



Delegation of Authority Register

2020/21

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1. INTRODUCTION

1.1 Legislation

The *Local Government Act 1995 (Act)*, became operative on 1 July 1996 and provided significant changes in the way local governments conduct business. The general aim of the Act is to enable local governments to provide good, open and accountable government to the community.

The Act allows the Council, as the governing body of a local government, to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act, subject to some exceptions. However, all delegations made by Council must be by absolute majority decision (s5.42(1) of the Act).

1.2 Associated Legislation

Legislation other than the Act, its regulations and the local government's local laws created under the Act, where delegations or authorisations may occur, are as follows:

Building Act 2011 and regulations;
Bush Fires Act 1954, regulations and local laws created under that Act;
Caravan Parks and Camping Grounds Act 1995;
Cat Act 2011, regulations and local laws created under that Act;
Control of Vehicles (Off-road Areas) Act 1978 and regulations;
Dog Act 1976, regulations and local laws created under that Act;
Food Act 2008 and regulations;
Freedom of Information Act 1992;
Health Act 1911, regulations and local laws created under that Act;
Public Health Act 2016 and regulations;
Land Administration Act 1997 and regulations;
Local Government (Miscellaneous Provisions) Act 1960;
Planning and Development Act 2005 and regulations

*Note – This is not an exhaustive list

1.3 Delegations by the Chief Executive Officer

The Act allows the Chief Executive Officer to delegate any of the powers to another employee (s5.44(1)) and must be done in writing (s5.44(2)). The Act allows the Chief Executive Officer to place conditions on any delegations if desired (s5.44(4)).

A register of delegations relevant to the Chief Executive Officer and other employees is to be kept and reviewed at least once every financial year (s5.46(1),(2)). If a person is exercising a power or duty that they have been delegated, the Act requires that records be kept whenever the delegated authority is used (s5.46(3)).

A person to whom a power is delegated under the Act is considered to be a 'designated employee' pursuant to s5.74(b) and is required to complete a primary return and an annual return each year.

1.4 Matters which cannot be delegated

There are a number of matters that cannot be delegated and which remain the right of Council.

Refer to s5.43 of the *Local Government Act 1995*:

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

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) appointing an auditor;*
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purposes 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) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (i) any power or duty that requires the approval of the Minister or the Governor;*
- (j) such other powers or duties as may be prescribed.*

2. BACKGROUND

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

A delegation is the 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.

An authorisation is the designation of an officer or a body as a person or body that is capable of exercising a specific statutory power or duty.

When a person or body exercises delegated authority they do so “on behalf” of the delegator and in doing so the person or body exercising delegated authority forms the relevant state of mind to make the decision “on behalf” of the delegator. An authorised person or body exercises a statutory function in their own right.

The Western Australian local government statutory regime also provides for the Council and CEO to “act through” other officers, agents and bodies to achieve statutory functions. “Acting through” in this manner is not the exercise of delegated authority or an authorised power and must be handled differently.

2.1 The Governance Structure

The Western Australian local government governance regime provides that the Council appoints a CEO and the CEO appoints employees. Similarly, all

local government employees are responsible to the CEO who in turn is responsible to the Council.

Wherever possible, the Shire of Nungarin will endeavour to ensure authorisations and delegations conform with this governance structure. Delegations will be established from the Council to the CEO and this will enable the CEO to either delegate power to officers or authorise officers as the CEO sees fit.

Delegations and authorisations from the Council directly to officers other than the CEO will be avoided unless legislation specifically provides that this is the only manner in which the power can be provided to an officer other than the CEO.

2.2 The concept of 'acting through'

(Extracted from Department Local Government, Sport & Cultural Industries Guideline 17 – Delegations)

In addition to covering delegations, the *Local Government Act 1995* ("the Act") introduces the concept of 'acting through'. Section 5.45 of the Act states that in relation to delegations, nothing prevents a "local government from performing any of its functions by acting through a person other than the CEO" or "a CEO from performing any of his or her functions by acting through another person." The Act does not specifically define the meaning of the term 'acting through.' However, the key difference between a delegation and 'acting through' is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

For administrative purposes, a person may sign a letter in his or her name on behalf of the CEO while, with delegated powers, the person would sign a letter in his or her own name, in accordance with the delegated authority.

An appropriate method for a council of a local government to make a decision which will be implemented by its officers is for it to make a policy about particular functions that it performs. In that case there is no need for a delegation as it will be the role of the organisation to implement those policy decisions.

3. AUTHORISATIONS FROM COUNCIL

Definition:

"Authorisations from Council" –

Where an officer or class of officers are formally authorised to act on behalf of the Council in respect to specific legislation and that legislation requires that the Council rather than the Chief Executive Officer provide the authorisations.

3.1 Bush Fires Act 1954 – Appointment of Bush Fire Control Officers

Authorisation From	Council
Authorisation To	Chief Executive Officer
Legislative Authority for Authorisation	s48 Bush Fires Act 1954

Authorisation

The Chief Executive Officer is authorised by Council to act as the Chief Bush Fire Control Officer.

The Chief Executive Officer is further authorised to appoint such persons, as is necessary, to be bush fire control officers under and for the purposes of the Bush Fires Act 1954.

Of those people, appoint the following:

- Deputy Chief Executive Officer/Works Manager as Deputy Chief Bush Fire Control Officer
- Works Leading Hand as Fire Control Officer

Authority for exercise of Authorisation: *Bush Fires Act 1954*

s38(1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.

s48(1) A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.

Conditions attached to Authorisation

The local government shall cause notice of an appointment to be published at least once in a newspaper circulating in its district (s38(2A) of the *Bush Fires Act 1954*).

A bush fire control officer appointed by the local government shall be issued with a certificate of appointment (s38(2E) of the *Bush Fires Act 1954*).

Amendments		
Date	Details	Reference

3.2 Caravan Parks and Camping Grounds Act 1995 – Appointments

Authorisation From	Council
Authorisation To	Chief Executive Officer
Legislative Authority for Authorisation	S17 and s23 of the Caravan Parks and Camping Grounds Act 1995

Authorisation

The Chief Executive Officer is authorised to exercise the powers and duties of a local government, and to administer and enforce the provisions of the *Caravan Parks and Camping Grounds Act 1995*.

To appoint certain persons as Authorised Persons for the purpose of s23(11) of the *Caravan Parks and Camping Grounds Act 1995*

Authority for exercise of Authorisation: *Caravan Parks and Camping Grounds Act 1995*:

s17(1) The chief executive officer of the Department or a local government —

- (a) may appoint such persons to be authorised persons for the purposes of this Act as the Chief Executive Officer or the local government considers necessary;

Authorised Persons for the purposes of s17 of the Act:

- Chief Executive Officer
- Manager Works and Services
- Principal Environmental Health Officer

In accordance with s23 (2) and (3) the following are appointed as authorised persons for the purpose of serving infringement notices:

- Manager Works and Services

s23(5) an authorised person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.

s23(7) an authorised person may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.

s23(11) A local government may in writing, appoint persons or classes of persons to be authorised persons for the purposes of subsection (2),(3), (5) or (7) or for the purposes of 2 or more of those subsections, but a person who is authorised to give infringement notices under subsection (2) is not eligible to be an authorised person for the purposes of any of the other subsections.

