



Shire of  
**Katanning**

DELEGATIONS REGISTER

June 2021



Heart of the Great Southern

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## A BACKGROUND TO DELEGATIONS AND AUTHORISATIONS

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

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

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

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

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

The Department of Local Government and Communities provides a guideline on delegation to local governments in Western Australia. ([Local Government Guideline No. 17 – Delegations](#)).

### The Governance Structure

The Western Australian local government governance regime 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 authorisations and delegations conform to this governance structure. Delegations will be established from the Council to the CEO; the CEO can then delegate power to officers or authorise officers as the CEO sees fit.

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

#### **Delegations**

This section provides guidance on the statutory framework for delegated authority. It addresses the two statutory requirements for delegated authority – the power to delegate and the power being delegated. This section also addresses some common conditions on delegation that apply in the local government setting.

## The Power to Delegate

The ability to delegate a statutory function, power or duty must be described in a piece of legislation, and is known as the power of delegation. The ability to delegate powers is the first statutory requirement for an effective delegation. The following powers of delegation are contained in legislation relevant to this register.

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

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

Legislation		Delegation From	Delegation To	Function	Restrictions
<b><i>Building Act 2011</i></b>	s127	Council	CEO	The authority to approve or refuse to grant permits and issue building orders	
<b><i>Liquor Control Act 1988</i></b>	s39 s40	Council	CEO	The authority to approve or refuse to grant section 39 and section 40 certificates	

## The Power Being Delegated

The second statutory requirement for an effective delegation is the existence of a power to be delegated. The power must be able to be exercised by the person or body wanting to delegate that power and it must be contained in legislation that has an associated power of delegation.

A range of different powers can be delegated. An important aspect of any delegation of power is certainty as to the power being delegated. The person or body delegating authority should clearly specify in the instrument of delegation the statutory power or duty being delegated. This will ensure that the person exercising delegated authority can be certain of the extent of authority conferred by the delegation. The statutory reference to the power being delegated should be included in the instrument of 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 conditions and these are noted in the above list. However, there are some broad conditions of delegation that 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'

[Extracted from [DLGC Guideline No. 17 – Delegations](#)]

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.

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

## Register of Delegations

The *Local Government Act 1995* requires the Shire to maintain a register of the exercise of 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

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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  
Executive Manager Infrastructure & Assets  
Environmental Health Officer  
Shire Ranger

**SUPPLEMENTARY CONDITON:**

Above stated conditions apply.

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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:**

Authorised Officers

## DA02 – POWERS OF ENTRY

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Government Act 1995</i> Part 3, Division 3, Subdivision 3 – Powers of entry
<b>FUNCTION:</b>	To give effect to powers of entry as required in performing the functions of the <i>Local Government Act 1995</i> .
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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.
<b>REFERENCES:</b>	Shire of Katanning Council Policy 3.5 – Statutory Appointments
<b>COUNCIL AUTHORISATIONS:</b>	Chief Executive Officer Executive Manager Infrastructure & Assets Environmental Health Officer Shire Ranger
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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Authorised Officers

### DA03 – ROAD CLOSURES – Temporary

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	All duties and functions described in the delegated sections of the <i>Local Government Act 1995</i> .
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Executive Manager Infrastructure & Assets Works Supervisor
<b>SUPPLEMENTARY CONDITIONS:</b>	Above stated conditions apply.

## DA04 – TENDERS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	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.
<b>CONDITIONS:</b>	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"><li>▪ 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;</li><li>▪ Replacement plant, equipment, furniture and maintenance within a net (changeover) cost of less than \$250,000;</li><li>▪ New plant, equipment, furniture and construction where the tender is for less than an amount of \$250,000 and within budget amount.</li><li>▪ Goods or Services where a budget provision exists and the purchase value is under \$250,000.</li></ul> 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.

