



Register of Delegations

to

Committees

and

Chief Executive Officer

About this document

Delegations and authorisations are the means by which decision making bodies can access the power to undertake certain statutory functions.

A delegation is a conferral of the ability to exercise a power or duty to a person or body from a person or body that is vested with the responsibility to exercise that power or duty.

The Register of Delegations records the compiled delegations made by Council and the Chief Executive Officer under the authority of the *Local Government Act 1995* and other legislative instruments as specified.

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Background

The *Local Government Act 1995* requires local governments to review their delegation of powers and authority to the Chief Executive Officer at least once in every twelve months, and for the Chief Executive Officer to review their delegation of authority within the same review period.

Statutory Framework

Local Government Act 1995

5.16. Delegation of some powers and duties to certain committees

- (1) Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt* a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.

** Absolute majority required.*

- (2) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.

** Absolute majority required.*

- (3) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

- (4) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* —

- (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
- (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.

- (5) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

5.17. Limits on delegation of powers and duties to certain committees

- (1) A local government can delegate —

- (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
 - (i) any power or duty that requires a decision of an absolute majority of the council; and
 - (ii) any other power or duty that is prescribed; and
- (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and

- (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
 - (i) the local government's property; or
 - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).

5.18. Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

5.42. Delegation of some powers and duties to CEO

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

** Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) — conditions includes qualifications, limitations or exceptions.

5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* —
 - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) 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.

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

Local Government (Administration) Regulations 1996

18G. Delegations to CEOs, limits on (Act s.5.43)

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) section 7.12A(2), (3)(a) or (4); and
- (b) regulations 18C and 18D.

19. Delegates to keep certain records (Act s.5.46(3))

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and
- (c) 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.

Other Legislation

- *Building Act 2011*
- *Building Regulations 2012*
- *Bush Fires Act 1954*
- *Caravan Parks & Camping Grounds Act 1995*
- *Caravan Parks & Camping Grounds Regulations 1997*
- *Cat Act 2011*
- *Cat Regulations 2012*
- *Criminal Procedures Act 2004*
- *Criminal Procedures Regulations 2005*
- *Dog Act 1976*
- *Food Act 2008*
- *Food Regulations 2009*
- *Health (Miscellaneous Provisions) Act 1911*
- *Liquor Control Act 1988*
- *Litter Act 1979*
- *Litter Regulations 1981*
- *Local Government (Financial Management) Regulations 1996*
- *Local Government (Miscellaneous Provisions) Act 1960*
- *Local Government (Parking for People with Disabilities) Regulations 2014*
- *Planning & Development (Local Planning Schemes) Regulations 2015*
- *Road Traffic Act 1974*
- *Strata Titles Act 1985*
- *Strata Titles General Regulations 1996*

Definitions

The *Local Government Act 1995* has not defined the term “delegation” or “delegated power”, however:

- s.5.16 refers to “...the exercise of any of its powers and duties...”
- s.5.42 refers to “...the exercise of any of its powers or the discharge of any of its duties...”

The following terms used in this document apply insofar as they are consistent with enabling legislation.

“Authority” means the permission or requirement for a committee or an officer to act in accordance with:

- the *Local Government Act 1995*, regulation or other legislation,
- a delegation made by Council,
- a policy made by Council, or
- a specific decision by Council.

“Delegation” means the authority to exercise a power, or discharge a duty, as conferred under the provisions of the relevant legislation.

“Policy” as the context requires, means either:

- a procedural direction to officers to implement Council’s wishes or instruction in a particular way; or
- the authority for officers to act, where that authority is not considered a delegation of a legislative or other specific power or duty.

“Instruction” means the requirement for a staff member to act in accordance with a direction given by the CEO, senior officer or supervisor.

Department of Local Government, Sport & Cultural Industries – Guideline No. 17

The Department of Local Government, Sport & Cultural Industries has published guidelines for the formation of delegations.

Guideline No. 17 can be found on the Department website www.dlgsc.wa.gov.au

Administration

Delegations from Council require approval by an absolute majority of Council.

Delegations from the CEO to other employees are at the discretion of the CEO and do not require a Council resolution. The CEO can delegate a power or duty, the exercise or discharge of which has been delegated by a local government to the CEO, subject to any conditions imposed by the local government on its delegation to the CEO (s.5.44(3)).

It is a requirement that the use of all delegated authority is recorded but it is not a requirement to report the use of delegated authority to Council.

Record Keeping

Section 5.46 of the *Local Government Act 1995* and Regulation 19 of the *Local Government (Administration) Regulations 1996* require a person who is delegated a power or duty to keep records in relation to the exercise of the power or discharge of the duty. The written record is to contain:

- How the person executed the delegation;
- When the person executed the delegation; 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.

Review of Delegations

A delegation has effect for the period of time specified in the delegation or indefinitely if no period has been specified.

However, it is a requirement of the *Local Government Act 1995* s.5.18 and s.5.46(1) that all delegations made under the authority of the Act be reviewed by the delegator at least once in each financial year.

Any decision to amend or revoke a delegation by a local government is to be an absolute majority (s.5.45(1)(b)).

Review of delegations from the Council to committees and the CEO will be carried out before the end of each financial year and preferably in conjunction with the annual review of Council policies.

The CEO will review delegations as required on changeover of staff or change of staff functions and will review all delegations at least once in the financial year in accordance with the Act.

New Delegations

Council and the CEO may make new delegations at any time.

However, unless specifically resolved that the authority is to be included in the Register of Delegations, the authority to act is for a specific matter, and is not a general or ongoing delegation.

1. Delegations from Council to Committees

1.1 Local Government Act 1995

An Act to provide for a system of local government in Western Australia, to amend the *Local Government Act 1960* and for related purposes.

1.1.1 Audit and Risk Committee

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.16 Delegation of some powers and duties to certain committees s.7.1B Delegation of some powers and duties to audit committees
Express power or duty delegated	s.7.12A(2), (3) & (4) Duties of Local Government with respect to audits
Function	1. Authority to meet with the Shire's Auditor at least once every year on behalf of the Council [s.7.12A(2)]. 2. Authority to examine the report of the Auditor and determine matters that require action to be taken by the Shire of Nungarin; and ensure that appropriate action is taken in respect to those matters [s.7.12A(3)]. 3. Authority to review and endorse the Shire of Nungarin's report on any actions taken in response to an Auditor's report, prior to it being forwarded to the Minister [s.7.12A(4)].
Delegates	Finance & Audit Committee
Conditions	This delegation is not to be used where a Management Letter or Audit Report raises significant issues. In that instance the Local Government's meeting with the Auditor must be directed to the Council.
Express power to subdelegate	Sub-delegation is prohibited by s.7.1B.
Statutory framework	Nil
Policy	Nil
Record keeping	<i>Local Government (Administration) Regulations 1996</i> r.19 Delegates to keep certain records

Amendments		
Date	Details of Amendment	Reference

2. Delegations from Council to Chief Executive Officer

2.1 Building Act 2011

An Act to provide for the following — permits for building work and demolition work; standards for the construction and demolition of buildings and incidental structures; the use and maintenance of, and requirements in relation to, existing buildings and incidental structures; work affecting land other than land on which the work is done; and related matters.