Authorised Persons for the purposes of s23 (5): extension period and 23 (7): infringement notice withdrawal are:

- Chief Executive Officer

Conditions attached to Authorisation

s17 and s23 of the *Caravan Parks and Camping Grounds Act 1995*:

A local government must issue each person appointed as an Authorised Person, with an identity card, in the prescribed form, certifying that the person is an Authorised Person for the purposes of this Act (s17(1)(b) *Caravan Parks and Camping Grounds Act 1995*).

Amendments		
Date	Details	Reference

3.3 Cat Act 2011 – Appointments

Authorisation From	Council
Authorisation To	Chief Executive Officer
Legislative Authority for Authorisation	s42, s44 and s48 Cat Act 2011

Authorisation

The Chief Executive Officer is delegated the authority of the local government to, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions under the *Cat Act 2011*.

Legislative Power *Cat Act 2011*

s42 A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act

s44(1) *Cat Act 2011*: The local government may delegate to its Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under another provision of this Act.

s48(1) A local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions under this Act.

Authority for exercise of Authorisation and Delegation: *Cat Act 2011*

s.9(1)(a) Grant or refuse to grant the registration of a cat.

s.9(1)(b) Renew or refuse to renew the registration of a cat.

s.9(5) Require an applicant to provide any document or information required to determine an application for registration.

s.9(6) Refuse to consider an application, where an applicant has not complied with a request for information.

s10 Cancel the registration of a cat.

s13 Give notice of decisions.

Authorised persons for all purposes under the *Cat Act 2011* and *Cat Regulations 2012*, including the registration of cats under Section 9 of the *Cat Act 2011*, excluding the issuing or withdrawal of infringement notices under Sections 62, 64 and 65 of the *Cat Act 2011*:

- Senior Finance and Administration Officer
- Finance and Administration Officer

Authorised persons for all purposes under the *Cat Act 2011* and *Cat Regulations 2012*, including the registration of cats under section 9 of the *Cat Act 2011* including the issue of infringement notices but excluding the withdrawal of infringement notices:

- Shire Ranger

Authorised Persons for the purposes of s9 of the Act and to withdraw infringement notices:

- Chief Executive Officer

Authorised Persons for the purposes of s9 of the Act and the power to commence a prosecution in accordance with section 73 for an offence against the Cat Act 2011 or a local law made under the Cat Act 2011.

s73 (1) Persons that are performing their duties as local government employees or have been authorised by the local government to implement the Act are authorised to commence a prosecution for an offence against this Act

s73(2) Persons that are performing their duties as local government employees or have been authorised by the local government to implement the local law are authorised to commence a prosecution for an offence against the local law

- Chief Executive Officer
- Shire Ranger

Conditions attached to Authorisation

The local government is to issue each Authorised Person a certificate stating that the person is an authorised person for the purposes of this Act (s48(5) *Cat Act 2011*).

Amendments		
Date	Details	Reference

3.4 Control of Vehicles (Off-road Areas) Act 1978

Authorisation From	Council
Authorisation To	Chief Executive Officer Manager Works and Services Shire Ranger
Legislative Authority for Authorisation	s38(3) Control of Vehicles (Off-road Areas) Act 1978

Authorisation

The Chief Executive Officer is delegated the authority to exercise the powers and duties of a local government and to administer and enforce the provisions in accordance with s38(3) of the *Control of Vehicles (Off-road Areas) Act 1978*.

For the Chief Executive Officer to sign withdrawals of infringement notices on behalf of the local government as an authorised person.

Authority for exercise of Authorisation *Control of Vehicles (Off-road Areas) Act 1978*

s38(3)(a) A local government may by resolution appoint —
(a) any employee of the local government to be an ‘authorised officer’ for the purposes of the Control of Vehicles (Off-Road Areas) Act 1978.

Conditions attached to Authorisation

s38(3) *Control of Vehicles (Off-road Areas) Act 1978*, requires a resolution of Council to approve the authorisation.

Authorised persons to issue infringement notices:

- Manager Works and Services
- Shire Ranger

Only the Chief Executive Officer may sign a withdrawal of a Control of Vehicle (Off-Road Areas) infringement notice.

The local government shall issue each Authorised Person with a certificate of his/her appointment as an authorised person, in the prescribed form, evidencing the area of jurisdiction entrusted to him/her under this Act, which he/she shall, on reasonable demand, produce for inspection by any person (s38(4)(a) *Control of Vehicles (Off-road Areas) Act 1978*).

Amendments		
Date	Details	Reference

3.5 Dog Act 1976 – CEO’s Delegated Authority and Appointments

Authorisation and Delegation From	Council
Authorisation and Delegation To	Chief Executive Officer
Legislative Authority for Authorisation	s10AA, s10AB, s11(1), s14(1), s26(3), s27, s29 and s33E Dog Act 1976

Authorisation and Delegation

The Chief Executive Officer is delegated authority to appoint certain persons as Registration Officers, Authorised Persons and Pound Administration Persons to exercise the powers and duties of a local government, and to administer and enforce the provisions of the *Dog Act 1976*.

Authority for exercise of Authorisation and Delegation

s10AA (1) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, delegate to its Chief Executive Officer any power or duty of the local government under another provision of this Act.

s10AA (5) Nothing in this section limits the ability of a local government’s Chief Executive Officer to perform a function through an officer or agent.

s10AB. Register of, and review of, delegations.

s11(1) Establish and maintain dog management facilities .

s14(1) Keep a register of dogs.

s26(3) Grant an exemption regarding the number of dogs that may be kept.

s27 Approve kennel establishments

s29(1) Appoint persons to seize dogs

s33(E) Declare a dog to be a dangerous dog

Conditions attached to Authorisation

Authorised persons for registering the dogs within the Shire:

- Senior Finance and Administration Officer
- Finance and Administration Officer

Authorised Persons for the purpose of the Dog Act 1976 to withdraw infringements:

- Chief Executive Officer

Registration Officers and Authorised Persons for the purposes of s29 of the Dog Act 1976:

- Manager Works and Services
- Shire Ranger

Registration Officers and Authorised Persons for the purposes of s29 and s33E of the Act and the power to initiate court proceedings under s44(2)(b) of the Act, regulations and local laws:

- Chief Executive Officer
- Shire Ranger

A person who is authorised by a local government to exercise any power under this Act, shall be furnished with a certificate in the prescribed form evidencing his/her appointment, and shall produce that certificate on being required to do so by a person in respect of whom he/she exercises, has exercised, or is about to exercise any such power (s11(3) Dog Act 1976).

Amendments		
Date	Details	Reference

3.6 Public Health Act 2016 – Delegation to Chief Executive Officer

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Power	s21 Public Health Act 2016

Delegation

The Chief Executive Officer is delegated the authority in writing to exercise the power or duty to fulfil the functions stipulated under s16 of the Public Health Act 2016 on behalf of the local government which is an enforcement agency.

s16 A local government has the following functions in relation to the administration of this Act —

- (a) to initiate, support and manage public health planning for its local government district;
- (b) to develop and implement policies and programmes to achieve the objects of this Act within its local government district;
- (c) to perform the functions that are conferred on local governments by or under this Act;
- (d) to administer and enforce this Act within its local government district in accordance with the objects and principles of this Act.