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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:**

Executive Manager Corporate & Community  
Executive Manager Infrastructure & Assets

**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 Executive Manager's division.



## DA05 – ACQUISITION AND DISPOSAL OF LAND

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some Powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Government Act 1995</i> s3.58 (2) (3) Disposing of property
<b>FUNCTION:</b>	Undertake the function of acquiring and disposal of land, including lease and purchase.
<b>CONDITIONS:</b>	<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>
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	CEO has exercised the right not to sub-delegate this delegation.

## DA06 – DISPOSAL OF ASSETS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	Dispose of assets surplus to the Shire’s operational needs.
<b>CONDITIONS:</b>	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.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Executive Manager Corporate & Community
<b>SUPPLEMENTARY CONDITIONS:</b>	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

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	Make payments from the Municipal Fund in accordance with procedures.
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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.
<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
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<b>CEO DELEGATION TO:</b>	Executive Manager Corporate & Community Financial Accountant Executive Manager Infrastructure & Assets
<b>SUPPLEMENTARY CONDITONS:</b>	Authorise payments from the Municipal Fund (i.e. sign cheques, initiate and authorise electronic payments)

## DA08 – TRUST FUND / PROCEDURES AND PAYMENTS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	Make payments from the Trust Fund in accordance with procedures.
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees
<b>CEO DELEGATION TO:</b>	Executive Manager Corporate & Community Financial Accountant Executive Manager Infrastructure & Assets
<b>SUPPLEMENTARY CONDITIONS:</b>	Above stated conditions apply.

## DA09 – WAIVER OR CONCESSIONS - Granting

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Government Act 1995</i> s6.12(1)(b)(c) and (3) Power to defer, grant discounts, waive or write off debts
<b>FUNCTION:</b>	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.
<b>CONDITIONS:</b>	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 \$500 GST exclusive.  Write offs to be reported to Council on a monthly basis with the Sundry Debtors Listing.  Write offs exclude instances where a debtor has been incorrectly charged.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	CEO has exercised the right not to sub-delegate this delegation.

## DA10 – INVESTMENTS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	<p>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>.</p> <p>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.</p>
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations” and in accordance with Council’s Policy 3.4 Investment of Surplus Funds
<b>RECORD KEEPING:</b>	<p>Record details of documented procedures; the subsequent amendment of procedures and ECM-links to relevant evidentiary documents.</p> <p>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.</p>
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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Executive Manager Corporate & Community Financial Accountant
<b>SUPPLEMENTARY CONDITONS:</b>	Establish and maintain procedures

## DA11 – RECOVERY OF UNPAID RATES

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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)]
<b>FUNCTION:</b>	<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>
<b>CONDITIONS:</b>	<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>
<b>RECORD KEEPING:</b>	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.
<b>REFERENCES:</b>	<i>Magistrates Court (Civil Proceedings) Act 2004 – Part 4</i>

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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:**

Executive Manager Corporate & Community  
Financial Accountant

**SUPPLEMENTARY CONDITIONS:**

Above stated conditions apply.



## DA12 – BANK ACCOUNTS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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.
<b>FUNCTION:</b>	Maintain separate accounts with a bank or other financial institution for money required to be held in: <ul style="list-style-type: none"><li>▪ the municipal fund;</li><li>▪ the trust fund; and</li><li>▪ reserve accounts.</li></ul>
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Executive Manager Corporate & Community Financial Accountant
<b>SUPPLEMENTARY CONDITIONS:</b>	Above stated conditions apply

## DA13 – EXTENSION FOR RATE EXEMPTION APPLICATION

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Government Act 1995</i> s6.76 Grounds of Objections
<b>FUNCTION:</b>	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.
<b>CONDITIONS:</b>	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.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Executive Manager Corporate & Community Financial Accountant
<b>SUPPLEMENTARY CONDITIONS:</b>	Above stated conditions apply

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

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	Local Government Act 1995 S5.27 Electors’ general meetings
<b>FUNCTION:</b>	Change the Annual Electors Meeting date should the need arise.
<b>CONDITONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	Local Government Act 1995 S5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	CEO has exercised the right not to sub-delegate the Delegation.

