



Shire of
Katanning

DELEGATIONS REGISTER

July 2024



Heart of the Great Southern

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A BACKGROUND TO DELEGATIONS AND AUTHORISATIONS

Delegations are how local governments authorise officers to make decision relating to matters that the Act and regulations otherwise confer on Council.

When a staff member exercises delegated authority, the staff member does so in their own right but also “on behalf” of the Council. When exercising this authority, the staff member must therefore consider how the Council would wish them to proceed.

The Governance Structure

The *Local Government Act 1995* provides that the Council appoints a CEO and the CEO appoints employees. All local government employees are responsible to the CEO, who, in turn, is responsible to the Council.

Wherever possible, the Shire will endeavour to ensure delegations conform to this governance structure. Delegations will be established from the Council to the CEO; the CEO (not the Council) can then delegate power to officers as the CEO sees fit.

The Power to Delegate

The power to delegate a statutory responsibility, must be explicitly permitted by legislation. Local governments have statutory responsibilities given to them by more legislation than just the *Local Government Act 1995*. The following table identifies legislation giving a power of delegation to local governments;

Legislation		Delegation From	Delegation To	Function	Restrictions
Local Government Act 1995	s5.16	Council	Committees	Council’s powers and duties under the <i>Local Gov Act 1995</i>	s5.17
Local Government Act 1995	s5.42	Council	CEO	Council’s powers and duties under the <i>Local Gov Act 1995</i>	s5.43
Local Government Act 1995	s5.44	CEO	Any employee of the local government	CEO’s powers & duties under the <i>Local Gov Act 1995</i>	s5.44
Bush Fires Act 1954	s48	Council	CEO	Council’s powers & duties under the <i>Bush Fires Act 1954</i>	s48
Cat Act 2011	s.44	CEO	Any employee of the local government	Council’s powers and duties under the <i>Cat Act 2011</i>	s.45(6)
Local Planning Scheme No. 5	cl.82	Council	CEO	CEO’s powers under the Local Planning Scheme	s9.10

Legislation		Delegation From	Delegation To	Function	Restrictions
<i>Planning and Development Act 2005</i>	s16(3)	Commission	A local government, a committee established under the <i>Local Government Act 1995</i> or a local government employee	Functions of the Commission under the <i>Planning and Development Act 2005</i>	
<i>Strata Titles Act 1985</i>	s25 s27	Commission	A local government, a committee established under the <i>Local Government Act 1995</i> or a local government employee	Functions of the Commission under the <i>Planning and Development Act 2005</i>	
<i>Dog Act 1976</i>	s26	CEO	Any employee of the local government	The authority to determine applications on the keeping of three or more dogs under the <i>Dog Act 1976</i>	
<i>Main Roads Act 1930</i>	s33C	Council	CEO	All powers, duties and functions of local government under the <i>Main Roads Act 1930</i>	
<i>Food Act 2008</i>		Council	CEO	The authority to serve a prohibition order, register a food business & start proceedings under the <i>Food Act 2008</i> .	
<i>Building Act 2011</i>	s127	Council	CEO	The authority to approve or refuse to grant permits and issue building orders	

Legislation		Delegation From	Delegation To	Function	Restrictions
Liquor Control Act 1988	s39 s40	Council	CEO	The authority to approve or refuse to grant section 39 and section 40 certificates	

The Duty Being Delegated

When a local government exercises its power of delegation, it must clearly specify in the instrument of delegation the statutory duty being delegated. This ensures the person exercising delegated authority can be certain of the duty conferred by the delegation.

Reviewing the above list, it is clear that there is a limited range of legislation under which powers can be delegated. There is no express provision for a local government to delegate its functions under any other legislation. However, this does not prohibit the local government from “acting through” its officers for the purpose of legislation and the manner in which this can be achieved is detailed below.

Standard Conditions of Delegation

Each power of delegation may be subject to its own restrictions or conditions and these are noted in the above list.

However, there are some broad conditions of delegation and these are detailed, as follows:

The Interpretation Act 1984

Sections 58 and 59 of the *Interpretation Act 1984* place restrictions upon the exercise of the power of delegation and effects of delegation; these sections apply to all delegations under written laws however, they may be varied by the statute which provides the power of delegation.

58. Delegates, performance of functions by

Where under a written law the performance of a function by a person is dependent upon the opinion, belief, or state of mind of that person in relation to a matter and that function may be performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

59. Power to delegate, construction of

- (1) *Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him under a written law –*
- (a) *such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;*
 - (b) *such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;*
 - (c) *if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such*

- conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;*
- (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified officer or class of office;*
 - (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;*
 - (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully acting in or performing the functions of that office.*
- (2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.*
- (3) Where under a written law an act or thing may or is required to be done to, by reference to or in relation to, a person and that person has under a written law delegated a relevant function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the function has been delegated.*

The Concept of ‘Acting Through’

In addition to covering delegations, the *Local Government Act 1995* introduces the concept of “acting through.” In relation to delegations, section 5.45 of the Act states that nothing prevents a “local government from performing any of its functions by acting through a person other than the CEO” or “a CEO from performing any of his or her functions by acting through another person.”