Legislative Power: *Public Health Act 2016*

s21. Enforcement agency may delegate

- (1) A power or duty conferred or imposed on an enforcement agency may be delegated —
 - (b) if the enforcement agency is a local government, to —
 - (i) the chief executive officer of the local government;

Conditions attached to Delegation

s21(2) A delegation under subsection (1)(b) or (c) must be in writing.

Amendments		
Date	Details	Reference

3.7 Public Health Act 2016 – Appointments and Designations of Authorised Officers

Appointment and Designation of Authorised Officers by	Chief Executive Officer
Appointees and Designated Officers	Principal Environmental health officer
Legislative Power	s17, s24, s27 and s30 Public Health Act 2016

Appointments and Designations

The Chief Executive Officer is delegated the authority of the local government in writing to appoint one or more persons as environmental health officers.

The Chief Executive Officer is delegated the authority of the local government in writing to designate the environmental health officers as authorised officers under and for the purposes of the Public Health Act 2016 to perform such duties as the local government from time to time directs and also such as are specially prescribed by any order addressed by the Chief Health Officer, Public Health to the local government.

Legislative Power: *Public Health Act 2016*

s17(1) A local government may appoint one or more persons as environmental health officers.

s24(1) An enforcement agency may designate a person or class of person as authorised officers

s24(3) An enforcement agency that is a local government may designate under subsection (1) —

(a) an environmental health officer or environmental health officers as a class

Conditions attached to the appointment: *Public Health Act 2016*

s17(3) A local government must not appoint a person as an environmental health officer unless the person has the qualifications and experience approved by the Chief Health Officer under section 18.

s27 Each enforcement agency must prepare and maintain a list of —

- (a) the persons (if any) who are individually designated as authorised officers by the agency; and
- (b) the classes of persons (if any) who are designated as authorised officers by the agency.

s30 Certificates of authority

(1) An enforcement agency must issue to each person who is an authorised officer by virtue of a designation by the agency a certificate of authority as an authorised officer.

(2) The certificate of authority must —

- (a) state that it is issued under this Act; and
- (b) state the name of the person to whom it is issued and bear —
 - (i) a photograph or digital image of that person; and

- (ii) the person's signature; and
 - (c) state the date, if any, on which it expires; and
 - (d) specify —
 - (i) the Acts or the provisions of the Acts for the purposes of which the person is designated as an authorised officer; and
 - (ii) any provisions of an Act that are excluded from the designation; and
 - (e) specify any conditions or restrictions to which the person's authority is subject; and
 - (f) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.
- (3) An authorised officer must produce the certificate of authority —
- (a) if asked to do so by the person in charge of any premises entered under this Act by the authorised officer; or
 - (b) if asked to do so by a person who, under this Act, is required by the authorised officer to produce anything or to answer any question.

Authorised Persons are empowered to perform the following functions:

Issue improvement notices according to s212.

s214 Before the end of the period specified in the improvement notice under section s213(2)(e), an authorised officer may, on his or her own initiative or on the application of the person given the notice, extend by written notice given to the person the period within which the person must take action in accordance with the improvement notice.

Authority for the Environmental Health/Building Officer includes the ability to sign such documents and initiate appropriate legal action on behalf of the local government when a breach of the Act and related legislation warrants such action, provided that the power to prosecute any person is ONLY exercised with the agreement of the Chief Executive Officer.

Amendments		
Date	Details	Reference

4. DELEGATIONS FROM COUNCIL



EXECUTIVE

4.1 Acting Chief Executive Officer

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the power to approve the Deputy Chief Executive Officer to be in the position of Acting Chief Executive Officer during unscheduled or scheduled absences of the Chief Executive Officer, and for periods of up to 35 days.

Legislative Power: *Local Government Act 1995*

s5.42 Delegation of some powers and duties to CEO

s5.43 Limits on delegations to CEO

s5.44 CEO may delegate powers and duties to other employees

Statutory power being delegated

Nil

Conditions attached to Delegation

Should the Chief Executive Officer be absent for more than 35 days, the authority to appoint an Acting Chief Executive Officer shall be determined by Council.

Amendments		
Date	Details	Reference

4.2 Administer Local Laws

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42 and s5.43 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to appoint certain persons to administer the Shire of Nungarin's local laws and to do all other things that are necessary or convenient to be done for, or in connection with, performing the functions of the local government under the *Local Government Act 1995*.

Statutory power being delegated: *Local Government Act 1995*.

s3.18 (1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.

Conditions attached to Delegation

The local government is to issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person (s9.10(2) *Local Government Act 1995*).

Amendments		
Date	Details	Reference

4.3 Certain Provisions About Land

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the power to appoint any person to exercise on behalf of the Council, the powers given to it in Subdivision 2, of Division 3 of Part 3 of the Act.

Statutory power being delegated: *Local Government Act 1995.*

s3.24 The powers given to a local government by this Subdivision can only be exercised on behalf of the local government by a person expressly authorised by it to exercise those powers.

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.4 Disposing of Property

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to approve the disposal of property to the highest bidder at public auctions, public tenders or by private treaty, in line with the Local Government Act and Regulations as detailed.

Statutory power being delegated:

Local Government Act 1995

s3.58 Disposing of property

Local Government (Functions and General) Regulations 1996.

r 30: Dispositions of property excluded from Act s. 3.58

Conditions attached to Delegation

Limit to \$5,000 for the disposition of land in accordance with Reg 30(2)(a) and (c) of the *Local Government (Functions and General) Regulations 1996*.

Limit to \$20,000 for the disposition of property, other than land, in accordance with Reg 30(3) of the *Local Government (Functions and General) Regulations 1996*.

Amendments		
Date	Details	Reference

4.5 Execution of Documents

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42 and s5.43 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to sign documents on behalf of the local government.

Statutory power being delegated: *Local Government Act 1995.*

s9.49A(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.

Conditions attached to Delegation

The Chief Executive Officer may only sign documents where:

- The Council has authorised entering into a formal contract; or
- The Chief Executive Officer considers a formal contract is required as a part of the day to day operation of the Council; or
- A formal contract is authorised under a delegated authority of the Council.

The Chief Executive Officer 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	Reference

4.6 Issue of Notices, Cautions and Infringements

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42 and s5.43 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to appoint persons or classes of persons to be authorised for the purpose of issuing notices, cautions and infringements relating to various Acts, Regulations and Local Laws.

Statutory power being delegated: *Local Government Act 1995*

s9.10(1) The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

s9.16(1) An authorised person who has reason to believe that a person has committed a prescribed offence against a regulation or local law made under this Act may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

Conditions attached to Delegation

The local government is to issue each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person (s9.10(2) *Local Government Act 1995*).

Amendments		
Date	Details	Reference

4.7 Legal Matters

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42 and s5.43 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to appoint an employee to represent the local government in legal proceedings either generally or in a particular case.

Authority to obtain legal advice and opinions as are deemed necessary in the exercise and management of local government.

Statutory Power being delegated: *Local Government Act 1995.*

s9.10(1) The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

s9.29 Representing local government in court

Conditions attached to Delegation

The Chief Executive Officer may only appoint the following people to represent local government in legal proceedings or authorise them to obtain legal advice:

- Manager Works and Services
- Shire Ranger

Legal proceedings may only be initiated with prior approval from the Chief Executive Officer.