## DA27 – BEHAVIOUR COMPLAINTS OFFICER

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Government (Model Code of Conduct) Regulations 2021</i> <i>Schedule 1 Model code of conduct Division 3 Behaviour cl. 11</i>
<b>FUNCTION:</b>	Authority to appoint 1 or more persons to receive complaints and withdrawals of complaints.
<b>CONDITIONS:</b>	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.
<b>RECORD KEEPING:</b>	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:** Nil

## BUILDING ACT 2011

### DA15 – BUILDING ACT 2011

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Building Act 2011</i> s127 Delegation: special permit authorities and local governments
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<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
<b>FUNCTION:</b>	The Authority to approve or refuse to grant permits and issue Building Orders:
<b>CONDITIONS:</b>	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.

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**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:**

Director Infrastructure & Development

**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

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**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

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> reg.6 Obstruction of public thoroughfare by things placed and left
<b>FUNCTION:</b>	Consider and issue Verge Permits, with or without conditions in accordance with the requirements of reg.6.
<b>CONDITIONS:</b>	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.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	Executive Manager Infrastructure & Assets Building Surveyor
<b>SUPPLEMENTARY CONDITONS:</b>	Above stated conditions apply.

## LOCAL PLANNING SCHEME No 5

### DA17 – DEVELOPMENT APPLICATIONS

<b>POWER / DUTY ASSIGNED TO:</b>	The Council
<b>POWER TO DELEGATE:</b>	<i>Local Planning Scheme No. 5</i> cl.82 Delegation of Functions
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Planning Scheme No. 5</i> , as amended:- Part 3 Zones and the Use of Land Part 4 General Development Requirements Part 5 – Special Control Areas  <i>Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2</i> Part 7 Requirement for development approval Part 8 Applications for Development Approval Part 9 Procedure for dealing with applications for development approval Part 10 Enforcement and Administration
<b>FUNCTION:</b>	<p>All powers of the Council contained in the sections and parts of Local Planning Scheme No. 5, as amended and delegated above.</p> <p>To determine applications for development under the Shire of Katanning’s Local Planning Scheme No. 5.</p> <p>To provide advice and recommend conditions relevant to applications for the amalgamation of lots and all forms of subdivision and survey strata referred to the Council by the Western Australian Planning Commission.</p> <p>To endorse deposited plans after the conditions of subdivision/amalgamation approval for which the Council is responsible have been fulfilled.</p>



To determine applications for development requiring retrospective Planning Approval

To determine applications involving minor variations to an adopted Local Planning Policy.

To determine applications involving minor variations to setback and Table 8 requirements of the Shire of Katanning Local Planning Scheme No. 5

**CONDITIONS:**

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

This delegation must not be exercised by the delegated officer:

- Where project costs for new a development application exceeds \$5 million.
- Where development is proposed on reserved land, owned or within the care and control of the Council.
- Where the development and/or subdivision proposals have a strategic impact and as a result involve issues in which Council has a direct interest.
- Where significant variations to the Scheme are evident.
- Where the decision requires the exercise of any of the powers of the Council under Local Planning Scheme No. 5 clauses:
  - 18 Interpretation of the Zoning Table, sub-clause (4) (Uses Not Listed)
  - Clause 74, Part 9 of the Deemed provisions of P&D Regulations (2015) Approval Subject to Later Approval of Details

**RECORD KEEPING:** 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.

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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:** Executive Manager Infrastructure & Assets

**SUPPLEMENTARY CONDITONS:** Above stated conditions apply.

## DA18 – DEVELOPMENT APPLICATIONS / MINOR VARIATIONS

<b>POWER / DUTY ASSIGNED TO:</b>	The Council.
<b>POWER TO DELEGATE:</b>	<i>Local Planning Scheme No.5</i> cl. 82 Delegations
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Planning Scheme No. 5, as amended:-</i> Part 3 Zones and the Use of Land Part 4 General Development Requirements  <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Part 7 Requirement for development approval Part 8 Applications for Development Approval Part 9 Procedure for dealing with applications for development approval Part 10 Enforcement and Administration
<b>FUNCTION:</b>	To determine applications for development approval which involve minor variations to the “deemed to comply” provisions by using the performance criteria of the Residential Design Codes that require approval under Local Planning Scheme No.5
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.  This delegation must not be exercised by the delegated officer: <ul style="list-style-type: none"><li>▪ Where the development entails a variation to the Residential Design Codes that is considered by the Delegate to be significant;</li><li>▪ Where the development entails a variation to the Residential Design Codes that is considered by the Delegate to have the potential to negatively impact on the amenity of the locality;</li><li>▪ Where a formal objection has been lodged against the variation;</li></ul>