2.1.1 Uncertified Application to be Considered by Building Surveyor

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.17(1) Uncertified application to be considered by building surveyor
Function	Authority to refer to a building surveyor an uncertified application if the application complies with section 16 [s.17(1)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.2 Building Permits

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.18 Further information s.20 Grant of building permit s.22 Further grounds for not granting an application s.23 Time for deciding an application for building or demolition permit s.24 Notice of decision not to grant building or demolition permit s.27(1) & (3) Impose conditions on permit <i>Building Regulations 2012</i> r.23 Application to extend time during which permit has effect [s.32] r.24 Extension of time during which permit has effect [s.32(3)] r.26 Approval of new responsible persons [s.35(c)]
Function	1. Authority to require an applicant to provide any documentation or information required to determine a building permit application [s.18(1)]. 2. Authority to refuse to consider an application [s.18(2)]. 3. Authority to grant or refuse to grant a building permit [s.20(1) & (2) and s.22]. 4. Authority to refund the fee that accompanied an application to the applicant if no decision is made within the time mentioned in s.23(1) and (2) [s.23(4)]. 5. Record the grounds on which a decision to refuse to grant a building permit is based on 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 of review [s.24]. 6. Authority to impose, vary or revoke conditions on a building permit [s.27(1) and (3)]. 7. Authority to determine an application to extend time during which a building permit has effect [r.23 and r.24]. 8. Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].
Delegates	CEO

Conditions	Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with Regulation 5 of the <i>Building Regulations 2012</i> .
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.3 Demolition Permits

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.18 Further information s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.23 Time for deciding an application for building or demolition permit s.24 Notice of decision not to grant building or demolition permit s.27(1) & (3) Impose conditions on permit <i>Building Regulations 2012</i> r.23 Application to extend time during which permit has effect [s.32] r.24 Extension of time during which permit has effect [s.32(3)] r.26 Approval of new responsible persons [s.35(c)]
Function	1. Authority to require an applicant to provide any documentation or information required to determine a demolition permit application [s.18(1)]. 2. Authority to refuse to consider an application [s.18(2)]. 3. Authority to grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.21(1) & (2) and s.22]. 4. Authority to refund the fee that accompanied an application to the applicant if no decision is made within the time mentioned in s.23(1) and (2) [s.23(4)]. 5. Record the grounds on which a decision to refuse to grant a demolition permit is based on 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 of review [s.24]. 6. Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and (3)]. 7. Authority to determine an application to extend time during which a demolition permit has effect [r.23 and r.24]. 8. Authority to approve, or refuse to approve, an application for a new responsible person for a responsible permit [r.26].
Delegates	CEO
Conditions	Nil.

Express power to subdelegate

s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments

Date	Details of Amendment	Reference

2.1.4 Occupancy Permits or Building Approval Certificates

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.55 Further information s.58 Grant of occupancy permit, building approval certificate s.59 Time for granting occupancy permit or building approval certificate s.60 Notice of decision not to grant occupancy permit or grant building approval certificate s.62(1) and (3) Conditions imposed by permit authority s.65(4) Extension of period of duration <i>Building Regulations 2012</i> r.40 Extension of period of duration of time limited occupancy permit or building approval certificate [s.65]
Function	1. Authority to require an applicant to provide any documentation or information required in order to determine an application and to verify the information by statutory declaration [s.55(1)]. 2. Authority to refuse to consider an application [s.55(2)]. 3. Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58]. 4. Authority to 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 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 [s.60]. 5. Authority to impose, add, vary or revoke conditions on an occupancy permit or modification or building approval certificate in addition to any provided for in the Regulations [s.62(1) and (3)]. 6. Authority to 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 [s.62 (4) and (5)]. 7. Authority to extend, or refuse to extend, the period in which an occupancy permit or modification or building approval certificate has effect [s.65(4) and r.40]. 8. Authority to refuse to accept an application to extend the time during which an occupancy permit or a building approval certificate has effect [r.40 (2)].

Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.5 Designate Employees as Authorised Persons

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.96(3) Authorised persons s.99(3) Limitation on powers of authorised person
Function	1. Authority to designate an employee as an authorised person [s.96(3)]. 2. 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 [s.99(3)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.6 Building Orders

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.88 Finishes of walls close to boundaries s.110(1) A permit authority may make a building order s.111(1) Notice of proposed building order other than building order (emergency) s.117(1) & (2) A permit authority may revoke a building order or notify that it remains in effect s.118(2) & (3) Permit authority may give effect to building order if non-compliance s.133(1) A permit authority may commence a prosecution for an offence against this Act
Function	- Authority to make Building Orders in relation to: - building work; - demolition work; and - an existing building or incidental structure [s.110(1)]. - Authority to specify the way in which an outward facing side of a particular close wall must be finished [s.88(3)]. - Authority to give notice of a proposed building order and consider submissions received in response and determine actions [s.111(1)(c)]. - Authority to revoke a building order [s.117]. - Authority to decide on 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 s.112(3)(c) [s.117(2)]. - If there is non-compliance with a building order, authority to cause an authorised person to: - take any action specified in the order; or - commence or complete any work specified in the order; or - if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)]. - Authority to take court action to recover as a debt, reasonable costs and expense incurred in doing anything in regard to non-compliance with a building order [s.118(3)].

	8. Authority to 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> .
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.7 Inspection and Copies of Building Records

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.131(2) Inspection, copies of building records
Function	Authority to determine an application from an interested person to inspect and copy a building record [s.131(2)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.8 Referrals and Issuing Certificates

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	s.145A Local Government functions
Function	1. Authority to refer uncertified applications under s.17(1) to a building surveyor who is not employed by the local government [s.145A(1)]. 2. Authority to issue a Certificate of Design Compliance, Construction Compliance or Building Compliance whether or not the land subject of the application is located in the Shire of Nungarin's District [s.145A(2)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.9 Private Pool Barrier – Alternative and Performance Solutions

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Regulations 2012</i> r.51 Approvals by permit authority
Function	1. Authority to approve requirements alternative to a fence, wall, gate or other component included in the barrier, if satisfied that the alternative requirements will restrict access by young children as effectively as if there were compliance with AS 1926.1 [r.51(2)]. 2. Authority to approve a door for the purposes of compliance with AS 1926.1, where a fence or barrier would cause significant problems of a structural nature or other problem which is beyond the control of the owner / occupier or the pool is totally enclosed by a building or a fence or barrier between the building and pool would create a significant access problem for a person with a disability [r.51(3)]. 3. Authority to approve a performance solution to a Building Code pool barrier requirement if satisfied that the performance solution complies with the relevant performance requirement [r.51(5)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.10 Smoke Alarms – Alternative Solutions

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Regulations 2012</i> r.55 Terms used (alternative building solution approval) r.61 Local Government approval of battery powered smoke alarms
Function	1. Authority to approve alternative building solutions which meet the performance requirement of the Building Code relating to fire detection and early warning [r.55]. 2. Authority to approve or refuse to approve a battery powered smoke alarm and to determine the form of an application for such approval [r.61].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.1.11 Appointment of Approved Officers and Authorised Officers

Head of power	Building Act 2011
Delegator	Council
Express power to delegate	s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Regulations 2012</i> r.70 Approved officers and authorised officers
Function	1. Authority to appoint an approved officer for the purposes of s.6(a) of the <i>Criminal Procedure Act 2004</i>, in accordance with Regulation 70(1) & (1A) of the <i>Building Regulations 2012</i>. <i>NOTE: Only employees delegated under s 5.44(1) of the Local Government Act 1995 with power under s 9.19 or 9.20 may be appointed as "approved officers".</i> 2. Authority to appoint an authorised officer for the purposes of s.6(b) of the <i>Criminal Procedure Act 2004</i>, in accordance with Regulation 70(2) of the <i>Building Regulations 2012</i>. <i>NOTE: Only employees appointed under s 9.10 of the Local Government Act 1995 <u>and</u> authorised for the purpose of performing functions under s 9.16 of that Act may be appointed as "authorised officers" for the purposes of Building Regulation 70(2).</i>
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.127(6A) Delegation: special permit authorities and local governments (powers of sub- delegation limited to CEO)

Amendments		
Date	Details of Amendment	Reference

2.2 Bush Fires Act 1954

An Act to make better provision for diminishing the dangers resulting from bush fires, for the prevention, control and extinguishment of bush fires, for the repeal of the Bush Fires Act 1937 and for other purposes.

