

Agenda Attachment 9.3.3

Review of Delegated Authority 2021

Current Delegation to CEO	Comment
1.1.1 Appointment Authorised Persons	No change required
1.1.2 Acquisition of Assets and Goods Services – Tender for Supply	No change required
1.1.3 Disposal of Assets	No change required
1.1.4 Creditor Payments	No change required
1.1.5 Investment of Surplus Funds	No change required
1.1.6 Write-Off of Minor Outstanding Amounts	No change required
1.1.7 Fire Fighting Emergency Plant Hire	No change required
1.1.8 Dog Act	No change required
1.1.9 Cat Act 2011	No change required
1.1.10 Activities on Private Land	No change required
1.1.11 Bushfires Act 1954 Functions of Local Government	No change required
1.1.12 Close Thoroughfares to Vehicles	No change required
1.1.13 Donations	No change required
1.1.14 Objections to the Rate Record	No change required
1.1.15 Opening Fences	No change required
1.1.16 Moveable Buildings	No change required
1.1.17 Outbuildings in Residential and Townsite Zoned Areas	No change required
Current Delegation to Committees	
There are no delegations to committees	No change required
Current Delegation to Other Officers	
2.1.1 Alteration to Restricted and Prohibited Burning Periods	No change required
2.1.2 Environmental Health	No change required
2.1.3 Building Control	No change required
2.1.4 Food Control	No change required
2.1.5 Food Business Registrations	No change required

1.1 Council to CEO

1.1.1 Appointment Authorised Persons

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> s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.24 Authorising persons under this subdivision [Part 3, Division 3, Subdivision 2 – Certain provisions about land] s.9.10 Appointment of authorised persons
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. To appoint and authorise persons to exercise the powers and duties of an authorised person as set out in the Local Government Act 1995 and listed hereunder: <ol style="list-style-type: none"> 1.1 Section 3.25 - Notices requiring certain things to be done by owner or occupier of land; 1.2 Section 3.31 - Power to enter property; 1.3 Sections 3.39 to 3.48 - Power to remove, impound and disposal; 1.4 Section 9.10 - Power to appoint authorised persons to perform particular functions; 1.5 Section 9.11 - Persons committing breach of Act to give name, address and date of birth; 1.6 Section 9.13 - Onus of proof in vehicle offences; 1.7 Section 9.16 - Issue infringement notices; 1.8 Section 9.17 - Receive payment of modified penalties; 1.9 Section 9.19 - Extension of time; 1.10 Section 9.20 - Commencing prosecutions.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. A register of Authorised Persons is to be maintained as a Local Government Record. 2. Only persons who are appropriately qualified and trained may be appointed as Authorised persons
Express Power to Sub-Delegate:	Nil

1.1.2 Acquisition of Assets and Goods/ Services – Tender for Supply

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>	Local Government Act – - s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> - 3.57 Tenders for providing goods or services - Local Government (Functions and General) Regulations 1996: - r.11 When tenders have to be publicly invited - r.13 Requirements when local government invites tenders though not required to do so - r.14 Publicly inviting tenders, requirements for - r.18 Rejecting and accepting tenders - r.20 Variation of requirements before entry into contract r.21A Varying a contract for the supply of goods or services
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. The CEO is authorised to call tenders [F&G r.11(1)] for supply of goods or services where the consideration (price plus trade-in etc) is more than the \$250,000 threshold, at the appropriate time, subject to the intended transaction being disclosed in the Budget. 2. The CEO be authorised to determine, in writing, the criteria for deciding which tender should be accepted. 3. Where an item or service exceeds \$250,000 and is able to be obtained through Council Purchasing Service of WALGA (Preferred Supplier list), a formal tender process is not required, subject to compliance with the Act and Council's delegation 2.3 Disposal of Assets. 4. Rather than obtain quotes in accordance with Council Policy, the CEO may exercise their discretion and call tenders for supply of an item or service less than the \$250,000 threshold. 5. All tenders called are to be dealt with according to the Act and Regulations, and referred to Council for decision, unless prior specific delegation has been given. 6. All matters dealing with purchase of land are to have the specific authorisation of Council.
Council Conditions on this Delegation:	Purchasing policy adopted by Council applies to all non-tender acquisitions. While the Act stipulates \$250,000 as the maximum purchase before tendering, Council may resolve a lesser limit.
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