- Where the height of the development exceeds two storeys;
- Where development is proposed on reserved land within the care and control of the Council;
- Where development proposals are considered by the Delegate to have a strategic impact and as a result involve issues in which Council has a direct interest.

Where the decision requires the exercise of any of the powers of the Council under clause 18 Interpretation of the Zoning Table (Uses Not Listed)

**RECORD KEEPING:**

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 Planning Scheme No. 5* Clause 82 Planning Regs

**CEO DELEGATION TO:**

Executive Manager Corporate & Community  
 Executive Manager Infrastructure & Assets  
 Contract Planner

**SUPPLEMENTARY CONDITIONS:**

Above stated conditions apply.

## DA19 – DEVELOPMENT APPLICATIONS - SHIRE DEVELOPMENTS ON RESERVED LAND

<b>POWER / DUTY ASSIGNED TO:</b>	The Council
<b>POWER TO DELEGATE:</b>	<i>Local Planning Scheme No.5</i> , as amended cl. 11.3 Delegation of Functions
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Local Planning Scheme No.5</i> , as amended Part 2 Reserves Part 3 Zones and the Use of Land Part 4 General Development Requirements  <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Part 7 Requirement for development approval Part 8 Applications for Development Approval Part 9 Procedure for dealing with applications for development approval Part 10 Enforcement and Administration
<b>FUNCTION:</b>	Streamline the processing of development application proposals for developments to be undertaken by the Shire.
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.  The delegation must not be exercised by the delegated officer <u>unless</u> : <ul style="list-style-type: none"><li>▪ The Shire is listed as an applicant;</li><li>▪ The development is on land owned or under the care and control of the Shire of Katanning;</li><li>▪ The works have been approved on the current annual budget;</li><li>▪ The value of the development is less than \$1,500,000.</li><li>▪ The development does not involve significant variations to the Scheme; and,</li></ul>

- The decision does not require the exercise of any of the powers of the Council under Local Planning Scheme No. 5 clause

- 18 Interpretation of the Zoning Table (Uses Not Listed)

**RECORD KEEPING:**

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.

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**POWER TO SUBDELEGATE:**

*Local Planning Scheme No. 5*  
Clause 11.3.2

**CEO DELEGATION TO:**

Executive Manager Corporate & Community  
Executive Manager Infrastructure & Assets  
Contract Planner

**SUPPLEMENTARY CONDITIONS:**

Above stated conditions apply.

## BUSH FIRES ACT 1954

### DA20 – BUSH FIRES ACT – Powers and Functions

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Bush Fires Act 1954</i> s48 Delegation by local governments
<b>DELEGATION TO:</b>	Chief Executive Officer.
<b>POWER / DUTY DELEGATED:</b>	<i>Bush Fires Act 1954</i>
<b>FUNCTION:</b>	All powers, duties and functions of the local government under the <i>Bush Fires Act 1954</i> .
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	CEO has exercised the right not to sub-delegate this delegation.