Subject to adequate provision existing in the budget.

Amendments		
Date	Details	Reference

4.8 Limitation May Be Placed on Who Can Tender

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to seek expressions of interest for the supply of goods or services and to choose acceptable tenderers.

Statutory Power being delegated - *Local Government (Functions and General) Regulations 1996:*

r 21 Limiting who can tender, procedure for

r 23 Rejecting and accepting expressions of interest to be acceptable tenderer

Conditions attached to Delegation

Authority to reject or accept expressions of interest to be acceptable tenderers is limited by regulation 23 of the *Local Government (Functions and General) Regulations 1996*.

Amendments		
Date	Details	Reference

4.9 Making of the Decision to Invite Tenders

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s3.57 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to invite tenders.

Statutory Power being delegated:

Local Government Act 1995

s3.57 (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.

s3.57 (2) Regulations may make provision about tenders.

Local Government (Functions and General) Regulations 1996.

r 17(2) The tenders register is to include, for each invitation to tender —

(b) particulars of the making of —

(i) the decision to invite tenders; and

(ii) if applicable, the decision to seek expressions of interest under regulation 21(1);

Conditions attached to Delegation

Authority to authorise a tender to be called is subject to the allocation of funding in the budget.

Authority to authorise the decision to seek expressions of interest is subject to regulation 21(1) of the *Local Government (Functions and General) Regulations 1996*.

r21 (1) If a local government thinks that there is good reason to make a preliminary selection from amongst prospective tenderers; it may seek expressions of interest with respect to the supply of the goods or services.

Written authorisation should be prepared for the CEO's consideration. The officer seeking the tender to be called, or expression of interest, shall provide supporting information for the tender or expression of interest.

Amendments		
Date	Details	Reference



FINANCE & ADMINISTRATION

4.10 Agreement as to Payments of Rates and Service Charges

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Statutory power being delegated - *Local Government Act 1995*.

s6.49 A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Conditions attached to Delegation

Authority is subject to the arrangements agreed to on the basis that the total debt outstanding will be extinguished by 30 June the following year.

Amendments		
Date	Details	Reference

4.11 Authority to Waive Fees

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to waive or grant a concession in relation to any amount of money which is owed to the Shire of Nungarin.

Statutory power being delegated - *Local Government Act 1995*.

s6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant a discount or other incentive for the early Payment of any amount of money; or
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,

Conditions attached to Delegation

The authority to waive or grant a concession is limited to the amount of \$2,000.

The authority to waive or grant a concession does not apply to an amount of money owing in respect of rates and service charges (s6.12(2) *Local Government Act 1995*).

s6.12(2) subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

Amendments		
Date	Details	Reference

4.12 Authority to Write Off Monies

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to write off any amount of money which is owed to the Shire of Nungarin.

Statutory power being delegated: *Local Government Act 1995.*

s6.12. Power to defer, grant discounts, waive or write off debts

- (1) Subject to subsection (2) and any other written law, a local government may —
(c) write off any amount of money

Conditions attached to Delegation

The debt must not exceed \$500 for an individual;

The maximum rates write off is \$500;

All necessary measures have been taken to recover the money;

The debt has remained outstanding for not less than 90 days.

Amendments		
Date	Details	Reference

4.13 Extension of Payment Time, Waiver or Reduction of Penalties, Withdrawal of Infringement Notices

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43, s5.44 and 9.10 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the power to appoint Authorised Persons to grant extensions of time to pay, waive or reduce penalties and withdraw infringement notices related to local laws.

Authority for exercise of Delegation: *Local Government Act 1995.*

s6.12(1)(b) Subject to subsection (2) and any other written law, a local government may — waive or grant concessions in relation to any amount of money;

s6.12(3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.

s9.10 Appointment of authorised persons

s9.11 Persons found committing breach of Act to give name on demand

Conditions attached to Delegation

Delegation is subject to an objection being received as a result of a decision being made by an Authorised Person not to withdraw an infringement and is referred to the Chief Executive Officer for determination.

The local government is to issue each Authorised Person a certificate stating that the person is an authorised person for the purposes of granting an extension of time to pay, waive or reduce penalties and withdraw infringement notices related to local laws.

Amendments		
Date	Details	Reference

4.14 Grants and Subsidies – Application and Acceptance

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to apply for grants and subsidies.

The Chief Executive Officer is delegated the authority to accept grants and subsidies.

Statutory power being delegated: *Local Government Act 1995.*

s6.15 (1) A local government may receive revenue or income from various sources authorised by the act or another written law or from dealings in property or grants or gifts

Conditions attached to Delegation

All applications must be in accordance with the Council's strategic objectives.

Council approval is required prior to acceptance unless the grant or subsidy is included in the budget.

The impact on subsequent budgets must be considered prior to the acceptance of the grant or subsidy.

Amendments		
Date	Details	Reference

4.15 Municipal Fund and Trust Fund

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to manage the municipal and trust funds of the Council.

Where local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, each payment from the municipal fund or the trust fund is to be noted on a list compiled for each month which is to be presented to the next ordinary meeting of Council.

The Chief Executive Officer is delegated the authority to approve expenditure on goods and or services and programs/projects.

Statutory power being delegated: *Local Government Act 1995.*

s6.6 Funds to be established

(1) A local government is to have —

- (a) a municipal fund; and
- (b) a trust fund.

(2) The municipal fund is to be kept separate and distinct from the trust fund.

s6.7 Municipal fund

(1) All money and the value of all assets received or receivable by a local government are to be held and brought to account in its municipal fund unless required by this Act or any other written law to be held in the trust fund.

(2) Money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by this Act or any other written law.

s6.8 Expenditure from municipal fund not included in annual budget

s6.9 Trust fund

Conditions attached to Delegation

The Chief Executive Officer must ensure:

- There is appropriate internal control over expenditure including credit cards, purchasing cards and other devices by which services, goods or other benefits may be made;
- That only those properly authorised are paid and that the goods or services were provided in a satisfactory condition and standard;
- Compliance with statutory requirements; and
- Compliance with Council policy.

The extent of expenditure is limited to the amounts and requirements set out in the Purchasing Policy.

Amendments		
Date	Details	Reference

4.16 Payment of Accounts

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to make payments from the municipal fund and the trust fund within budget limits.

The Chief Executive Officer is delegated the authority to develop procedures for the authorisation of and the payment of accounts.

The Chief Executive Officer is delegated the authority to develop procedures for the approval of accounts.

Statutory power being delegated - *Local Government (Financial Management) Regulations 1996.*

r 11 Payments, procedures for making etc.

Conditions attached to Delegation

Each payment is to be noted on a list compiled for each month showing:

- The payee's name;
- The amount of the payment;
- The date of the payment; and
- Sufficient information to identify the transaction.

Ensure that there is effective security for, and properly authorised use of:

- Cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices or methods by which goods, services or money or other benefits may be obtained; and
- Petty cash systems.

Ensure that before payment of an account, a determination is made that:

- The relevant debt was incurred by a person who was properly authorised to do so;
- The goods or services to which each account relates were provided in a satisfactory condition or to a satisfactory standard, as the case requires.