2.2.1 Make Request to FES Commissioner – Control of Fire

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.13(4) Duties and powers of bush fire liaison officers
Function	Authority to request on behalf of the Shire of Nungarin that the FES Commissioner authorise the Bush Fire Liaison Officer or another person to take control of fire operations [s.13(4)].
Delegates	CEO Chief Bushfire Control Officer
Conditions	The liaison between the Chief Bushfire Control Officer / CEO and the Shire President.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.2 Prohibited Burning Times – Vary

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.17(10) Prohibited burning times may be declared by Minister (power of delegation to mayor or president and Chief Bush Fire Control Officer for ONLY powers under s.17(7) & (8)) s.48 Delegation by local government
Express power or duty delegated	s.17(7) Prohibited burning times may be declared by Minister <i>Bush Fire Regulations 1954</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B Crop dusters etc., use of in restricted or prohibited burning times
Function	Authority, where seasonal conditions warrant it, to determine a variation of the prohibited burning times, after consultation with an authorised CALM Act officer [s.17(7)].
Delegates	CEO Chief Bush Fire Control Officer
Conditions	Decisions under s.17(7) must be undertaken jointly by both the CEO and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) & (8).
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.3 Prohibited Burning Times – Control Activities

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.17(7) Prohibited burning times may be declared by Minister s.27(2) and (3) Prohibition on use of tractors or engines except under certain conditions s.28(4) and (5) Occupier of land to extinguish bush fire occurring on own land <i>Bush Fire Regulations 1954</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B Crop dusters etc., use of in restricted or prohibited burning times
Function	1. Authority to determine permits to burn during prohibited burning times that have previously been refused by a Bush Fire Control Officer [r.15]. 2. Authority to declare that the use of any harvesting machinery on any land under crop during the whole or any part of any Sunday or public holiday in the whole or a specified part of the District during Restricted Burning Times is prohibited, unless written consent of a Bush Fire Control Officer is obtained [r.38C]. 3. Authority to determine, during a Prohibited Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared [r.39B(2)]. 4. Authority to issue directions, during a Prohibited Burning Time, to a Bush Fire Control Officer, regarding matters necessary for the prevention of fire on land used as a landing ground for an aeroplane [r.39B(3)]. 5. Authority to prohibit the use of tractors, engines or self-propelled harvester, during a Prohibited Burning Times, and to give permission for use of same during the Restricted Burning Time subject to compliance with requirements specified in a notice [s.27(2) and (3)]. 6. Authority to recover the cost of measures taken by the Shire of Nungarin or Bush Fire Control Officer, to extinguish a fire burning during Prohibited Burning Times, where the occupier of the land has failed to comply with

Delegates	requirements under s.28(1) to take all possible measures to extinguish a fire the land they occupy [s.28(4)], including authority to recover expenses in any court of competent jurisdiction [s.28(5)]. CEO
Conditions	Decisions under s.17(7) must be undertaken jointly by both the CEO and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) & (8).
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.4 Restricted Burning Times – Vary and Control Activities

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.18(5) & (11) Restricted burning times may be declared by FES Commissioner s.22(6) & (7) Burning on exempt land and land adjoining exempt land s.27(2) & (3) Prohibition on use of tractors or engines except under certain conditions s.28(4) & (5) Occupier of land to extinguish bush fire occurring on own land <i>Bush Fire Regulations 1954</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r.15C Local Government may prohibit burning on certain days r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B Crop dusters etc., use of in restricted or prohibited burning times
Function	1. Authority, where seasonal conditions warrant it and after consultation with an authorised CALM Act officer, to determine to vary the restricted burning times in respect of that year [s.18(5)]: a. Authority to determine to prohibit burning on Sundays or specified days that are public holidays in the District [r.15C]. 2. Authority, where a permitted burn fire escapes or is out of control in the opinion of the Bush Fire Control Officer or an officer of the Bush Fire Brigade, to determine to recoup bush fire brigade expenses arising from preventing extension of or extinguishing an out of control permitted burn [s.18(11)]. 3. Authority to determine permits to burn during restricted times that have previously been refused by a Bush Fire Control Officer [r.15]. 4. Authority to arrange with the occupier of exempt land, the occupier of land adjoining it and the Bush Fire Brigade to cooperate in burning fire-breaks and require the occupier of adjoining land to provide by the date of the burning,

	ploughed or cleared fire-breaks parallel to the common boundary [s.22(6) and (7)]. 5. Authority to declare that the use of any harvesting machinery on any land under crop during the whole or any part of any Sunday or public holiday in the whole or a specified part of the District during Restricted Burning Times is prohibited, unless written consent of a Bush Fire Control Officer is obtained [r.38C]. 6. Authority to determine, during a Restricted Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared [r.39B]. 7. Authority to issue directions, during a Restricted Burning Time, to a Bush Fire Control Officer, regarding matters necessary for the prevention of fire on land used as a landing ground for an aeroplane [r.39B(3)]. 8. Authority to prohibit the use of tractors, engines or self-propelled harvester, during a Restricted Burning Times, and to give permission for use of same during the Restricted Burning Time subject to compliance with requirements specified in a notice [s.27(2) and (3)]. 9. Authority to recover the cost of measures taken by the Shire of Nungarin or Bush Fire Control Officer, to extinguish a fire burning during Restricted Burning Times, where the occupier of the land has failed to comply with requirements under s.28(1) to take all possible measures to extinguish a fire the land they occupy [s.28(4)], including authority to recover expenses in any court of competent jurisdiction [s.28(5)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.5 Control of Operations Likely to Create Bush Fire Danger

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.27D Requirements for carriage and deposit of incendiary material <i>Bush Fires Regulations 1954</i> r.39C Welding and cutting apparatus, use of in open air r.39CA Bee smoker devices, use of in restricted or prohibited burning times etc. r.39D Explosives, use of r.39E Fireworks, use of
Function	1. Authority to give directions to a Bush Fire Control Officer regarding matters necessary for the prevention of fire arising from: b. a person operating a bee smoker device during a prescribed period [r.39CA(5)]; c. a person operating welding apparatus, a power operated abrasive cutting disc [r.39C(3)]; d. a person using explosives [r.39D(2)]; and e. a person using fireworks [r.39E(3)]. 2. Authority to determine directions or requirements for the carriage and deposit of incendiary materials (hot or burning ash, cinders, hot furnace refuse, or any combustible matter that is burning) [s.27D]. Note: this authority is also prescribed to a Bush Fire Control Officer, a Bush Fire Liaison Officer or an authorised CALM Act officer.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.6 Burning Garden Refuse / Open Air Fires

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.24F Burning garden refuse during limited burning times s.24G Minister or local government may further restrict burning of garden refuse s.25 No fire to be lit in open air unless certain precautions taken s.25A Power of Minister to exempt from provisions of section 25 <i>Bush Fires Regulations 1954</i> r.27(3) Permit, issue of
Function	1. Authority to give written permission, during prohibited times and restricted times, for an incinerator located within 2m of a building or fence, only where satisfied it is not likely to create a fire hazard [s.24F(2)(b)(ii) and (4)]. 2. Authority to prohibit or impose restrictions on the burning of garden refuse that is otherwise permitted under s.24F [s.24G(2)]: a. authority to issue directions to an authorised officer as to the manner in which or the conditions under which permits to burn plants or plant refuse shall be issued in the District [r.27(3) and r.33(5)]; and b. authority to prohibit (object to) the issuing of a permit for the burning of a proclaimed plan growing upon any land within the District [r.34]. 3. Authority to provide written approval, during prohibited times and restricted times, for fires to be lit for the purposes of: a. camping or cooking [s.25(1)(a)]; and b. conversion of bush into charcoal or for the production of lime, in consultation with an authorised CALM Act officer [s.25(1)(b)]. 4. Authority to prohibit the lighting of fires in the open are for the purposes of camping or cooking for such period during the prohibited burning times as specified in a note published in the Gazette and newspaper circulating in the District and authority to vary such notice [s.25(1a) and (1b)]. 5. Authority to serve written notice on a person to whom an exemption has been given under s.25 for lighting a fire in

Delegates	open air, prohibiting that person from lighting a fire and to determine conditions on the notice [s.25A(5)]. CEO
Conditions	Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.7 Firebreaks

