



DELEGATION REGISTER 2020

Table of Contents

| | | |
|-----------|--|-----------|
| 1. | Local Government Act 1995 Delegations | 1 |
| 1.1. | Delegations from Council to Committees | 1 |
| 1.1.1 | Audit Committee – Meeting with Auditor | 1 |
| 1.2. | Delegations from Council to CEO | 2 |
| 1.2.1 | Appoint Authorised Persons | 2 |
| 1.2.2 | Temporary Road Closures | 3 |
| 1.2.3 | Altering Thoroughfare Level or Alignments..... | 4 |
| 1.2.4 | Reserves under Control of Local Governments | 5 |
| 1.2.5 | Expressions of Interest and Tenders for Goods & Services | 6 |
| 1.2.6 | Disposal of Property | 9 |
| 1.2.7 | Payments From Municipal Fund and Trust Fund (10) | 11 |
| 1.2.8 | Waiving and Granting of Concessions and Write-Off of Debts other than Rates & Service Charges..... | 12 |
| 1.2.9 | Investment of Surplus Funds | 13 |
| 1.2.10 | Amending the Rate Record | 14 |
| 1.2.11 | Agreement as to Payment of Rates and Service Charges | 15 |
| 1.2.12 | Due Date for Payment of Rates and Service Charges | 16 |
| 1.2.13 | Recovery of Unpaid Rates or Service Charges | 17 |
| 1.2.14 | Objection to Rate Record – Extension of Time | 18 |
| 1.2.15 | Crossing from Public Thoroughfare to Private Land or Private Thoroughfare | 19 |
| 1.2.16 | Private Works On, Over or Under Public Places..... | 20 |
| 1.2.17 | Excavation on Public Thoroughfares | 21 |
| 1.2.18 | Obstruction of Public Thoroughfare by Things Placed and Left – Grant Permission | 22 |
| 1.2.19 | Gates and Other Devices Across Thoroughfares (38) | 23 |
| 1.2.20 | Performing Functions Outside Own District | 24 |
| 1.3 | Delegations from CEO to Employees | 25 |
| 1.4 | Local Law Delegations | 25 |
| 1.4.1 | Dogs Local Law 2016..... | 25 |
| 1.4.2 | Local Government Property Local Law 2016 | 26 |
| 1.4.3 | Animals, Environment and Nuisance Local Law 2016 | 28 |
| 1.4.4 | Bush Fire Brigades Local Law 2016 | 31 |
| 2 | Other Legislation..... | 32 |
| 2.1 | Building Act 2011 | 32 |
| 2.1.1 | Building Act 2011 – Functions | 32 |
| 2.2 | Bush Fires Act 1954 | 35 |
| 2.2.1 | Bush Fires Act 1954 – Authorise and Appoint Officers | 35 |

Shire of Gnowangerup
Delegated Authority Register

| | | |
|------------|--|-----------|
| 2.2.2 | Bush Fires Act 1954 – Issue and Administer Permits, Approvals and Prohibitions | 36 |
| 2.2.3 | Prohibited and Restricted Burning Times Variation (22) | 39 |
| 2.2.4 | Bush Fires Act 1954 – Fire Breaks, Fire Break Notices and Bush Fire Control | 40 |
| 2.2.5 | Bush Fires Act 1954 – Enforcement | 41 |
| 2.3 | Cat Act 2011 | 42 |
| 2.3.1 | Cat Act 2011 – Appoint Authorised Persons..... | 42 |
| 2.3.2 | Cat Act 2011 – Registrations | 43 |
| 2.3.3 | Cat Act 2011 – Breeder Approvals | 44 |
| 2.4 | Dog Act 1976..... | 45 |
| 2.4.1 | Dog Act 1976 – Functions of Local Government..... | 45 |
| 2.5 | Food Act 2008 | 46 |
| 2.5.1 | Food Act 2008 – Appoint Authorised Officers | 46 |
| 2.5.2 | Food Act 2008 – Food Business Registrations | 47 |
| 2.5.3 | Food Act 2008 – Prohibition Orders..... | 48 |
| 2.5.4 | Food Act 2008 – Prosecutions..... | 49 |
| 2.6 | Graffiti Vandalism Act 2016 | 50 |
| 2.6.1 | Graffiti Vandalism Act 2016 – Giving Notices, Obliterating Graffiti and Entry onto Land..... | 50 |
| 2.7 | Planning and Development Act 2005 | 52 |
| 2.7.1 | Planning & Development Act 2005 – Illegal Development | 52 |
| 2.8 | Local Planning Scheme | 53 |
| 2.8.1 | Town Planning Scheme – Planning Functions..... | 53 |
| 2.9 | Public Health Act 2016 | 56 |
| 2.9.1 | Public Health Act 2016 – Designate Authorised Officers | 56 |
| 3. | Authorities Assigned from State Government Agencies to Local Government | 57 |
| 3.1 | Environmental Protection Act 1986..... | 57 |
| 3.1.1 | Environmental Protection Act 1986 – Noise Control – Serve Environmental Protection Notices [s.65(1)] | 57 |
| 3.1.2 | Environmental Protection Act 1986 – Noise Control – Keeping of Log Books, Noise Control Notices, Calibration and Approval of Non-Complying Events [Reg.16].... | 58 |
| 3.1.3 | Environmental Protection Act 1986 – Noise Control – Noise Management Plans – Construction Sites [Reg.13]..... | 59 |
| 3.2 | Planning and Development Act 2005 | 60 |
| 3.2.1 | Western Australian Planning Commission – Section 25 of Strata Titles Act 1985 | 60 |

1. Local Government Act 1995 Delegations

1.1. Delegations from Council to Committees

1.1.1 Audit Committee – Meeting with Auditor

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd June 2005 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-----------------|
| Delegate: | Audit Committee |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, s.5.16 Delegation of some powers and duties to certain committees

Power Enabling Sub-Delegation:

- Prohibited by Local Government Act 1995, section 7.1B Delegation of some powers and duties to audit committees

Power Delegated:

- Local Government Act 1995, Section 7.12A(2) and (3)

Description of Functions Delegated

Council delegates its authority and power to the Audit Committee:

- To meet with the Shire's Auditor at least once every year [s.7.12A(2)]; and
- To examine the report of the auditor and to determine if any matters raised by the report require action to be taken by the Shire and to ensure that appropriate action is taken in respect of those matters. [s.7.12A(3)].

1.2. Delegations from Council to CEO

1.2.1 Appoint Authorised Persons

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995
 - s.3.24 Authorising persons under this subdivision (Part 3, Division 3, Subdivision 2 – Certain provisions about land)
 - 9.10 Appointment of Authorised Persons

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to appoint persons or classes of persons as Authorised Persons for the purposes of fulfilling prescribed functions within the:

- Local Government Act 1995, inclusive of Regulations;
- Shire of Gnowangerup Local Laws made under the Local Government Act 1995;
- Graffiti Vandalism Act 2016, vide s.15 Application.

Subject to:

- At least once each financial year, the CEO is required to circulate to Councillors a copy of the Shire of Gnowangerup's Schedule of Authorisations.

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| Sub-delegate/s: | Deputy Chief Executive Officer |
|------------------------|--------------------------------|

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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.2 Temporary Road Closures

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd June 1998 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, sections
 - 3.50 Closing certain thoroughfares to vehicles
 - 3.50A Partial closure of thoroughfare for repairs or maintenance
 - 3.51 Affected owners to be notified of certain proposals

Description of Functions Delegated

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

- Determine to temporarily close a thoroughfare, wholly or partially, to vehicles or particular classes of vehicles [s.3.50(1), (1a) and (2)], including for the purposes of but not limited to:
 - Repairs and maintenance.
 - In cases of emergency.
 - Where, in the opinion of the CEO that due to heavy rain, a thoroughfare is likely to be damaged by the passage of vehicles of a particular class, or by the passage of vehicles generally.
 - For the conduct of an Event in accordance with the *Road Traffic (Events on Roads) Regulations 1991* and the authority provided to the Shire by the Commissioner of Main Roads.
- Revoke an order to temporarily close a thoroughfare [s.3.50(6)].
- Give notice to the public and the Commissioner of Main Roads and consider any resulting submissions received relevant to road closures for a period exceeding 4-weeks [s.3.50(4), (5) and (8)].

Subject to:

- Compliance with the procedural requirements of Sections 3.50, 3.50A and 3.51 of the *Local Government Act 1995*, and Regulations 4, 5 and 6 of the *Local Government (Functions and General) Regulations 1996*.

| | |
|------------------------|------------------|
| Sub-delegate/s: | Manager of Works |
|------------------------|------------------|

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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.3 Altering Thoroughfare Level or Alignments

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|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Section 3.51(3) Affected owners to be notified of certain proposals

Description of Functions Delegated

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

- Before doing anything in regard to a proposal, give notice to each person having an interest and where required local public notice, seeking submissions regarding any proposal to:
 - Fix or alter the level of, or the alignment of, a public thoroughfare; or
 - Drain water from a public thoroughfare or other public place onto adjoining land [s.3.51(1)(a)].

Subject to:

- The notice being in accordance with Section 3.51(4) of the *Local Government Act 1995*.
- Consideration of any submissions made [s.3.51(3)(b)].

| | |
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| Sub-delegate/s: | Manager of Works |
|------------------------|------------------|

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| Chief Executive Instruction/Procedure: | Procedure 5.6 |
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CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.4 Reserves under Control of Local Governments

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Section 3.54 Reserves under control of local government

Description of Functions Delegated

Council delegates its authority and power to do anything permitted under section 5 of the *Parks and Reserves Act 1895*, for the purposes of controlling and managing land reserved under the *Land Administration Act 1997* that is vested in or placed under the control and management of the Shire of Gnowangerup. [s.3.54]

Subject to:

- Any express provision to the contrary made by an order under the *Land Administration Act 1997* in respect of the land.
- Limited to the maintenance or repair of existing infrastructure, where a sufficient and relevant allocation is provided in the adopted Annual Budget.
- For proposals for new infrastructure or services, or where the budget allocation is insufficient for required maintenance or repairs, a report must be referred to Council for decision.