Amendments		
Date	Details	Reference

4.17 Power to Invest

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to invest any monies held in the trust fund or the municipal fund that is not, for the time being, required by the local government for any other purpose, may be invested in accordance with Part III of the *Trustees Act 1962*, in association with Council's Policy.

The Chief Executive Officer is delegated the authority to establish and document internal control procedures to be followed by employees to ensure control over assets.

Statutory power being delegated - *Local Government Act 1995*.

s6.14(1) Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the *Trustees Act 1962* Part III.

Conditions attached to Delegation

Investment decisions for sums greater than \$500,000 are to be made by Council.

Investments must only be made with Australian registered financial institutions including the Western Australian Treasury Corporation.

Control procedures are to enable the identification of:

- The nature and location of all investments; and
- The transactions related to each investment.

Amendments		
Date	Details	Reference

4.18 Rate Record

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to:

- Compile the necessary rate records as specified in the *Local Government Act 1995* (“the Act”) and reassess rates payable;
- Serve rates notices in accordance with the Act;
- Enter into agreements in accordance with the Act for payment of rates and service charges;
- Determine the date that a rate or service charge becomes due and payable under the Act;
- Recover rates and service charges in accordance with the Act;
- Lodge caveats on land where the rates are in arrears and it is considered that the interests of the Council should be protected and the subsequent withdrawal of caveats once arrears of rates have been settled;
- Exercise discretion in regard to granting of any extension of time for service of objection to the rate book;
- Allow or disallow any objection to the rate record lodged and to serve notice of the decision and a statement of reasons for the decision upon the person lodging the objection;
- Extend the period for receipt of a notice and to refer notices received to the land valuation tribunal.

Authority, from time to time, to amend a rate record for the current financial year to ensure that the information contained in the record is current and correct and that the record is in accordance with the *Local Government Act 1995* and issue an interim rate assessment, refund or credit as a result of such an amendment.

A local government *may* amend the rate record for the five years preceding the current financial year.

Statutory power being delegated - *Local Government Act 1995*

Division 6 Rates and service charges

ss6.39 (1), 6.39(2), 6.41, 6.49, 6.50(1), 6.50(2), 6.56(1), 6.60(2), 6.60(3), 6.60(4), 6.64(3), 6.76(1), 6.76(4), 6.76(5), 6.76(6) and 6.69(3)

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.19 Rates or Service Charges Recoverable in Court

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to recover a rate or service charge which remains unpaid after it becomes due and payable, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

Statutory power being delegated - *Local Government Act 1995*.

s6.56 (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

Conditions attached to Delegation

Authority is subject to the recovery action having been taken in accordance with Council's Policy.

Amendments		
Date	Details	Reference

4.20 Recovery of Impounding Expenses

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43 and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to recover, from a convicted offender expenses incurred by the local government in removing, impounding and disposing of goods, which have been removed and impounded under s3.39 of the *Local Government Act 1995*.

Statutory power being delegated - *Local Government Act 1995*.

s3.48 If goods are removed and impounded under section 3.39 and the alleged offender is convicted, the local government may, by action in a court of competent jurisdiction, recover from the alleged offender

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference



DEVELOPMENT

4.21 Building Act 2011 – Building and Demolition Permits

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the power to perform the following functions:

1. Refer an uncertified application to a building surveyor [in circumstances set out in s.17(1)].
2. Require the applicant to provide any document or information that it requires to determine the application and to verify the information by statutory declaration [s.18(1)].
3. Refuse to consider an application [s.18(2)].
4. Grant a building permit [ss.20 and 23].
5. Refuse to grant a building permit [ss.20 and 23, including in the circumstances in ss.22(1) and (2)].
6. Grant a demolition permit [ss.21 and 23].
7. Refuse to grant a demolition permit [ss.21 and 23, including in the circumstances in ss.22(1) and (2)].
8. Refund the fee that accompanied an application to the applicant if no decision is made within the time mentioned in ss.23(1) and (2) [s.23(4)].
9. Record the grounds on which a decision to refuse to grant a building permit or 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].
10. Impose conditions on the grant of a permit in addition to any provided for in the Regulations, including specifying the way in which an outward facing side of a particular close wall must be finished [ss.27(1) and 88(3)].
11. Add, vary or revoke conditions imposed on a permit before the building work or demolition work is completed [s.27(3)].
12. Refuse to accept an application to extend the time during which a permit has effect made after the expiry day for the permit [r.23(3)].
13. Extend the time during which a permit has effect and impose conditions on the extended permits [s.32, rr.24(1) and (2)].
14. Refuse to extend the time during which a permit has effect [r.24(1)].
15. Approve a new person to be named as the builder on the building permit and amend the details set out in the permit accordingly [r.26(3) and (4)].
16. Approve a new person to be named as the demolition contractor on the demolition permit and amend the details set out in the permit accordingly [r.26(3) and (4)].

Statutory power being delegated - *Building Act 2011*.

s18 (1) A permit authority to which an application is made may require the applicant to give the permit authority, within a specified time of not more than 21 days, any document or information that it requires to determine the application and may require the applicant to verify the information by statutory declaration.

s20 (1) (a) A permit authority to which a certified application or an uncertified application is made must grant the building permit if it is satisfied — that the applicant has complied with section 16;

s21 (1) (a) The permit authority to which an application for a demolition permit is made must grant the demolition permit if it is satisfied — that the applicant has complied with section 16;

s27(1) A permit authority may impose conditions on the grant of a building permit or demolition permit in addition to any provided for in the regulations.

s127 (1) . A special permit authority or a local government may delegate any of its powers or duties as a permit authority under another provision of this Act.

Building Regulations 2012.

r23 Application to extend time during which permit has effect (s. 32)

r24 Extension of time during which permit has effect (s. 32(3))

r26 Approval of new responsible person (s. 35(c))

Conditions attached to delegation

Authority to delegate is limited by s127 *Building Act 2011*.

s127 (6A) The CEO of a local government may delegate to any other local government employee a power or duty of the local government that has been delegated to the CEO under this section but in the case of such a power or duty —
(a) the CEO’s power under this subsection 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, qualifications, limitations or exceptions imposed by the local government on its delegation to the CEO.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.22 Building Act 2011 – Building Information

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the power to perform the following functions:

1. Keep a register of all building permits, demolition permits, occupancy permits and building approval certificates granted by it, and all building orders made by it, in an approved manner and form [s.128(1), (2)].
2. Amend the register to reflect the variation or revocation of a condition of, or any other change reflecting to that effect of, a building permit, a demolition permit, an occupancy permit, a building approval certificate or a building order resulting from a decision of the permit authority or information given to the permit authority [s.128(3)].
3. Make the register available for inspection by members of the public during normal office hours [s.129(1)].
4. On application by any person and on payment of the prescribed fee, if any, provide to the person a copy of a building permit, a demolition permit, an occupancy permit, a building approval certificate or a building order that is kept in the register [s.129(2)].
5. Keep in the manner and for the prescribed period such of the prescribed documents that comprise, accompany, are provided for in, are issued as a result of, or otherwise relate to the building or incidental structure that is the subject of -
 - a. An application for a building permit or demolition permit, or
 - b. An application of a kind mentioned in Part 4 Division 2; or
 - c. An inspection of a prescribed kind [s.130].
6. Allow an interested person to inspect a building record and provide to the interested person a copy of the building record [s.131(2)].
7. Give the Building Commissioner prescribed information for inclusion in the annual report submitted under the *Financial Management Act 2006* Part 5 by the accountable authority [s.132(1)] and provide a record or information requested by the Building Commissioner [s.132(3), r.14].

