

SHIRE OF
WESTONIA
A vibrant community lifestyle



Delegation of Authority Register (including Council appointed authorized persons & officers)

LAST REVIEWED

MARCH 2023 08/03-23 ITEM 9.1.6 DELEGATION MANUAL REVIEW

REVIEW

Reviewed by	Date approved	References
Council	17 Mar 2022	COUNCIL RES: 9.1.6 Review
Council	16 Mar 2023	08/03-23 Item 9.1.6 Delegation Manual Review



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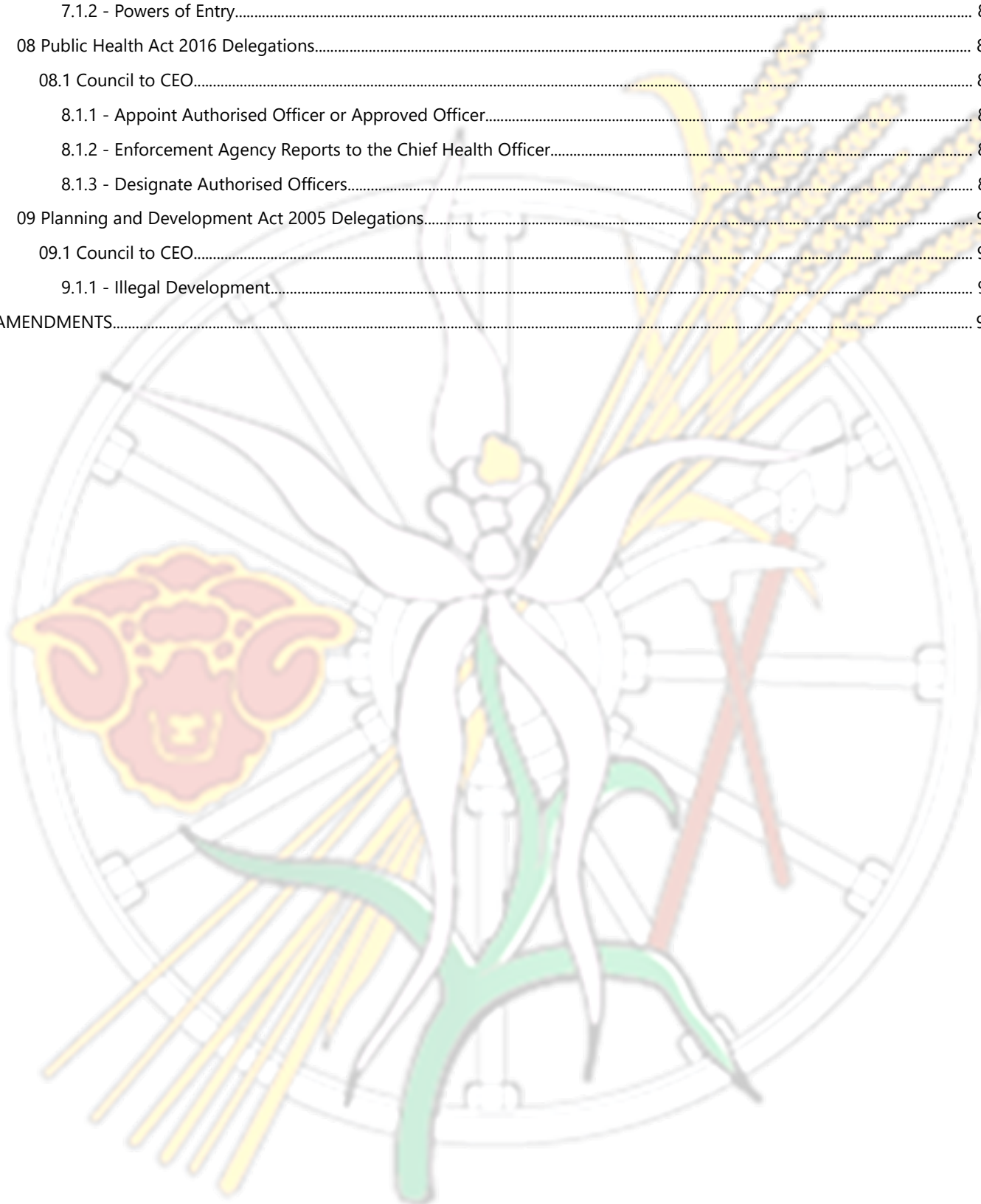
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INTRODUCTION

Introduction

The application of delegated authority is intended to improve the efficiency, effectiveness and timeliness of decision-making and is consistent with the Shire's Strategic Community Plan and commitment to a strong customer service focus. The Council (and the Chief Executive Officer in the case of most sub delegations) delegate matters where the relevant employees have the appropriate skills and expertise to implement the delegation or sub delegation within the Shire's decision-making frameworks. At the same time the exercise of all delegated and sub delegated authority is subject to complying with relevant policies of the Shire, which are referenced within each Instrument. An important safeguard is also the principle that nothing prevents the delegating body or person from taking back a delegation or sub delegation, or actually making the relevant decision on a particular issue.

Definitions

The terms used throughout this register are defined below:

Delegate the person (named by position title or office) or entity 'appointed' by the delegator, to act in place of the delegator for the purpose of exercising an express power or duty.

Delegation the process, prescribed in legislation, for assigning authority to exercise an express power or duty from the delegate to another person (named by position title or office) or an entity (the Delegate).

Delegator the person (named by position title or office) or entity in which the written law vests an Express Power or Duty whom delegates that Express Power or Duty.

Express Power or Duty a power or duty written (expressly) in legislation.

Express Power to Delegate a power (procedure) written (expressly) in legislation that enables the devolution of an Express Power or Duty from a Delegator to a Delegate.

Head of Power the legislation, which contains an express power to delegate and/or an express power or duty.

Instrument of Delegation the written form of a delegation. Legislation requires delegation be provided in writing. The instrument of delegation communicates the delegation from the Delegator to the Delegate.

Sub-delegate the person (named by position or title or office) or entity to which a Delegate has sub-delegated a power or duty, which has been delegated to that Delegate by the Delegator.

Local Government Act 1995

The majority of delegations and sub delegations described in this Register originate under the *Local Government Act 1995*, which permits a local government (by absolute majority decision under Section 5.42(1)) to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act except those listed in Section 5.43. The delegation powers under the *Local Government Act 1995* relate to the Act itself, Regulations made under the Act and Local Laws made under the Act.

The *Local Government Act 1995* allows the Chief Executive Officer to delegate any of the powers delegated to the Office of Chief Executive Officer to another employee (Section 5.44(1)), in writing (Section 5.44(2)) and may include conditions (Section 5.44(4)).

Review of Delegations

The *Local Government Act 1995* requires that a review of the Delegations Register occurs at least once every financial year. Delegations under other Acts may have different requirements. Where there is no statutory requirement for review, the provisions of the

Local Government Act 1995 shall be applied to ensure uniformity. The review will include the Chief Executive Officer reviewing all sub-delegations and authorisations.

Standard Conditions of Delegations

In accordance with Section 5.71 of the *Local Government Act 1995* and the Shire of Westonia's Code of Conduct, if an employee has been delegated a power or duty relating to a matter in which the employee has an interest, that employee must not exercise the power or discharge the duty and must, in the case of the CEO, disclose to the Shire President the nature of the interest, and in the case of any other employee, must disclose to the CEO the nature of the interest. The *Local Government Act 1995* contains severe penalties for failure to comply.

In accordance with Sections 5.75 and 5.76 of the *Local Government Act 1995*, the delegation of a power or duty to an employee triggers the requirement to make disclosures in primary and annual returns. The *Local Government Act 1995* contains severe penalties for failure to comply. It is the responsibility of each individual employee to ensure compliance.

Any delegation exercised shall comply with any laws and regulations in force, and the requirements of any Shire of Westonia Local Laws, Council Policies and resolutions of Council.

In accordance with Section 5.46(3) of the *Local Government Act 1995*, 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. Regulation 19 of the *Local Government (Administration) Regulations 1996* requires the person to whom the power or duty has been delegated to keep a written record of:

1. how the person exercised the power or discharged the duty;
2. when the person exercised the power or discharged the duty; and
3. the person 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.

Record of Actions and Decisions

If a person is exercising a power or duty that has been delegated (including sub delegated), the *Local Government Act 1995* requires that records be kept whenever the delegated authority is utilised (Section 5.46 (3)). Regulation 19 of the *Local Government (Administration) Regulations 1996* prescribes the information required to be recorded:

1. how the person exercised the power or discharged the duty;
2. when the person exercised the power or discharged the duty; and
3. 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.