While the Act does not specifically define the meaning of the term “acting through, it cites a key difference between a delegation and “acting through” in that a delegate exercises the delegated decision-making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the “acting through” concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

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

Register of Delegations

The *Local Government Act 1995* requires the Shire to maintain a register of approved delegations. The register must include prescribed information detailing how delegated authority has been exercised in a range of circumstances. The requirement to record the prescribed information applies only to delegations made using the power of delegation under part of the *Local Government Act 1995* and does not extend to other legislation.

STANDARD CONDITIONS

Any person proposing to exercise a power under delegated authority shall comply with the following standard conditions of delegation:

1. Actual decisions relating to the matter delegated shall be made by the person nominated in the delegation. However, it is understood that other staff may carry out administrative and technical work relating to those decisions.
2. Compliance with all relevant legislative requirements, Local Laws, Council Policies, resolutions of Council and the Business Management System Procedures.
3. Delegated authority cannot be exercised where a Financial Interest or an Interest Affecting Impartiality is evident.
4. It is a statutory requirement to maintain a record of each decision made under delegated authority. Documents relating to delegated authority decisions shall, as a minimum, record:
 - a. Date the decision was exercised;
 - b. Name of the Officer/Committee exercising the decision;
 - c. Description of how the person exercised the power or discharged the duty, including where appropriate, any directions to staff to carry out work associated with the decision unless those directions are included in Policies, Management Procedures or the Delegation Register;
 - d. Notation of the people or class of people directly affected by the decision (other than Council or Committee members or employees of the Shire).
5. Wherever possible the requirements of point 4 above shall be incorporated into administrative documents such as memos, file notes, cheque vouchers, etc.
6. Instruction is provided for each delegation on record keeping requirements.

LOCAL GOVERNMENT ACT 1995 DELEGATIONS TO CEO

DA01 – APPOINTMENT OF AUTHORISED OFFICERS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> Part 3, Division 3, Subdivision 2 s3.24 – Certain provisions about land s9.10 Appointment of authorised officers <i>Cat Act 2011</i> s44 Delegation by local government <i>Dog Act 1976</i> s10AA Delegation of local government powers and duties <i>Food Act 2008</i> s122 Appointment of authorised officers <i>Building Act 2011</i> s96(3) Authorised persons Litter Act 1979 s26 Authorised officers, appointment and jurisdiction of etc. Planning and Development Act 2005 s228 Giving infringement notice Control of Vehicles (Off-Road Areas) Act 1976 s5 Local government’s functions Health Act (Miscellaneous Provisions) 2011 s26 Powers of local government (subject to s28 Appointments to be approved) Bushfires Act 1954 s38 Local government may appoint bush fire control officer General Local Law 1997

Cemetery Local Law 1997

Dogs Local Law 1997

Extractive Industries Local Law 1997

Katanning Airport Local Law 1997

Removal of Refuse, Rubbish & Disused Materials Local Law 1998

Health Local Law 1998

Public Health Act 2016 S.24(3) Power to designate Persons as Authorised Officers.

FUNCTION:

Appoint authorised officers in writing and issue certificates of authorisation to allow for the enforcement of the above Acts, associated Regulations and Local Laws.

CONDITIONS:

Must act in accordance with the Shire's "Standard Conditions Relating to Delegations".

Authorised Officers for the *Food Act 2008* must hold office as an environmental health officer under the *Health Act 1911*.

A power or duty under section 63, 64 or 65 of the *Cat Act 2011* cannot be delegated to an authorised person. The Shire is required, under s9.10(2) of the *Local Government Act 1995*, to issue each person so authorised a certificate and/or letter of authorisation. Authorised persons may be required to produce letter/certificate when exercising authorised functions.

RECORD KEEPING:

Record details of authorisations issued.

Ensure that evidentiary documents that meet the requirements of *Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))*, are retained in the Shire's record keeping systems.

REFERENCES:

Shire of Katanning Council Policy 3.5 – Statutory Appointments

COUNCIL AUTHORISATIONS:

Chief Executive Officer
General Manager Infrastructure & Strategy
Environmental Health Officer
Shire Ranger

SUPPLEMENTARY CONDITON:

Above stated conditions apply.