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1.1.3 Disposal of Assets

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> s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.58(2) & (3) Disposing of Property Function and General Regulations – - r.30 – Dispositions of property to which s.3.58 does not apply - r.30 (3)(b) – disposition of property as part of consideration of acquisition
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to dispose of property to: a) the highest bidder at public auction [s.3.58(2)(a)]. b) the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tender [s.3.58(2)(b)] 2. Authority to dispose of property by private treaty only in accordance with section 3.58(3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. The CEO is authorised to dispose of assets by offering them for public sale or as consideration for an asset to be acquired, and to accept the most advantageous offer in the following circumstances – <ol style="list-style-type: none"> a) Assets with a written down value less than \$1,000 (individually or collectively) that are surplus to requirements, unlikely to be used, are damaged or impounded b) Assets with a written down value of \$1,000 or more but less than \$20,000 (individually or collectively) – <ul style="list-style-type: none"> o that are surplus to requirements, unlikely to be used, are damaged or impounded, or o if outright disposal of the asset is disclosed in Budget, or o if the “income” from the asset being disposed of, is to be used as part of consideration for the acquisition of a new asset, and both disposal and acquisition is disclosed in Budget subject to the asset not being available to the purchaser until such time as the new asset is available for Shire use 2. The CEO is authorised to dispose of assets, where assets to be disposed of have a <u>market value</u> of \$20,000 or more, and to accept the most advantageous offer in the following circumstances – <ul style="list-style-type: none"> o if disposal of the asset is disclosed in Budget, and o if the asset is not being used as part of the consideration for a public tender for supply, by public auction or tender for outright sale, or o if the asset may used as part of the consideration for an acquisition under a preferred supplier arrangement, the disposal must be – <ul style="list-style-type: none"> o advertised for public auction or outright sale, and disclosure to this effect made in the acquisition specifications, or o advertised for public submissions, and subsequent consideration of submissions. 3. All matters dealing with disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council. <p>The Department of Local Government confirmed on 8 June 2010 that –</p> <ol style="list-style-type: none"> 1. Changeover of plant and vehicles etc, is two transactions – one for supply and one for disposal. Therefore, simply trading in a vehicle to a preferred supplier, for a new

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	<p>vehicle from that preferred supplier, may not comply with the LG Act or Regulations, due to being above the prescribed values.</p> <ol style="list-style-type: none">2. Use of WALGA Preferred Suppliers constitutes compliance with the requirements for acquisition under the LG Act, but not for disposal of an asset.3. The limits imposed by Regulation that must be complied with, if the disposal is not publicly advertised are that both –<ul style="list-style-type: none">- the asset being acquired is less than \$75,000, and- the asset being disposed of is less than \$20,00
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

1.1.4 Creditor Payments

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> s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government (Financial Management) Regulations 1996:</i> <i>r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Local Government Act <ul style="list-style-type: none"> - s.6.8 (1) – Expenditure from municipal fund not included in annual budget Financial Management Regulations – <ul style="list-style-type: none"> - r.12 – Payments for municipal fund or trust fund - r.13 – Lists of accounts (presentation to Council meetings)
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. The CEO is authorised to arrange payments from the Municipal Fund and Trust Fund, and transfers to and from Reserve Accounts as necessary. 2. No creditor payments of any kind may be made from a Reserve Account. Funds are permitted to be transferred to and from Reserve accounts and the Municipal Fund only. 3. Creditor payments are to be authorised by the person ordering and/or receiving the goods, or services, prior to actual payment being made. 4. Cheques are to be signed jointly, and bank electronic transactions finalised jointly by secure password, by two authorised persons, at least one of whom must be either of the CEO or the MOFS, except that if both CEO and MOFS are unavailable, other authorised person may finalise payroll transactions, with either CEO or MOFS reviewing the transactions as soon as possible thereafter. 5. All payments are to be reported to the following Council meeting as having been paid during the month.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

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1.1.5 Investment of Surplus Funds