Officers responsible for a delegated function, power or duty are to ensure that data is captured and records managed in accordance with all legislation, as well as preparing reports to Council where required.

Primary and Annual Returns

An employee to whom a duty or power is delegated under the *Local Government Act 1995* is considered a 'designated employee' under Section 5.74(1) of the Act and is required to complete a primary and annual return each year.

Matters which cannot be Delegated

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

1. Any power or duty that requires a decision of an absolute majority or special (75%) majority of the local government;
2. Accepting a tender which exceeds an amount determined by the local government;
3. Appointing an auditor;
4. Acquiring or disposing of any property valued at an amount determined by the local government;
5. Any of the local government's powers under Sections 5.98, 5.98A, 5.99A, 5.99 and 5.100 of the Act;
6. Borrowing money on behalf of the local government;
7. Hearing or determining an objection of a kind referred to in Section 9.5;
8. The power under Section 9.49(4) to authorize a person to sign documents on behalf of the local government;
9. Any power of duty that requires the approval of the Minister or Governor; or
10. Such other duties or powers that may be prescribed by the Act.

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

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

Delegation by the Chief Executive Officer to an Employee

Section 5.44(1) of the *Local Government Act 1995* allows for the Chief Executive Officer to delegate any of the powers to another employee other than the power of delegation. This must be done in writing as per Section 5.44(2). The Act also allows for the Chief Executive Officer to place conditions on any delegations if desired under Section 5.44(4).

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

1. How the person exercised the power or discharged the duty;
2. When the person exercised the power or discharged the duty; and
3. The persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty under Regulation 19 of *Local Government (Administration) Regulations 1996*.

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

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

There is no power for a person other than the CEO to delegate a power as stated in Section 5.44(1) of the Act.

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

Acting through another person

The *Local Government Act 1995* recognises that employees do not always need delegations (or sub delegations) to carry out their tasks and functions on behalf of the Shire. Section 5.45(2) of the Act states:

"Nothing in this Division (Division 4 - Local Government Employees) is to be read as preventing –

- a. a local government from performing any of its functions by acting through a person other than the Chief Executive Officer; or
- b. a Chief Executive Officer from performing any of his or her functions by acting through another person."

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. Thus, an employee may pay an account or issue an approval if directed to do so by another employee who has the authority to make such a decision and chooses to "act through" another employee. 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.

Using delegation to make decisions

Before using a delegated authority a delegate must familiarise themselves with the legislative framework that informs the decisions they will make under the Delegation.

Care should be taken to understand the legislative process, conditions and limitations relevant to the statutory power or duty. The delegate must also consider and apply policy, procedures or standards that are relevant to the decisions they are empowered to make and also ensure that they comprehensively understand the legal framework that informs their decision making.

Conflicts of Interest

A conflict of interest arises where a personal interest is in conflict with the public interest. Delegates must disclose any conflict of interest, which may require them to be removed from the decision making process. A Delegate may also refer the decision making back to the Delegator where they consider there is a risk or sensitivity which makes it more appropriate for the Delegator to make that decision.

The Shire's Code of Conduct requires that employees immediately disclose interests that could be in conflict, or could be perceived to be in conflict, with the performance of their public duties.

DELEGATIONS

01 Local Government Act 1995

01 Local Government Act 1995

01.1 Council to Committees of Council

Delegation	1.1.1 Audit and Risk Committee
Head of power	01 Local Government Act 1995
Delegator	Local Government
Express power to delegate	<i>Local Government Act 1995:</i> 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	<i>Local Government Act 1995:</i> s.7.12A(2), (3) & (4) Duties of Local Government with respect to audits
Function	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> a. examine the report of the Auditor and determine matters that require action to be taken by the shire of Westonia and b. ensure that appropriate action is taken in respect of those matters [s.7.12A(3)]. 3. Authority to review and endorse the Shire of Westonia's report on any actions taken in
Delegates	Audit and Risk 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	Nil. Sub-delegation is prohibited by s.7.1B.
Statutory framework	Local Government (Audit) Regulations 1996 Department of Local Government, Sport and Cultural Industries Operational Guideline No. 09 - The appointment, function and responsibilities of Audit Committees
Policy	Audit and Risk Committee Terms of Reference
Record keeping	Audit Committee Minutes shall record and identify each decision made under this delegation in accordance with the requirements of Administration Regulation 19.
Date adopted	17 March 2022

Adoption references

09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review

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01.2 Council to CEO

Delegation	1.2.1 Powers of Entry
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> 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	<ol style="list-style-type: none"> 1. Authority to exercise powers of enter to 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	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Chief Bush Fire Control Officer Construction Supervisor Deputy Chief Executive Officer Health & Building Officer
Subdelegate conditions	Conditions on the original delegation also apply to the subdelegation
Statutory framework	Local Government Act 1995: s.9.10 Appointment of authorised persons – refer also s.3.32(2)] Part 3, Division 3, Subdivision 3 – prescribes statutory processes for Powers of Entry
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
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Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review

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Delegation	1.2.2 Declare Vehicle is Abandoned Vehicle Wreck
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.3.40A(4) Abandoned vehicle wreck may be taken
Function	1. 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 1.2.6 Disposing of Confiscated or Uncollected Goods or alternatively, referred for Council decision.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Construction Supervisor Ranger
Subdelegate conditions	Conditions on the original delegation also apply to the sub delegation
Statutory framework	Local Government Act 1995 : Part 3, Division 3, Subdivision 3
Record keeping	All documentation relating to the disposal of a declared abandoned vehicle wreck is to be recorded in Compliance/Ranger/Abandoned Vehicles.
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
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Delegation	1.2.3 Confiscated or Uncollected Goods
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> 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	<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> a. Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may, in accordance with Functions and General Regulation 30, be disposed of by any means considered to provide best value, provided the process is transparent and accountable. b. The Delegation can only be used where the Delegate's reasonable efforts to identify and contract an owner have failed. c. If the market value is less than \$500, then the uncollected goods/abandoned vehicles are to be disposed of via a Private Treaty.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Statutory framework	Local Government Act 1995 : Part 3, Division 3, Subdivision 3 s.3.58 Disposing of Property – applies to the sale of goods under s.3.47 as if they were property referred to in that section.
Record keeping	All documentation relating to the disposal of a declared abandoned vehicle wreck is to be recorded in Compliance/Ranger/Abandoned Vehicles.
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Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
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Delegation	1.2.4 Close Thoroughfares to Vehicles
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfare for repairs or maintenance s.3.51 Affected owners to be notified of certain proposals
Function	<ol style="list-style-type: none"> 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: <ul style="list-style-type: none"> • give; public notice, written notice to the Commissioner of Main Roads and written notice to prescribed persons and persons that own prescribed land; and • 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 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 draining water from a thoroughfare to private land
Delegates	CEO
Conditions	<ol style="list-style-type: none"> a. 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)]. b. Where the closure is required for the conduct of an event, the requirements of the <i>Road Traffic (Events on Roads) Regulations 1991</i> will be applied.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Construction Supervisor
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation

Statutory framework	Local Government Act 1995: Part 3, Division 3, Subdivision 3 Road Traffic (Events on Roads) Regulations 1991 Local Government (Uniform Local Provisions) Regulations 1996 <i>Activities on Thoroughfares Local Law</i>
Record keeping	Local Government Property Local Law Record Keeping: Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
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Delegation	1.2.5 Obstruction of Footpaths and Thoroughfares
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<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	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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
Delegates	CEO
Conditions	<ol style="list-style-type: none"> a. Actions under this Delegation must comply with procedural requirements detailed in the <i>Local Government (Uniform Local Provisions) Regulations 1996</i>. b. Permission may only be granted where, the proponent has: <ol style="list-style-type: none"> i. Where appropriate, obtained written permission from each owner of adjoining or adjacent property which may be impacted by the proposed obstruction. ii. 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. iii. Provided evidence of sufficient Public Liability Insurance. iv. Provided pedestrian and traffic management plans which are sufficient for
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Subdelegates	Construction Supervisor
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation.
Statutory framework	Local Government (Uniform Local Provisions) Regulations 1996 Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995 Road Traffic (Events on Roads) Regulations 1991 Activities on Thoroughfares Local Law Local Government Property Local Law
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	1.2.6 Performing Particular things on Land which is not Local Government's Property
Head of power	01 Local Government Act 1995
Delegator	Local Government
Express power to delegate	<i>Local Government Act 1995:</i> s.3.27 Particular things local governments can do on land that is not local government property Sch.3.2 Particular things local governments can do on land even though it is not local government property.
Express power or duty delegated	<i>Local Government Act 1995:</i> s.3.27 Particular things local governments can do on land that is not local government property Sch.3.2 Particular things local governments can do on land even though it is not local government property.
Function	Authority to carry out things as follows: <ol style="list-style-type: none"> 1. Carry out works for the drainage of land [Sch.3.2(1)]; 2. Do earthworks or other works on land for preventing or reducing flooding [Sch.3.2(2)]; 3. Take from land any native growing or dead timber, earth, stone, sand or gravel that, in its opinion, the local government requires for making or repairing a thoroughfare, bridge, culvert, fence or gate [Sch.3.2(3)]; 4. Deposit and leave on land adjoining a thoroughfare any timber, earth, stone, sand, gravel, and other material that persons engaged in making or repairing a thoroughfare, bridge, culvert, fence or gate do not, in the opinion of the local government, require [Sch.3.2(4)]; 5. Make a temporary thoroughfare through land for use by the public as a detour while work is being done on a public thoroughfare [Sch.3.2(5)]; 6. Place on land signs to indicate the names of public thoroughfares [Sch.3.2(6)]; and 7. Make safe a tree that presents serious and immediate danger, without having to give the owner the notice otherwise required by regulations [Sch.3.2(7)].
Delegates	CEO
Conditions	An effort must have been made to notify the owner(s) and seek approval prior to works being carried out
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Construction Supervisor
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Local Government Act 1995 Local Government (Uniform Local Provisions) Regulations 1996

Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Last reviewed	16 March 2023



Delegation	1.2.7 Notices Requiring Things to be done by Owner or Occupier of Land and Additional Powers when Notice is Given
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.3.25 Notices requiring certain things to be done by owner or occupier of land Sch.3.1 Powers under notices to owners or occupiers of land Sch.3.2 Particular things local governments can do on land even though it is not local government property <i>Local Government (Uniform Local Provisions) Regulations 1995</i> r.11 Dangerous excavation in or near public thoroughfare – Sch. 9.1 cl. 6
Function	Authority to exercise the powers and duties of the local government in relation to notices requiring certain things to be done by owner or occupier of land and additional powers when notice is given.
Delegates	CEO
Conditions	Must comply with relevant Council Policies.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Construction Supervisor
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Local Government Act 1995 Local Government (Uniform Local Provisions) Regulations 1996 Note – Decisions under this delegation may be referred for review by the State Administration Tribunal.
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Delegation	1.2.8 RAV Network Requests
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.3.53 Control of certain unvested facilities.
Function	Authority to approve or reject applications to use RAV Network 2, 3 & 4 combinations on all local roads considered suitable for use by that combination.
Delegates	CEO
Conditions	<ul style="list-style-type: none"> a. All applications must be made in writing and will be subject to assessment against criteria and conditions stipulated in Council Policy – Restricted Access Vehicle Policy. b. All applications for Network 5 and above are to be presented to Council for determination.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Construction Supervisor
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Road Traffic Act 1974 MRWA Guidelines
Policy	Council Policy – Restricted Access Vehicle Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
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Delegation	1.2.9 Reserves Under Control of Local Government
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.3.54(1) Reserves under control of local government
Function	Authority to do anything for the purpose of controlling and managing land under the control and management of the Shire that the Shire could do under s.5 of the Parks and Reserves Act 1895 [s.3.54(1)]
Delegates	CEO
Conditions	Limited to matters where the financial implications do not exceed a relevant and current budget allocation and which do not create a financial liability in future budgets.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Construction Supervisor Deputy Chief Executive Officer
Subdelegate conditions	<ul style="list-style-type: none"> a. Conditions on the original delegation also apply to the sub- delegation b. Must comply with relevant Council Policies
Statutory framework	Local Government Act 1995 : Part 3, Division 3, Subdivision 3 Parks and Reserves Act 1895
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
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Delegation	1.2.10 Expressions of Interest for Goods and Services
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> 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	<ol style="list-style-type: none"> 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	Nil
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees.
Statutory framework	Local Government (Functions and General) Regulations 1996 prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit
Policy	Council Policy 6.3 - Purchasing Policy Council Policy 6.2 – Preference to Local Suppliers Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
Date adopted	17 March 2022
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Delegation	1.2.11 Tenders for Goods and Services
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11(1), (2) 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.
Function	<ol style="list-style-type: none"> 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 undertake tender exempt procurement, in accordance with the Purchasing Policy requirements, where the total consideration under the resulting contract is \$150,000 or less and the expense is included in the adopted Annual Budget [F&G.r.11 (2)]. 4. Authority to invite tenders although not required to do so [F&G r.13]. 5. Authority to determine in writing, before tenders are called, the criteria for acceptance of tenders [F&G r.14(2a)]. 6. Authority to determine the information that is to be disclosed to those interested in submitting a tender [F&G r.14(4)(a)]. 7. 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)]. 8. Authority to evaluate tenders, by written evaluation, and decide which is the most advantageous [F&G r.18(4)]. 9. Authority to accept, or reject tenders, only within the \$150,000 detailed as a condition on this Delegation and in accordance with the requirements of the Functions and General Regulations [F&G r.18(2) and (4)]. 10. 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 \$10,000 detailed as a condition on this Delegation, and to then negotiate minor variations with the successful tenderer before entering into a contract [F&Gr.20(1) and (3)]. 11. Authority to seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)].

	<ol style="list-style-type: none"> 1. Authority to decline any tender [F&G r.18(5)]. 2. 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)] 3. Authority to: <ol style="list-style-type: none"> 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] 4. 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	CEO
Conditions	<ol style="list-style-type: none"> a. Sole supplier arrangements may only be approved where a record is retained that evidences: <ol style="list-style-type: none"> i. A detailed specification; ii. The outcomes of market testing of the specification; iii. The reasons why market testing has not met the requirements of the specification; and iv. Rationale for why the supply is unique and cannot be sources through other suppliers; b. 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: <ol style="list-style-type: none"> i. proposed goods or services are required to fulfil a routine contract related to the day to day operations of the Local Government, ii. current supply contract expiry is imminent, iii. value of the proposed new contract has been included in the draft Annual Budget proposed for adoption, and iv. The tender specification includes a provision that the tender will only be awarded subject to the budget adoption by the Council. c. In accordance with s.5.43, tenders may only be accepted and panels of pre-qualified suppliers established where the total consideration under the resulting contract is \$150,000 or less and the expense is included in the adopted Annual Budget.
Express power to subdelegate	<p>Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees</p>
Subdelegate conditions	<p>Conditions on the original delegation also apply to the sub- delegation</p>
Statutory framework	<p>Local Government Act 1995 Local Government (Functions and General) Regulations 1996 prescribe applicable statutory procedures. WALGA Subscription Service – Procurement Toolkit Council Council Policy 6.3 - Purchasing Policy Council Policy 6.2 – Preference to Local Suppliers Policy</p>

Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	1.2.12 Application of Regional Price Preference Policy
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government (Functions and General) Regulations 1996::</i> r.24G Adopted regional price preference policy, effect of.
Function	1. Authority to decide when not to apply the regional price preference policy to a particular future tender [F&G r.24G].
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
Subdelegates	Construction Supervisor Deputy Chief Executive Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation.
Statutory framework	<u>Local Government (Functions & General) Regulations 1996</u>
Policy	Council Policy 6.3 - Purchasing Policy Council Policy 6.2 – Preference to Local Suppliers Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
Date adopted	17 March 2022
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Delegation	1.2.13 Payments from the Municipal or Trust Funds
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<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	<ol style="list-style-type: none"> a. Authority to make payments is subject to annual budget limitations. b. Procedures are to be systematically documented, retained and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles. c. Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit & Risk Committee at least once each financial year. [Audit r.17].
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Deputy Chief Executive Officer Senior Finance Officer
Subdelegate conditions	<ol style="list-style-type: none"> 1. Delegates must comply with the Procedures approved by the CEO in accordance with Financial Management Regulation 5. 2. Payments by cheque and EFT transactions must be approved jointly by two Delegates, one of whom must be either the CEO, Manager of Corporate Services. 3. The verification of incurring the liability via the purchase order, invoice and evidence of goods/service received must be approved jointly by two Delegates, one of whom must be either the CEO, Manager of Corporate Services. 4. Conditions on the original delegation also apply to the sub- delegation.
Statutory framework	Local Government Act 1995 Local Government (Financial Management) Regulations 1996 - refer specifically r.13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc. Local Government (Audit) Regulations 1996 Department of Local Government, Sport and Cultural Industries Operational Guideline No.11 – Use of Corporate Credit Cards Department of Local Government, Sport and Cultural Industries: Accounting Manual
Policy	Council Policy 6.3– Purchasing Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .

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Delegation	1.2.14 Affixing of the Common Seal
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.9.49A . Execution of documents
Function	The authority to affix the common seal of the Shire to a document that needs the Shire's common seal to be legally effective and that is within one or more of the following categories – <ol style="list-style-type: none"> 1. documents required to satisfy conditions of subdivision and/or development approval; 2. documents required to effect the transfer of land as part of a settlement transaction (sale and purchase); 3. documents required to secure the repayment of a loan granted by the Shire, a loan granted to the Shire by a third party and/or to secure the pre-funding of infrastructure works by the Shire; 4. documents required to effect the grant of leasehold interests in the land either by the Shire to a third party, or by a third party to the Shire; 5. documents required to effect the grant of a licence either by the Shire to a third party, or by a third party to the Shire; 6. documents required to effect the subdivision of land, including the strata titling of land; 7. documents which are capable of registration and/or lodgement at Landgate (WA Land Titles office); and 8. documents that are necessary or appropriate to enable a CEO to carry out his
Delegates	CEO
Conditions	The document must not be inconsistent with a Council policy or resolution.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Statutory framework	Local Government Act 1995 s.9.49A
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
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Delegation	1.2.15 Defer, Grant Discounts, Waive or Write Off Debts
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.6.12 Power to defer, grant discounts, waive or write off debts.
Function	<ol style="list-style-type: none"> 1. Waive a debt which is owed to the Shire of Westonia [s.6.12(1)(b)]. 2. Grant a concession in relation to money which is owed to the Shire of Westonia [s.6.12(1)(b)]. 3. Write off an amount of money which is owed to the Shire of Westonia [s.6.12(1)(c)].
Delegates	CEO
Conditions	<ol style="list-style-type: none"> a. A debt, other than a debt relating to a rate or service charge, may only be waived where the dollar amount does not exceed \$200 per individual debt. b. A debt relating to a rate or service charge may only be written off where the dollar value does not exceed \$100 per individual debt. c. A discount on venue hire fees as listed in the Schedule of Fees & Charges may only be granted where the dollar amount does not exceed \$200. d. A debt may only be written off where all necessary measures have been taken to locate/contact the debtor and where costs associated with continued action to recover the debt will outweigh the net value of the debt if recovered by the Shire of Westonia, or where the value of the debt makes recovery attempts uneconomical. e. Write off of debts greater than these values must be referred to Council for a decision.
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Deputy Chief Executive Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation except that the dollar amount per rates notice cannot exceed \$5 for rates, other charges, and \$2 for ESL.
Statutory framework	<p>Local Government Act 1995 Local Government (Financial Management) Regulations 1996</p> <p>Collection of Rates Debts – refer Delegations:</p> <ul style="list-style-type: none"> - Agreement as to Payment of Rates and Service Charges - Recovery of Rates or Service Charges - Recovery of Rates Debts – Require Lessee to Pay Rent

Record keeping	<p>Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>.</p> <p>Where the write off relates to rates, relevant notes are to be kept on the property file within Synergysoft and the hard copy file in the StrongRoom.</p> <p>In accordance with Regulation 42 of the <i>Local Government (Financial Management) Regulations 1996</i>, the total amount of money written off is to be reported in the Annual Report.</p>
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Delegation	1.2.16 Power to Invest and Manage Investments
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996:</i> r.19 Investments, control procedures for
Function	<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> a. All investment activity must comply with the Financial Management Regulation 19C and Council Policy– Investment Policy 6.8. b. 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. c. Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan, and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles. d. Procedures are to be administratively reviewed for continuing compliance and confirmed as ‘fit for purpose’ and subsequently considered by the Audit and Risk Committee at least once within every 3 financial years. [Audit r.17]
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Deputy Chief Executive Officer Senior Finance Officer
Subdelegate conditions	<ol style="list-style-type: none"> 1. A decision to invest must be jointly confirmed by two Delegates. 2. Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Local Government Act 1995 <i>Trustees Act 1962 Banking Act 1959</i> Local Government (Financial Management) Regulations 1996 – refer r.19C Investment of money, restrictions on (Act s.6.14(2)(a))
Policy	Council Policy – Investment Policy 6.8

Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	1.2.17 Rate Record Amendment
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.6.39(2)(b) Rate record
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	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Deputy Chief Executive Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation.
Statutory framework	Local Government Act 1995 – s.6.40 prescribes consequential actions that may be required following a decision to amend the rate record. <i>Rates & Charges (Rebates & Deferrals) Act 1995</i> <i>Valuation of Land Act 1978</i> <i>Fire & Emergency Services Act 1998</i> Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	1.2.18 Agreement as to Payment of Rates and Service Charges
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> 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 [s.6.49].
Delegates	CEO
Conditions	Agreements must be in writing and must ensure acquittal of the rates or service charge debt before the next annual rates or service charges are levied
Express power to subdelegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Subdelegates	Deputy Chief Executive Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Local Government Act 1995 <i>Rates & Charges (Rebates & Deferments) Act 1995</i> <i>Valuation of Land Act 1978</i> <i>Fire & Emergency Services Act 1998</i> Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Policy	Council Policy 6.10 - COVID-19 Hardship Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	1.2.19 Determine Due Date for Rates or Service Charges
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> 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 Westonia [s.6.50].
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
Subdelegates	Deputy Chief Executive Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Local Government Act 1995 <i>Rates & Charges (Rebates & Deferments) Act 1995</i> <i>Valuation of Land Act 1978</i> <i>Fire & Emergency Services Act 1998</i> Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	1.2.20 Recovery of Rates or Service Charges
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.6.56 Rates or service charges recoverable in court s.6.64(3) Actions to be taken
Function	<ol style="list-style-type: none"> 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
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
Subdelegates	Deputy Chief Executive Officer
Subdelegate conditions	<ol style="list-style-type: none"> a. Conditions on the original delegation also apply to the sub- delegation. b. The sub-delegation does not include the authority to lodge and withdraw caveats.
Statutory framework	Local Government Act 1995 <i>Rates & Charges (Rebates & Deferments) Act 1995</i> <i>Valuation of Land Act 1978</i> <i>Fire & Emergency Services Act 1998</i> Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023



Delegation	1.2.21 Rate Record – Objections
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	<i>Local Government Act 1995:</i> s.6.76 Grounds of objection
Function	<ol style="list-style-type: none"> 1. Authority to extend the time for a person to make an objection to a rate record [s.6.76 (4)]. 2. Authority to consider an objection to a rate record and either allow it or disallow it, wholly or in part, providing the decision and reasons for the decision in a notice promptly served upon the person whom made the objection [s.6.76(5)].
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
Statutory framework	Local Government Act 1995 <i>Rates & Charges (Rebates & Deferments) Act 1992</i> <i>Valuation of Land Act 1978</i> <i>Fire & Emergency Services Act 1998</i> Notes – Decisions under this delegation may be referred for review by the State Administrative Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Last reviewed	16 March 2023

01.3 CEO to Employees

Delegation	1.3.1 Appoint Authorised Persons
Head of power	01 Local Government Act 1995
Delegator	CEO
Express power to delegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express power or duty delegated	<i>Local Government Act 1995:</i> s.3.24 Authorising persons under this subdivision [Part 3, Division 3, Subdivision 2 – Certain provisions about land] s.9.10 Appointment of authorised persons
Function	<ol style="list-style-type: none"> 1. Authority to appoint persons or classes of persons as authorised persons [s.3.24 and s.9.10] for the purpose of fulfilling functions of an authorised person prescribed in the following legislation inclusive of subsidiary legislation made under each Act i.e. Regulations: <ol style="list-style-type: none"> a. <i>Local Government Act 1995</i> and its subsidiary legislation, including <i>Local Government Act Regulations</i>, the <i>Local Government (Miscellaneous Provisions) Act 1960</i> and <i>Local Laws</i> made under the <i>Local Government Act</i>. b. <i>Caravan Parks and Camping Grounds Act 1995</i>; c. <i>Cat Act 2011</i>; d. <i>Cemeteries Act 1986</i>; e. <i>Control of Vehicles (Off-road Areas) Act 1978</i>; f. <i>Dog Act 1976</i>; g. <i>Graffiti Vandalism Act 2016</i> – refer s.15; and h. any other legislation prescribed for the purposes of s.9.10 of the <i>Local Government Act 1995</i>. 2. Authority to appoint authorised persons for the purposes of section 9.16 of the <i>Local Government Act 1995</i>, as a precondition for appointment as authorised officers in accordance with Regulation 70(2) of the <i>Building Regulations 2012</i> and section 6(b) of the <i>Criminal Procedure Act 2004</i>.
Delegates	Deputy Chief Executive Officer Ranger Works Supervisor
Conditions	<ol style="list-style-type: none"> a. register of Authorised Persons is to be maintained as a Local Government Record. b. Only persons who are appropriately qualified and trained may be appointed as Authorised persons.
Express power to subdelegate	NIL