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.33 Local government may require occupier of land to plough or clear firebreaks
Function	1. Authority to give written notice to an owner or occupier of land or all owners or occupiers of land within the District, requiring, to the satisfaction of the Shire of Nungarin: a. clearing of firebreaks as determined necessary and specified in the notice; and b. act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and c. as a separate or coordinated action with any other person carry out similar actions [s.33(1)]. 2. Authority to direct a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with [s.33(4)]: a. Authority to recover any costs and expenses incurred in doing the acts, matters or things required to carry out the requisitions of the notice.
Delegates	CEO Chief Bushfire Control Officer
Conditions	Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.38(1), (2A), (2C), (5A), (8), (9), (10) and (13) Local government may require occupier of land to plough or clear firebreaks
Function	1. Authority to appoint persons to be Bush Fire Control Officers for the purposes of the <i>Bush Fires Act 1954</i>; and a. of those Officers, appoint 2 as the Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer; and b. determine the respective seniority of the other Bush Fire Officers so appointed [s.38(1)]. 2. Authority to cause a notice of an appointment made under the provisions of section 38(1) of the Act to be published in accordance with the Act [s.38(2A)]. 3. To fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush fire Control Officer within one month after the vacancy occurs [s.38(2C)]. 4. Authority to issue directions to a Bush Fire Control Officer or to an officer of a bush fire brigade registered to the local government, to burn on or at the margins of a road reserve under the care, control and management of the Shire of Nungarin [s.38(5A)]. 5. Authority to appoint a Fire Weather Officer, selected from senior Bush Fire Control Officers previously appointed and where more than one Fire Weather Officer is appointed, define a part of the District in which each Fire Weather Officer shall have exclusive right to exercise the powers of s.38(17). [s.38(8) and (9)]: a. authority to appoint deputy Fire Weather Officer/s as considered necessary and where two or more deputies are appointed, determine seniority [s.38(10)]. 6. Authority to give notice of an appointment made under s.38(8) or s.38(10) to the FES Commissioner and to publish the appointments of fire weather officers made under the <i>Bush Fires Act 1954</i> in a newspaper circulating in the district [s.38(13)].
Delegates	CEO

Conditions	Chief Fire Control Officer Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.9 Control and Extinguishment of Bush Fires

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.46(1A) and (1B) Bush fire control officer or forest officer may postpone lighting fire
Function	Authority to prohibit or postpone the lighting of a fire, despite a permit having been issued, where in the opinion of the Delegate the lighting of a fire would be or become a source of danger by escaping from the land on which it is proposed to be lit [s.46(1A)]. a. Where it is proposed that the fire will be lit on land within 3kms of the boundary of forest land, and an authorised CALM Act officer is not available or has not exercised the power to prohibit or proposed a fire considered to become a source of danger, then the Delegate may make the decision [s.46(1B)].
Delegates	CEO Chief Bushfire Control Officer
Conditions	Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.10 Apply for Declaration as an Approved Area

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.52(1) Approved area may be declared
Function	Authority to apply to the Minister to have the local government district, or part of the district, declared as an approved area. [s.50(1)]. (Note - The declaration of a district, or part thereof, as an approved area, results in a reduction in insurance premium of crops within that area [s.53].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.2.11 Prosecution of Offences

Head of power	Bush Fires Act 1954
Delegator	Council
Express power to delegate	s.48 Delegation by local government
Express power or duty delegated	s.59 Prosecution of offences s.59A(2) Alternative procedure - infringement notices
Function	1. Authority to institute and carry on proceedings against a person for an offence alleged to be committed against the <i>Bush Fires Act 1954</i> [s.59]. 2. Authority to serve an infringement notice for an offence against the <i>Bush Fires Act 1954</i> [s.59A(2)].
Delegates	CEO Shire Ranger
Conditions	Prior to the persons appointed as Rangers instigating proceedings in a court of competent jurisdiction, the CEO is to be consulted.
Express power to subdelegate	Sub-delegation is prohibited by s.48(3)

Amendments		
Date	Details of Amendment	Reference

2.3 Cat Act 2011

An Act to provide for the control and management of cats; and promote and encourage the responsible ownership of cats, and for related matters.

2.3.1 Cat Registration

Head of power	Cat Act 2011
Delegator	Council
Express power to delegate	s.44 Delegation by local government
Express power or duty delegated	s.9 Registration s.10 Cancellation of registration s.11 Registration numbers, certificates and tags <i>Cat Regulations 2012</i> Schedule 3, cl.1(4) Fees Payable
Function	1. Authority to grant, or refuse to grant, a cat registration or renewal of a cat registration [s.9(1)]. 2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.9(6)]. 3. Authority to cancel a cat registration [s.10]. 4. Authority to give the cat owner a new registration certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.11(2)]. 5. Authority to record in the register the information prescribed in respect of each cat registered by the local government [s.12(3)]. 6. Authority to cause any error in, or omission from, the register to be corrected [s.12(4)]. 7. Authority to reduce or waive a registration or approval to breed fee, in respect of any individual cat or any class of cats within the Shire of Nungarin's District [Regs. Sch. 3 cl.1 (4)].
Delegates	CEO
Conditions	Notices of decision must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the <i>Cat Act 2011</i> .
Express power to subdelegate	s.45 Delegation by CEO of local government

Amendments		
Date	Details of Amendment	Reference

2.3.2 Cat Control Notices

Head of power	Cat Act 2011
Delegator	Council
Express power to delegate	s.44 Delegation by local government
Express power or duty delegated	s.26 Cat control notice may be given to cat owner
Function	Authority to give a cat control notice to a person who is the owner of a cat ordinarily kept within the Shire of Nungarin's District [s.26].
Delegates	CEO Shire Ranger
Conditions	Nil.
Express power to subdelegate	s.45 Delegation by CEO of local government

Amendments		
Date	Details of Amendment	Reference

2.3.3 Recovery of Costs – Destruction of Cats

Head of power	Cat Act 2011
Delegator	Council
Express power to delegate	s.44 Delegation by local government
Express power or duty delegated	s.49(3) Authorised person may cause cat to be destroyed
Function	Authority to recover the amount of costs associated with the destruction and the disposal of a cat [s.49(3)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.45 Delegation by CEO of local government

Amendments		
Date	Details of Amendment	Reference

2.4 Dog Act 1976

An Act to amend and consolidate the law relating to the control and registration of dogs, the ownership and keeping of dogs and the obligations and rights of persons in relation thereto, and for incidental and other purposes.

2.4.1 Registration of Dogs

Head of power	Dog Act 1976
Delegator	Council
Express power to delegate	s.10AA Delegation of local government powers and duties
Express power or duty delegated	s.14(1), (3) & (4) Register of dogs s.16(1), (2), (3A), (3C) & (6) Registration Procedure s.45(2) Evidentiary provisions
Function	1. Authority to keep an accurate and up-to-date register of dogs registered by the local government [s.14(1)]. 2. Authority to record in the register the information prescribed in respect of each dog registered by the local government [s.14(3)]. 3. Authority to cause any error in, or omission from, the register to be corrected [s.14(4)]. 4. Authority to register a dog in the district in which (a) the dog is ordinarily kept; or (b) the dog is deemed to be ordinarily kept pursuant to section 9 or section 10(2), if the owner of the dog or some person on his behalf delivers an application in the prescribed form, signed by or on behalf of the owner and accompanied by the prescribed fee, if any, to the office of the local government or some other place within the district appointed by the local government for the purpose [s.16(1)]. 5. Authority to, on receipt of an application duly made under subsection (1) shall — (a) effect the registration in accordance with this Act; or (b) where the local government so directs, refuse the application and refund the fee, if any, and in either event shall as soon as is practicable thereafter enter the prescribed particulars in the record maintained by the local government pursuant to section 14 [s.16(2)].