Statutory Power Being Delegated - *Building Act 2011*.

s110 Building orders

s 117 Revocation of building order

s 118 Permit authority may give effect to building order if non-compliance

Conditions attached to Delegation

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.23 Building Act 2011 – Building Orders

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the power to perform the following functions:

Make an order in respect of one or more of the following –

1. Particular building work;
 - a. Particular demolition work;
 - b. A particular building or incidental structure, whether completed before or after commencement day [s.110(1)].
 - c. Specify the way in which an outward facing side of a particular close wall must be finished [s.88(3)].
2. Before making a building order, give each person to whom the order is proposed to be directed written notice of the terms of the proposed order and reasons for it and advise each person of time in which they may make submissions and consider each submission received [s.111(1)].
3. Serve a copy of the order on each person to whom the order is directed in accordance with s.76 of the *Interpretation Act 1994* [s.1114(1)].
4. Revoke a building order at any time [s.117(1)].
5. Decide whether the building order has been fully complied with and either revoke the building order or inform each person to whom the order is directed that the building order remains in effect, within 28 days of receiving a notification under s.112(3)(c) [s.117(2)].
6. Cause an authorised person to – Take any action specified in the order; or
 - a. To commence or complete any work specified in the order; or
 - b. If any specified action was required by the order to cease, to take such steps as are reasonable in the circumstances to cause the action to cease [s.118(2)].
 - c. Recover as a debt from a person who has been served with a copy of a building order the reasonable costs and expenses incurred in doing anything under s.118(2) [s.118(3)].

Statutory Power Being Delegated - *Building Act 2011*.

s110 Building orders

s117 Revocation of building order

s118 Permit authority may give effect to building order if non-compliance

Conditions attached to Delegation

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.24 Building Act 2011 – Enforcement – Authorised Persons

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the authority to perform the following functions:

1. Designate a person employed by the local government. According to s.96 (3) of the Building Act., a local government may, by instrument in writing, designate a person employed by the local government under the Local Government Act 1995 section 5.36, as an authorised person for the purposes of this Act in relation to buildings and incidental structures located, or proposed to be located, in the district of the local government
2. Revoke a designation at any time [s.96(6)]
3. Limit the powers of an authorised person by imposing conditions on a person’s instrument of designation or by written notice and at any time revoke or vary such condition or notice [s.99(2)(3)].
4. Give an identity card to each person designated by it as an authorised person [s.97]
5. Cause an authorised person to –
 - a. Take any action specified in the order; or
 - b. To commence or complete any work specified in the order; or
 - c. If any specified action was required by the order to cease, to take such steps as are reasonable in the circumstances to cause the action to cease [s.118(2)].
6. Recover as a debt from a person who has been served with a copy of a building order the reasonable costs and expenses incurred in doing anything under s.118(2) [s.118(3)].

Statutory power being delegated - *Building Act 2011*.

s96 Authorised Persons

s99 Limitation on powers of authorised person

Conditions attached to Delegation

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.25 Building Act 2011 – Infringement Notices

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the power to appoint certain persons as Authorised Officers to issue infringement notices and/or extend the period for payment of, or the withdrawal of infringement notices, under the *Building Act 2011* and *Building Regulations 2012*.

Statutory power being delegated - *Building Regulations 2012*.

Regulation 70 (2) Building Regulations 2012 – a permit authority that is a local government may, in writing, appoint to be an authorised officer for the purposes of the Criminal Procedure Act 2004 section 6(b) a person appointed under the Local Government Act 1995 section 9.10(1) and authorised for the purpose of performing functions under section 9.16 of that Act.

Conditions attached to delegation

Authorised persons to issue infringement notices:

- Chief Executive Officer

Withdrawal of infringement notices:

- Only the Chief Executive Officer may withdraw infringement notices.

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.26 Building Act 2011 – Occupancy Permits and Building Approval Certificates

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the power to perform the following functions:

1. Requires the applicant of an occupancy permit or building approval certificate to provide any document or information that it requires to determine the application and to verify the information by statutory declaration [s.55(1)].
2. Refuse to consider an application [s.55(2)].
3. Grant or modify the occupancy permit or grant the building approval certificate [ss.58(1) and 59].
4. Refuse to grant or modify the occupancy permit or grant the building approval certificate [including in the circumstances set out in ss.58(2) and (3)].
5. Record the grounds on which a decision to refuse to grant or modify an occupancy permit or grant a building approval certificate is based, and the reasons for the decision and give to the person to whom the decision relates written notice of the decision together with those grounds and reasons and the person's right to review [s.60].
6. Impose conditions on the occupancy permit or modification or building approval certificate in addition to any provided for in the Regulations [s.62(1)].
7. Add, vary or revoke conditions while the occupancy permit or building approval certificate has effect [s.62(3)].
8. 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)].
9. Extend the period in which the occupancy permit or modification or the building approval certificate has effect [s.65(4)].
10. Refuse to extend the time during which an occupancy permit or a building approval certificate has effect or extend the permit or certificate for shorter period than requested by the applicant and, if so, record the grounds on which a decision is based and the reasons for the decision, and give written notice of the decision together with those grounds and reasons, and the person's right of review [s.65, r.40(5)]
11. Refuse to accept an application to extend the time during which an occupancy permit or a building approval certificate has effect [r.40(2)].

Statutory Power Being Delegated

Building Act 2011.

s55 Further information

s58 Grant of occupancy permit, building approval certificate

s62 Conditions imposed by permit authority

s65 Extension of period of duration

Building Regulations 2012.

r40 Extension of period of duration of time limited occupancy permit or building approval certificate (s. 65)

Conditions attached to Delegation

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.27 Building Act 2011 – Private Swimming Pools

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the power to:

1. Approve alternative requirements to r.50(4)(b) if satisfied that the alternative requirements will restrict access by young children to the swimming pool as effectively as if there were compliance with Australian Standard AS 1926.1 [r.51(2)].
2. Approve a door for the purposes of r.50(4)(c)(ii) if the door is in accordance with the requirements of Australian Standard AS 1926.1 and the conditions in r.51(3) are satisfied [r.51(3)].
3. Arrange for an authorised person to inspect the enclosures of private swimming pools in the district at intervals of no more than 4 years for the purpose of monitoring whether the provisions in rr.50 and 52 the Regulations are complied with [rr.50, 52 and 53(1)].

Statutory Power Being Delegated - *Building Regulations 2012*

r51 Approvals by permit authority

r53. Inspection of barrier to private swimming pool

Conditions attached to Delegation

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.28 Building Act 2011 – Smoke Alarms

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the authority to approve the use, in a dwelling or in part of the dwelling, of a battery powered smoke alarm and to give approval in relation to an alarm that was installed before the approval is to be given [r.60(1) and (2)].