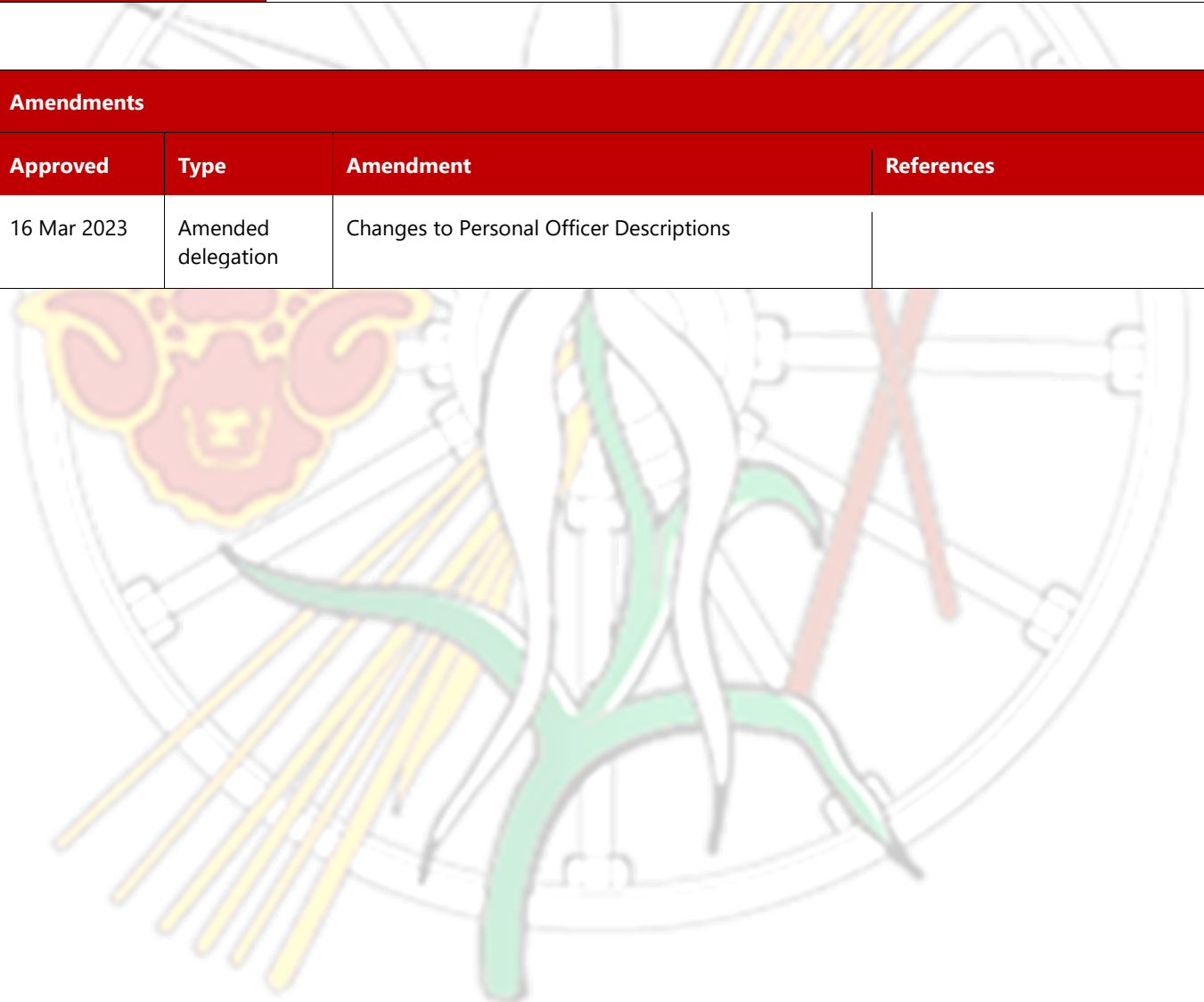
Statutory framework	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record keeping	<p>Instruments or Certificates of Authorisation – Copies are to be retained on the Authorised Person’s personnel file.</p> <p>A record of each Authorisation is to be retained in the Authorised Persons Register, retained as a Local Government Record.</p>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023



Delegation	1.3.2 Financial Management Systems and Procedures								
Head of power	01 Local Government Act 1995								
Delegator	CEO								
Express power to delegate	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees								
Express power or duty delegated	<i>Local Government (Financial Management) Regulations 1996:</i> r.5 CEO's Duties as to financial management								
Function	<p>1. Authority to establish systems and procedures [FM r.5] that give effect to internal controls and risk mitigation for the:</p> <ul style="list-style-type: none"> i. Collection of money owed to the Shire of Westonia ii. Safe custody and security of money collected or held by the hire of Westonia; iii. Maintenance and security of all financial records, including payroll, stock control and costing records; iv. Proper accounting of the Municipal and Trust Funds, including revenue, expenses and assets and liabilities; v. Proper authorisation of employees for incurring liabilities, including authority for initiating Requisition Orders, Purchase Orders and use of Credit and Transaction Cards; vi. Making of payments in accordance with Delegated Authority within the limits stated provided such proposed purchases are contained within the Budget and are within the officer's area of activity. <table style="margin-left: 40px;"> <tr> <td>Chief Executive Officer</td> <td style="text-align: right;">\$2,000,000</td> </tr> <tr> <td>Deputy Chief Executive Officer</td> <td style="text-align: right;">\$20,000</td> </tr> <tr> <td>Manager of Community Development</td> <td style="text-align: right;">\$2,000</td> </tr> <tr> <td>Senior Finance Officer</td> <td style="text-align: right;">\$2,000</td> </tr> </table> <ul style="list-style-type: none"> vii. Preparation of budgets, budget reviews, accounts and reports as required by legislation or operational requirements. 	Chief Executive Officer	\$2,000,000	Deputy Chief Executive Officer	\$20,000	Manager of Community Development	\$2,000	Senior Finance Officer	\$2,000
Chief Executive Officer	\$2,000,000								
Deputy Chief Executive Officer	\$20,000								
Manager of Community Development	\$2,000								
Senior Finance Officer	\$2,000								
Delegates	Deputy Chief Executive Officer Manager of Community Development Senior Finance Officer								
Conditions	<ul style="list-style-type: none"> a. Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan, and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles. b. Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once within each 3 financial years. [Audit r.17] 								
Express power to subdelegate	Nil								

Statutory framework	<p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p><i>Local Government Act 1995</i> <i>Local Government (Financial Management) Regulations 1996</i> <i>Local Government (Audit) Regulations 1996</i></p> <p>Department of Local Government, Sport and Cultural Industries Operational Guideline No.11 – Use of Corporate Credit Cards</p>
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	16 March 2023
Adoption references	08/03-23 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023

Amendments			
Approved	Type	Amendment	References
16 Mar 2023	Amended delegation	Changes to Personal Officer Descriptions	



01.4 Local Law Delegations to the CEO

Delegation	1.4.1 Council to CEO - All Local Laws
Head of power	01 Local Government Act 1995
Delegator	Local Government
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	Sections 3.18 and 5.42 of the <i>Local Government Act 1995</i> All powers under City's local laws: <ul style="list-style-type: none"> • <i>Dogs Local Law</i> • <i>Fencing Local Law</i> • <i>Health Local Law</i> • <i>Local Government Property Local Law</i> • <i>Parking & Parking Facilities Local Law</i> • <i>Meeting Procedures Local Law</i> • <i>Trading in Public Places Local Law</i>
Function	Perform the functions required to administer and enforce the respective provisions in the listed local laws.
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
Statutory framework	Local laws available on the Shire's Website
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023

02 Building Act 2011 Delegations

Building Act 2011 Delegations

02.1 Council to CEO/Employees

Delegation	2.1.1 Grant a Building Permit
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> s.18 Further Information s.20 Grant of building permit s.22 Further grounds for not granting an application s.27(1) and (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 person (s.35(c))
Function	<ol style="list-style-type: none"> 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 grant or refuse to grant a building permit [s.20(1) & (2) and s.22]. 3. Authority to impose, vary or revoke conditions on a building permit [s.27(1) and(3)]. 4. Authority to determine an application to extend time during which a building permit has effect [r.23]. <ol style="list-style-type: none"> i. Subject to being satisfied that work for which the building permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] ii. Authority to impose any condition on the building permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Subdelegates	Health & Building Officer

Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	<p><u>Building Act 2011</u> s.119 Building and demolition permits – application for review by SAT s.23 Time for deciding application for building or demolition permit s.17 Uncertified application to be considered by building surveyor</p> <p><u>Building Regulations 2012</u> – r.25 Review of decision to refuse to extend time during which permit has effect (s.32(3)) – reviewable by SAT</p> <p><i>Building Services (Registration Act) 2011</i> – Section 7 <i>Home Building Contracts Act 1991</i> – Part 3A, Division 2 – Part 7, Division 2 <i>Building and Construction Industry Training Levy Act 1990</i> <i>Heritage Act 2018</i></p>
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023



Delegation	2.1.2 Demolition Permits
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> s.18 Further Information s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.27(1) and (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 person (s.35(c))
Function	<ol style="list-style-type: none"> 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 grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.20(1) & (2) and s.22]. 3. Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and(3)]. 4. Authority to determine an application to extend time during which a demolition permit has effect [r.23]. <ol style="list-style-type: none"> i. Subject to being satisfied that work for which the demolition permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] ii. Authority to impose any condition on the demolition permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a demolition permit [r.26].
Delegates	CEO
Conditions	The granting of a permit excludes those propertied contained in the Shire of Westonia Municipal Heritage Inventory
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Subdelegates	Health & Building Officer
Subdelegate conditions	<ol style="list-style-type: none"> a. Conditions on the original delegation also apply to the sub- delegation b. The CEO is to be advised of the intention to issue a demolition licence prior to the final licence being issued

Statutory framework	<p><u>Building Act 2011</u> s.119 Building and demolition permits – application for review by SAT s.23 Time for deciding application for building or demolition permit</p> <p><i>Building Services (Complaint Resolution and Administration) Act 2011 – Part 7, Division 2</i> <i>Building and Construction Industry Training Levy Act 1990</i> <i>Heritage of Western Australia Act 1990</i></p>
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023



Delegation	2.1.3 Occupancy Permits or Building Approval Certificates
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> s.55 Further information s.58 Grant of occupancy permit, 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	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required in order to determine an application [s.55]. 2. Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58]. 3. Authority to impose, add, vary or revoke conditions on an occupancy permit [s.62(1) and (3)]. 4. 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].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Subdelegates	Health & Building Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	<i>Building Act 2011</i> 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.121 Occupancy permits and building approval certificates – application for review by SAT <i>Building Services (Complaint Resolution and Administration) Act 2011 – Part 7, Division 2</i> <i>Building and Construction Industry Training Levy Act 1990</i> <i>Heritage of Western Australia Act 1990</i>
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>

Date adopted	17 March 2022
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Delegation	2.1.4 Designate Employees as Authorised Persons
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> s.96(3) authorised persons s.99(3) Limitation on powers of authorised person
Function	<ol style="list-style-type: none"> 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	Decisions under this delegated authority should be in accordance with r.5 of the <i>Building Regulations 2012</i> .
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Statutory framework	<i>Building Act 2011:</i> s.97 each designated authorised person must have an identity card. r.5A Authorised persons (s.3) – definition <i>Building Regulations 2012</i> Authorised Persons Identity Card and Certificate of Authorisation
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023

Delegation	2.1.5 Building Orders
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> 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) and (2) A permit authority may revoke a building order or notify that it remains in effect s.118(2) and (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	<ol style="list-style-type: none"> 1. Authority to make Building Orders in relation to: <ol style="list-style-type: none"> a. Building work b. Demolition work c. An existing building or incidental structure [s.110(1)]. 2. Authority to give notice of a proposed building order and consider submissions received in response and determine actions [s.111(1)(c)]. 3. Authority to revoke a building order [s.117]. 4. If there is non-compliance with a building order, authority to cause an authorised person to: <ol style="list-style-type: none"> a. take any action specified in the order ; or b. commence or complete any work specified in the order; or c. if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)]. 5. 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)]. 6. Authority to initiate a prosecution pursuant to section 133(1) for non-compliance with
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Subdelegates	Health & Building Officer

<p>Subdelegate conditions</p>	<p>Sub-delegation does not include the:</p> <ol style="list-style-type: none"> 1. 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)]; and 2. 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>.
<p>Statutory framework</p>	<p><u>Building Act 2011:</u> Section 111 Notice of proposed building order other than building order (emergency) Section 112 Content of building order Section 113 Limitation on effect of building order Section 114 Service of building order Part 9 Review - s.122 Building orders – application for review by SAT</p>
<p>Record keeping</p>	<p>Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i></p>
<p>Date adopted</p>	<p>17 March 2022</p>
<p>Adoption references</p>	<p>09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review</p>
<p>Last reviewed</p>	<p>16 March 2023</p>



Delegation	2.1.6 Inspection and Copies of Building Records
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> s.131(2) Inspection, copies of building records
Function	1. Authority to determine an application from a n interested person to inspect and copy a building record [s.131(2)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Statutory framework	Building Act 2011 – s.146 Confidentiality Code of Conduct <i>Freedom of Information Act 1992</i> <i>State Records Act 2000</i>
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	2.1.7 Referrals and Issuing Certificates
Head of power	02 Building Act 2011 Delegations
Delegator	Local Government
Express power to delegate	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express power or duty delegated	<i>Building Act 2011:</i> s.145A Local Government functions
Function	<ol style="list-style-type: none"> 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 for Design Compliance, Construction Compliance or Building Compliance whether or not the land subject of the application is located in the Shire of Westonia's District [s.145A(2)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Subdelegates	Health & Building Officer
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Building Act 2011 Building Regulations 2012
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
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03 Bush Fires Act 1954 Delegations

Bush Fires Act 1954 Delegations

03.1 Council to CEO, President and Bush Fire Control Officer

Delegation	3.1.1 Make Request to FES Commissioner – Control of Fire
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<i>Bush Fires Act 1954:</i> s.13(4) Duties and powers of bush fire liaison officers
Function	Authority to request on behalf of the Shire of Westonia that the FES Commissioner authorise the Bush Fire Liaison Officer or another person to take control of fire operations [s.13(4)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954
Policy	Council Policy – Risk Management Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
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Delegation	3.1.2 Prohibited Burning Times - Vary
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government 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) and (8))
Express power or duty delegated	<i>Bush Fires Act 1954:</i> 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	Chief Bush Fire Control Officer Shire President
Conditions	Decisions under s.17(7) must be undertaken jointly by both the President and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) and (8).
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954 Bush Fires Regulations 1954
Policy	Council Policy – Risk Management Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023



Delegation	3.1.3 Prohibited Burning Times – Control Activities
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<i>Bush Fires Act 1954:</i> 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	<ol style="list-style-type: none"> 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 Westonia 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 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	Decisions under s.17(7) must be undertake jointly by both the President and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) and (8).
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954 Bush Fires Regulations 1954

Policy	Council Policy – Risk Management Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	3.1.4 Restricted Burning Times – Vary and Control Activities
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<p><i>Bush Fires Act 1954:</i> s.18(5), (11) Restricted burning times may be declared by FES Commissioner s.22(6) and (7) Burning on exempt land and land adjoining exempt land 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</p> <p><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</p>



Function	<ol style="list-style-type: none"> 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)]. <ol style="list-style-type: none"> 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 Westonia 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	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954 Bush Fires Regulations 1954
Policy	Council Policy – Risk Management Policy

Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	3.1.5 Control of Operations Likely to Create Bush Fire Danger
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<i>Bush Fires Act 1954:</i> 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	<ol style="list-style-type: none"> 1. Authority to give directions to a Bush Fire Control Officer regarding matters necessary for the prevention of fire arising from: <ol style="list-style-type: none"> a. a person operating a bee smoker device during a prescribed period [r.39CA(5)]. b. a person operating welding apparatus, a power operated abrasive cutting disc [r.39C(3)]. c. a person using explosives [r.39D(2)]. d. 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]. <i>Note: this authority is also prescribed to a</i>
Delegates	CEO
Conditions	Nil
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954 Bush Fires Regulations 1954
Policy	Council Policy – Risk Management Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Delegation	3.1.6 Firebreaks
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<i>Bush Fires Act 1954:</i> s.33 Local government may require occupier of land to plough or clear fire-breaks
Function	<ol style="list-style-type: none"> 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 Westonia: <ol style="list-style-type: none"> 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)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954 Bush Fires Regulations 1954
Policy	Shire's Annual Fire Break Notice Council Policy – Risk Management Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Delegation	3.1.7 Appoint Bush Fire Control Officer/s and Fire Weather Officer
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<i>Bush Fires Act 1954:</i> s.38 Local Government may appoint bush fire control officer
Function	<ol style="list-style-type: none"> 1. Authority to appoint persons to be Bush Fire Control Officers for the purposes of the <i>Bush Fires Act 1954</i>; and <ol style="list-style-type: none"> a. Of those Officers, appoint one as the Chief Bush Fire Control Officer and one as the 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 issue directions to a Bush Fire Control Officer to burn on or at the margins of a road reserve under the care, control and management of the Shire of Westonia [s.38(5A)] 3. 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)]. <ol style="list-style-type: none"> a. Authority to appoint deputy Fire Weather Officer/s as considered necessary and where two or more deputies are appointed, determine seniority
Delegates	CEO
Conditions	Nil
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954 Bush Fires Regulations 1954 Shire's Annual Fire Break Notice
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	3.1.8 Prosecution of Offences
Head of power	03 Bush Fires Act 1954 Delegations
Delegator	Local Government
Express power to delegate	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express power or duty delegated	<i>Bush Fires Act 1954:</i> s.59 Prosecution of offences s.59A(2) Alternative procedure – infringement notices
Function	<ol style="list-style-type: none"> 1. Authority to institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59] 2. Authority to serve an infringement notice for an offence against this Act [s.59A(2)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	NIL – Sub-delegation is prohibited by s.48(3)
Statutory framework	Bush Fires Act 1954: s.65 Proof of certain matters s.66 Proof of ownership or occupancy Bush Fires Regulations 1954
Policy	Council Policy – Risk Management Policy
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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04 Cat Act 2011

Cat Act 2011

04.1 Council to CEO

Delegation	4.1.1 Cat Registrations
Head of power	04 Cat Act 2011
Delegator	Local Government
Express power to delegate	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express power or duty delegated	<i>Cat Act 2011:</i> 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	<ol style="list-style-type: none"> 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 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 Westonia's District [Regs. Sch. 3 cl.1 (4)].
Delegates	CEO
Conditions	Notices of decisions 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	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government
Subdelegates	Ranger
Subdelegate conditions	<ol style="list-style-type: none"> a. Conditions on the original delegation also apply to the sub- delegation. b. The sub-delegation does not contain the authority to reduce or waive a registration or approval to breed fee

Statutory framework	<p>Cat Act 2011 Cat Regulations 2012: r.11 Application for registration (s.8(2)), prescribes the Form of applications for registration. r.12 Period of registration (s.9(7)) r.11 Changes in registration r.14 Registration certificate (s.11(1)(b)) r.15 Registration tags (s.76(2))</p> <p>Decisions are subject to Objection and Review by the State Administration Tribunal rights – refer Part 4, Division 5 of the Cat Act 2011</p>
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Delegation	4.1.2 Cat Control Notices
Head of power	04 Cat Act 2011
Delegator	Local Government
Express power to delegate	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express power or duty delegated	<i>Cat Act 2011:</i> 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 Westonia's District [s.26].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government
Subdelegates	Ranger
Subdelegate conditions	Conditions on the original delegation also apply to the sub- delegation
Statutory framework	Cat Act 2011 Cat Regulations 2012 – r.20 Cat control notice [s.23(3)], prescribes the Form of the notice
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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05 Dog Act 1974 Delegations

Dog Act 1974 Delegations

05.1 Council to CEO

Delegation	5.1.1 Dog Registrations
Head of power	05 Dog Act 1974 Delegations
Delegator	Local Government
Express power to delegate	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express power or duty delegated	<i>Dog Act 1976:</i> s.14 Register of dogs s.16(3) Registration procedure In accordance with 10AA(3) the delegation expressly authorises the CEO to further delegate the powers or duties listed above
Function	<p>The Chief Executive Officer is delegated authority to keep an accurate and up-to-date record of all registered dogs and correct any errors that may be found in the register [s.14]. The administration of the register can be exercised as an acting through arrangement.</p> <p>The following functions are performed under delegation</p> <p>s.16(3) Refuse to register dog A dog may be registered by a person appointed as a 'registration officer' under the instrument of authorisation CEO 2.5. The following functions are performed under authorisation</p> <p>s.16(2a) Register a dog s.16(3A) Cancel a registration of a person banned from owning or keeping a dog under s.46 s.16(3c) Cancel a registration if a dog has died s.16(6) Provide the registration certificate</p>
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties
Subdelegates	Deputy Chief Executive Officer Ranger
Subdelegate conditions	Manager of Corporate Services, and Ranger all powers and duties under s.26 of the <i>Dog Act 1976</i> and Part 3 – cl.4, 5 and 6 of the Shire's Local Law Relating to the Keeping of Dogs to determine applications to keep more than two dogs.
Statutory framework	Dog Act 1976
Record keeping	Registrations are to be recorded in the Shire's registration database.
Date adopted	17 March 2022

Adoption references

09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review

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16 March 2023



Delegation	5.1.2 Refuse or Cancel Registration
Head of power	05 Dog Act 1974 Delegations
Delegator	Local Government
Express power to delegate	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express power or duty delegated	<i>Dog Act 1976:</i> s.15(2) and (4A) Registration periods and fees s.16(3) Registration procedure s.17A(2) If no application for registration made s.17(4) and (6) Refusal or cancellation of registration
Function	<ol style="list-style-type: none"> 1. Authority to determine to refuse a dog registration and refund the fee, if any [s.16(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: <ol style="list-style-type: none"> i. 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 ii. the dog is determined to be destructive, unduly mischievous or to be suffering from a contagious or infectious disease or iii. the delegate is not satisfied that the dog is or will be effectively confined in or at premises where the dog is ordinarily kept iv. the dog is required to be microchipped but is not microchipped; or v. 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 Westonia'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)]. <ol style="list-style-type: none"> i. Authority, following seizure, to determine to cause the dog to be detained or destroyed or otherwise disposed of as though it had be found in
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

<p>Statutory framework</p>	<p>Dog Act 1976 s.17A If no application for registration made – procedure for giving notice of decision under s.16(3) Dogs Local Law</p> <p>Note – Decisions under this delegation may be referred for review by the State Administration Tribunal – s.16A, s.17(4) and (6)</p>
<p>Record keeping</p>	<p>Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i></p>
<p>Date adopted</p>	<p>17 March 2022</p>
<p>Adoption references</p>	<p>09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review</p>
<p>Last reviewed</p>	<p>16 March 2023</p>



Delegation	5.1.3 Recovery of Moneys Due Under this Act
Head of power	05 Dog Act 1974 Delegations
Delegator	Local Government
Express power to delegate	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express power or duty delegated	<i>Dog Act 1976:</i> s.29(5) Power to seize dogs
Function	Authority to recover moneys, in a court of competent jurisdiction, due in relation to a dog for which the owner is liable [s.29(5)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)
Statutory framework	<u>Dog Act 1976</u> Dogs Local Law Includes recovery of expenses relevant to: s.30A(3) Operator of dog management facility may have dog microchipped at owner's expense s.33M Local government expenses to be recoverable. s.47 Veterinary service expenses recoverable from local government r.31 Local government expenses as to dangerous dogs (declared)
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	5.1.4 Declare Dangerous Dog
Head of power	05 Dog Act 1974 Delegations
Delegator	Local Government
Express power to delegate	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express power or duty delegated	<i>Dog Act 1976:</i> s.33E(1) Individual dog may be declared to be dangerous dog (declared)
Function	Authority to declare an individual dog to be a dangerous dog [s.33E(1)].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)
Subdelegates	Ranger
Subdelegate conditions	Nil
Statutory framework	Dogs Act 1976 Dog Regulations 2013 Dogs Local Law Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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06 Food Act 2008 Delegations