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| Sub-delegate/s: | |
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| Chief Executive Instruction/Procedure: | Procedure: 14 & 5.15 |
|---|----------------------|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.5 Expressions of Interest and Tenders for Goods & Services

| | |
|----------------------------|-------------------------------|
| Date Adopted: | 18 th June 1997 |
| Date Last Reviewed: | 28 th October 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | 4.1 |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, s.3.57 Tenders for providing goods or services
- Local Government (Functions and General) Regulations 1996, Regulations:
 - 11 When tenders have to be publicly invited
 - 13 Requirements when local government invites tenders though not required to do so
 - 14 Publicly inviting tenders, requirements for
 - 18 Rejecting and accepting tenders
 - 20 Variation of requirements before entry into contract
 - 21A Varying a contract for the supply of goods or services
 - 21 Limiting who can tender, procedure for
 - 23 Rejecting and accepting expressions of interest to be acceptable tenderer

Description of Functions Delegated

1. Call For and Determine Expressions of Interest:

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

- 1.1 Determine when to seek and to invite expressions of interest with respect to the supply of the goods or services before entering the tender process, on the basis that a preliminary selection from amongst prospective tenderers due to:

- (i) the nature of the goods or services; or
- (ii) the cost of preparing plans, specifications or other information for the purpose of adequately describing the goods or services required,

would be advantageous to the local government if tenders were invited only from persons it considers to be capable of satisfactorily supplying the goods or services [F&G r.21(1) & (2)].

- 1.2 Determine, in writing, the criteria for the preliminary selection of prospective tenderers [F&G r.21(4)].

Subject to:

Compliance with Regulation 21(1) of the Local Government (Functions and General) Regulations 1996;

- (i) The goods or services being listed in the Shire's Adopted Annual Budget;
- (ii) The criteria, once determined, are to be incorporated in the expression of interest documentation.

- 1.3 Consider any submissions of expression of interest that have not been rejected and decide which, if any, are capable of satisfactorily supplying the goods or services [F&G r.23].

Subject to:

- (a) Compliance with Regulation 23(3) of the Local Government (Functions and General) Regulations 1996; and
- (b) Compliance with Regulations 14(2), 15(2), 17(2)(c) and 18(3) of the Local Government (Functions and General) Regulations 1996.

2. Call For and Determine Tenders:

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

- 2.1 Call tenders for goods or services with others in respect to supply of goods or services exceeding \$250,000 [F&G r.11(1)].
- 2.2 Determine to call tenders for the provision of goods or services although not required to do so, and to determine to accept the most advantageous tender or reject a tender or to decline to accept any tender, where the value does not exceed \$250,000 [F&G r.13 and r.18(2), (4) and (5)].
- 2.3 Determine in writing the criteria for deciding which tender should be accepted with this criteria being included in the invitation to tender or submit expression of interest [F&G r.14(2a)].
- 2.4 Vary tender information, after public notice of invitation to tender and before the close of tenders [F&G r.14(5)].
- 2.5 Seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)].
- 2.6 Determine, that because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier and not publicly invite tenders before the Shire enters into a contract for the supply of goods or services even though the consideration under the contract is, or is expected to be, worth more than \$250,000 [F&G r.11(f)].
- 2.7 After a successful tenderer has been selected, determine only as necessary, minor variation to the goods or services required before the contract has been entered into, limited to an order of magnitude of +/- 10% [F&G r.20(1)].

Subject to:

- (a) the tenderer agreeing to the minor variations; and
 - (b) the variation is minor having regard to the total goods or services that tenderers were invited to supply (deliverables and price).
- 2.8 After a contract has been entered into, determine contract variations only where necessary in order for the goods or services to be supplied and the variation does not change the scope of the contract [F&G r.21A(a)].
 - 2.9 Select the next most advantageous tender if the successful tenderer does not want to accept the contract with the variation, or the local government and the tenderer cannot reach agreement [F&G r.20(2)].
 - 2.10 Exercise a contract renewal or extension only where the term of the original contract contained a provision for the renewal or extension and the renewal or extension clause was noted by Council at the time of resolving to accept the tender [F&G r.21A(b)].

Shire of Gnowangerup
Delegated Authority Register

Generally Subject to:

- (a) Compliance with Council's Purchasing Policy.
- (b) The goods or services being listed in the Shire's Adopted Annual Budget.

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| <i>Sub-delegate/s:</i> | | <i>Chief Executive Instruction/Procedure:</i> | Procedure 4.1 & 4.15 |
|-------------------------------|--|--|----------------------|

CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

1.2.6 Disposal of Property

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Section 3.58 Disposing of property
- Local Government (Functions and General) Regulations 1996, Regulation 30 Dispositions of property excluded from Act s.3.58

Description of Functions Delegated

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

1. Dispose of local government property by way of lease, including the renewal of existing leases, where the renewal option is detailed in the original lease agreement.

Subject to:

- (a) New leases may only be established where, the lessor's operations are consistent with community development or commercial objectives specified in the Shire's Corporate Business Plan.
 - (b) Proposals for disposal by lease of newly acquired infrastructure or property must be determined by Council in the first instance.
 - (c) The lease fee not exceeding \$20,000 for the term of the lease.
 - (d) The lease term not exceeding a five year period.
 - (e) Compliance with the requirements of Section 3.58 of the Local Government Act 1995 and Regulation 30 of the *Local Government (Functions and General) Regulations* 1996.
2. Dispose of assets, which have a residual value on the Shire's Asset Register, and are required to be disposed of to facilitate capital works.

Subject to:

- (a) Limited to a maximum value of less than \$100,000 for any single capital works project.
3. Dispose of surplus property, other than land, including; equipment, furniture, consumable materials and tools, with a market value of less than \$20,000 by:
 1. Publically advertising a request for proposals; or
 2. Publically advertising a surplus goods sale at the Council depot, where pricing of goods has been pre-determined under this delegation; or
 3. Any other fair means, that provides public accountability and transparency as to the method of disposal and equitable access to the disposal process.
 4. In any case, the method of disposal is to ensure that best value return is achieved for the Shire.
 5. Where the property is determined as having nil material market value, then the disposal must be environmentally responsible.

Shire of Gnowangerup
Delegated Authority Register

Subject to:

- (a) The items not being listed on or not being erroneously omitted from Council's Asset Register.
- (b) The items being either; surplus to the Shire's needs and / or no longer fit for purpose.
- (c) A record being retained of the method of disposal and the goods disposed of.

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| <i>Sub-delegate/s:</i> | | <i>Chief Executive Instruction/Procedure:</i> | Procedure 4.11 |
|-------------------------------|--|--|----------------|

CEO Conditions on Sub-Delegation

1.2.7 Payments From Municipal Fund and Trust Fund (10)

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 16 th April 1997 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government (Financial Management) Regulations 1996, Regulation 12(1)(b)

Description of Functions Delegated

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

1. Authorise and make payments by cheque or electronic funds transfer (EFT) from the Municipal Fund or the Trust Fund [FM r.12(1)(b)]

Subject to:

- (a) The payment(s) only being for items of expenditure:
 - (i) detailed in the adopted annual budget, or
 - (ii) for payments that have been authorised by a resolution of Council in advance, or
 - (iii) authorised in advance by the president in an emergency; and
- (b) Compliance with the requirements of Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

2. Allocate and make payments for the annual donations budget for cultural, event and corporate sponsorship.

Subject to:

- (a) The maximum value of any one sponsorship is not to exceed \$2,000; and
- (b) The total value of donations granted is not exceeding the allocation approved in the Adopted Budget;

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| Sub-delegate/s: | Deputy CEO Manager of Works Asset and Waste Management Coordinator |
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| Chief Executive Instruction/Procedure: | Procedure 4.5 |
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CEO Conditions on Sub-Delegation

- (a) Payments must be jointly exercised by any combination of at least two delegates or sub-delegates i.e. two signatories to cheques or two separate and individual authorisations for EFT payments.
- (b) Decisions for the allocation of annual donations is not sub-delegated.

1.2.8 Waiving and Granting of Concessions and Write-Off of Debts other than Rates & Service Charges

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 25 th May 2005 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil. |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Sections 6.12

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to approve or refuse to approve applications or requests for:

1. A waiver of a debt other than rates or a service charge.
2. The granting of a concession in relation to a debt other than rates or service charge.
3. The write-off of a debt other than rates or a service charge.

Subject to:

- (a) the amount of the request or application not exceeding \$200.00.
- (b) Keep a local government record as per the State Records Act 2000

1.2.9 Investment of Surplus Funds

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 25 th May 2005 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | 4.3 |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Section 6.14 Power to invest
- Local Government (Financial Management Regulations) 1996, Regulation 19 Investments, control procedures for
-

Description of Functions Delegated

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

- To invest money held in the municipal or trust fund that is not, for the time being, required for any other purpose, in accordance with Part III of the Trustees Act 1962 [s.6.14(1)].

Subject to:

- Compliance with the Shire's documented internal control procedures established in accordance with Regulation 19 of the *Local Government (Financial Management) Regulations 1996*; and
- Compliance with Council Policy 4.3

- To establish and amend, as necessary, documented internal control procedures to be followed by employees that ensure control over investments and which enable the identification of the nature and location of all investments and the transactions related to each investment [FM r.19].