POWER TO SUBDELEGATE:

Local Government Act 1995:

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

CEO DELEGATION TO:

Authorised Officers

DA02 – POWERS OF ENTRY

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> Part 3, Division 3, Subdivision 3 – Powers of entry
FUNCTION:	To give effect to powers of entry as required in performing the functions of the <i>Local Government Act 1995</i> .
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Record decisions to enter property. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
COUNCIL AUTHORISATIONS:	Chief Executive Officer General Manager Infrastructure & Strategy Environmental Health Officer Shire Ranger
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	Authorised Officers

DA03 – ROAD CLOSURES – Temporary

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s3.50 Closing certain thoroughfares to vehicles s3.50 A Partial closure of thoroughfares for repairs or maintenance s3.51 Affected owners to be notified of certain proposals s3.52 Public access to be maintained and plans kept
FUNCTION:	All duties and functions described in the delegated sections of the <i>Local Government Act 1995</i> .
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Record decision to undertake a closure. Record advice to owners/occupiers. Record agreements for maintenance of private structures in public thoroughfares /places. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	General Manager Operations
SUPPLEMENTARY CONDITIONS:	Above stated conditions apply.

DA04 – TENDERS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996</i> Part 4 – regs. 11 to 24
FUNCTION:	To call tenders and set weighted criteria as outlined in the relevant legislation and this delegation. To authorise purchases and accept tenders in accordance with the conditions of this delegation.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Authorise purchases that are exempt from tendering regulations as outlined in regulation 11.2, excluding 2(d), of the <i>Local Government (Functions and General) Regulations 1996</i> , where the purchase value is no more than \$250,000 per annum. Accept tenders where there is a Council budget provision approved for the following: <ul style="list-style-type: none">▪ Annual supplies of a routine operational nature within budget amount and where the tender is for no greater than 5-years and no more than \$250,000 per annum;▪ Replacement plant, equipment, furniture and maintenance within a net (changeover) cost of less than \$250,000;▪ New plant, equipment, furniture and construction where the tender is for less than an amount of \$250,000 and within budget amount.▪ Goods or Services where a budget provision exists and the purchase value is under \$250,000. The Chief Executive Officer may reject tenders of any amount. Accept tenders relating to the disposal of impounded perishable and non-perishable goods in accordance with Section 3.47 of the <i>Local Government Act 1995</i>

Approve minor variations to the scope of work specified in a tender (up to a maximum of 10% of the total contract value) following the receipt of submissions but prior to entering into a contract

Where a tender is accepted with an option to extend the contract beyond the initial period, the Chief Executive Officer may exercise or decline that option.

To call, accept the short listing and if required reject all Expression of Interests.

RECORD KEEPING:

Maintain Tender Register, recording details of decisions under this delegation and insert links to relevant evidentiary documents.

Ensure that evidentiary documents that meet the requirements of *Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))*, are retained in the Shire's record keeping systems.

POWER TO SUBDELEGATE:

Local Government Act 1995
s5.44 CEO may delegate powers and duties to other employees.

CEO DELEGATION TO:

General Manager Corporate Services
General Manager Infrastructure & Strategy

SUPPLEMENTARY CONDITIONS:

Can **ONLY** call Tenders or Expressions of Interest and set weighted criteria where there is a Council budget provision approved and the product or service being sought is not considered to be extraordinary.

Can **ONLY** approve minor variations to the scope of work specified in a tender (up to a maximum of 10% of the total contract value) following the receipt of submissions but prior to entering into a contract

Can **ONLY** call Tenders or Expression of Interests relevant to the activities of the respective General Manager's division.

DA05 – ACQUISITION AND DISPOSAL OF LAND

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some Powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s3.58 (2) (3) Disposing of property
FUNCTION:	Undertake the function of acquiring and disposal of land, including lease and purchase.
CONDITIONS:	<p>Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.</p> <p>Acquire and dispose of ‘real property’, which is specifically identified within the Budget with a value of up to \$1,000,000.</p> <p>Acquire and dispose of a leasehold interest in property for a cumulative cost over the life of the lease of up to \$1,000,000.</p> <p>Manage lease / licence clauses, including but not limited to terminations, renewal options, assignments, subletting, and the establishment of special conditions or variations to payment schedules.</p> <p>Assignment of leases and licences is subject to appropriate Police Clearances and Credit Checks (where unsatisfactory refer to Council).</p>
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	CEO has exercised the right not to sub-delegate this delegation.

DA06 – DISPOSAL OF ASSETS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s3.58 Disposing of property <i>Local Government (Functions and General) Regulations 1996 –</i> reg.30(3) Dispositions of property excluded from Act s3.58
FUNCTION:	Dispose of assets surplus to the Shire’s operational needs.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Authorise the disposal of minor plant and assets with a depreciated value of not more than \$25,000 without the requirement for Council approval. Authorise the disposal of a plant item or asset with a depreciated value of no more than \$90,000 in accordance with the requirements of s3.58.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	General Manager Corporate Services
SUPPLEMENTARY CONDITIONS:	May dispose of surplus computer and related hardware with a depreciated value of up to \$5,000, in accordance with procedures to be developed and approved by the CEO.