Statutory Power Being Delegated - *Building Regulations 2012.*

r61 Local government approval of battery powered smoke alarms

Conditions attached to Delegation

Authority to delegate is limited by s127 *Building Act 2011*.

Records of determinations made under delegation to be kept on appropriate file or register.

Amendments		
Date	Details	Reference

4.29 Building Permit Fees – Refunds and Exemptions

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s127(1) Building Act 2011

Delegation

The Chief Executive Officer is delegated the authority to determine applications for the refund of building permit fees where a building project is abandoned after issue of the permit.

The Chief Executive Officer is delegated the authority to determine any applications from sporting, charitable or community organisations for exemption from payment of any building permit fees.

Authority for exercise of Delegation - *Local Government Act 1995.*

s6.12(1) Subject to subsection (2) and any other written law, a local government may_

- (b) waive or grant concessions in relation to any amount of money or
- (c) write off any amount of money

6.12(3) The grant of a concession under subsection (1)(b) maybe subject to any conditions determined by the local government

Conditions attached to Delegation

Any refund shall not exceed 50% of the fee paid and no refund is to be made when the project is abandoned after the expiry of 12 months from the date of issue of the permit.

Refund provisions only relate to that part of the fee retained by Council and not to any other part collected on behalf of a State Government agency including the Builder's Registration Board levy that commenced on 1 August 2001.

Amendments		
Date	Details	Reference

4.30 Planning and Development Act 2005

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s142 Planning and Development Act 2005

Delegation

The Chief Executive Officer is delegated the authority to object to or make recommendations in response to a plan of subdivision which, in the opinion of the Western Australian Planning Commission, may affect the functions of a local government, pursuant to Section 142 of the *Planning and Development Act 2005*. This function will include:

- The setting of standards for the satisfaction of conditions;
- Advising that conditions have been satisfied;
- The acceptance and release of performance bonds.

For the purpose of the above powers of delegation, vacant lot strata and survey strata applications shall be regarded as subdivision.

Statutory Power being Delegated - *Planning and Development Act 2005*.

Part 10 Subdivision and development control

Conditions attached to Delegation

Power is delegated to the Chief Executive Officer subject to any objection to, or recommendation on, any application for subdivision which is not consistent with adopted Council Policy being referred to Council for determination.

Amendments		
Date	Details	Reference

4.31 Administration of Local Planning Scheme

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	

To be developed on gazettal of Local Planning Scheme

Amendments		
Date	Details	Reference

4.32 Food Act 2008 – Appointment of Authorised Persons and Designated Officers

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s118 Food Act 2008, Food Regulations 2009

Delegation

The Chief Executive Officer is delegated the authority to appoint a person to be an authorised person for the purposes of the *Food Act 2008*.

The Chief Executive Officer is delegated the authority to appoint a person to be a Designated Officer for the purposes of the *Food Act 2008*.

Statutory power being delegated - *Food Act 2008*.

s38 Entry, inspection and seizure

s62 Issuing of Improvement Notices

s122 Appointment of authorised officers

s126 (2) Issuing of Infringement notices

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.33 Food Act 2008 – Prohibition Orders

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s118 Food Act 2008, Food Regulations 2009

Delegation

The Chief Executive Officer is delegated the authority to:

1. Serve a Prohibition Order on the proprietor of a food business in accordance with s65 of the *Food Act 2008*.
2. Give a Certificate of Clearance, where inspection demonstrates compliance with a Prohibition Order and any Improvement Notices.
3. Give written notice to the proprietor of a food business on whom a Prohibition Order has been served of the decision not to give a certificate of clearance after an inspection.

Statutory power being delegated - *Food Act 2008*.

s65 Prohibition order

s66 Certificate of clearance to be given in certain circumstances

s67(4) The CEO or other enforcement agency must give written notification to the proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection under this section or section 66.

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.34 Food Act 2008 – Prosecutions

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s118 Food Act 2008, Food Regulations 2009

Delegation

The Chief Executive Officer is delegated the authority to institute proceedings for an offence under the *Food Act 2008*.

Statutory power being delegated - *Food Act 2008*.

s125 Institution of proceedings

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.35 Food Act 2008 – Registration of Food Business

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s118 Food Act 2008, Food Regulations 2009

Delegation

The Chief Executive Officer is delegated the authority to:

1. Register a food business in respect of any premises for the purposes of Part 9 of the *Food Act 2008* and issue a certificate of registration.
2. After considering an application, determine to grant (with or without conditions) or refuse the application.
3. Vary the conditions or cancel the registration of a food business in respect of any premises under Part 9 of the *Food Act 2008*.

Statutory power being delegated - *Food Act 2008*.

s110 (1) The appropriate enforcement agency may register a food business in respect of any premises for the purposes of this Part.

s110 (5) The appropriate enforcement agency may, after considering an application for registration —

- (a) grant the application, with or without conditions; or
- (b) refuse the application.

s112 Variation of conditions or cancellation of registration of food businesses

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference



WORKS & SERVICES

4.36 Bush Fires Act 1954 – Powers and Duties

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s48 Bush Fires Act 1954

Delegation

The Chief Executive Officer is delegated the authority to exercise the powers and duties of a local government, and to administer and enforce the provisions of the *Bush Fires Act 1954*.

Authority for exercise of Delegation - *Bush Fires Act 1954*.

(s48(1) A local government may, in writing, delegate to its Chief Executive Officer the performance of any of its functions under this Act

Conditions attached to Delegation

A delegation under this section does not include the power to sub-delegate (s48(3) *Bush Fires Act 1954*).

Amendments		
Date	Details	Reference

4.37 Bush Fires Act 1954 – Prohibited and Restricted Burning Times

Delegation From	Council
Delegation To	Shire President Chief Bush Fire Control Officer Chief Executive Officer
Legislative Authority for Delegation	s17(10) Bush Fires Act 1954

Delegation

The Chief Executive Officer is delegated the authority to vary the prohibited and restricted burning times, in accordance with ss17(7) and (8) and s18(5) of the *Bush Fires Act 1954*, regarding:

- Shortening, extending, suspending or reimposing a period of prohibited or restricted burning times; or
- Imposing a further period of prohibited burning times.

Authority for exercise of Delegation - *Bush Fires Act 1954*.

s17(10) A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8). of this Act

Conditions attached to Delegation

Decisions under this delegation must be a decision made jointly between the delegates.

Amendments		
Date	Details	Reference

4.38 Bush Fires Act 1954 – Prosecutions

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s59(3) Bush Fires Act 1954

Delegation

The Chief Executive Officer is delegated the authority to consider allegations of offences alleged to have been committed under the *Bush Fires Act 1954*, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences, and to pay out of its funds any costs and expenses incurred in or about the proceedings.

Authority for exercise of Delegation - *Bush Fires Act 1954*.

s59(3) A local government may, by written instrument of delegation, delegate authority generally, or in any class of case, or in any particular case, to its bush fire control officer, or other officer to consider allegations of offences alleged to have been committed against this Act in the district of the local government.

Conditions attached to Delegation

Only the Chief Executive Officer or Shire President may withdraw an infringement notice r4(a) of the *Bush Fires (Infringements) Regulations 1978*.

