupiers of properties.
Compliance links	<p><i>Planning &amp; Development Act 2005</i> Section 142 – Consultation requirements as to proposed subdivision</p> <p><i>Planning &amp; Development (Development Assessment Panels) Regulations 2011</i> <i>Liquor Control Act 1988</i></p>



24. STATUTORY PLANNING	
	<p>Section 40 - Certificate of planning authority is to whether use of premises complies with planning laws</p> <p><i>Building Act 2011</i></p> <p><i>Heritage of Western Australia Act 1990</i></p> <p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></p> <p><i>Planning and Development (Development Assessment Panels) Regulations 2011</i></p> <p><i>Planning and Development Regulations 2009</i></p> <p>State Planning Policy 3.1 - Residential Design Codes</p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>Delegated Authority Planning Decisions</p> <p>Relevant Property Assessment</p>
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

25. ILLEGAL DEVELOPMENT	
Function Delegated	<ul style="list-style-type: none"> <li>• 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 planning scheme</li> <li>• Give a written direction to the owner or any other person who undertook an unauthorised development: <ul style="list-style-type: none"> <li>- to remove, pull down, take up or alter the development; and</li> <li>- to restore the land as nearly as practicable to its condition immediately before the development started to the satisfaction of the responsible authority</li> </ul> </li> <li>• 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 planning scheme would prejudice the effective operation of the planning scheme</li> </ul>
Statutory power Delegated	<p><i>Planning and Development Act 2005</i></p> <p>Section 214(2), (3) and (5) - Illegal development, responsible authority's powers as to</p>
Statutory Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>Section 5.42 - Delegation of some powers or duties to the CEO</p> <p>Section 5.43 - Limitations on delegations to the CEO</p>
Delegated to	Chief Executive Officer
Statutory Power to sub delegate:	<p><i>Local Government Act 1995</i></p> <p>Section 5.44 - CEO may delegate powers and duties to other employees</p>
Sub Delegate/s: <i>Appointed by CEO</i>	<p>Director Planning and Community Development</p> <p>Manager Planning and Regulatory Services</p> <p>Planning and Regulatory Services Officer</p> <p>Senior Planning Officer</p>
Conditions on Delegation/Sub Delegation	<p>Nil</p> <p><b>Note:</b> Power to prosecute for other breaches of the <i>Planning &amp; Development Act 1995</i> is contained in Section 20 of the <i>Criminal Procedure Act 2004</i></p>
Compliance links	<p><i>Planning and Development Act 2005</i></p> <p>Part 13 – Enforcement and legal proceedings</p>
Recordkeeping	<p>Record to be retained in Shire records system</p> <p>List of CEO Authorised/Approved Persons/Officers</p>
Date adopted by Council	27 September 2022
Authorised:	<p>Vernon Lawrence</p> <p>Chief Executive Officer</p>
Date of Sub Delegation	27 September 2022

Formerly referenced in the Shire's October 2020 Register:

DA-35 – Planning and Development Act 2005 – Illegal Development

**PUBLIC HEALTH ACT 2016**

<b>26. ENFORCEMENT AGENCY FUNCTIONS</b>	
Function Delegated	Perform the powers and/or duties of an 'enforcement agency' under the <i>Public Health Act 2016</i>
Statutory power Delegated	<i>Public Health Act 2016</i> Part 2 Division 2 – Functions of Local Governments Part 2 Division 3 – Functions of Enforcement Agencies
Statutory Power to Delegate	<i>Public Health Act 2016</i> Section 21 – Enforcement agency may delegate
Delegated to	Chief Executive Officers
Statutory Power to sub delegate:	No sub-delegation available
Sub Delegate/s: <i>Appointed by CEO</i>	Nil
Conditions on Delegation	<i>Public Health Act 2016</i> Section 20 – Conditions on performance of functions by enforcement agencies
Compliance links	
Recordkeeping	Record to be retained in Shire records system List of CEO Authorised/Approved Persons/Officers
Date adopted by Council	27 September 2022

**STATUTORY DELEGATIONS TO LOCAL GOVERNMENT FROM EXTERNAL AGENCIES**

**ENVIRONMENTAL PROTECTION ACT 1986**

**27. NOISE CONTROL – SERVE ENVIRONMENTAL PROTECTION NOTICES [S.65(1)]**

**EV401**

ENVIRONMENTAL PROTECTION ACT 1986

SECTION 20

Delegation No. 52

Pursuant to section 20 of the *Environmental Protection Act 1986*, the Chief Executive Officer hereby delegates as follows-

Powers and duties delegated -

All the powers and duties of the Chief Executive Officer, where any noise is being or is likely to be emitted from any premises not being premises licensed under the Act, to serve an environmental protection notice under section 65(1) in respect of those premises, and where an environmental protection notice is so served in such a case, all the powers and duties of the Chief Executive Officer under Part V of the Act in respect of that environmental protection notice.