Subject to:

- Keep a local government record as per the State Records Act 2000

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| Sub-delegate/s: | n/a |
|------------------------|-----|

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|---|----------------|
| Chief Executive Instruction/Procedure: | Procedure 4.10 |
|---|----------------|

1.2.10 Amending the Rate Record

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Section 6.39(2)(b) Rate Record

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to determine whether to amend the rate record for the preceding five years.

Subject to:

- (a) Compliance with the requirements of Section 6.39 of the *Local Government Act 1995*.

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| Sub-delegate/s: | Finance Officer |
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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

1.2.11 Agreement as to Payment of Rates and Service Charges

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd June 1998 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, s.6.49 Agreement as to payment of rates and services charges

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to make an agreement with a person for the payment of rates and service charges.

Subject to:

- (a) Having regard for the requirements of Council's Recovery of Rates policy; and
- (b) The arrangements agreed to being on the basis that the total debt outstanding will be extinguished by 30 June next following.

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| Sub-delegate/s: | n/a |
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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

1.2.12 Due Date for Payment of Rates and Service Charges

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd June 1998 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil. |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, s.6.50(1) Rates or Service charges due and payable

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to determine the date a rate or service charge becomes due and payable.

Subject to:

- (a) the date to be determined is not to be earlier than 35 days after the date of issue on the rate notice.

| | |
|------------------------|-----------------|
| Sub-delegate/s: | Finance Officer |
|------------------------|-----------------|

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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.13 Recovery of Unpaid Rates or Service Charges

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Sections:
 - 6.56(1) Rates or services charges recoverable in court
 - 6.60(2) and (4) Local government may require lessee to pay rent

Description of Functions Delegated

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

- When court action should be taken to recover an unpaid rate or service charge that is due and payable [s.6.56(1)].

Subject to:

- Recovery action having been taken in accordance with Council's Collection of outstanding Rates Procedure and Collection of outstanding Debt Policy and Procedure.
- When a notice should be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge [s.6.60(2)].
 - To recover the amount of the rates or service charges as a debt from the lessee if rent is not paid in accordance with a notice [s.6.60(4)].

| | |
|------------------------|-----------------|
| Sub-delegate/s: | Finance Officer |
|------------------------|-----------------|

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|---|---------------------|
| Chief Executive Instruction/Procedure: | Procedure 4.7 & 4.8 |
|---|---------------------|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.14 Objection to Rate Record – Extension of Time

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, section 6.76(4) and (5)
Grounds of objection

Description of Functions Delegated

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

- Determine applications by a person for an extension of time to make an objection to the rate record [s.6.76(4)].

Subject to:

- Any extension granted being no longer than 30 days.

- Consider any objection to the rate record and either disallow it or allow it, wholly or in part [s.6.76(5)].

Subject to:

- Giving written notice of the decision made under (2) above in accordance with Section 6.76(6) of the *Local Government Act 1995*.

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|------------------------|-----------------|
| Sub-delegate/s: | Finance Officer |
|------------------------|-----------------|

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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.15 Crossing from Public Thoroughfare to Private Land or Private Thoroughfare

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 30 th October 2013 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government (Uniform Provisions) Regulations:
 - 12(1) Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)
 - 13 Requirement to construct or repair crossing — Sch. 9.1 cl. 7(3)

Description of Functions Delegated

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

- Approve or refuse an application from an owner of land, to construct a crossing giving access from a public thoroughfare to the land, or a private thoroughfare serving the land, and impose conditions in respect to the approval [ULP r.12(1)].

Subject to:

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

- Issue a notice to the owner or occupier of private land requiring the owner or occupier to construct or repair a crossing from a public thoroughfare to the land, or a private thoroughfare serving the land [ULP r.13(1)].

Subject to:

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

- If the person fails to comply with the notice, determine to construct or repair the crossing as the notice required and recover 50% of the cost of doing so, as a debt due from the person [ULP r.13(2)].

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|------------------------|-------------------|
| Sub-delegate/s: | Managers of Works |
|------------------------|-------------------|

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| Chief Executive Instruction/Procedure: | Procedure 5.6 |
|---|---------------|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.16 Private Works On, Over or Under Public Places

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 18 th June 1997 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government (Uniform Provisions) Regulations 1996, r.17 Private works on, over, or under public places — Sch. 9.1 cl. 8

Description of Functions Delegated

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

- Grant permission to a person to construct anything on, over, or under a public thoroughfare or other public place that is Local Government property, and impose conditions in respect to the permission [ULP r.17(3) and (5)].

Subject to:

- The requirements of Regulation 17 of the *Local Government (Uniform Provisions) Regulations 1996*; and
- Determining a sufficient bond being imposed, as listed in Council's Schedule of Fees and Charges; and
- Owners and Occupiers of adjoining properties being advised of the works and provided sufficient time to make submissions regarding the proposed works. If any reasonable objection is made known, prior to works commencing, the determination of the application for permission is to be referred to Council.

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|------------------------|------------------|
| Sub-delegate/s: | Manager of Works |
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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.17 Excavation on Public Thoroughfares

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government (Uniform Provisions) Regulations, r.11 Dangerous excavation in or near public thoroughfare — Sch. 9.1 cl. 6

Description of Functions Delegated

Council delegates its authority and power to:

- Determine if an excavation in a public thoroughfare or land adjoining a public thoroughfare is dangerous and determine to fill in or fence the excavation or, in writing, request the owner or occupier of the land to fill in or securely fence the excavation [ULP 4.11(1)].
- Grant permission to a person to make or make and leave, an excavation of specified dimensions and in a specified way in a specified part of a public thoroughfare or on a specified part of land adjoining a public thoroughfare, and impose conditions in respect to the permission [ULP r.11(4) and (6)].

Subject to:

- (a) The requirements of Regulation 11 of the *Local Government (Uniform Provisions) Regulations 1996*.

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| Sub-delegate/s: | Manager of Works |
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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.18 Obstruction of Public Thoroughfare by Things Placed and Left – Grant Permission

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd March 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government (Uniform Provisions) Regulations, r.6 Obstruction of public thoroughfare by things placed and left — Sch. 9.1 cl.3.(1)(a)

Description of Functions Delegated

Council delegates its authority and power to:

- Grant permission 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)].
- Determine to impose conditions on granting permission to place one or more specified things that may obstruct a public thoroughfare [ULP r.6(4)].

Note:

It is the CEO's function to determine:

- In accordance with Regulation 6(4)(d), the sum sufficient to cover the cost of repairing damage to the public thoroughfare resulting from granting permission to place specified things on a public thoroughfare.
- In accordance with Regulation 6(5)(b), the protective structures necessary for public safety.
- In accordance with Regulation 6(5)(d), satisfaction with the repair of damage to a public thoroughfare resulting from granting permission to obstruct or place things on a public thoroughfare.

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| Sub-delegate/s: | Manager of Works |
|------------------------|------------------|

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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.19 Gates and Other Devices Across Thoroughfares (38)

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government (Uniform Provisions) Regulations 1996, r.9 Permission to have gate across public thoroughfare — Sch. 9.1 cl. 5(1)

Description of Functions Delegated

Council delegates its authority and power to:

- Grant permission to a person to have a gate or other device across a public thoroughfare under the care, control and management of the Shire, and impose conditions in respect to the permission [ULP r.11(1) and (4).

Subject to:

- The requirements of Regulation 9 of the *Local Government (Uniform Provisions) Regulations 1996*; and
 - A register of gates and other devices being kept in accordance with Clause 9(8) of the *Local Government (Uniform Provisions) Regulations 1996*.
- Before dealing with an application, determine when an applicant is required to give public notice of the application and in what manner the notice is required [ULP r.11(2)].
 - Determine renewal of permissions for a gate or other device across a public thoroughfare and, vary any condition imposed on the original permission [ULP r.11(5)].
 - Determine to cancel permission by written notice and request the person responsible for the gate or device to remove it within a time specified in the request [ULPr.11(6)].

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| Sub-delegate/s: | Manager of Works |
|------------------------|------------------|

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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.2.20 Performing Functions Outside Own District

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, sections
 - 5.42 Delegation of some powers or duties to the CEO
 - 5.43 Limitations on delegations to the CEO

Power Enabling Sub-Delegation:

- Local Government Act 1995, s.5.44 CEO may delegate some powers and duties to other employees

Power Delegated:

- Local Government Act 1995, Section 3.20 Performing functions outside district

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to determine whether things done by the Shire in performing its executive function will be done outside the Shire of Gnowangerup District.

Subject to:

- Compliance with the requirements of Section 3.20 of the Local Government Act 1995; and
- Details of the actions taken are to be recorded on the appropriate file and a report on the actions taken is to be presented to Council at its next ordinary meeting.

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|------------------------|------------------|
| Sub-delegate/s: | Manager of Works |
|------------------------|------------------|

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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

- Keep a local government record as per the State Records Act 2000

1.3 Delegations from CEO to Employees

Nil.

1.4 Local Law Delegations

1.4.1 Dogs Local Law 2016

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 24 th May 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil. |

Power Enabling Delegation:

- Dog Act 1976, section 10AA(1) Delegation of local government powers and duties

Power Enabling Sub-Delegation:

- Dog Act 1976, section 10AA(3) Delegation of local government powers and duties

Power Delegated:

- Dogs Local Law 2016, clauses:
 - 4.2(d) and (f)
 - 4.3(3)
 - 4.5(c)
 - 4.8(1) and (2)
 - 4.10
 - 4.12(1) and (2)
 - 4.13(1)(a)
 - 4.13(3)

Description of Functions Delegated

Council delegates its authority and power to:

1. Approved Kennel Establishments

- 1.1. Determine the code of practice applicable to the keeping of dogs [cl 4.2(d)].
- 1.2. Request such other information as required in respect of an application for a licence for an approved kennel [cl 4.2(f)].
- 1.3. Refuse to determine an application for an approved kennel licence until all notices are given in accordance with directions [cl 4.3(3)].
- 1.4. Consider any written submission received within the time specified on the proposed use of the premises [cl 4.5(c)].
- 1.5. Subject to having consideration of the matters prescribed in clause 4.6, approve an application for a licence inclusive of conditions [cl 4.8(1) and (2)].
- 1.6. Determine the form of the licence [cl 4.10].
- 1.7. Vary the conditions of a licence [cl 4.12(1)].
- 1.8. Cancel a licence [cl 4.12(2)].
- 1.9. Determine the form of an application for the transfer of a valid licence [cl 4.13(1)(a)].
- 1.10. Approve or refuse to approve an application for the transfer of a valid licence [cl 4.13(3)].