DA07 – MUNICIPAL FUND/PROCEDURES AND PAYMENTS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.7 Municipal fund <i>Local Government (Financial Management) Regulations 1996</i> reg.11 Payments, procedures for making etc. reg.12 Payments from municipal fund or trust fund, restrictions on making
FUNCTION:	Make payments from the Municipal Fund in accordance with procedures.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Retain Cheque Vouchers, including electronic transfer records as evidence of decisions to make payments. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
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CEO DELEGATION TO:	General Manager Corporate Services Finance Manager General Manager Infrastructure & Strategy
SUPPLEMENTARY CONDITONS:	Authorise payments from the Municipal Fund (i.e. sign cheques, initiate and authorise electronic payments)

DA08 – TRUST FUND / PROCEDURES AND PAYMENTS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.9(3) Trust fund <i>Local Government (Financial Management) Regulations 1996</i> reg.12 Payments from municipal or trust fund, restrictions on making
FUNCTION:	Make payments from the Trust Fund in accordance with procedures.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Minute details of Council’s resolution to receive the Authorised Cheque Listing and retain Cheque Vouchers as evidence of decisions to make payments. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees
CEO DELEGATION TO:	General Manager Corporate Services Finance Manager General Manager Infrastructure & Strategy
SUPPLEMENTARY CONDITIONS:	Above stated conditions apply.

DA09 – WAIVER OR CONCESSIONS - Granting

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.12(1)(b)(c) and (3) Power to defer, grant discounts, waive or write off debts
FUNCTION:	Waive or grant concessions in relation to money owed to the Shire. Write off money owed to the Shire. Determine the conditions to be applied to waive, grant a concession or write off money owed to the Shire.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Authorise a waiver, grant a concession or write off an amount of money owed to the Shire to a maximum value of \$1,000 GST exclusive. Write offs to be reported to Council monthly with the Sundry Debtors Listing. Write offs exclude instances where a debtor has been incorrectly charged.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	CEO has exercised the right not to sub-delegate this delegation.

DA10 – INVESTMENTS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996</i> reg.19 Investments, control procedures for
FUNCTION:	Money held in the municipal fund or the trust fund that is not, for the time being, required by the local government for any other purpose may be invested in accordance with Part III of the <i>Trustees Act 1962</i> . Establish and document internal control procedures to ensure control over investments that enable the identification of the nature and location of all investments and the transactions related to each investment.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Record details of documented procedures; the subsequent amendment of procedures and ECM-links to relevant evidentiary documents. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	General Manager Corporate Services Finance Manager
SUPPLEMENTARY CONDITONS:	Establish and maintain procedures

DA11 – RECOVERY OF UNPAID RATES

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.56(1) Rates or service charges recoverable in court s6.60 Local government may require lessee to pay rent s6.64 Actions to be taken s6.69(2)(3) Right to pay rates, service charges and costs, and stay proceedings s6.74(1) Power to have land re-vested in the Crown if rates in arrears 3 years Schedule 6.2(1)[1] Provisions relating to lease of land where rates or service charges unpaid [Section 6.65] Schedule 6.3(1)[4] and (4)[1] Provisions relating to sale or transfer of land where rates or service charges unpaid [Section 6.68(3)]
FUNCTION:	<p>Undertake recovery of overdue unpaid rates, as well as the costs of proceedings, if any, for that recovery, incurred in a court of competent jurisdiction.</p> <p>As part of the legal recovery of rates and charges in court, documents such as summonses and warrants are required to be duly authorised.</p>
CONDITIONS:	<p>Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.</p> <p>Legal representation is limited by the <i>Magistrates Court (Civil Proceedings) Act 2004</i>.</p>
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
REFERENCES:	<i>Magistrates Court (Civil Proceedings) Act 2004 – Part 4</i>

POWER TO SUBDELEGATE:

Local Government Act 1995

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

CEO DELEGATION TO:

General Manager Corporate Services
Finance Manager

SUPPLEMENTARY CONDITIONS:

Above stated conditions apply.