Amendments		
Date	Details	Reference

4.39 Cat Act 2011 - Delegations

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s44 and s45 Cat Act 2011

Delegation

The Chief Executive Officer is delegated the authority of the local government to administer its local laws and do all other things that are necessary or convenient to be done for or in connection with performing its functions under the Cat Act 2011.

Legislative Power - Cat Act 2011

s42 A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.

s44(1) *Cat Act 2011*: The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Act.

Delegation of power of administration: delegation by CEO: s45

The Chief Executive Officer delegates the authority of the local government to administer its local laws and do all other things that are necessary or convenient to be done for, or in connection with, performing its function under the Cat Act 2011.

s45 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 another provision of this Act.

Delegation of power for all purposes under the *Cat Act 2011* and *Cat Regulations 2012*, including the registration of cats under Section 9 of the *Cat Act 2011*, excluding the giving or withdrawing of infringement notices under Sections 62, 64 and 65 of the *Cat Act 2011* to the following officers:

- Senior Finance and Administration Officer
- Finance and Administration Officer

Delegation of power by the CEO for all purposes under the *Cat Act 2011* and *Cat Regulations 2012*, including the registration of cats under section 9 of the *Cat Act 2011* including the issue of infringement notices but excluding the withdrawal of infringement notices to the following:

- Shire Ranger

Delegation of power by the Chief Executive Officer to withdraw an infringement notice under section 62 of the *Cat Act 2011* to the following officers:

- Nil

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.40 Disposing of Confiscated or Uncollected Goods

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43, and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to sell or otherwise dispose of any goods which have not been collected in accordance with a notice given, as per s3.47 *Local Government Act 1995* however, where the value of any tender exceeds \$1500 the tender is to be determined by Council.

Statutory power being delegated - *Local Government Act 1995*.

s 3.47 Confiscated or uncollected goods, disposal of

s3.47A Sick or injured animal, disposal of

Conditions attached to Delegation

Tenders exceeding the amount of \$1500 are to be determined by Council.

Amendments		
Date	Details	Reference

4.41 Entry to Property

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43, and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority, in an emergency, to lawfully enter any land, premises or thing immediately and without notice and perform any of its functions as it considers appropriate to deal with the emergency as determined by the Chief Executive Officer.

Authority to exercise all of the powers and duties of the local government in respect to the powers of entry upon land.

Statutory power being delegated - *Local Government Act 1995.*

s3.31(2) Except in an emergency or if the entry is authorised by the warrant of a justice, entry by or on behalf of a local government on to any land, premises or thing is not lawful unless —

- (a) the consent of the owner or occupier has been obtained; or
- (b) notice has been given under section 3.32.

s3.34(1) In an emergency a local government may lawfully enter any land, premises or thing immediately and without notice and perform any of its functions as it considers appropriate to deal with the emergency.

s3.36(3) If this section applies and it is not practicable to enter land that is fenced through the existing and usual openings in the fence, the local government may, on giving 3 days' notice in writing to the owner or occupier of the land that it intends to do so, open the fence.

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.41 Impounded Non-Perishable Goods

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43, and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to either institute proceedings or give a notice stating where goods may be collected from, when any non-perishable goods have been removed and impounded under s3.39 of the *Local Government Act 1995*.

Statutory power being delegated - *Local Government Act 1995*.

s3.42 Impounded non-perishable goods

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.42 Notice to Collect Goods if Not Confiscated

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43, and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the authority to, give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified:

- where non-perishable goods have been removed and impounded and a prosecution is instituted, but the alleged offender is not convicted; or
- is convicted but the court does not order that the goods be confiscated.

Statutory power being delegated - *Local Government Act 1995.*

s3.44 Notice to collect goods if not confiscated

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.43 Power to Remove and Impound Goods

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.42, s5.43, and s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated the power to authorise an employee to remove and impound goods from a public place if the goods present a hazard to public safety or they obstruct the lawful use of any place or otherwise are involved in a contravention that can lead to impounding.

Statutory power being delegated - *Local Government Act 1995.*

s3.39(1) An employee authorised by a local government for the purpose may remove and impound any goods that are involved in a contravention that can lead to impounding.

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.44 Road Train and Extra Mass Permits

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated authority to determine any application recommending approval or refusal, with or without conditions, for referral to Main Roads WA to use road trains and for extra mass permits on any local road within the district.

Statutory power being delegated

Nil

Conditions attached to Delegation

Nil

Amendments		
Date	Details	Reference

4.45 Temporary Road Closures

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated authority to give the necessary notices and take all appropriate actions to temporarily close any thoroughfares for any period not exceeding 4 weeks.

Statutory power being delegated: *Local Government Act 1995.*

s3.50 Closing certain thoroughfares to vehicles

s3.50A Partial closure of thoroughfare for repairs or maintenance

Conditions attached to Delegation

- Any proposal to close a thoroughfare for longer than 4 weeks must be referred to Council.
- The permanent closure of thoroughfares is to be referred to Council.
- Roads shall only be temporarily closed for major infrastructure works, services and land developments. However, where it is likely to have a significant adverse effect on users, public notice should be given.
- All notices and advertisements are to clearly demonstrate that Council is not committed to the closure proposal, but is simply wanting comment to assist in determining whether to proceed with the closure or not.

Amendments		
Date	Details	Reference

4.46 Traffic Regulatory and Other Signs

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s5.44 Local Government Act 1995

Delegation

The Chief Executive Officer is delegated authority to make applications to Main Roads WA for approval to install stop and give way signs at such places as warranted and on receipt of the necessary approval to the appropriate signs erected in accordance with the approval.

Authority to arrange installation of "School Bus Stop" signs and other traffic regulatory signs as may be necessary.

Authority to erect street name signs and approved direction signs.

Authority for exercise of Delegation

Nil

Conditions attached to Delegation

Ensure that Council Policies are adhered to.

Amendments		
Date	Details	Reference

4.47 Graffiti Vandalism Act 2016 - Delegations

Delegation From	Council
Delegation To	Chief Executive Officer
Legislative Authority for Delegation	s16(1), s17(1) Graffiti Vandalism Act 2016

Delegation

The Chief Executive Officer is delegated the authority of the local government to deal with graffiti offences.

The Chief Executive Officer is delegated authority to appoint authorised officers that issue notices to offenders instructing them to remove graffiti. Local government officers are also authorised to enter properties under warrant to remove graffiti themselves. Authority to appoint authorised officers is in accordance with the Local Government Act 1995 s 9.10.

Legislative Power:

Graffiti Vandalism Act 2016

s16(1) The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Part.

s17(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 another provision of this Part other than this power of delegation.

Local Government Act 1995:

s9.10(1) The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

Authorised persons to issue infringement notices:

s18(2) A local government may give a notice in writing to a person who is the owner of property or the occupier of a place on which graffiti described in subsection (1) is applied, requiring the person to ensure that the graffiti is obliterated in a manner acceptable to the local government within a time set out in the notice.

The following are authorised officers to issue infringement notices excluding the withdrawal of infringement notices.

- Deputy Chief Executive Officer/Works Manager

Authorised persons to withdraw infringement notices:

- Chief Executive Officer

Conditions attached to delegation:

Local Government Act 1995

s9.10(2) The local government is to issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person.

Amendments		
Date	Details	Reference