## MAIN ROADS ACT 1930

### DA21 – MAIN ROADS – Control of Advertisements

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Main Roads Act 1930</i> s33C Commissioner may delegate powers etc. under regulations to local government
<b>DELEGATION TO:</b>	Chief Executive Officer.
<b>POWER / DUTY DELEGATED:</b>	<b><i>Main Roads Act 1930</i></b>
<b>FUNCTION:</b>	All powers, duties and functions of the local government under the <i>Main Roads Act 1930</i> .
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	CEO has exercised the right not to sub-delegate this delegation.
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## FOOD ACT 2008

### DA22 – PROHIBITION ORDERS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<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
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Food Act 2008</i> s65 Prohibition order s66 Certificate of clearance to be given in certain circumstances s67 Request for re-inspection
<b>FUNCTION:</b>	This delegation provides authority to:- <ol style="list-style-type: none"><li>1. Serve a prohibition order on the proprietor of a food business in accordance with s65 of the <i>Food Act 2008</i>;</li><li>2. Give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any improvement notices;</li><li>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.</li></ol>
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	CEO has exercised the right not to sub-delegate this delegation.

## DA23 – REGISTRATION OF FOOD BUSINESS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<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
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Food Act 2008</i> s110 Registration of food business s112 Variation of conditions or cancellation of registration of food businesses.
<b>FUNCTION:</b>	The delegation provides the authority to:-  <ol style="list-style-type: none"><li>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;</li><li>2. After considering an application, determine to grant (with or without conditions) or refuse the application;</li><li>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>.</li></ol>
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	CEO has exercised the right not to sub-delegate this delegation.
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## DA24 – FOOD ACT 2008 - PROSECUTIONS

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<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
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Food Act 2008</i> s125 Institution of proceedings
<b>FUNCTION:</b>	The authority to institute proceedings for an offence under the <i>Food Act 2008</i> .
<b>CONDITIONS:</b>	Must act in accordance with the Shire’s “Standard Conditions Relating to Delegations”.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	CEO has exercised the right not to sub-delegate this delegation.

## LIQUOR CONTROL ACT 1988

### DA25 – LIQUOR LICENSING – SECTION 39 CERTIFICATES

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Liquor Control Act 1988</i> s39 Certificate of local government as to whether premises comply with laws
<b>FUNCTION:</b>	The authority to approve or refuse to grant section 39 Liquor Licensing Certificates.
<b>CONDITIONS:</b>	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.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees
<b>CEO DELEGATION TO:</b>	CEO has exercised the right not to sub-delegate this delegation.

## DA26 – LIQUOR LICENSING – SECTION 40 CERTIFICATES

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some Powers or duties to CEO s5.43 Limitations on delegations to CEO
<b>DELEGATION TO:</b>	Chief Executive Officer
<b>POWER / DUTY DELEGATED:</b>	<i>Liquor Control Act 1988</i> s40 Certificate of planning authority as to whether use of premises complies with planning laws
<b>FUNCTION:</b>	The authority to approve or refuse to grant section 40 Liquor Licensing Certificates.
<b>CONDITIONS:</b>	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.
<b>RECORD KEEPING:</b>	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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<b>POWER TO SUBDELEGATE:</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate powers and duties to other employees.
<b>CEO DELEGATION TO:</b>	CEO has exercised the right not to sub-delegate this delegation.

## LOCAL GOVERNMENT ACT 1995 DELEGATIONS TO COMMITTEES

### DA50 – BEHAVIOUR COMPLAINTS COMMITTEE

<b>POWER / DUTY ASSIGNED TO:</b>	Local Government
<b>POWER TO DELEGATE:</b>	<i>Local Government Act 1995</i> s.5.16 Delegation of some powers and duties to certain committees
<b>DELEGATION TO:</b>	Behaviour Complaints Committee
<b>POWER / DUTY DELEGATED:</b>	<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>
<b>FUNCTION:</b>	<ol style="list-style-type: none"><li>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>].</li><li>2. Where a finding is made that a breach has occurred, authority to:<ol style="list-style-type: none"><li>a. take no further action [<i>MCC.cl.12(4(a))</i>]; or</li><li>b. 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>].</li></ol></li><li>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>].</li></ol>
<b>CONDITIONS:</b>	<ol style="list-style-type: none"><li>a. The Committee will make decisions in accordance with the principles and specified requirements established in Council Policy Code of Conduct Behaviour Complaints Management.</li><li>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.</li><li>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.</li></ol>

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 Executive Manager Property and Assets 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.

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**POWER TO SUBDELEGATE:**

Nil

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