DA12 – BANK ACCOUNTS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.6 Funds to be established <i>Local Government (Financial Management) Regulations 1996</i> reg.8 Separate bank etc. accounts required for some monies.
FUNCTION:	Maintain separate accounts with a bank or other financial institution for money required to be held in: <ul style="list-style-type: none">▪ the municipal fund;▪ the trust fund; and▪ reserve accounts.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Record details of accounts opened and maintained. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	General Manager Corporate Services Finance Manager
SUPPLEMENTARY CONDITIONS:	Above stated conditions apply

DA13 – EXTENSION FOR RATE EXEMPTION APPLICATION

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government Act 1995</i> s6.76 Grounds of Objections
FUNCTION:	Determine an application to extend the time for lodging an objection to the rate record where an objection is to be made relating to a rates exemption in accordance with <i>s6.26 Rateable Land</i> beyond 42 days from the date of service of the rate notice.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Applications for an extension are to be made in writing. A recommendation on a rates exemption is to be referred to Council.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	General Manager Corporate Services Finance Manager
SUPPLEMENTARY CONDITIONS:	Above stated conditions apply

DA14 – AUTHORISED OFFICERS – Variation of Meeting Date – Annual Electors Meeting

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	Local Government Act 1995 S5.27 Electors’ general meetings
FUNCTION:	Change the Annual Electors Meeting date should the need arise.
CONDITONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Record details of authorisations issued. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems
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POWER TO SUBDELEGATE:	Local Government Act 1995 S5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	CEO has exercised the right not to sub-delegate the Delegation.

DA27 – BEHAVIOUR COMPLAINTS OFFICER

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government (Model Code of Conduct) Regulations 2021</i> <i>Schedule 1 Model code of conduct Division 3 Behaviour cl. 11</i>
FUNCTION:	Authority to appoint 1 or more persons to receive complaints and withdrawals of complaints.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Appointment to the role of Behaviour Complaints Officer must be made in writing to the nominee for a defined period. The Chief Executive Officer is to consider the skills, knowledge and training required for the role when making an appointment.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems

POWER TO SUBDELEGATE: Nil

BUILDING ACT 2011

DA15 – BUILDING ACT 2011

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Building Act 2011</i> s127 Delegation: special permit authorities and local governments
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Building Act 2011</i> The following Permit Authority functions as required by the <i>Building Act 2011</i> and subsidiary Regulations s20 Grant of building permit s21 Grant of demolition permit s22 Further grounds for not granting an application s27 Conditions imposed by permit authority s58 Grant of occupancy permit s62 Conditions imposed by permit authority s65 Extension of period of duration s110 Building orders s111 Notice of proposed building order other than building order (emergency) s117 Revocation of building order
FUNCTION:	The Authority to approve or refuse to grant permits and issue Building Orders:
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Notify Council of all refusals to grant Permits and Building Orders issued.

RECORD KEEPING:

Any Permit granted or Building Order duly completed is sufficient record for the purposes of this Delegation.

Ensure that evidentiary documents that meet the requirements of *Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))*, are retained in the Shire's record keeping systems.

POWER TO SUBDELEGATE:

Building Act 2011

s127 (6A) The CEO of a local government may delegate to any other local government employee.

CEO DELEGATION TO:

General Manager Infrastructure & Strategy

SUPPLEMENTARY CONDITIONS:

Above stated conditions apply with regards to:

- s110 Building orders
- s111 Notice of proposed building order other than building order (emergency)
- s117 Revocation of building order

CEO DELEGATION TO:

Building Surveyor

SUPPLEMENTARY CONDITONS:

Above stated conditions apply with regards to:

- s20 Grant of building permit (Certified)
- s20 Grant of building permit (Uncertified; within level of Building Surveying Practitioner Registration)
- s21 Grant of demolition permit
- s22 Further grounds for not granting an application
- s27 Conditions imposed by permit authority
- s58 Grant of occupancy permit
- s62 Conditions imposed by permit authority
- s65 Extension of period of duration
- s110 Building orders
- s111 Notice of proposed building order other than building order (emergency)
- s117 Revocation of building order

DA16 – VERGE PERMITS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> reg.6 Obstruction of public thoroughfare by things placed and left
FUNCTION:	Consider and issue Verge Permits, with or without conditions in accordance with the requirements of reg.6.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. In issuing permits, licences and approvals ensure the Code of Conduct requirements for ‘Quasi-Judicial Role’ are applied.
RECORD KEEPING:	As per Building / Demolition Permits, a Verge Permit duly completed is sufficient record for the purposes of this Delegation. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	General Manager Infrastructure & Strategy Building Surveyor
SUPPLEMENTARY CONDITIONS:	Above stated conditions apply.