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| Sub-delegate/s: | N/A |
|------------------------|-----|

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|---|-----|
| Chief Executive Instruction/Procedure: | Nil |
|---|-----|

1.4.2 Local Government Property Local Law 2016

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 24 th May 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil. |

Power Enabling Delegation:

- Local Government Act 1995, section 5.42 Delegation of some powers or duties to the CEO and section 5.43 Limitations on delegations to the CEO.

Power Enabling Sub-Delegation:

- Local Government Act 1995, section 5.44 CEO may delegate some powers and duties to other employees.

Power Delegated:

- Local Government Property Local Law 2016, clauses:
 - 2.3
 - 3.2(2-5)
 - 3.3(1,2,4)
 - 3.3(4)
 - 3.9(2)
 - 3.11(1)
 - 3.12 (2) and (3)
 - 5.3
 - 6.1(2)
 - 8.3
 - 8.4
 - 9.2

Description of Functions Delegated

Council delegates its authority and power to:

2. Determinations in Respect of Local Government Property

- 1.11. Erect a sign on local government property to give notice of the effect of a determination which applies to that property [cl 2.3].

2. Permits

- 2.1 Determine the form of an application for a permit under this local law [cl 3.2(2)].
- 2.2 Require an applicant to provide additional information before determining an application for a permit [cl 3.2(3)].
- 2.3 Require an applicant to give local public notice of the application for a permit [cl 3.2(4)].
- 2.4 Refuse to consider an application for a permit [cl 3.2(5)].
- 2.5 Approve an application for a permit unconditionally or subject to conditions as considered appropriate, or refuse to approve an application for a permit [cl 3.3(1)].
- 2.6 Determine the form of a permit, and issue a permit to the applicant [cl 3.3(2)].
- 2.7 Amend a condition of approval and provide written notice to the permit holder [cl 3.3(4)].
- 2.8 Approve or refuse to approve an application for the transfer of a permit, subject to any conditions considered appropriate [cl 3.9(2)].
- 2.9 Cancel a permit [c 3.11(1)].

- 2.10 Exempt a person or property from the list of activities requiring a permit in clause 3.12(1) [cl 3.12(2) and (3)].

3. Matters Relating to Particular Local Government Property

- 3.1 Authorise entry to a fenced off or closed local government property [cl 5.3].

4. Fees for Entry on to Local Government Property

- 4.1 Exempt a person from having to pay an admission fee for entry to a function on local government property [cl 6.1(2)].

5. Miscellaneous

- 5.1 Dispose of any article left on any local government property if not claimed within 3 months [cl 8.3].
- 5.2 Require a person who has unlawfully damaged local government property to replace the property or reinstate it to its pre-damaged state and, where the request has not been complied with, recover the costs as a local government debt [cl 8.4].

6. Enforcement

- 6.1 Authorise any action which was requested in a notice under this local law but not complied with to be done and the costs recovered from the person to whom the notice was given [cl 9.2].

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| Sub-delegate/s: | N/A |
|------------------------|-----|

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| Chief Executive Instruction/Procedure: | Nil |
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1.4.3 Animals, Environment and Nuisance Local Law 2016

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 24 th May 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil. |

Power Enabling Delegation:

- Local Government Act 1995, section 5.42 Delegation of some powers or duties to the CEO and section 5.43 Limitations on delegations to the CEO
- Cat Act 2011, section 44 Delegation by local government
- Health (Miscellaneous Provisions) Act 1911, Section 13A CEO and Chief Health Officer may delegate

Power Enabling Sub-Delegation:

- Local Government Act 1995, section 5.44 CEO may delegate some powers and duties to other employees
- Cat Act 2011, section 45 Delegation by CEO of local government

Power Delegated:

- Animals, Environment and Nuisance Local Law 2016, clauses:
 - 2.4(1)
 - 2.4(5)
 - 2.4(7)(a) and (b)
 - 2.4(8)
 - 2.5(a)
 - 2.7, 2.9 and 2.12
 - 2.14(2)(a)
 - 2.14(3)
 - 2.15(3)
 - 2.20
 - 2.21(1) and (3)
 - 2.23(1) and (2)
 - 2.27(1) and (3)
 - 3.3(1) and (2)
 - 3.4(2) and (4)
 - 3.5
 - 3.8(1), (2) and (3)
 - 4.3(1)
 - 4.4(1)
 - 4.7
 - 4.12
 - 4.14(1)
 - 6.3(2) and (3)

Description of Functions Delegated

Council delegates its authority and power to:

3. Animals

- 1.12. Authorise, and provide in writing, an exemption to keep more than 3 cats over the age of 6 months on premises on any land within the district [cl 2.4(1)].
- 1.13. Require the recipient of an exemption to house, or keep cats in such a manner as directed by an EHO [cl 2.4(5)].
- 1.14. Approve the establishment of a cattery [cl 2.4(7)(a)] and issue a certificate of registration [cl 2.4(8)].
- 1.15. Approve the form of an application for registration of a cattery [cl 2.4(7)(b)].
- 1.16. Approve the form of a certificate of registration of a cattery [cl 2.4(8)(a)].
- 1.17. Approve the keeping of more than 12, and up to 20, poultry on premises in a residential zone [cl 2.5(a)].

- 1.18. Provide written permission for an owner or occupier to keep roosters, geese, turkeys or peafowls on land of less than 1 hectare in area [cl 2.7].
- 1.19. Order an owner or occupier of a house on or in which pigeons regularly nest or perch to take adequate steps to prevent them from continuing to do so [cl 2.9].
- 1.20. Approve the keeping of farm animals outside a rural zone [cl 2.12].
- 1.21. Approve the keeping of more than 1 miniature horse on land zoned residential or special rural [cl 2.14(2)(a)].
- 1.22. Prohibit or set conditions on the keeping of a miniature horse on any land [cl 2.14(3)].
- 1.23. Prohibit or set conditions on the keeping of a miniature pig on any land [cl 2.15(3)].
- 1.24. Approve the form of an application for a permit to become a beekeeper [cl 2.20].
- 1.25. Approve or refuse an application for a permit to become a beekeeper [cl 2.21(1)].
- 1.26. Approve the form of a permit to become a beekeeper [cl 2.21(3)].
- 1.27. Cancel or vary the conditions of a permit to become a beekeeper after it has been issued [cl 2.23(1) and (2)].
- 1.28. Give a notice to a beekeeper permit holder, land owner or occupier of land to remove bees and/or beehives from the land [cl 2.27(1)].
- 1.29. Dispose of the bees and/or beehives described in clause 2.27(1) if the recipient of the notice has failed to comply, and recover the costs of doing so from the notice recipient [cl 2.27(3)].

7. Building, Development and Land Care

- 7.1 Provide written approval to store construction materials on a property other than a building or development site [cl 3.3(1)].
- 7.2 Provide written approval to store construction materials on any road verge [cl 3.3(2)].
- 7.3 Serve the owner or occupier of land where dust has not been stabilised or liquid waste contained with a notice to remedy the situation [cl 3.4(2)].
- 7.4 Give the owner or occupier of land a notice with conditions to control activities which may result in the release or escape of dust or liquid waste [cl 3.4(4)].
- 7.5 Authorise the on-site burning of vegetation or other material cleared from a building or development site [cl 3.5], subject to compliance with the *Bush Fires Act 1954*.
- 7.6 Give notice to the owner or occupier of land to make safe by removing, cutting, moving or otherwise dealing with a tree that endangers any person or thing on adjoining land [cl.3.8(1)].

- 7.7 Take remedial action to make a tree which presents a serious and imminent danger safe, without giving a notice to the owner or occupier of land [cl.3.8(2)].
- 7.8 Determine when, and if to, recover any costs incurred in taking remedial action required by clause 3.8(2) [cl.3.8(3)].

8. Nuisances and Dangerous Things

- 8.1 Give notice to direct a land owner or occupier to take specified action to prevent emission or reflection of light onto other premises or which might be a nuisance to nearby road users [cl 4.3(1)].
- 8.2 Provide written approval to set fire to rubbish, refuse or other materials on rural residential zoned properties with an area of 2,000 square metres or less [cl 4.4(1)] , subject to compliance with the *Bush Fires Act 1954*.
- 8.3 Provide written consent to start or drive a truck on land zoned, approved or used for residential purposes between the hours of midnight and 5.00am [cl 4.7].
- 8.4 Authorise a person to provide or conduct any amusement on land so as to create or be a nuisance to any owner or occupier of land in the district [cl 4.12].
- 8.5 Authorise a person to place or affix any letter, figure, device, poster sign or advertisement on any buildings, fences or posts [cl 4.14(1)], subject to compliance with Local Planning Scheme and *Building Act 2011* requirements.

9. Enforcement

- 9.1 Determine to do anything considered necessary to achieve, so far as practicable, the purposes of a notice given under the *Animals, Environment and Nuisance Local Law 2016* [cl.6.3(2)].
- 9.2 Determine to recover the cost of anything done to achieve the purposes of a notice, as a debt due from the person who failed to comply with the notice [cl.6.3(3)].