Persons to whom delegation made -

This delegation is made to any person for the time being holding or acting in the office of Chief Executive Officer under the *Local Government Act 1995*.

Pursuant to section 59(1)(e) of the *Interpretations Act 1984*, Delegation No. 32, dated 4 February 2000 is hereby revoked.

Dated this 9<sup>th</sup> day of January 2004

Approved -

FERDINEND TROMP, A/Chief Executive Officer  
Dr JUDY EDWARDS MLA, Minister for the Environment

Extract from Government Gazette dated 19 March 2004; page 919

28. NOISE CONTROL – NOISE MANAGEMENT PLANS

EV402\*

ENVIRONMENTAL PROTECTION ACT 1986

Delegation No. 112

I, Jason Banks, in my capacity as Acting Chief Executive Officer of the Department of Environment Regulation responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to any person for the time being holding or acting in the office of a Chief Executive Officer under the Local Government Act 1995, my powers and duties under the *Environmental Protection (Noise) Regulation 1997*, other than this power of delegation, in relation to -

- (a) Waste collection and other works - noise management plans relating to specified works under regulation 14A or 14B;
- (b) Bellingring or amplified calls to worship - the keeping of a log of bellringing or amplified calls to worship requested under regulation 15(3)(c)(vi);
- (c) community activities - noise control notices in respect of community noise under regulation 16;
- (d) motor sport venues - noise management plans in relation to motor sport venues under Part 2 Division 3;
- (e) shooting venues - noise management plans in relation to shooting venues under Part 2 Division 4;
- (f) calibration results - requesting, under regulation 23(b), details of calibration results undertaken and obtained under Schedule 4
- (g) sporting, cultural and entertainment events - approval of events or venue for sporting, cultural and entertainment purposes under Part 2 Division 7, subject to the following limitation
- (h) Subregulation 18(13)(b) is not delegated.

Under section 59(1) of the *Interpretation Act 1984*, Delegation No. 68, gazetted 22 June 2007 is hereby revoked.

Dated this 12<sup>th</sup> day of December 2013

JASON BANKS, A/Chief Executive Officer

Approved -

JOHN DAY, A/Minister for Environment; Heritage

Extract from Government Gazette dated 20 December 2013; page 6282

29. NOISE CONTROL – NOISE MANAGEMENT PLANS [Reg 13]

EV405\*

ENVIRONMENTAL PROTECTION ACT 1986

Delegation No. 119

I, Jason Banks, in my capacity as Acting Chief Executive Officer of the Department responsible for the administration of the Environmental Protection Act 1986 ("the Act"), and pursuant to section 20 of the Act, hereby delegate to the holder for the time being of the offices of -

- (a) Chief Executive Officer under the *Local Government Act 1995*; and
- (b) to any employee of the local government under the *Local Government Act 1995* who is appointed as an Authorised Person under section 87 of the Act,

all my powers and duties in relation to noise management plans under regulation 13 of the *Environmental Protection (Noise) Regulations 1997* other than this power of delegation.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 111, gazetted 20 December 2013, is hereby revoked.

Dated this 1<sup>st</sup> day of May 2014

JASON BANKS, A/Chief Executive Officer

Approved by -

Hon ALBERT JACOBS JP MLA, Minister for Environment; Heritage

Extract from Government Gazette dated 16 May 2014; page 1548

30. NOISE CONTROL – DESIGNATED PERSONS

EP401\*

ENVIRONMENTAL PROTECTION ACT 1986

Section 99I

Delegation No. 01

This appointment is made pursuant to section 99I of the *Environmental Protection Act 1986* (“the Act”)

- (a) Pursuant to section 99I of the Act, I (Dr) Bryan Jenkins, as Chief Executive Officer hereby appoint any person for the time being holding or acting in the Office of Chief Executive Officer of a Local Government under the Local Government Act 1995 as a “designated person” for the purpose of sections 99K, 99M and 99N of the Act.
- (b) The “designated person” is authorised to accept payments and exercise those powers in relation to modified penalties relating to infringement notices served under section 99J of the Act by an Inspector authorised under section 88 of the Act and employed by the relevant Local Government.