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> s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government (Financial Management) Regulations 1996:</i> <i>r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making</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>	Local Government Act <ul style="list-style-type: none"> - Division 4 – General financial provisions - s.6.14 – Power to invest Trustees Act 1962 – <ul style="list-style-type: none"> - Part 3 – Investments to be prudential Financial Management Regulations – <ul style="list-style-type: none"> - r.12 – Payments from municipal fund or trust fund - r.17 – Reserve accounts - r.19 – Management of investments
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. The CEO is authorised to invest money held in any Council fund that is not required for immediate use, provided that sufficient working funds are retained at all times. 2. The following schedule “Delegation Schedule 2.5 – Investments” is adopted, and forms part of this Statement. 3. Details of each investment transaction are to be recorded in an Investment Register. It is sufficient that all notifications, instructions and confirmations are retained in a single file, in such a way that an unbroken history can be established. 4. The Investment Register is to be updated at least monthly. 5. When arranging investment of funds, the CEO is to have regard to Dept of Local Government and Regional Development, Guidelines No. 19 – Investments. 6. All investments are to be placed through reputable firms in stable, highly secure financial instruments (bonds, term deposit etc). Investments in potentially unstable instruments (shares, property etc) are prohibited. All other investment decisions to be referred to Council for decision. 7. Electronic transactions authorised jointly by secure password, by two authorised persons, at least one of whom must be either of the CEO or MCS. 8. Authorised persons for electronic transaction are – <ul style="list-style-type: none"> - Chief Executive Officer - Manager of Corporate Services 9. No payments of any kind are permitted to be made from an investment account. Funds may be transferred to and from investment accounts and the Municipal Fund or Reserve Fund only.
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

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1.1.6 Write-off of minor outstanding amounts

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> s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.12 Power to defer, waive or write off debts Financial Management Regulations – - r.26 – Discount, incentive, concession, waiver and write-off information
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Waive a debt which is owed to the Shire [s.6.12(1)(b)]. 2. Grant a concession in relation to money which is owed to the Shire [s.6.12(1)(b)]. 3. Write off an amount of money which is owed to the Shire [s.6.12(1)(c)]
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. The CEO is authorised to write off minor amounts up to \$30.00 in the following circumstances – <ul style="list-style-type: none"> - interest and charges on rates (not rates) – where as a result of daily interest calculations, it is clear that the rates were intended to be paid in full, but either an error occurred, or the payment was received by mail after the calculation was made. - sundry debtors – where the debtor can no longer be traced, or recovery is deemed unlikely. 2. This delegation is not authority for the write-off of rates, but may be applied to rate interest and charges, administrative charges or sundry debtors considered unrecoverable or where it would be an inefficient use of resources to pursue the amount. 3. Where a write-off is intended for rate interest/charges, there must be evidence that reasonable attempts were made to pay the amount by the date of calculation. 4. Should additional information come to hand, a debt previously written-off under this delegation or by authority of Council may be reinstated, and recovery pursued.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

1.1.7 Fire fighting – Emergency plant hire

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> s.5.42 Delegation of some powers or duties to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> - s.6.8 (1)(c) – authorisation of unbudgeted expenditure in an emergency Bush Fires Act 1954 – - s.38 (3)(4)(5A) (5B)– appointed BFCO’s may exercise specific authorities given to them
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	While an allocation is made for fire control each year, should a serious incident occur, substantial commitment may be required.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. The CEO is authorised to commit expenditure for the private hire of plant and equipment necessary for the efficient fighting and control of fires. 2. Where possible, the CEO is to seek advice from the senior FCO at the fire, and if major expenditure is likely, seek approval from the President or Deputy President. However, since this delegation will only be used in emergency situations, it is acknowledged that these actions may not be possible. <u>The approval to be sought is an administrative function for expenditure purposes only, and does not extend to the issue of operational instructions.</u> 3. Adequate resources to fight a fire, for the safety of fire fighters, and for the protection of life and property have the highest priority, and are not to be unnecessarily jeopardised by delay.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