	6. Authority to cancel the registration of a dog in accordance with section 16(3A) and (3C). 7. Authority to, on effecting or renewing any registration, deliver to the applicant — (a) a certificate in the prescribed form acknowledging the fee paid and specifying the registration number allocated to each dog, the term of the relevant registration period, and a description of each dog so registered; and (b) in respect of each dog so registered, a registration tag of the prescribed kind [s.16(6)]. 8. Authority to certify entries in the register of dogs in accordance with s.45(2) [s.45(2)].
Delegates	CEO
Conditions	The Chief Executive Officer permitted to sub-delegate to employees [s.10AA(3)].
Express power to sub-delegate	s.10AA(3) Delegation of local government powers and duties (NOTE - sub-delegation only permitted where delegation to the CEO expressly authorised sub-delegation)

Amendments		
Date	Details of Amendment	Reference

2.4.2 Refuse or Cancel Registration

Head of power	Dog Act 1976
Delegator	Council
Express power to delegate	s.10AA Delegation of local government powers and duties
Express power or duty delegated	s.15(2) & (4A) Registration periods and fees s.16(3) Registration procedure s.17A(2) If no application for registration made s.17(4) & (6) Refusal or cancellation of registration
Function	1. Authority to determine to refuse a dog registration and refund the fee, if any [s.15(2)]. 2. Authority to direct the registration officer to refuse to effect or renew or to cancel the registration of a dog, and to give notice of such decisions, where: (a) the applicant, owner or registered owner has been convicted of an offence or paid a modified penalty within the past 3-years in respect of 2 or more offences against this Act, the <i>Cat Act 2011</i> or the <i>Animal Welfare Act 2002</i>; or (b) the dog is determined to be destructive, unduly mischievous or to be suffering from a contagious or infectious disease; or (c) the delegate is not satisfied that the dog is or will be effectively confined in or at premises where the dog is ordinarily kept; or (d) the dog is required to be microchipped but is not microchipped; or (e) the dog is a dangerous dog [s.16(3) and s.17A(2)]. 3. Authority to discount or waive a registration fee, including a concessional fee, for any individual dog or any class of dogs within the Shire of Nungarin's District [s15(4A)]. 4. Authority to apply to a Justice of the Peace for an order to seize a dog where, following a decision to refuse or cancel a registration and the applicant / owner has not applied to the State Administration Tribunal for the decision to be reviewed. [s.17(4)]. 5. Authority, following seizure, to determine to cause the dog to be detained or destroyed or otherwise disposed of as though it had been found in contravention of section 31, 32 or 33A and had not been claimed [s.17(6)].
Delegates	CEO

Conditions	The Chief Executive Officer permitted to sub-delegate to employees [s.10AA(3)].
Express power to subdelegate	s.10AA(3) Delegation of local government powers and duties (NOTE - sub-delegation only permitted where delegation to the CEO expressly authorised sub-delegation)

Amendments		
Date	Details of Amendment	Reference

2.4.3 Kennel Establishments

Head of power	Dog Act 1976
Delegator	Council
Express power to delegate	s.10AA Delegation of local government powers and duties
Express power or duty delegated	s.27 Licensing of approved kennel establishments
Function	Authority to grant, refuse to grant or cancel a kennel licence [s.27(4) & (6)].
Delegates	CEO
Conditions	The Chief Executive Officer permitted to sub-delegate to employees [s.10AA(3)].
Express power to subdelegate	s.10AA(3) Delegation of local government powers and duties (NOTE - sub-delegation only permitted where delegation to the CEO expressly authorised sub-delegation)

Amendments		
Date	Details of Amendment	Reference

2.4.4 Recovery of Monies Due Under this Act

Head of power	Dog Act 1976
Delegator	Council
Express power to delegate	s.10AA Delegation of local government powers and duties
Express power or duty delegated	s.29(5) Power to seize dogs
Function	Authority to recover monies, in a court of competent jurisdiction, due in relation to a dog for which the owner is liable [s.29(5)].
Delegates	CEO
Conditions	The Chief Executive Officer permitted to sub-delegate to employees [s.10AA(3)].
Express power to subdelegate	s.10AA(3) Delegation of local government powers and duties (NOTE - sub-delegation only permitted where delegation to the CEO expressly authorised sub-delegation)

Amendments		
Date	Details of Amendment	Reference

2.4.5 Dispose or Sell Dogs Liable to be Destroyed

Head of power	Dog Act 1976
Delegator	Council
Express power to delegate	s.10AA Delegation of local government powers and duties
Express power or duty delegated	s.29(11) Power to seize dogs
Function	Authority to dispose of or sell a dog which is liable to be destroyed [s.29(11)].
Delegates	CEO
Conditions	1. The Chief Executive Officer permitted to sub-delegate to employees [s.10AA(3)]. 2. Proceeds from the sale of dogs are to be directed into the Municipal Fund.
Express power to subdelegate	s.10AA(3) Delegation of local government powers and duties (NOTE - sub-delegation only permitted where delegation to the CEO expressly authorised sub-delegation)

Amendments		
Date	Details of Amendment	Reference

2.5 Food Act 2008

An Act providing for the safety and suitability of food for human consumption, and for related purposes.

2.5.1 Prohibition Orders

Head of power	Food Act 2008
Delegator	Council
Express power to delegate	s.118 (2), (3) & (4) Functions of enforcement agencies and delegation

Express power or duty delegated	s.65(1) Prohibition orders s.66 Certificate of clearance to be given in certain circumstances s.67(4) Request for re-inspection
Function	1. Authority to serve a prohibition order on the proprietor of a food business in accordance with s.65 of the <i>Food Act 2008</i> [s.65(1)]. 2. Authority to give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66]. 3. Authority to 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 [s.67(4)].
Delegates	CEO
Conditions	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express power to subdelegate	Sub-delegation not provided for in <i>Food Regulations 2009</i>

Amendments		
Date	Details of Amendment	Reference

2.5.2 Food Business Registrations

Head of power	Food Act 2008
Delegator	Council
Express power to delegate	s.118 (2), (3) & (4) Functions of enforcement agencies and delegation
Express power or duty delegated	s.110(1) & (5) Registration of food business s.112 Variation of conditions or cancellation of registration of food businesses
Function	1. Authority to consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [s.110(1) and (5)]. 2. Authority to vary the conditions or cancel the registration of a food business [s.112].
Delegates	CEO
Conditions	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: Food Act 2008 Regulatory Guideline No.1 Introduction of Regulatory Food Safety Auditing in WA; Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No.1; WA Priority Classification System; and Verification of Food Safety Program Guideline.
Express power to subdelegate	Sub-delegation not provided for in <i>Food Regulations 2009</i>

Amendments		
Date	Details of Amendment	Reference

2.5.3 Appoint Authorised Officers and Delegated Officers

Head of power	Food Act 2008
Delegator	Council
Express power to delegate	s.118 (2), (3) & (4) Functions of enforcement agencies and delegation
Express power or duty delegated	s.122(1) Appointment of authorised officers s.126(6), (7) & (13) Infringement officers
Function	1. Authority to appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i> [s.122(1)]. 2. Authority to appoint an Authorised Officer appointed under s.122(1) of this Act or the s.24(1) of the <i>Public Health Act 2016</i>, to be a Designated Officer for the purposes of issuing Infringement Notices under the <i>Food Act 2008</i> [s.126(13)]. 3. Authority to appoint an Authorised Officer to be a Designated Officer (who is prohibited by s.126(13) from also being a Designated Officer for the purpose of issuing infringements), for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)].
Delegates	CEO
Conditions	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: Appointment of Authorised Officers as Meat Inspectors; Appointment of Authorised Officers; Appointment of Authorised Officers – Designated Officers only; and Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer.
Express power to subdelegate	Sub-delegation not provided for in <i>Food Regulations 2009</i>

Amendments		
Date	Details of Amendment	Reference

2.5.4 Debt Recovery and Prosecutions

Head of power	Food Act 2008
Delegator	Council
Express power to delegate	s.118 (2), (3) & (4) Functions of enforcement agencies and delegation
Express power or duty delegated	s.54 Cost of destruction or disposal of forfeited item s.125 Institution of proceedings
Function	1. Authority to recover costs incurred in connection with the lawful destruction or disposal of an item (seized) including any storage costs [s.54(1)] and the costs of any subsequent proceedings in a court of competent jurisdiction [s.54(3)]. 2. Authority to institute proceedings for an offence under the <i>Food Act 2008</i> [s.125].
Delegates	CEO
Conditions	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express power to subdelegate	Sub-delegation not provided for in <i>Food Regulations 2009</i>

Amendments		
Date	Details of Amendment	Reference

2.6 Graffiti Vandalism Act 2016

An Act to consolidate laws dealing with graffiti vandalism and to amend certain Acts as a consequence.