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| Sub-delegate/s: | N/A |
|------------------------|-----|

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| Chief Executive Instruction/Procedure: | Nil |
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1.4.4 Bush Fire Brigades Local Law 2016

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|----------------------------|--------------------------------|
| Date Adopted: | 24 th May 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil. |

Power Enabling Delegation:

- Local Government Act 1995, section 5.42 Delegation of some powers or duties to the CEO and section 5.43 Limitations on delegations to the CEO
- Bush Fires Act 1954, section 48 Delegation by local government

Power Enabling Sub-Delegation:

- Local Government Act 1995, section 5.44 CEO may delegate some powers and duties to other employees
- Bush Fires Act 1954, nil – sub-delegation prohibited by section 48(3)

Power Delegated:

- Bush Fire Brigades Local Law 2016, clauses:
 - 2.2(5))
 - 8.2(1)

Description of Functions Delegated

Council delegates its authority and power to:

4. Establishment of Bush Fire Brigade

- 1.30. Appoint a person as an officer of a bush fire brigade if the position becomes vacant prior to the conclusion of the first annual general meeting [cl 2.2(5)].

10. Notices and Proxies

- 10.1 Determine the form of the notice required to allow a proxy to vote at a meeting [cl 8.2(1)].

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| Sub-delegate/s: | N/A |
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|---|-----|
| Chief Executive Instruction/Procedure: | Nil |
|---|-----|

2 Other Legislation

2.1 Building Act 2011

2.1.1 Building Act 2011 – Functions

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Building Act 2011, section 127 Delegation: special permit authorities and local governments

Power Enabling Sub-Delegation:

- Building Act 2011, section 127(6A) Delegation: special permit authorities and local governments (*powers of sub-delegation limited to CEO*)

Power Delegated:

- Building Act 2011, sections:
 - 20 Grant of Building Permit
 - 21 Grant of demolition permit
 - 22 Further grounds for not granting an application
 - 27 (1) and (3) Impose Conditions on Permit
 - 55 Further Information
 - 58 Grant of Occupancy permit, building approval certificate
 - 65(4) Extension of period of duration
 - 96(3) Authorised persons
 - 110(1) A permit authority (*local government*) may make a building order
 - 111(1) Notice of proposed building order other than building order (emergency)
 - 117(1) and (2) A permit authority (local government) may revoke a building order or notify that it remains in effect
 - 118(2) and (3) Permit authority may give effect to building order if non-compliance
 - 131(2) Inspection, copies of building records
 - 133(1) A permit authority may commence prosecution for an offence against this Act.
- - 62, and 131
- Building Regulations 2012
 - 55 Terms Used (Smoke Alarms)
 - 61 Local Government approval of battery powered smoke alarms

Description of Functions Delegated

Council delegates its authority and power to:

1. Permits, Approvals, Certificates

1.1. Grant or refuse a building permit [s.20(1) and (2) and s.22].

1.2. Grant or refuse a demolition permit [s.21(1) and (2) and s.22].

1.3. Impose conditions on the grant of a building permit or demolition permit [s.27(1) and (3)].

1.4. Determine approved alternative building solution to meet performance requirement in the Building Code relating to fire detection and early warning [Building r.55].

- 1.5. Grant or modify the occupancy permit or grant the building approval certificate [s.58] and determine to impose, add, vary or revoke conditions [s.62(1) and (3)].
- 1.6. Require an applicant for an occupancy permit or building approval certificate to provide any documentation or information required in order to determine an application [s.55].
- 1.7. Approve or refuse to approve applications for extension of period of duration for an occupancy permit or modification of the building approval certificate [s.65(4)].
- 1.8. Determine the application form for, and approve or refuse to approve a battery powered smoke alarm [Building r.61].
2. Designate Authorised Persons
 - 2.1. Designate employees as authorised persons for the purposes of the *Building Act 2011* in relation to buildings and incidental structures within the district of the Shire of Gnowangerup [s.96(3)].
3. Building Orders
 - 3.1. Make a building order, under section 110 of the *Building Act 2011*, in respect of one or more of the following-
 - (a) Particular building work;
 - (b) Particular demolition work; or
 - (c) A particular building or incidental structure.
 - 3.2. Give notice of a proposed building order other than a building order (emergency) and consider submissions received in response and determine actions [s. 111(1)].
 - 3.3. Revoke a building order [s.117(1)] by serving written notice to each person to whom the order is directed.
 - 3.4. If there is non-compliance with a building order, cause an authorised person to:
 - (a) take any action specified in the order, or
 - (b) commence or complete any work specified in the order; or
 - (c) if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease. [s.118(2)].
 - 3.5. Take court action to recover as a debt, reasonable costs and expenses incurred in doing anything in regard to non-compliance with a building order [s.118(3)].
 - 3.6. Initiate a prosecution for an offence under the *Building Act 2011* [s.133(1)].
4. Inspection and Copies of Building Records
 - 4.1. Determine an application from an interested person to inspect and copy a building record [s131(2)].

The CEO can only exercise any of the above delegations after considering a report from the Shire's Building Surveyor and/or the Environmental Health Officer, their recommendations, any precedents or policies set by Council, and where the CEO does not agree with the recommendation from the Building Surveyor and/or the Environmental Health Officer, either seek further clarification before making a decision or refer the matter to Council.

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| <i>Sub-delegate/s:</i> | Building Surveyor | <i>Chief Executive Instruction/Procedure:</i> | |
|-------------------------------|-------------------|--|--|

CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.2 Bush Fires Act 1954

2.2.1 Bush Fires Act 1954 – Authorise and Appoint Officers

| | | | |
|--|--------------------------------|--|-------------------------|
| Date Adopted: | | Delegate: | Chief Executive Officer |
| Date Last Reviewed: | 12 th February 2020 | Policy Reference: | Nil |
| Power Enabling Delegation: <ul style="list-style-type: none">Bushfires Act 1954, Section 48 Delegation by local government Power Enabling Sub-Delegation: <ul style="list-style-type: none">NIL - sub-delegation prohibited by s.48(3) | | Power Delegated: <ol style="list-style-type: none">Bush Fires Act 1954 – specified powers as detailed herein. | |

Description of Functions Delegated

Council delegates its authority and power to determine to:

- Request the FES Commissioner to authorise the designated Bush Fire Liaison Officer to take control of a bush fire burning in the Shire's District [s.13(4)].
- Appoint such persons as necessary to be Bush Fire Control Officer and of those officers, appoint two as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer and determine the respective seniority of the other Bush Fire Control Officers so appointed [s.38(1)].
- Appoint local government officers as authorised officers, to fulfil the duties and function of authorised officers in granting under the Bush Fires Act 1954 [r.24].
- Where the local government is an **approved local government** by the DFES Commissioner, appoint:
 - a person to the officer of Fire Weather Officer such number of senior bush fire control officers as considered necessary [s.38(7)].
 - one or more persons, as necessary to be deputy/ies of a Fire Weather Officer and determine the order of seniority where two or more appointed [s.38(10)].

Subject to:

- All such appointments being recorded in the Shire's Register of Authorised Persons.
- Compliance with relevant procedures described within the Bush Fires Act 1954 and Bush Fires Regulations 1954.
- Keep a local government record as per the State Records Act 2000

2.2.2 Bush Fires Act 1954 – Issue and Administer Permits, Approvals and Prohibitions

| | |
|----------------------------|--------------------------------|
| Date Adopted: | |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Bushfires Act 1954, Section 48 Delegation by local government

Power Enabling Sub-Delegation:

- NIL - sub-delegation prohibited by s.48(3)

Power Delegated:

1. Bush Fires Act 1954 – specified powers as detailed herein.

Description of Functions Delegated

Council delegates its authority and power to determine to:

1. Vary the prohibited burning times, following consultation with an authorised DPaW Act officer [s.17(8)].
2. Where seasonal conditions warrant and after consultation with an authorised DPaW Act officer, determine to vary the restricted burning times [s.18(5)].
3. Approve or refuse to approve, with conditions as prescribed and as determined, applications for permission to set fire to the bush, in accordance with the resolved declaration of Council for burning only on such dates and by such persons and scheduled times [s.18(10B) and (10C)].
 - (1) Recoup bush fire brigade expenses arising from preventing the extension of, or extinguishing, an out of control approved burn within restricted burning times [s.18(11)].
4. Prohibit burning of the bush on Sundays and / or public holidays during restricted burning times by giving notice and determine to revoke such notice [r.15C].
5. Declare during restricted burning times, that the use of harvesting machinery on land under crop, during the whole or part of any Sunday or public holiday, in the whole or part of the Shire's District, is prohibited unless with the written consent of the Bush Fire Control Officer [r.38C].
6. Determine and advise the Bush Fire Control Officer of directions considered necessary, if any, during restricted or prohibited burning times for the prevention of fire on land where:
 - (a) it is proposed to be used as a landing ground for aeroplanes used for agricultural purposes [r.39B(3)].
 - (b) welding apparatus or power operated abrasive cutting discs are being or proposed to be operated [r.39C(3)].
 - (c) a bee smoker device is being or proposed to be operated [r.39CA(5)].
 - (d) explosives are being or proposed to be used [r.39D(2)].
 - (e) fireworks are being or proposed to be used [r.39E(3)].
7. Give permission for an incinerator to be used to burn garden refuse, where the incinerator is situated within 2m of a building or fence [s.24F(2)(b)(ii)].
8. Prohibit or impose restrictions on the burning of garden refuse within the Shire's District, that would otherwise be permitted under section 24F by giving notice in the Government Gazette

and in a newspaper circulating in the District and determine to vary or cancel a notice, by giving a subsequent notice [s.24G(2) and (5)].