LOCAL PLANNING SCHEME No 5

DA17 – CONTROL OF PLANNING MATTERS

Delegation Title	Control of Planning Matters
Delegation Number	DA17
Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> <ul style="list-style-type: none">– s.5.42 Delegation of some powers or duties to the CEO– s.5.43 Limitations on delegations to the CEO– s.5.44 CEO may delegate powers and duties to other employees– s.5.45 Other matters relevant to delegations under this Division– s.5.46 Register of, and records relevant to, delegations to CEO and employees.–
Express Power or Duty Delegated:	<i>Planning and Development Act 2005;</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 (Deemed Provisions) clauses 82, 83 & 84; and</i> <i>Shire of Katanning Local Planning Scheme No.5.</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only.</i> <i>Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Council delegates its authority and power to the Chief Executive Officer in accordance with Clauses 82 and 83 in Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> as follows: <ol style="list-style-type: none">1. <u>Advertising Applications for Development Approval</u> Public advertising of development applications in accordance with Clause 64 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> where specifically required or deemed necessary due to concerns regarding potential impacts, including referrals to adjoining and other nearby landowners, State government agencies and essential service providers.2. <u>Consideration and Final Determination of Applications for Development Approval</u><ol style="list-style-type: none">2.1 Approve development applications with a use class permissibility classification of 'P', 'D' and 'A' in Table 1 (i.e. Zoning Table) of the Shire of Katanning Local Planning Scheme No.5 in accordance with Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, and impose conditions as required where:

- a) the proposed development is compliant with all relevant standards and requirements, including any proposed variations thereto where no substantial impacts are considered likely to occur; and
 - b) no valid planning objections have been received (if advertised).
- 2.2 Where any valid planning objections are received during public advertising of a development application for a single house or any development associated with a single house, excluding development of or associated with a heritage protected place, the Chief Executive Officer shall determine the application as required by Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 2.3 Approve an application to amend an aspect of a previously approved development application which, if amended, would not substantially change the development approved as per clause 77 in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 2.4 Grant an extension of development approval for up to two (2) years with no changes to any conditions of approval as per clause 77 in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- 2.5 Refusal of all development applications where the proposed use is not permitted (i.e. use permissibility classification of 'X' in Table 1 (i.e. Zoning Table) of the Shire of Katanning Local Planning Scheme No.5).
- 2.6 With the exception of single houses or any development associated with a single house, excluding development of or associated with a heritage protected place, an officer to whom delegated authority is granted to finally determine development applications is not to exercise that authority in the following circumstances and shall refer all applications to a meeting of Council for formal consideration and final determination:
- a) Where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination; or
 - b) Where the delegated decision would be contrary to the intent of a previous decision made at a Council meeting, or any law or regulation; or
 - c) Where notification has been given to adjoining and nearby owners or the general public for comment in accordance with the Local Planning Scheme or any associated policy and valid planning objections have been received within the time specified.

3. Use Not Listed

To determine if a use not specifically listed in the Zoning Table (Table 1) of the Shire of Katanning Local Planning Scheme No.5 is consistent, may

be consistent or is not consistent with the objectives of the zone and publicly advertise a development application in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* where the use may be consistent with the objectives of the subject land's relevant zoning classification.

4. Waiving of Development Application Fees

Waive the statutory fee payable for an application for development approval where the applicant and/or owner (as appropriate) is a registered not-for-profit organisation, and the proposed development is for community benefit.

5. Advertising Extensions for Local Planning Scheme Amendments

To extend the advertising period for local planning scheme amendments where it is considered necessary to provide adequate consultation and/or accommodate specific community consultation exercises (e.g. special electors' meetings, workshops etc.).

6. Directions Regarding Unauthorised Development

To give written direction/s in relation to unauthorised development and to authorise any action available to the local government under the *Planning and Development Act 2005* incidental to such written direction, including but not limited to:

- a) issuing a notice to remove, pull down, take up, or alter the development and to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the local government; and/or
- b) commence legal action in accordance with the Council's endorsed procedure for compliance and enforcement.

These powers shall not be exercised in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.

7. Responsible Authority Reports to the Development Assessment Panel

To prepare and submit Responsible Authority Reports to the Development Assessment Panel pursuant to Regulation 12 of the *Planning and Development (Development Assessment Panels) Regulations 2011* in relation to applications for development approval under Shire of Katanning Local Planning Scheme No.5. The Chief Executive Officer is to advise Council of the lodgement and subsequent decision of a Development Assessment Panel (DAP) application at the next available Council meeting.

8. Subdivision Applications

- 8.1 Prepare and submit formal responses to the Western Australian Planning Commission (WAPC) in relation to all strata, survey strata and green title subdivision applications (including amalgamations) with due regard for the WAPC's Model Subdivision Conditions Schedule (as amended) and the standards and requirements of the

Shire of Katanning Local Planning Scheme No.5 including any associated local planning policies of relevance, the Residential Design Codes and WAPC Development Control Policy 3.4 - Subdivision of Rural Land (as applicable).

- 8.2 Issue formal subdivision clearances where the relevant local government conditions of subdivision approval by the WAPC have been satisfied and all relevant application fees have been paid by the proponent.