Dated this 21<sup>st</sup> day of January 2000.

(Dr) BRYAN JENKINS, Chief Executive Officer,  
Department of Environmental Protection

Extract from Government Gazette dated 11 February 2000; page 506



**PLANNING AND DEVELOPMENT ACT 2005**

**31. WESTERN AUSTRALIA PLANNING COMMISSION – Section 25 of Strata Titles Act 1985**

**PI409\***

**PLANNING AND DEVELOPMENT ACT 2005**

**Instrument of Delegation**

**DEL 2009/03 Powers of Local Governments**

Delegation to local governments of certain powers and functions of the Western Australian Planning Commission relating to the issuing of certificates of approval under section 25 of the *Strata Titles Act 1985*

**Preamble**

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function under the Act or any other written law to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or imposed on the WAPC by the Act or any other written law as the case requires.

**Resolution under section 16 of the Act (delegation)**

On 26 May 2009, pursuant to section 16 of the Act, the WAPC RESOLVED -

- A TO DELEGATE to local governments, and to members and officers of those local governments, its powers and functions under section 25, of the Strata Titles Act 1985 as set out in clause 1 of Schedule 1, within their respective districts, subject to the conditions set out in clause 2 of Schedule 1.

TONY EVANS, Western Australian Planning Commission

**SCHEDULE 1**

**Application made under section 25 of the Strata Titles Act 1985**

Power to determine applications for the issuing of a certificate of approval under section 25 of the *Strata Titles Act 1985* for a plan of subdivision, re-subdivision or consolidation, except those applications that -

- (a) propose the creation of a vacant lot;
- (b) propose vacant air stratas in multi-tiered strata scheme developments;
- (c) in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing relate to –
  - (1) a type of development and/or
  - (2) land within an area;

Which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

**Reporting requirements**

A local government that exercises the power referred to in clause 1 is to provide WAPC with data on all applications determined under this Instrument of Delegation at the conclusion of each financial year in the format prescribed by the WAPC.

Extract from Government Gazette dated 9 June 2009; page 1937

**COUNCIL APPOINTED AUTHORISED PERSONS & OFFICERS**

**FOOD ACT 2008**

<b>32. APPOINTMENT OF AUTHORISED OFFICERS</b>	
Function Authorised	Appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i>
Statutory power Authorised	<i>Food Act 2008</i> Part 5 - Powers of entry, inspection and seizure Division 1 - entry, inspection and seizure Division 2 - items seized by authorised officers Part 6 – Division 1 – Improvement Notices
Statutory Power to Authorise	<i>Food Act 2008</i> Section 122(1) – Appointment of authorised officers
Authorised Officer(s)	Chief Executive Officer
Conditions on Authorisation	<ul style="list-style-type: none"> <li>Person to be an authorised officer must have appropriate qualifications and experience to perform the function designated to them or hold office as an environmental health officer under the <i>Public Health Act 2016</i> and the <i>Health (Miscellaneous Provisions) Act 1911</i></li> <li>Food Safety Risk Assessment contractors cannot undertake enforcement activity, except for the issuing of Improvement Notices under section 62 of the Act</li> <li>A warrant to enter may only to be sought after the employee has a sworn affidavit setting out circumstances that gave rise to the need for a warrant (unless an emergency).</li> </ul>
Compliance links	<i>Food Act 2008</i> Section 122(3) - requirement to maintain a list of authorised officers appointed Section 123(1) - requirement to provide each authorised officer with a certificate of authority <i>Food Regulations 2009</i> Department of Health: Guideline on Appointment of Authorised Officers
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