Food Act 2008 Delegations

06.1 Council to CEO

Delegation	6.1.1 Prohibition Orders
Head of power	06 Food Act 2008 Delegations
Delegator	Local Government
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Act 2008:</i> s.65(1) Prohibition orders s.66 Certificate of clearance to be given in certain circumstances s.67(4) Request for re-inspection
Function	<ol style="list-style-type: none"> 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	NIL – Food Regulations 2009 do not provide for sub-delegation.
Statutory framework	Food Act 2008 Guide to Regulatory Guideline Number 1 : Introduction of Regulatory Auditing in Western Australia Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	6.1.2 Food Business Registrations
Head of power	06 Food Act 2008 Delegations
Delegator	Local Government
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Act 2008:</i> s.110(1) and (5) Registration of food business s.112 Variation of conditions or cancellation of registration of food businesses
Function	<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> 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].
Express power to subdelegate	NIL – Food Regulations 2009 do not provide for sub-delegation.
Statutory framework	Food Act 2008 Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	6.1.3 Appoint Authorised Officers and Designated Officers
Head of power	06 Food Act 2008 Delegations
Delegator	Local Government
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Act 2008:</i> s.122(1) Appointment of authorised officers s.126(6), (7) and (13) Infringement Officers
Function	<ol style="list-style-type: none"> 1. Authority to appoint persons to undertake the functions of an enforcement agency under this Act. [s.118(1)]. 2. Authority to appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i> [s.122(2)]. 3. Authority to appoint an Authorised Officer appointed under s.122(2) 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)]. 4. 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: <ul style="list-style-type: none"> • Appointment of Authorised Officers Express Power
Express power to subdelegate	NIL – Food Regulations 2009 do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i> s.122(3) requires an Enforcement Agency to maintain a list of appointed authorised officers s.123(1) requires an Enforcement Agency to provide each Authorised Officer with a Certificate of Authority as prescribed
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
Adoption references	09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review
Last reviewed	16 March 2023



07 Graffiti Vandalism Act 2016 Delegations

Graffiti Vandalism Act 2016 Delegations

07.1 Council to CEO

Delegation	7.1.1 Give Notice Requiring Obliteration of Graffiti
Head of power	07 Graffiti Vandalism Act 2016 Delegations
Delegator	Local Government
Express power to delegate	<i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government
Express power or duty delegated	<i>Graffiti Vandalism Act 2016:</i> s.18(2) Notice requiring removal of graffiti s.19(3) & (4) Additional powers when notice is given
Function	<ol style="list-style-type: none"> 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	<i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government
Subdelegates	Ranger
Subdelegate conditions	Nil
Statutory framework	Graffiti Vandalism Act 2016 Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
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Delegation	7.1.2 Powers of Entry
Head of power	07 Graffiti Vandalism Act 2016 Delegations
Delegator	Local Government
Express power to delegate	<i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government
Express power or duty delegated	<i>Graffiti Vandalism Act 2016:</i> s.28 Notice of entry s.29 Entry under warrant
Function	<ol style="list-style-type: none"> 1. Authority to give notice of an intended entry to the owner or occupier of land, premises or thing, specifying the purpose for which entry is required [s.28]. 2. Authority to obtain a warrant to enable entry onto any land, premises or thing for the purposes of this Act [s.29].
Delegates	CEO
Conditions	Nil
Express power to subdelegate	<i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government
Subdelegate conditions	Nil
Statutory framework	Graffiti Vandalism Act 2016
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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08 Public Health Act 2016 Delegations

Public Health Act 2016 Delegations

08.1 Council to CEO

Delegation	8.1.1 Appoint Authorised Officer or Approved Officer
Head of power	08 Public Health Act 2016 Delegations
Delegator	Local Government
Express power to delegate	<p><i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate</p> <p><i>Health (Asbestos) Regulations 1992:</i> r.15D(7) Infringement Notices</p>
Express power or duty delegated	<p><i>Public Health Act 2016:</i> s.24(1) and (3) Designation of authorised officers</p> <p><i>Health (Asbestos) Regulations 1992:</i> r.15D(5) Infringement Notices</p>
Function	<ol style="list-style-type: none"> 1. Authority to designate a person or class of persons as authorised officers for the purpose of: <ol style="list-style-type: none"> a. The <i>Public Health Act 2016</i> or other specified Act; b. Specified provisions of the <i>Public Health Act 2016</i> or other specified Act; c. Provisions of the <i>Public Health Act 2016</i> or other specified Act, other than the specified provisions of that Act; Including: <ol style="list-style-type: none"> a. An environmental health officer or environmental health officers as a class; or b. A person who is not an environmental health officer or a class of persons who are not environmental health officers; or c. A mixture of the two. [s24(3)] 2. Authority to appoint a person or classes of persons as an authorised officer or approved officer for the purposes of the <i>Criminal Procedure Act 2004</i> Part 2 [r.15D(5)].
Delegates	CEO
Conditions	<ol style="list-style-type: none"> a. Persons to be appointed as authorised environmental health officers must satisfy the criteria published in Government Gazette No 22 of 24 January 2017 - Public Health Act 2016 – Guidelines on the Designation of Authorised Officer. b. A register (list) of authorised officers is to be maintained in accordance with s27. c. 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	Nil – the <i>Health (Asbestos) Regulations 1992</i> do not provide a power to sub-delegate.

Statutory framework	<p>Public Health Act 2016 Health (Asbestos) Regulations 1992 Authorisation certificate <i>Criminal Investigation Act 2006, Parts 6 and 13 – refer s245 of the Public Health Act 2016</i> <i>The Criminal Code, Chapter XXVI – refer s252 of the Public Health Act 2016</i> <i>Criminal Procedure Act 2004 – Part 2</i></p>
Record keeping	<p>Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i></p>
Date adopted	<p>17 March 2022</p>
Adoption references	<p>09/03-22 COUNCIL RES: 9.1.6 Delegations Manual Review</p>
Last reviewed	<p>16 March 2023</p>



Delegation	8.1.2 Enforcement Agency Reports to the Chief Health Officer
Head of power	08 Public Health Act 2016 Delegations
Delegator	Local Government
Express power to delegate	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.22 Reports by and about enforcement agencies
Function	<ol style="list-style-type: none"> 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 Westonia [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
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)].
Statutory framework	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies.
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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Delegation	8.1.3 Designate Authorised Officers
Head of power	08 Public Health Act 2016 Delegations
Delegator	Local Government
Express power to delegate	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.24(1) and (3) Designation of authorised officers
Function	<ol style="list-style-type: none"> 1. Authority to designate a person or class of persons as authorised officers for the purposes of <ol style="list-style-type: none"> i. The <i>Public Health Act 2016</i> or other specified Act ii. Specified provisions of the <i>Public Health Act 2016</i> or other specified Act iii. Provisions of the <i>Public Health Act 2016</i> or another specified Act, other than the specified provisions of that Act. <p>Including:</p> <ol style="list-style-type: none"> a. an environmental health officer or environmental health officers as a class; OR b. a person who is not an environmental health officer or a class of persons who are not environmental health officers, OR c. a mixture of the two. [s.24(1) and (3)].
Delegates	CEO
Conditions	<ol style="list-style-type: none"> a. Subject to each person so appointed being; <ul style="list-style-type: none"> • 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]. b. 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)].
Statutory framework	<p><i>Public Health Act 2016</i></p> <p>s.20 Conditions on performance of functions by enforcement agencies.</p> <p>s.25 Certain authorised officers required to have qualifications and experience.</p> <p>s.26 Further provisions relating to designations</p> <p>s.27 Lists of authorised officers to be maintained</p> <p>s.28 When designation as authorised officer ceases</p> <p>s.29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers</p> <p>s.30 Certificates of authority</p> <p>s.31 Issuing and production of certificate of authority for purposes of other written laws</p> <p>s.32 Certificate of authority to be returned.</p> <p>s.136 Authorised officer to produce evidence of authority</p> <p><i>Criminal Investigation Act 2006</i>, Parts 6 and 13 – refer s.245 of the <i>Public Health Act 2016</i></p> <p><i>The Criminal Code</i>, Chapter XXVI – refer s.252 of the <i>Public Health Act 2016</i></p>

Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>
Date adopted	17 March 2022
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09 Planning and Development Act 2005 Delegations

Planning and Development Act 2005 Delegations

09.1 Council to CEO

Delegation	9.1.1 Illegal Development
Head of power	09 Planning and Development Act 2005 Delegations
Delegator	Local Government
Express power to delegate	<i>Local Government Act 1995:</i> s.5.42(b) Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express power or duty delegated	<i>Planning and Development Act 2005:</i> Section 214(2), (3) and (5)
Function	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. 3. Give a written direction to the person whose duty it is to execute 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
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
Subdelegates	Health & Building Officer
Subdelegate conditions	<ol style="list-style-type: none"> a. A certificate of authority as an authorised officer must be issued [s.30] b. All prosecutions are to be authorised by the Chief Executive Officer
Statutory framework	Part 13 of the Planning and Development Act 2005
Record keeping	Each instance of this delegation being exercised is to be recorded in the Delegations Register in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i>

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AMENDMENTS

Delegation	Approved or adopted	Type	Amendment	References
1.3.2 Financial Management Systems and Procedures	16 Mar 2023	Amended delegation	Changes to Personal Officer Descriptions	