9. State Administrative Tribunal Applications

- 9.1 Respond to applications for review lodged with the State Administrative Tribunal, including the preparation of any statements required during the process, liaison with the State Administrative Tribunal as required, and representations at review hearings, where a decision made by Council, or a condition or conditions associated with that decision, is substantively in accordance with the responsible officer's recommendation.
- 9.2 Engage independent professional advice, including legal advice, where a decision made by Council, or a condition or conditions associated with that decision, is substantially different to the responsible officer's recommendation.

Important Note:

The delegations outlined above do not preclude the Delegate or Sub-Delegate referring the categories of development or legal proceedings outlined above to Council for formal consideration and final determination after having regard to the circumstances of a particular case.

Council Conditions on this Delegation:

1. Where any development application has been determined under the delegations outlined above the approval shall contain the following footnote:

Determination of this application has been made under delegated authority. If you object to this decision or any of the conditions imposed you may request that Council reconsider the decision. The right to request reconsideration is separate from and does not impinge upon any right of appeal under the Planning and Development Act 2005.

2. All matters determined under delegated authority are to be listed at the first available Ordinary Meeting of Council.

3.

Express Power to Sub-Delegate:

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

Sub-Delegate/s: *Appointed by CEO*

General Manager Infrastructure & Strategy

CEO Conditions on this Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

1. Where any development application has been determined under the delegations outlined above the approval shall contain the following footnote:

Determination of this application has been made under delegated authority. If you object to this decision or any of the conditions imposed you may request that Council reconsider the decision. The right to request reconsideration is separate from and does not impinge upon any right of appeal under the Planning and Development Act 2005.

2. All matters determined under delegated authority are to be listed at the first available Ordinary Meeting of Council.

Compliance Links:

File notes, notices and correspondence to be entered in the Shire of Katanning Central Records system.

Record Keeping:

File notes, notices and correspondence to be entered in the Shire of Katanning Central Records system in accordance with Regulation 19 of the *Local Government (Administration) Regulations 1996*.

Version Control:

1	New delegation for the control of various town planning related matters adopted by Council on [*insert date*] June 2024 to replace previous delegation numbers DA17, DA18 and DA19 in the Shire of Katanning Delegations Register July 2022.
2	
3	

BUSH FIRES ACT 1954

DA20 – BUSH FIRES ACT – Powers and Functions

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Bush Fires Act 1954</i> s48 Delegation by local governments
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Bush Fires Act 1954</i>
FUNCTION:	All powers, duties and functions of the local government under the <i>Bush Fires Act 1954</i> .
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Maintain records of activities and decisions made under this delegation. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems
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POWER TO SUBDELEGATE:	CEO has exercised the right not to sub-delegate this delegation.

MAIN ROADS ACT 1930

DA21 – MAIN ROADS – Control of Advertisements

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Main Roads Act 1930</i> s33C Commissioner may delegate powers etc. under regulations to local government
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Main Roads Act 1930</i>
FUNCTION:	All powers, duties and functions of the local government under the <i>Main Roads Act 1930</i> .
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Maintain records of activities and decisions made under this delegation. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems

POWER TO SUBDELEGATE:	CEO has exercised the right not to sub-delegate this delegation.
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FOOD ACT 2008

DA22 – PROHIBITION ORDERS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Food Act 2008</i> s118 Functions of enforcement agencies and delegation s119 Conditions on performance of functions by enforcement agencies s120 Performance of functions by enforcement agencies and authorised officers
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Food Act 2008</i> s65 Prohibition order s66 Certificate of clearance to be given in certain circumstances s67 Request for re-inspection
FUNCTION:	This delegation provides authority to:- <ol style="list-style-type: none">1. Serve a prohibition order on the proprietor of a food business in accordance with s65 of the <i>Food Act 2008</i>;2. Give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any improvement notices;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.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.

POWER TO SUBDELEGATE:	CEO has exercised the right not to sub-delegate this delegation.
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DA23 – REGISTRATION OF FOOD BUSINESS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Food Act 2008</i> s118 Functions of enforcement agencies and delegation s119 Conditions on performance of functions by enforcement agencies s120 Performance of functions by enforcement agencies and authorised officers
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Food Act 2008</i> s110 Registration of food business s112 Variation of conditions or cancellation of registration of food businesses.
FUNCTION:	The delegation provides the authority to:- <ol style="list-style-type: none">1. Register a food business in respect of any premises for the purposes of Part 9 of the <i>Food Act 2008</i> and issue a certificate of registration;2. After considering an application, determine to grant (with or without conditions) or refuse the application;3. Vary the conditions or cancel the registration of a food business in respect of any premises under Part 9 of the <i>Food Act 2008</i>.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.