## FOOD ACT 2008

<b>33. APPOINTMENT OF DESIGNATED OFFICERS</b>	
Function Authorised	Undertake the powers of a 'designated officers' as prescribed in the <i>Food Act 2008</i> and regulations
Statutory power Authorised	<i>Food Act 2008</i> Section 126 – Infringement notices
Statutory Power to Authorise	<i>Food Act 2008</i> Section 122(1) – Appointment of authorised officers Section 126(13) – Appointment of designated officers
Designated Officer(s)	Coordinator Health Services Coordinator Business Support Environmental Health Officers Environmental Health Program Officer
Conditions on /Designation	Designated officers for the purpose of Section 126(6) - extend infringement notices and (7) - withdraw infringement notices only Senior Environmental Health Officer Environmental Health Officer  Designated officers for the purpose of Section 126(2) and (3) - issue infringement notices only Manager Planning and Regulatory Services Director Planning and Community Development
	<i>Food Act 2008</i> Section 122(3) - requirement to maintain a list of authorised officers appointed Section 123(1) - requirement to provide each authorised officer with a certificate of authority  <i>Food Regulations 2009</i> Department of Health: <i>Food Act 2008</i> Fact Sheet 4 - Authorised Officers Department of Health: Guideline on Appointment of Authorised Officers - Designated Officers Only
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

**HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911**

<b>34. APPOINTMENT OF DEPUTY</b>	
Function Authorised	Authority to exercise and discharge all or any of the powers and functions of the local government
Statutory power Authorised	<i>Health (Miscellaneous Provisions) Act 1911</i> Section 26 – powers of local government
Statutory Power to Authorise	<i>Health (Miscellaneous Provisions) Act 1911</i> Section 26 – powers of local government
Authorised Officer(s)	Chief Executive Officer
Conditions on Authorisation	Nil
Compliance links	<i>Health (Miscellaneous Provisions) Act 1911</i>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

**LOCAL GOVERNMENT ACT 1995**

<b>35. APPOINTMENT OF AUTHORISED PERSONS TO EXECUTE DOCUMENTS</b>	
Function Authorised	Authority to sign documents
Statutory power Authorised	<i>Local Government Act 1995</i> Section 9.49A(4) – Execution of documents
Statutory Power to Authorise	<i>Local Government Act 1995</i> Section 9.10 – Appointment of authorised persons
Authorised Officer(s)	Chief Executive Officer
Conditions on Authorisation	Executing documents through the use of the common seal or by signing a document does not constitute the decision to undertake a particular course of action.  A Council resolution or a decision under delegated authority is required prior to executing documents.
Compliance links	<i>Local Government Act 1995</i> Section 5.41(d) – CEO’s duty to manage day to day operations Policy – GOV-3110 – Common Seal Policy
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

**PUBLIC HEALTH ACT 2016**

<b>36. APPOINTMENT OF AUTHORISED OFFICERS</b>	
Function Authorised	Undertake the powers of an 'authorised officer' for the purposes of the <i>Public Health Act 2016</i>
Statutory power Authorised	<i>Public Health Act 2016</i> Part 9 – Notifiable Infectious Diseases and Related Conditions Section 16 – Powers of Entry, Inspection and Seizure
Statutory Power to Authorise	<i>Public Health Act 2016</i> Section 24 – Designation of authorised officers <i>Health (Miscellaneous Provisions) Act 1911</i> Section 3(2A) – Terms Used
Authorised Officer(s)	Chief Executive Officer Environmental Health Officers
Conditions on Authorisation	<i>Public Health Act 2016</i> Section 25 – Certain authorised officers to have qualifications and experience
Compliance links	<i>Public Health Act 2016</i> <i>Health (Miscellaneous Provisions) Act 1911</i>
Recordkeeping	Record to be retained in Shire records system
Date adopted by Council	27 September 2022

**Corporate Document Administration**

<b>Business Unit Name</b>	<b>Officer Title</b>	<b>Contact:</b>	
Governance			
<b>Risk Complexity Classification</b>		<b>Review Frequency</b>	Annual
		<b>Next Due</b>	June 2023

<b>REVIEW</b>			
<b>Reviewed By</b>		<b>Date Approved</b>	<b>Resolution/Shire record number</b>
Council		27 September 2022	27/09/2022 - 118026
Chief Executive Officer		27 September 2022	
<b>AMENDMENTS</b>			
<b>Delegation</b>	<b>Date Approved</b>	<b>Resolution/Shire record number</b>	<b>Amendment</b>