9. Approve or refuse to approve, lighting a camp or cooking fire during a period where the fire danger forecast is "catastrophic", "extreme", "severe" or "very high" [s.25(1)(a)].
10. Approve or refuse to approve, lighting a fire for the conversion of bush into charcoal or in a lime kiln, subject to directions given or specified by a Bush Fire Control Officer or Authorised CALM Act officer [s.25(1)(b)].
11. Where appropriate, set aside an area of land under the Shire's care, control and management, for the purposes of using a gas appliance for camping or cooking [s.25(1aa)].
12. Prohibit the lighting of fires in the open in the Shire's District for the purposes of camping or cooking for such period during the prohibited burning times, by giving notice in the Government Gazette and in a newspaper circulating in the District [s.25(1a)]. Vary or cancel such notice by giving a subsequent notice [s.25(1b)].
13. Prohibit a person, who has been granted a Ministerial exemption for compliance with restriction on fires in the open during restricted burning times, from lighting a fire to which the exemption relates for such period as is specified in the notice to that person [s.25A(5)].
14. Issue directions to an authorised officer as to the manner in which or the conditions under which permits to burn plant refuse are to be issued in the Shire's District [r.27(3)].
15. Give notice to an authorised officer, of objections to the issuing of a permit for the burning of a proclaimed plant on any land situated within Shire District [r.34].
16. Permit the use of tractors in orchards, where the tractor exhaust pipe is not vertical, during restricted or prohibited burning times, in accordance with the requirements of s.27 [s.27(2)].
17. Prohibit the operation of any tractor or self-propelled harvester other than a tractor or self-propelled harvester that is equipped with a fire extinguisher, by giving notice in a newspaper circulating in the District, broadcast from a radio station with coverage throughout the district and displaying the notice in prominent positions throughout the district [s.27(3)].
18. Issue directions, as appropriate for the control of depositing incendiary material on any land [s.27D(3)]. **Incendiary material** means hot or burning ash, cinders, hot furnace refuse, or any combustible matter that is burning.
19. Where an occupier of land has failed to take appropriate measures to extinguish a fire they have lit or caused to be lit or not, recoup expenses incurred by the Shire, its Bush Fire Control Officer, to extinguish the fire [s.28(4)] and where necessary, determine to recoup such expenses in a court of competent jurisdiction [s.28(5)].
20. Where a Bush Fire Brigade is established, determine whether to apply to the Minister for the District to be declared an approved area [s.52(1)]. Note: An approved area facilitates provision of a reduction in insurance premiums on crops - refer s.53.

Generally subject to:

- (a) Compliance with relevant procedures described within the Bush Fires Act 1954 and Bush Fires Regulations 1954.
- (b) Keep a local government record as per the State Records Act 2000

2.2.3 Prohibited and Restricted Burning Times Variation (22)

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|---|
| Delegate: | President and Chief Bush Fire Control Officer (Jointly) |
| Policy Reference: | |

Power Enabling Delegation:

- Bushfires Act 1954:
 - S.48 Delegation by local government
 - S.17(10) Prohibited burning times may be declared by Minister
 - S.17(5C) Restricted burning times may be declared by FES

Power Enabling Sub-Delegation:

- NIL - sub-delegation prohibited by s.48(3)

Power Delegated:

- Bushfires Act 1954:
 - S.17(7) and (8) Prohibited burning times may be declared by Minister
 - S.18(5) Restricted burning times may be declared by FES Commissioner

Description of Functions Delegated

Council delegates its authority and power to determine to:

1. Vary restricted and prohibited burning times within the District of the Shire of Gnowangerup, by:
 - (a) shortening, extending, suspending or reimposing a period of restricted or prohibited burning times; or
 - (b) imposing a further period of restricted or prohibited burning times.

Subject to:

- (a) Compliance with notice and procedural requirements as prescribed in Sections 17 and 18 of the *Bush Fires Act 1954*.
- (b) Decisions must be made jointly between the Chief Bush Fire Control Officer and the President. Where agreement cannot be reached, then the matter shall be presented to Council for determination.
- (c) Keeping a local government record as per the State Records Act 2000

2.2.4 Bush Fires Act 1954 – Fire Breaks, Fire Break Notices and Bush Fire Control

| | |
|----------------------------|--------------------------------|
| Date Adopted: | |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Bushfires Act 1954, Section 48 Delegation by local government

Power Enabling Sub-Delegation:

- NIL - sub-delegation prohibited by s.48(3)

Power Delegated:

1. Bush Fires Act 1954 – specified powers as detailed herein.

Description of Functions Delegated

Council delegates its authority and power to determine to:

1. Make arrangements, as appropriate, for cooperation between the occupier of exempt land and the Bush Fire Brigade to cooperate in burning fire breaks on the respective land [s.22(6)].
2. Require adjoining exempt land occupier to clear fire breaks parallel to and at a specified distance to the common boundary [s.22(7)].
3. Determine satisfaction with a fire break constructed around land proposed to be used as a landing ground for an aeroplane that is being used in connection with crop dusting, spraying, spreading fertiliser or other agricultural purposes [r.39B(2)].
4. Give written notice to an owner or occupier of land, or publish notice in the Government Gazette and in a newspaper circulating in the Shire's District, requiring within a specified time to plough or clear fire breaks and / or act upon anything upon the land which is considered conducive to outbreak or spread of a bush fire [s.33(1)].
5. Direct the Bush Fire Control Officer or any other local government officer to enter upon land to carry out the requirements of a 'Fire Break Notice' which have not been complied with [s.33(4)].
6. Fix the amount of any costs and expenses incurred by the Bush Fire Control Officer or other local government officer in doing the things necessary to carry out the requirements of a 'Fire Break Notice' and where necessary, determine to recoup such costs and expenses in a court of competent jurisdiction [s.33(5)].
7. Where requested by an owner or occupier, determine to carry out on land at the expense of the owner or occupier, any works for the removal or abatement of a fire danger and if not paid on demand, recover the expenses from the owner or occupier in a court of competent jurisdiction [s.33(6)].
8. Issue directions to a Bush Fire Control Officer or officer of a Bush Fire Brigade, to burn bush on or at the margins of streets, roads and ways under the care, control and management of the local government [s.385A)].

Generally subject to:

- (a) Compliance with relevant procedures described within the Bush Fires Act 1954 and Bush Fires Regulations 1954.
- (b) Keep a local government record as per the State Records Act 2000

2.2.5 Bush Fires Act 1954 – Enforcement

| | |
|----------------------------|--------------------------------|
| Date Adopted: | |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | Nil |

Power Enabling Delegation:

- Bushfires Act 1954, Section 48 Delegation by local government

Power Enabling Sub-Delegation:

- NIL - sub-delegation prohibited by s.48(3)

Power Delegated:

1. Bush Fires Act 1954 – sections 58 and 59

Description of Functions Delegated

Council delegates its authority and power to determine to:

1. Determine to recover from the person committing an offence, expenses incurred by the Bush Fire Control Officer, any officer or member of a Bush Fire Brigade or any other person acting under the provisions of the *Bush Fires Act 1954* in the performance of a duty or the doing of anything they are empowered or required to do. Recovery may be as a debt due in a court of competent jurisdiction, apply for court order for payment, or issue a certificate that the expense was incurred. [s.58]
2. Institute and carry on proceedings against a person for an offence alleged to be committed against the *Bush Fires Act 1954* [s.59].

Generally subject to:

- (a) Compliance with relevant procedures described within the Bush Fires Act 1954 and Bush Fires Regulations 1954.
- (b) Keep a local government record as per the State Records Act 2000

2.3 Cat Act 2011

2.3.1 Cat Act 2011 – Appoint Authorised Persons

| | | | |
|---|--------------------------------|---|-------------------------|
| Date Adopted: | 26 th August 2015 | Delegate: | Chief Executive Officer |
| Date Last Reviewed: | 12 th February 2020 | Policy Reference: | |
| Power Enabling Delegation: <ul style="list-style-type: none">Cat Act 2011, section 44 Delegation by local government. Power Enabling Sub-Delegation: <ul style="list-style-type: none">Cat Act 2011, section 45 Delegation by CEO of local government | | Power Delegated: <ul style="list-style-type: none">Cat Act 2011, section 48 Authorised persons | |

Description of Functions Delegated

Council delegates its authority and power to:

1. Appoint persons or classes of persons to be authorised for the purposes of performing particular functions under this Act [s.48(1)].
2. Determine conditions on any authorisation [s.48(3)].
3. Cancel or vary an authorisation or a condition on an authorisation [s.48(4)].

Generally subject to:

- (a) At least once each financial year, the CEO is required to circulate to Councillors a copy of the Shire of Gnowangerup's Schedule of Authorisations.

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| Sub-delegate/s: | | Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.3.2 Cat Act 2011 – Registrations

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 26 th August 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Cat Act 2011, section 44 Delegation by local government.

Power Enabling Sub-Delegation:

- Cat Act 2011, section 45 Delegation by CEO of local government

Power Delegated:

- Cat Act 2011:
 - S.9 Registration
 - S.10 Cancellation of registration
 - S.13 Notice to be given of certain decisions made under this Subdivision

Description of Functions Delegated

Council delegates its authority and power to:

1. Grant or refuse to grant the registration of a cat [s.9(1)(a)].
2. Renew or refuse to renew the registration of a cat [s.9(1)(b)].
3. Require an applicant to provide any document or information required to determine an application for registration [s.9(5)].
4. Refuse to consider an application, where an applicant has not complied with a request for information [s.9(6)].
5. Cancel the registration of a cat [s.10].
6. Give notice of decisions [s.13].

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| Sub-delegate/s: | Ranger Works Assistant Customer Service Officer Senior Finance Officer Finance Officer |
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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.3.3 Cat Act 2011 – Breeder Approvals

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 26 th August 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Cat Act 2011, section 44 Delegation by local government.