POWER TO SUBDELEGATE:	CEO has exercised the right not to sub-delegate this delegation.
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DA24 – FOOD ACT 2008 - PROSECUTIONS

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Food Act 2008</i> s118 Functions of enforcement agencies and delegation s119 Conditions on performance of functions by enforcement agencies s120 Performance of functions by enforcement agencies and authorised officers
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Food Act 2008</i> s125 Institution of proceedings
FUNCTION:	The authority to institute proceedings for an offence under the <i>Food Act 2008</i> .
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
RECORD KEEPING:	Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	CEO has exercised the right not to sub-delegate this delegation.

LIQUOR CONTROL ACT 1988

DA25 – LIQUOR LICENSING – SECTION 39 CERTIFICATES

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Liquor Control Act 1988</i> s39 Certificate of local government as to whether premises comply with laws
FUNCTION:	The authority to approve or refuse to grant section 39 Liquor Licensing Certificates.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Delegation provides authority to confirm premises comply with the requirements of the: <i>Health Act 1911, Food Act 2008</i> and any written law applying to the sewerage or drainage of those premises.
RECORD KEEPING:	Record details of certificates issued. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees
CEO DELEGATION TO:	CEO has exercised the right not to sub-delegate this delegation.

DA26 – LIQUOR LICENSING – SECTION 40 CERTIFICATES

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s5.42 Delegation of some Powers or duties to CEO s5.43 Limitations on delegations to CEO
DELEGATION TO:	Chief Executive Officer
POWER / DUTY DELEGATED:	<i>Liquor Control Act 1988</i> s40 Certificate of planning authority as to whether use of premises complies with planning laws
FUNCTION:	The authority to approve or refuse to grant section 40 Liquor Licensing Certificates.
CONDITIONS:	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”. Delegation provides authority to confirm premises comply with the requirements of the <i>Planning and Development Act 2005</i> and Local Planning Scheme No. 5.
RECORD KEEPING:	Record details of certificates issued. Ensure that evidentiary documents that meet the requirements of <i>Local Government (Administration) Regulations 1996 reg.19 Delegates to keep certain records (Act s5.46(3))</i> , are retained in the Shire’s record keeping systems.
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POWER TO SUBDELEGATE:	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
CEO DELEGATION TO:	CEO has exercised the right not to sub-delegate this delegation.

LOCAL GOVERNMENT ACT 1995 DELEGATIONS TO COMMITTEES

DA50 – BEHAVIOUR COMPLAINTS COMMITTEE

POWER / DUTY ASSIGNED TO:	Local Government
POWER TO DELEGATE:	<i>Local Government Act 1995</i> s.5.16 Delegation of some powers and duties to certain committees
DELEGATION TO:	Behaviour Complaints Committee
POWER / DUTY DELEGATED:	<i>Local Government (Model Code of Conduct) Regulations 2021:</i> <i>Clause 12 Dealing with a complaint</i> <i>Clause 13 Dismissal of complaint</i>
FUNCTION:	<ol style="list-style-type: none">1. Authority to make a finding as to whether an alleged breach the subject of a complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than that it did not occur [<i>MCC.cl.12(1) and (3)</i>]. In making any finding the Committee must also determine reasons for the finding [<i>MCC.cl.12(7)</i>].2. Where a finding is made that a breach has occurred, authority to:<ol style="list-style-type: none">a. take no further action [<i>MCC.cl.12(4(a))</i>]; orb. prepare and implement a plan to address the behaviour of the person to whom the complaint relates [<i>MCC.cl.12(4)(b), (5) and (6)</i>].3. Authority to dismiss a complaint and if dismissed, the Committee must also determine reasons for the dismissal [<i>MCC.cl.13(1) and (2)</i>].
CONDITIONS:	<ol style="list-style-type: none">a. The Committee will make decisions in accordance with the principles and specified requirements established in Council Policy Code of Conduct Behaviour Complaints Management.b. That part of a Committee meeting which deals with a Complaint will be held behind closed doors in accordance with s.5.23(2)(b) of the Act.c. The Committee is prohibited from exercising this Delegation where a Committee Member in attendance at a Committee meeting is either the Complainant or Respondent to the Complaint subject of a Committee agenda item.

d. In the event of (c) above, the Committee may resolve to defer consideration to a future meeting at which the conflicted Committee Member is absent and a Deputy Committee Member is in attendance.

NOTE TO CONDITIONS (C) AND (D): The purpose of this Condition is to require that a Committee Member who is identified as either the Complainant or Respondent is required to recuse themselves by notifying the Presiding Member of their intention to be an apology for the meeting at which the Complaint is an agenda item.

RECORD KEEPING:

Committee Minutes shall record the details of each decision made under this delegation in accordance with the requirements of Administration Regulation 19.

POWER TO SUBDELEGATE:

Nil