2.6.1 Giving Notice Requiring Obliteration of Graffiti

Head of power	Graffiti Vandalism Act 2016
Delegator	Council
Express power to delegate	s.16 Delegation by local government
Express power or duty delegated	s.18(2) Notice requiring removal of graffiti s.19(3) & (4) Additional powers when notice is given
Function	1. Authority to give written notice to a person who is an owner or occupier of property on which graffiti is applied, requiring the person to ensure that the graffiti is obliterated in an acceptable manner, within the time set out in the notice [s.18(2)]. 2. Authority, where a person fails to comply with a notice, to do anything considered necessary to obliterate the graffiti in an acceptable manner [s.19(3)] and to take action to recover costs incurred as a debt due from the person who failed to comply with the notice [s.19(4)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.17 Delegation by CEO of local government

Amendments		
Date	Details of Amendment	Reference

2.7 Liquor Control Act 1988

An Act to regulate the sale, supply and consumption of liquor, the use of premises on which liquor is sold, and the services and facilities provided in conjunction with or ancillary to the sale of liquor, to minimise harm or ill-health caused to people, or any group of people due to the use of liquor, to provide for orders that may prohibit persons from being employed at, or from entering, licensed premises, to repeal the Liquor Act 1970, and for related matters.

2.7.1 Enforcement of Liquor Control Act 1988 and Liquor Licensing Act 1988

Head of power	Liquor Control Act 1988
Delegator	Council
Express power to delegate	<i>Local Government Act 1995</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.39 Certificate of local government as to whether premises comply with laws s.40 Certificate of planning authority as to whether use of premises complies with planning laws
Function	1. Authority to enforce all local authority responsibilities under the <i>Liquor Control Act 1988</i> and <i>Liquor Licensing Act 1988</i>. 2. To issue certificates of Local Health Authority and Local Planning Authority.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	<i>Local Government Act 1995</i> s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8 Local Government Act 1995

An Act to provide for a system of local government in Western Australia, to amend the *Local Government Act 1960* and for related purposes.

2.8.1 Performing Functions Outside the District

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.20(1) Performing functions outside district
Function	Authority to determine the circumstances where it is appropriate for the Local Government's functions to be performed outside the District and prior to implementing such a decision, obtain the consent of the landowner/s and occupier/s and any other person that has control or management of the land impacted by the performance of that function [s.3.20(1)].
Delegates	CEO
Conditions	A decision to undertake a function outside the District, can only be made under this delegation where there is a relevant Budget allocation and the performance of the function does not negatively impact service levels within the District. Where these conditions are not met, the matter must be referred for Council decision.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.2 Compensation for Damage Incurred when Performing Executive Functions

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.22(1) Compensation s.3.23 Arbitration
Function	1. In accordance with the s.3.22 procedures, assess and determine the extent of damage to private property arising directly from performance of executive functions and make payment of compensation [s.3.22(1)]. 2. Where compensation is unable to be determined and agreed between parties, give effect to arbitration in accordance with s.3.23.
Delegates	CEO
Conditions	Delegation is limited to settlements which do not exceed a material value of \$5000.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.3 Notice Requiring Certain Things to be done by Owner or Occupier of Land and Additional Powers when Notice is Given

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.25(1) Notices requiring certain things to be done by owner or occupier of land s.3.26(2) & (3) Additional powers when notices given
Function	1. Authority to give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a notice in writing relating to the land requiring the person to do anything specified in the notice that a. is prescribed for in Schedule 3.1, Division 1; or b. is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2 [s.3.25(1)]. 2. If the person who is given the notice fails to comply with it, authority to do anything that is considered necessary to achieve, so far as is practicable, the purpose for which the notice is given [s.3.26(2)]. 3. Authority to recover the cost of anything that is done under subsection (2) as a debt due from the person who failed to comply with the notice [s.3.26(3)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.4 Powers of Entry

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.28 When this Subdivision applies s.3.32 Notice of entry s.3.33 Entry under warrant s.3.34 Entry in an emergency s.3.36 Opening fences
Function	1. Authority to exercise powers of entry or enter onto land to perform any of the Local Government functions under this Act, other than entry under a Local Law [s.3.28]. 2. Authority to give notice of entry [s.3.32]. 3. Authority to seek and execute an entry under warrant [s.3.33]. 4. Authority to execute entry in an emergency, using such force as is reasonable [s.3.34(1) and (3)]. 5. Authority to give notice and effect entry by opening a fence [s.3.36].
Delegates	CEO
Conditions	Delegated authority under s.3.34(1) and (3) may only be used, where there is imminent or substantial risk to public safety or property.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.5 Declare Vehicle is Abandoned Vehicle Wreck

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.40A(4) Abandoned vehicle wreck may be taken
Function	Authority to declare that an impounded vehicle is an abandoned vehicle wreck [s.3.40A(4)].
Delegates	CEO
Conditions	Disposal of a declared abandoned vehicle wreck to be undertaken in accordance with Delegated Authority 1.8.6 Confiscated or Uncollected Goods, or alternatively, referred for Council decision.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.6 Confiscated or Uncollected Goods

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.46 Goods may be withheld until costs paid s.3.47 Confiscated or uncollected goods, disposal of s.3.48 Impounding expenses, recovery of
Function	1. Authority to refuse to allow goods impounded under s.3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid to the local government [s.3.46]. 2. Authority to sell or otherwise dispose of confiscated or uncollected goods or vehicles that have been ordered to be confiscated under s.3.43 [s.3.47]. 3. Authority to recover expenses incurred for removing, impounding and disposing of confiscated or uncollected goods [s.3.48].
Delegates	CEO
Conditions	Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may, in accordance with Regulation 30 of the <i>Local Government (Functions and General) Regulations 1996</i> , be disposed of by any means considered to provide best value, provided the process is transparent and accountable.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.7 Disposal of Sick or Injured Animals

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.47A Sick or injured animals, disposal of s.3.48 Impounding expenses, recovery of
Function	1. Authority to determine when an impounded animal is ill or injured, that treating it is not practicable, and to humanely destroy the animal and dispose of the carcass [s.3.47A(1)]. 2. Authority to recover expenses incurred for removing, impounding, and disposing of sick or injured animals [s.3.48].
Delegates	CEO
Conditions	Delegation only to be used where the Delegate's reasonable efforts to identify and contact an owner have failed.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.8 Close Thoroughfares to Vehicles

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfares for repairs or maintenance s.3.51 Affected owners to be notified of certain proposals <i>Local Government (Functions and General) Regulations 1996</i> r.6(3) Transitional provisions about road closures
Function	1. Authority to close a thoroughfare (wholly or partially) to vehicles or particular classes of vehicles for a period not exceeding 4 weeks [s.3.50(1)]. 2. Authority to determine to close a thoroughfare for a period exceeding 4 weeks and before doing so, to (a) give public notice, written notice to the Commissioner of Main Roads and written notice to prescribed persons and persons that own prescribed land; and (b) consider submissions relevant to the road closure/s proposed [s.3.50(1a), (2) and (4)]. 3. Authority to revoke an order to close a thoroughfare [s.3.50(6)]. 4. Authority to partially and temporarily close a thoroughfare without public notice for repairs or maintenance, where it is unlikely to have a significant adverse effect on users of the thoroughfare [s.3.50A]. 5. Before doing anything to which section 3.51 applies, take action to notify affected owners and give public notice that allows reasonable time for submissions to be made and consider any submissions made before determining to fix or alter the level or alignment of a thoroughfare or training water from a thoroughfare to private land [s.3.51]. 6. Authority to, by local public notice, order that the closure be revoked or that it be varied in such a way as to be less restrictive [r.6(3)].
Delegates	CEO
Conditions	1. If, under s.3.50(1), a thoroughfare is closed without giving local public notice, local public notice is to be given as

	soon as practicable after the thoroughfare is closed [s.3.50(8)]. 2. Maintain access to adjoining land [s.3.52(3)].
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.9 Obstruction of Footpaths and Thoroughfares