Power Enabling Sub-Delegation:

- Cat Act 2011, section 45 Delegation by CEO of local government

Power Delegated:

- Cat Act 2011, sections:
 - S.37 Approval to breed cats
 - S.38 Cancellation of approval to breed cats
 - S.40 Notice to be given

Description of Functions Delegated

Council delegates its authority and power to:

1. Grant or refuse to grant an approval for the person to breed cats [s.37(1)(a)]
2. Renew or refuse to renew an approval for the person to breed cats [s.37(1)(b)].
3. Require an applicant to provide any document or information required to determine the application [s.37(3)].
4. Refuse to consider an application, where the applicant has not complied with a request for information [s.37(4)].
5. Cancel an approval to breed cats [s.38].
6. Give notice of decisions [s.40].

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| Sub-delegate/s: | Ranger |
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| Chief Executive Instruction/Procedure: | |
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CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.4 Dog Act 1976

2.4.1 Dog Act 1976 – Functions of Local Government

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Dog Act 1976, Section 10AA

Power Enabling Sub-Delegation:

- 10AA (3)

Power Delegated:

- Dog Act 1976, Sections 11, 12, 29(1) and 44(2)
 - Dog Regulations 2013

Description of Functions Delegated

Council delegates its authority and power to the Chief Executive Officer to perform all the functions and duties of the local government under the Dog Act 1976.

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| Sub-delegate/s: | Ranger Deputy Chief Executive Officer Works Assistant Customer Service Officer Senior Finance Officer Finance Officer |
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| Chief Executive Instruction/Procedure: | |
|---|--|

CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.5 Food Act 2008

2.5.1 Food Act 2008 – Appoint Authorised Officers

| | | | |
|---|--------------------------------|--|---|
| Date Adopted: | 22 nd Dec 2010 | Delegate: | Chief Executive Officer Environmental Health Officer |
| Date Last Reviewed: | 12 th February 2020 | Policy Reference: | |
| Power Enabling Delegation: <ul style="list-style-type: none">Food Act 2008, Section 118(2)(b) Functions of enforcement agencies and delegation<ul style="list-style-type: none">S.118 (3) Delegation subject to conditions [s119] and guidelines adopted [s120]S.118(4) Sub-delegation only permissible if expressly provided in regulations Power Enabling Sub-Delegation: <ul style="list-style-type: none">Nil. Food Act / Regulations do not provide for sub-delegation. | | Power Delegated: <ul style="list-style-type: none">Food Act 2008, Sections:<ul style="list-style-type: none">S.122(1) Appointment of authorised officersS.126(13) Infringement notices | |

Description of Functions Delegated

Council delegates authority and power to appoint persons to be:

1. An Authorised Officer for the purposes of the Food Act 2008 [122(1)].
2. A Designated Officer for the purposes of the *Food Act 2008* [126(13)].

Generally subject to:

- (a) At least once each financial year, the CEO is required to circulate to Councillors a copy of the Shire of Gnowangerup's Schedule of Authorisations.
- (b) Keep a local government record as per the State Records Act 2000

2.5.2 Food Act 2008 – Food Business Registrations

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd Dec 2010 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|---|
| Delegate: | Chief Executive Officer Environmental Health Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Food Act 2008, Section 118(2)(b) Functions of enforcement agencies and delegation
 - S.118 (3) Delegation subject to conditions [s119] and guidelines adopted [s120]
 - S.118(4) Sub-delegation only permissible if expressly provided in regulations

Power Enabling Sub-Delegation:

- Nil. Food Act / Regulations do not provide for sub-delegation.

Power Delegated:

- Food Act 2008, sections:
 - S.110(1) and (5) Registration of food business
 - S.112 Variation of conditions or cancellation of registration of food businesses.

Description of Functions Delegated

Council delegates its authority and power to:

1. Register a food business in respect of any premises for the purposes of Part 9 of the *Food Act 2008* and issue a certificate of registration, if approved [s.110(1)].
2. After considering an application, grant (with or without conditions) or refuse the application [s110(5)].
3. Vary the conditions imposed on Food Business Registration or cancel a Food Business Registration under Part 9 of the Food Act 2008 [s.112(1)].

Subject to:

- (a) Keep a local government record as per the State Records Act 2000

2.5.3 Food Act 2008 – Prohibition Orders

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 nd March 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|---|
| Delegate: | Chief Executive Officer Environmental Health Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Food Act 2008, Section 118(2)(b) Functions of enforcement agencies and delegation
 - 118 (3) Delegation subject to conditions [s119] and guidelines adopted [s120]
 - 118(4) Sub-delegation only permissible if expressly provided in regulations

Power Enabling Sub-Delegation:

- Nil. Food Act / Regulations do not provide for sub-delegation.

Power Delegated:

- Food Act 2008, sections:
 - 65(1) Prohibition Order
 - 66 Certificate of Clearance
 - 67(4) Request for Re-Inspection

Description of Functions Delegated

Council delegates its authority and power to:

1. Serve a Prohibition Order on the proprietor of a food business in accordance with s.65 of the Food Act 2008 [s.65].
2. Give a Certificate of Clearance, where inspection demonstrates compliance with a Prohibition Order and any Improvement Notices [s.66].
3. 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)].

Subject to:

- (a) Keep a local government record as per the State Records Act 2000

2.5.4 Food Act 2008 – Prosecutions

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 27 th May 2015 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|---|
| Delegate: | Chief Executive Officer Environmental Health Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Food Act 2008, Section 118(2)(b) Functions of enforcement agencies and delegation
 - S.118 (3) Delegation subject to conditions [s119] and guidelines adopted [s120]
 - S.118(4) Sub-delegation only permissible if expressly provided in regulations

Power Enabling Sub-Delegation:

- Nil. Food Act / Regulations do not provide for sub-delegation.
-

Power Delegated:

- Food Act 2008:
 - S.125 Institution of proceeding

Description of Functions Delegated

Council delegates its authority and power to:

1. Institute proceedings for an offence under the *Food Act 2008* [s.125].

Subject to:

- (a) Keep a local government record as per the State Records Act 2000

2.6 Graffiti Vandalism Act 2016

2.6.1 Graffiti Vandalism Act 2016 – Giving Notices, Obliterating Graffiti and Entry onto Land

| | |
|----------------------------|--------------------------------|
| Date Adopted: | 22 March 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Graffiti Vandalism Act 2016,
 - S.16 Delegation by local Government

Power Enabling Sub-Delegation:

- 17(3) Delegation by CEO of local government
-

Power Delegated:

- Graffiti Vandalism Act 2016:
 - S.18(2)
 - S.19(3) & (4)
 - S.24(1)(b) & (3)
 - S.25 Local government graffiti powers on land not local government property
 - S.27 General procedure for entering property
 - S.29 Entry under warrant

Description of Functions Delegated

Council delegates its authority and power to:

1. Give notice requiring a person who is an owner or occupier of a place, requiring the person to ensure the graffiti is obliterated in a manner acceptable to the local government within a time set out in the notice [s.18(2)].
 - 1.1. Where a person fails to comply with a notice, determine to do anything considered necessary to obliterate the graffiti in a manner acceptable to the local government [s.19(3)].
 - 1.2. Take action to recover costs, as a debt due from the person who failed to comply with the notice [s.19(4)].
2. Where an objection has been lodged (resulting in the suspension of the notice), consider if there are urgent reasons or reasonably likelihood of danger to the safety or any person or property or likelihood of creating a serious public nuisance, determine and take action to give effect to a notice and advice of such decision to affected persons [s.24(1)(b) and (3)].

Subject to:

- (a) Compliance with Part 3, Division 3 Objection to a notice, requirements, including advising the recipient of a notice and prescribe affected persons of the notice and review and objection rights.

Note:

An affected person may apply to the State Administrative Tribunal for a review of a decision to give a notice.

3. Obliterate graffiti that is visible from a public place and that has been applied without the consent of the owner or occupier, even though the land on which it is done is not local government property and the local government does not have consent to do it [s.25].

4. Give notice, to an owner or occupier, of a proposed entry onto land, premises or thing for the purpose of performing any function of a local government under the *Graffiti Vandalism Act 2016* [s.27].
5. Obtain a warrant to authorise entry onto land, premises or thing for the purposes of any function of a local government under the *Graffiti Vandalism Act 2016* [s.29].

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| <i>Sub-delegate/s:</i> | Deputy Chief Executive Officer Ranger |
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| <i>Chief Executive Instruction/Procedure:</i> | |
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CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.7 Planning and Development Act 2005

2.7.1 Planning & Development Act 2005 – Illegal Development

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|----------------------------|--------------------------------|
| Date Adopted: | 30 th October 2013 |
| Date Last Reviewed: | 12 th February 2020 |

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|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Local Government Act 1995, section 5.42
Delegation of some powers and duties to CEO

Power Enabling Sub-Delegation:

- Nil.

Power Delegated:

- Planning & Development Act 2005, Section 214(2), (3) and (5) Illegal development, responsible authority's powers as to

Description of Functions Delegated

Council delegates its authority and power to:

1. Give a written direction to the owner or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements.
2. Give a written direction to the owner or any other person who undertook an unauthorised development:
 - (a) to remove, pull down, take up, or alter the development; and
 - (b) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.
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 operation of the planning scheme or interim development order.