1.1.8 Dog Act 1976

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>Dog Act 1976: s.10AA Delegation of local government powers and duties</i>
Express Power or Duty Delegated:	<i>Dog Act 1976: s.14 Register of dogs s.16(3) Registration procedure In accordance with 10AA(3) the delegation expressly authorises the CEO to further delegate the powers or duties listed above</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<p>The Chief Executive Officer is delegated authority to keep an accurate and up-to-date record of all registered dogs and correct any errors that may be found in the register [s.14]. The administration of the register can be exercised as an acting through arrangement.</p> <p>The following functions are performed under delegation</p> <ul style="list-style-type: none"> • s.16(3) Refuse to register dog <p>A dog may be registered by a person appointed as a ‘registration officer’ under the instrument of authorisation CEO 2.5.</p> <p>The following functions are performed under authorisation</p> <ul style="list-style-type: none"> • s.16(2a) Register a dog • s.16(3A) Cancel a registration of a person banned from owning or keeping a dog under s.46 • s.16(3c) Cancel a registration is a dog has died • s.16(6) Provide the registration certificate
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	Dog Act 1976: s.10AA(3) Delegation of local government powers and duties

1.1.9 Cat Act 2011

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>Cat Act 2011: s.44 Delegation by local government</i>
Express Power or Duty Delegated:	<i>Cat Act 2011: s.9 Registration s.10 Cancellation of registration s.11 Registration numbers, certificates and tags s.12 Registration of cats Cat Regulations 2012 Schedule 3, cl. 1(4) Fees Payable</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to grant, or refuse to grant, a cat registration or renewal of a cat registration [s.9(1)]. 2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.9(6)]. 3. Authority to cancel a cat registration [s.10]. 4. Authority to give the cat owner a new registration certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.11(2)]. 5. Authority to reduce or waive a registration or approval to breed fee, in respect of any individual cat or any class of cats within the Shire's District [Regs. Sch. 3 cl.1(4)]
Council Conditions on this Delegation:	Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the Cat Act 2011.
Express Power to Sub-Delegate:	<i>Cat Act 2011: s.45 Delegation by CEO of local government</i>

1.1.10 Activities of Private land

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: s.5.42 Delegation of some powers or duties to the CEO.</i>
Express Power or Duty Delegated:	<i>Local Government Act 1995 s.3.25(1) Notices requiring certain things to be done by owner or occupier of land s.3.26(2), (3) Additional powers when notices given s.3.27(1) Particular things local governments can do on land that is not local government property</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to do any of the things prescribed in Schedule 3.2 of the Local Government Act 1995, even though the land on which it is done is not Local Government property and the local government does not have the consent to do it.
Council Conditions on this Delegation:	Must comply with relevant Council Policies.
Express Power to Sub-Delegate:	Local Government Act 1995 s.5.44 CEO may delegate some powers and duties to other employees

1.1.11 Bush Fires Act 1954

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>Bush Fires Act 1954: s.48 Delegation by local government</i>
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> <ul style="list-style-type: none"> - s.6.8 (1)(c) – authorisation of unbudgeted expenditure in an emergency <i>Bush Fires Act 1954 –</i> <ul style="list-style-type: none"> - s.38 (3)(4)(5A) (5B)– appointed BFCO’s may exercise specific authorities given to them
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority to perform the functions of the Local Government under the Bush Fires Act 1954.
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

1.1.12 Close Thoroughfares to Vehicles

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: s.5.42 Delegation of some powers or duties to the CEO</i>
Express Power or Duty Delegated:	<i>Local Government Act 1995: s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfare for repairs or maintenance s.3.51 Affected owners to be notified of certain proposals</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to close a thoroughfare (wholly or partially) to vehicles or particular classes of vehicles for a period not exceeding 4-weeks [s.3.50(1)]. 2. Authority to determine to close a thoroughfare for a period exceeding 4 weeks and before doing so, to: <ol style="list-style-type: none"> a) give; public notice, written notice to the Commissioner of Main Roads and written notice to prescribed persons and persons that own prescribed land; and b) consider submissions relevant to the road closure/s proposed [s.3.50(1a), (2) and (4)]. 3. Authority to revoke an order to close a thoroughfare [s.3.50(6)]. 4. Authority to partially and temporarily close a thoroughfare without public notice for repairs or maintenance, where it is unlikely to have significant adverse effect on users of the thoroughfare [s.3.50A] 5. Before doing anything to which section 3.51 applies, the Chief Executive Officer is delegated authority to take action to notify affected owners and give public notice that allows reasonable time for submissions to be made and consider any submissions made before determining to fix or alter the level or alignment of a thoroughfare or draining water from a thoroughfare to private land [s3.51].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. If, under s.3.50(1), a thoroughfare is closed without giving local public notice, local public notice is to be given as soon as practicable after the thoroughfare is closed [s.3.50(8)]. 2. Maintain access to adjoining land [s.3.52(3)]
Express Power to Sub-Delegate:	<i>Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees</i>