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r.5(2) Interfering with, or taking from, local government land r.6 Obstruction of public thoroughfare by things placed and left - Sch.9.1, cl.3(1)(a) r.7A Obstruction of public thoroughfare by fallen things - Sch.9.1, cl.3(1)(b) r.7 Encroaching on public thoroughfare - Sch.9.1, cl.3(2)
Function	1. Authority to determine, by written notice served on a person who is carrying out plastering, painting or decorating operations (the work) over or near a footpath on land that is local government property, to require the person to cover the footpath during the period specified in the notice so as to: a. prevent damage to the footpath; or b. prevent inconvenience to the public or danger from falling materials [ULP r.5(2)]. 2. Authority to provide permission including imposing appropriate conditions or to refuse to provide permission, for a person to place on a specified part of a public thoroughfare one or more specified things that may obstruct the public thoroughfare. [ULP r.6(2) and (4)]. 3. Authority to renew permission to obstruct a thoroughfare and to vary any condition imposed on the permission effective at the time written notice is given to the person to whom permission is granted [ULP r.6(6)]. 4. Authority to require an owner or occupier of land to remove any thing that has fallen from the land or from anything on the land, which is obstructing a public thoroughfare [ULP r.7A]. 5. Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare [ULP r.7].
Delegates	CEO
Conditions	1. Actions under this Delegation must comply with procedural requirements detailed in the <i>Local</i>

Express power to subdelegate	<i>Government (Uniform Local Provisions) Regulations 1996.</i> 2. Permission may only be granted where, the proponent has: a. where appropriate, obtained written permission from each owner of adjoining or adjacent property which may be impacted by the proposed obstruction; b. provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good public assets damaged by the obstruction at the completion of works; c. provided evidence of sufficient Public Liability Insurance; and d. provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity. s.5.44 CEO may delegate some powers and duties to other employees
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Amendments		
Date	Details of Amendment	Reference

2.8.10 Expressions of Interest for Goods and Services

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996</i> r.21 Limiting who can tender, procedure for r.23 Rejecting and accepting expressions of interest to be acceptable tenderer
Function	1. Authority to determine when to seek Expressions of Interest and to invite Expressions of Interest for the supply of goods or services [F&G r.21]. 2. Authority to consider Expressions of Interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers [F&G r.23].
Delegates	CEO
Conditions	Expressions of Interest may only be called where there is an adopted budget for the proposed goods or services.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.11 Tenders for Goods and Services

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996</i> r.11 When tenders have to be publicly invited r.13 Requirements when local government invites tenders though not required to do so r.14 Publicly inviting tenders, requirements for r.18 Rejecting and accepting tenders r.20 Variation of requirements before entry into contract r.21A Varying a contract for the supply of goods or services
Function	1. Authority to call tenders [F&G r.11(1)]. 2. Authority to, because of the unique nature of the goods or services or for any other reason it is unlikely that there is more than one supplier, determine a sole supplier arrangement [F&G r.11(f)]. 3. Authority to invite tenders although not required to do so [F&G r.13]. 4. Authority to determine in writing, before tenders are called, the criteria for acceptance of tenders [F&G r.14(2a)]. 5. Authority to determine the information that is to be disclosed to those interested in submitting a tender [F&G r.14(4)(a)]. 6. Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation [F&G r.14(5)]. 7. Authority to evaluate tenders, by written evaluation, and decide which is the most advantageous [F&G r.18(4)]. 8. Authority to determine that a variation proposed is minor in context of the total goods or services sought through the invitation to tender, subject to a maximum 10% variation and within the \$500,000 detailed as a condition on this Delegation, and to then negotiate minor variations with the successful tenderer <u>before</u> entering into a contract [F&G r.20(1) and (3)]. 9. Authority to seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)].

	10. Authority to decline any tender [F&G r.18(5)]. 11. If the chosen tenderer is unable or unwilling to form a contract OR the minor variation cannot be agreed with the successful tenderer, so that the tenderer ceases to be the chosen tenderer, authority to choose the next most advantageous tender to accept [F&G r.20(2)] 12. Authority to: a. vary a contract that has been entered into with a successful tenderer, provided the variation/s do not change the scope of the original contract or increase the contract value beyond 10%. b. exercise an extension option that was included in the original tender specification and contract in accordance with r.11(2)(j). [F&G r.21A]. 13. Authority to accept another tender where within 6-months of either accepting a tender, a contract has not been entered into OR the successful tenderer agrees to terminate the contract [F&G r.18(6) & (7)].
Delegates Conditions	CEO i. Sole supplier arrangements may only be approved where a record is retained that evidences: a. a detailed specification; b. the outcomes of market testing of the specification; c. the reasons why market testing has not met the requirements of the specification' and d. rationale for why the supply is unique and cannot be sourced through other suppliers. 2. Tenders may only be called where there is an adopted budget for the proposed goods or services, with the exception being in the period immediately prior to the adoption of a new Annual Budget and where the: • proposed goods or services are required to fulfil a routine contract related to the day to day operations of the Local Government; • current supply contract expiry is imminent; • value of the proposed new contract has been included in the draft Annual Budget proposed for adoption. 3. Authority to enter into a variation [F&G r.20(1) and r.20(2)] subject to: • that the variation is minor having regard to the total goods or services that tenderers were invited to supply and shall be consistent with the intended purpose of the contract.

Express power to subdelegate	4. Compliance with Council's Purchasing and Procurement Policy and Regional Price Preference Policy. s.5.44 CEO may delegate some powers and duties to other employees
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Amendments		
Date	Details of Amendment	Reference

2.8.12 Disposing of Property

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.3.58(2) & (3) Disposing of Property
Function	- Authority to dispose of property to: - the highest bidder at public auction [s.3.58(2)(a)]; - to the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tenders [s.3.58(2)(b)]. - Authority to dispose of property by private treaty only in accordance with section 3.58 (3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)]. - Authority to dispose of property under Regulation 30(3)(a) of the <i>Local Government (Functions and General) Regulations 1996</i>.
Delegates	CEO
Conditions	Council delegate its authority and power to the Chief Executive Officer to dispose of surplus equipment, materials, tools, etc with a market value of less than \$20,000 by- - Calling a request for proposals; or - Holding of a surplus goods sale at the Council depot; or - Any other fair means; Subject to- - The items not being listed on Councils Asset Register; and - The items being either no longer required, no longer serviceable or are outmoded.

Express power to subdelegate

s.5.44 CEO may delegate some powers and duties to other employees

Amendments

Date	Details of Amendment	Reference

2.8.13 Payments from the Municipal or Trust Funds

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	<i>Local Government (Financial Management) Regulations 1996</i> r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making
Function	Authority to make payments from the municipal or trust funds [r.12(1)(a)].
Delegates	CEO
Conditions	Make payments for procurement provided for in Budgets approved by Council, or otherwise approved by Council resolution, and undertaken in accordance with Council's Purchasing and Procurement. Consistent with the functions of the CEO specified in section 5.41(c) and (d) of the <i>Local Government Act 1995</i> .
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.14 Defer, Grant Discounts, Waive or Write Off Debts

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.12 Power to defer, grant discounts, waive or write off debts
Function	1. Waive a debt which is owed to the Shire of Nungarin [s.6.12(1)(b)]. 2. Waive or grant concessions in relation to any amount of money [s.6.12(1)(b)]. 3. Write off any amount of money which is owed to the Shire of Nungarin [s.6.12(1)(c)].
Delegates	CEO
Conditions	Write-off fees and charges and interest on rates up to \$1,000 [s.6.12(1)(c) & (2)].
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.15 Power to Invest and Manage Investments

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996</i> r.19 Investments, control procedures for
Function	1. Authority to invest money held in the municipal fund or trust fund that is not, for the time being, required for any other purpose [s.6.14(1)]. 2. Authority to establish and document internal control procedures to be followed in the investment and management of investments [FM r.19].
Delegates	CEO
Conditions	1. All investment activity must comply with Regulation 19C of the <i>Local Government (Financial Management) Regulations 1996</i>. 2. A report detailing the investment portfolio's performance, exposures and changes since last reporting, is to be provided as part of the Monthly Financial Reports. 3. Procedures are to be documented. 4. Procedures are to be administratively reviewed as per Regulation 17 of the <i>Local Government (Audit) Regulations 1996</i>.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.16 Rate Record Amendment