Subject to:

1. Keep a local government record as per the State Records Act 2000

2.8 Local Planning Scheme

2.8.1 Local Planning Scheme – Planning Functions

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|----------------------------|--------------------------------|--------------------------|-------------------------|
| Date Adopted: | 22 nd June 1998 | Delegate: | Chief Executive Officer |
| Date Last Reviewed: | 12 th February 2020 | Policy Reference: | |

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| Power Enabling Delegation: <ul style="list-style-type: none">Local Government Act 1995, Section 5.42. Power Enabling Sub-Delegation: <ul style="list-style-type: none">Shire of Gnowangerup Town Planning Scheme No 2 (11.3.1)(11.3.2) | Power Delegated: <ul style="list-style-type: none">Planning & Development Act 2005 |
|--|---|

Description of Functions Delegated

Council delegates its authority and power to:

- 1.0 Initiate the advertising notice process under c 9.4 of the Scheme for 'A' advertised planning applications prior to determination by the Council. The CEO may, without referral to Council, approve the application including the placement of conditions on the approval following the closure of the advertising period subject to no proper objection(s) being received. Any decision to refuse an application shall be referred to Council.
- 2.0 Initiate the advertising notice process under c.9.4 of the Scheme for a 'Use Not Listed' under c.4.4.2 prior to determination by the Council. The CEO may without referral to Council, approve the application including the placements of conditions on the approval following the closure of the advertising period subject to no proper objection(s) being received. Any decision to refuse an application shall be referred to Council.
- 3.0 Approve all 'P' permitted planning applications including the placement of conditions on the approval where the use and development complies with the standards prescribed by the Scheme and any relevant Local Planning Policies.
4. 0 Approve all 'D' discretionary planning applications including the placement of conditions on the approval, subject to-
 - (a) The use and development complying with objectives for the zone;
 - (b) The use and development complying with the standards prescribed by the Scheme; and
 - (c) Complying with any relevant Local Planning Policies.In exercising this power, the CEO may require an application to be advertised under c.9.4 if considered necessary prior to determining the application. Any decision to refuse an application shall be referred to Council.
- 5.0 Approve planning applications in a Local Scheme Reserve where the proposed use is consistent with the ultimate purpose intended for the reserve under the Scheme.
- 6.0 Approve and accept tree planting and landscaping plans required for subdivisional approval or to satisfy a condition of planning approval where the plans involve the use of local native plant and tree species or other appropriate species.
- 7.0 Provide responses to mobile phone carriers in accordance with the Telecommunications Act in respect the installation of low impact facilities.
- 8.0 Approve requests for boundary setback variations required by the Residential Design Codes, the Scheme and relevant Local Planning Policies (where there is power to vary the standard)

and where the variation will not adversely impact on the amenity of adjoining residence and adjoining owners support has been received, if deemed necessary.

- 9.0 Approve applications for advertisements that comply with the requirements of the Scheme and any relevant Local Planning Policies.

10.0 Subdivision / Amalgamation Application

10.1 Recommend support to the Western Australian Planning Commission where the proposal complies with Local Planning Scheme No. 2 and any relevant Local Planning Policy. This delegation allows the CEO to ensure appropriate relevant conditions are requested to be placed on any approval granted for the application by the Western Australian Planning Commission

10.2 Endorse clearance of Freehold title and Strata title subdivisions on Deposited Plans or Plans of Strata/Survey Strata and Strata documents when compliant with all conditions imposed by Council have been satisfactorily met.

11.0 Scheme Amendments and Structure Plans

11.1 Require proponents to provide relevant supporting studies and modify Local Planning Scheme Amendments and Structure Plans and/or documents prior to them being considered by the Council.

11.2 Make inconsequential text and grammatical modifications to Local Planning Scheme Amendments and Structure Plans and/or documents at any stage of the process.

11.3 Accept and make modifications to Local Planning Scheme Amendments and Structure Plans and/or document as required by the Minister for Planning unless they are in direct conflict with Council's intentions following the consideration of submissions. In this event the CEO shall refer the Minister's decision to Council for consideration. This delegation does allow the CEO to accept the Minister's decision not to require modifications which were requested by the Council following consideration of submissions.

12.0 Appeals

Provide responses to the State Administrative Tribunal in respect to application for a review lodged by a proponent against a refusal of planning approval, unacceptable conditions imposed on an approval of planning approval or supporting statements for the Western Australian Planning Commission in respect to a subdivision application decision made by the Commission. The delegation includes advising the Tribunal if mediation is an option to consider for the appeal process.

13.0 Legal Proceeding

Authorised to appoint persons/companies to serve directions notices, initiate prosecutions and legal proceedings for breaches of the Scheme in accordance with the Planning and Development Act 2005 for and on behalf of the Shire of Gnowangerup.

14.0 Agreements

14.1 Undertake the preparation and endorsement in conjunction with the Shire President of agreements made under section c11.1.2 Powers of the Local Government' of the Scheme.

14.2 Appoint officers as authorised to undertake those compliance activities defined in c11.1.2 'Powers of the Local Government 'of the Scheme.

14.3 Accept performance bonds and/or cash-in-lieu payments for works required to be undertaken as a condition of subdivision or planning approval. The monies shall be held in trust and returned to the payee when the condition imposed has been satisfactorily completed.

15.0 Retrospective Development Applications for existing Feedlots or Piggeries

Approve applications for retrospective development approval under the planning scheme and Health Local Law for existing feedlots or piggeries. This includes the placement of conditions and advice notes on the approval and waiving of penalty fees, subject to:

- (a) The use and development complying with the requirements of Local Planning Scheme No. 2; and
- (b) The proposal complying with the standards prescribed in the Health Local Law 2016.

Any application that does not comply with (a) and (b) above or any application that warrants a refusal shall be referred to Council.

Conditions on Delegations

The CEO can only exercise any of the above delegation after considering a report from the Shire's Planning Officer and/or the Environmental Health Officer and/or Building Surveyor, their recommendations, any precedents or policies set by Council, and where the CEO does not agree with the recommendation from the above Officers, either seek further clarification before making a decision or refer the matter to Council.

CEO Conditions on Sub-Delegation

1. Keep a local government record as per the State Records Act 2000

2.9 Public Health Act 2016

2.9.1 Public Health Act 2016 – Designate Authorised Officers

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|----------------------------|--------------------------------|
| Date Adopted: | 22 nd March 2017 |
| Date Last Reviewed: | 12 th February 2020 |

| | |
|--------------------------|-------------------------|
| Delegate: | Chief Executive Officer |
| Policy Reference: | |

Power Enabling Delegation:

- Public Health Act 2016:
 - s.21 Enforcement agency may delegate

Power Enabling Sub-Delegation:

- Nil power of sub-delegation – to be review on Gazettal of the Public Health Regulations.

Power Delegated:

- Public Health Act 2016:
 - s.24 Designation of authorised officers

Description of Functions Delegated

Council delegates its authority and power to:

1. Designate a person or class of persons as authorised officers:

- (1) for the purposes of the *Public Health Act 2016* or another specified Act; or
- (2) for the purposes of the specified provisions of this Act or another specified Act; or
- (3) for the purposes of the provisions of the *Public Health Act 2016* or another specified Act other than the specified provision of that Act [s.24(1)].

Subject to:

- (a) The requirements of s.24(3), being that designated authorised officers may be either:
 - (i) an environmental health officer or environmental health officers as a class; or
 - (ii) a person who is not an environmental health officer or a class of persons who are not environmental health officers; or
 - (iii) a mixture of the two.
- (b) Compliance with any relevant conditions established by the Chief Health Officer under s.20 of the *Public Health Act 2016*.

Subject to:

- (a) Keep a local government record as per the State Records Act 2000

3. Authorities Assigned from State Government Agencies to Local Government

3.1 Environmental Protection Act 1986

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| 3.1.1 | Environmental Protection Act 1986 – Noise Control – Serve Environmental Protection Notices [s.65(1)] |
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Published in Government Gazette No.47, 19 March 2004

EV401

ENVIRONMENTAL PROTECTION ACT 1986

Section 20

Delegation No. 52

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

Powers and duties delegated—

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

Persons to whom delegation made—

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

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

Dated this 9th day of January 2004.

Approved—

FERDINAND TROMP, A/Chief Executive Officer.

Dr JUDY EDWARDS MLA, Minister for the Environment.

3.1.2 Environmental Protection Act 1986 – Noise Control – Keeping of Log Books, Noise Control Notices, Calibration and Approval of Non-Complying Events [Reg.16]

Published in Government Gazette No.232, 20 December 2013

EV402

ENVIRONMENTAL PROTECTION ACT 1986

Delegation No. 112

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

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

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

Dated the 12th day of December 2013.

JASON BANKS, Acting Chief Executive Officer.

Approved by--

JOHN DAY, Acting Minister for Environment; Heritage.

3.1.3 Environmental Protection Act 1986 – Noise Control – Noise Management
Plans – Construction Sites [Reg.13]

Published in Government Gazette No.71 – 16 May 2014

EV405

ENVIRONMENTAL PROTECTION ACT 1986

Delegation No. 119

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

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

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

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

Dated the 1st day of May 2014.

JASON BANKS, Acting Chief Executive Officer.

Approved by--

Hon ALBERT JACOBS JP MLA, Minister for Environment: Heritage.

3.2 Planning and Development Act 2005

3.2.1 Western Australian Planning Commission – Section 25 of Strata Titles Act 1985

Published in the **Government Gazette No.98** dated **9 June 2009** (pages 1936-1937)

PI409*

PLANNING AND DEVELOPMENT ACT 2005
INSTRUMENT OF DELEGATION
DEL 2009/03 POWERS OF LOCAL GOVERNMENTS
Delegation to local governments of certain powers and functions of the
Western Australian Planning Commission relating to the issuing of certificates of
approval under section 25 of the Strata Titles Act 1985

Preamble

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

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

Resolution under section 16 of the Act (delegation)

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

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

TONY EVANS, Western Australian Planning Commission

SCHEDULE 1

1. Applications made under section 25 of the Strata Titles Act 1985

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

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

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

2. Reporting requirements

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