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.39(2)(b) Rate records
Function	Authority to determine any requirement to amend the rate record for the 5 years preceding the current financial year [s.6.39(2)(b)].
Delegates	CEO
Conditions	Delegates must comply with the requirements of s.6.40 of the Act.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.17 Agreement as to Payment of Rates and Service Charges

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.49 Agreement as to payment of rates and service charges
Function	Authority to make an agreement with a person for the payment of rates or service charges [6.49].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.18 Determine Due Date for Rates or Service Charges

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.50 Rates or service charges due and payable
Function	Authority to determine the date on which rates or service charges become due and payable to the Shire of Nungarin [s.6.50].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.19 Recovery of Rates or Service Charges

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.56 Rates or service charges recoverable in court s.6.64(3) Actions to be taken
Function	1. Authority to recover rates or service charges, as well as costs of proceedings for the recovery, in a court of competent jurisdiction [s.6.56(1)]. 2. Authority to lodge (and withdraw) a caveat to preclude dealings in respect of land where payment of rates or service charges imposed on that land is in arrears [s.6.64(3)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.20 Recovery of Rates Debt – Require Lessee to Pay Rent

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.60 Local government may require lessee to pay rent
Function	1. Authority to give notice to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay its rent to the Shire of Nungarin [s.6.60(2)]. 2. Authority to recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with a notice [s.6.60(4)].
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.21 Execution of Documents

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.9.49A(4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.
Function	1. The Chief Executive Officer is delegated the authority to sign documents on behalf of the local government.
Delegates	CEO
Conditions	The Chief Executive Officer may only sign documents where: 1. The Council has authorised entering into a formal contract; or 2. The Chief Executive Officer considers a formal contract is required as a part of the day to day operation of the Council; or 3. A formal contract is authorised under a delegated authority of the Council.
Express power to subdelegate	s.5.44 CEO has no power to sub-delegate the authority to sign documents on behalf of the local government (s5.43 (ha) of the Act).

Amendments		
Date	Details of Amendment	Reference

2.8.22 Appointment of Authorised Persons

Head of power	Local Government Act 1995 Caravan Parks & Camping Grounds Act 1995 Cemeteries Act 1986 Control of Vehicles (Off-road Areas) Act 1978
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.9.10(2) The CEO may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of 1 or more specified laws or specified provisions of 1 or more specified laws.
Function	1. The CEO may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of 1 or more specified laws or specified provisions of 1 or more specified laws.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.8.23 Local Governments Ability to Receive Revenue and Income

Head of power	Local Government Act 1995
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.6.15 Local government's ability to receive revenue and income
Function	1. The Chief Executive Officer is delegated the authority to apply for grants and subsidies. 2. The Chief Executive Officer is delegated the authority to accept grants and subsidies.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

2.8.24 Temporary / Acting or Appointment of Chief Executive Officer

Head of power	Shire Policy 2.07 – Temporary / Acting or Appointment of Chief Executive Officer
Delegator	Council
Express power to delegate	s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.5.41 Functions of CEO
Function	3. The CEO is authorised to appoint the Manager Works & Services, where the CEO is on planned or unplanned leave for periods not exceeding three weeks.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.9 Local Government (Miscellaneous Provisions) Act 1960

An Act to deal with certain matters concerning local government.

2.9.1 Appointment of Rangers, Pound keepers and the Establishment of Public Pounds

Head of power	Local Government (Miscellaneous Provisions) Act 1960
Delegator	Council
Express power to delegate	<i>Local Government Act 1995</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.449 Pounds, establishing: pound keepers and rangers, appointing
Function	Authority to establish and maintain one or more public pounds, and appoint fit and proper persons to be keepers of those pounds and appoint a ranger or rangers.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	<i>Local Government Act 1995</i> s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.10 Planning & Development Act 2005

An Act to provide for a system of land use planning and development in the State and for related purposes.

2.10.1 Illegal Development

Head of power	Planning & Development Act 2005
Delegator	Council
Express power to delegate	<i>Local Government Act 1995</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	s.214(2), (3) & (5) Illegal development, responsible authority's powers as to s.215 Illegal development, responsible authority's powers to remove etc.
Function	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 planning scheme, interim development order or planning control area requirements; 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 alter the development; and b. to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority; 2. Give a written direction to the person whose duty it is to executive work to execute that work where it appears that delay in the execution of the work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order. 3. If — a. a notice is served on a person under section 214(2), (3) or (5) and that person fails to — i. carry out the directions within the time specified in the notice; or ii. apply under section 255 for a review of any direction contained in the notice; or

	b. on an application by that person for a review of any direction contained in the notice, the direction is confirmed or varied and the owner fails to carry out the direction as confirmed or varied within the time specified by the State Administrative Tribunal in the notice given under section 255(2), the responsible authority may itself remove, pull down, take up or alter the development, restore the land as nearly as practicable to its condition immediately before the development started, or execute that work, as it directed that person. 4. Any expenses incurred by a responsible authority under section 215(1) may be recovered from the person to whom the direction was given as a debt due in a court of competent jurisdiction.
Delegates	CEO
Conditions	Nil.
Express power to subdelegate	<i>Local Government Act 1995</i> s.5.44 CEO may delegate some powers and duties to other employees

Amendments		
Date	Details of Amendment	Reference

2.11 Public Health Act 2016

An Act to protect, promote and improve the health and wellbeing of the public of Western Australia and to reduce the incidence of preventable illness, and for related purposes.

2.11.1 Appoint Authorised Officer or Approved Officer (Asbestos Regs)

Head of power	Public Health Act 2016
Delegator	Council
Express power to delegate	<i>Health (Asbestos) Regulations 1992</i> r.15D(5) Appointment of authorised officers r.15D(7) Infringement notices
Express power or duty delegated	r.15D(5) Infringement notices
Function	Authority to appoint a person or classes of persons as an authorised officer or approved officer for the purposes of Part 2 of the <i>Criminal Procedure Act 2004</i> [r.15D(5)].
Delegates	CEO
Conditions	Subject to each person so appointed being issued with a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices [r.15D (6)].
Express power to subdelegate	Sub-delegation is not provided for in the <i>Health (Asbestos) Regulations 1992</i>

Amendments		
Date	Details of Amendment	Reference

2.11.2 Enforcement Agency Reports to the Chief Health Officer

Head of power	Public Health Act 2016
Delegator	Council
Express power to delegate	s.21 Enforcement agency may delegate
Express power or duty delegated	s.22 Reports by and about enforcement agencies
Function	1. Authority to prepare and provide to the Chief Health Officer, the Local Government's report on the performance of its functions under this Act and the performance of functions by persons employed or engaged by the Shire of Nungarin [s.22(1)] 2. Authority to prepare and provide to the Chief Health Officer, a report detailing any proceedings for an offence under this Act [s.22(2)].
Delegates	CEO Designated Authorised Officer – Environmental Health Officer
Conditions	Nil.
Express power to subdelegate	Nil - unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].

Amendments		
Date	Details of Amendment	Reference

2.11.3 Designate Authorised Officers

Head of power	Public Health Act 2016
Delegator	Council
Express power to delegate	s.21 Enforcement agency may delegate
Express power or duty delegated	s.24(1) & (3) Designation of authorised officers
Function	Authority to designate a person or class of persons as authorised officers for the purposes of: - The <i>Public Health Act 2016</i> or other specified Act; - Specified provisions of the <i>Public Health Act 2016</i> or other specified Act - Provisions of the <i>Public Health Act 2016</i> or another specified Act, other than the specified provisions of that Act. Including: - an environmental health officer or environmental health officers as a class; OR - a person who is not an environmental health officer or a class of persons who are not environmental health officers, OR - a mixture of the two. [s.24(1) and (3)].
Delegates	CEO
Conditions	- Subject to each person so appointed being; - Appropriately qualified and experienced [s.25(1)(a)]; and - Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31]. - A Register (list) of authorised officers is to be maintained in accordance with s.27.
Express power to subdelegate	Nil - unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].

Amendments		
Date	Details of Amendment	Reference

3. History Summary

Date / Reference	Amendments
15 Dec 2021	Major Review