1.1.13 Donations

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government POLICY 7.7
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> <i>s.5.42 Delegation of some powers or duties to the CEO</i>
Express Power or Duty Delegated:	
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>	Authority to approve requests for donations of monies up to the value of \$200 (up to a maximum of \$2,000 per annum)
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. There is a significant direct benefit to the community 2. The group is a community group or non-profit working organisation 3. The group's financial position justifies a donation from Council 4. Funds exist in the Council's donation budget
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

1.1.14 Objections to the Rate Record

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: s.5.42 Delegation of some powers or duties to the CEO</i>
Express Power or Duty Delegated:	<i>Local Government Act 1995: s.6.76 Grounds of objection</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to extend the time for a person to make an objection to a rate record [s.6.76(4)]. 2. Authority to consider an objection to a rate record and either allow it or disallow it, wholly or in part, providing the decision and reasons for the decision in a notice promptly served upon the person whom made the objection [s.6.76(5)].
Council Conditions on this Delegation:	A delegate who has participated in any matter contributing to a decision related to the rate record, which is subject of a Rates Record Objection, must NOT be part to any determination under this delegation.
Express Power to Sub-Delegate:	<i>Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees</i>

1.1.15 Opening Fences

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: s.5.42 Delegation of some powers or duties to the CEO</i>
Express Power or Duty Delegated:	<i>Local Government Act 1995: s.3.32 Notice of entry s.3.33 Entry under warrant s.3.34 Entry in an emergency s.3.36 Opening fences</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> <i>1. Authority to exercise powers of entry to enter onto land to perform any of the Local Government functions under this Act, other than entry under a Local Law [s.3.28].</i> <i>2. Authority to give notice of entry [s.3.32]. (note: provisions under s. 9.52 of the Local Government Act 1995, for issuing documents in difficult cases)</i> <i>3. Authority to seek and execute an entry under warrant [s.3.33].</i> <i>4. Authority to execute entry in an emergency, using such force as is reasonable [s.3.34(1) and (3)].</i> <i>5. Authority to give notice and effect entry by opening a fence [s.3.36].</i>
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	<i>Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees</i>

1.1.16 Moveable Buildings

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: s.5.42 Delegation of some powers or duties to the CEO</i>
Express Power or Duty Delegated:	<i>Local Planning Scheme No1, Policy No.1</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<i>The CEO is delegated authority to determine applications for planning consent for all applications for transportable and relocated dwellings in Residential and townsite zones of the Scheme (see Table1 – Zoning Table of LPSno.1) where dwellings are permitted. The CEO may impose appropriate conditions including the requirement for a bond or bank guarantee.</i>
<i>Council Conditions on this Delegation:</i>	<i>Delegation power is limited only to those applications for ‘transportable’ and ‘relocated dwellings’ as defined in the Local Planning Scheme No.1 Policy No.1 Moveable Buildings.</i>
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

1.1.17 Outbuildings in Residential and Townsite Zoned Areas

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: s.5.42 Delegation of some powers or duties to the CEO</i>
Express Power or Duty Delegated:	<i>Local Planning Scheme No1, Policy No.1</i>
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<i>The CEO is delegated authority to determine applications for planning consent for all applications for outbuildings in the Residential and Townsite zones of the Scheme (see Table 1 – Zoning Table of LPS No.1).</i>
<i>Council Conditions on this Delegation:</i>	<i>Delegation power is limited only to those applications that comply with 4.1 Council Policy on Outbuildings detailed in Local Planning Scheme No.1 Policy No.2 'Outbuildings in Residential and Townsite Zoned Areas'</i>
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

2.1 Delegations from Council to Other Officers

2.1.1 Alteration to Restricted and Prohibited Burning Periods

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>	Bush Fires Act 1954: s.17 Prohibited burning times may be declared by Minister – subsection (10) s.18 Restricted burning times may be declared by FES Commissioner – subsection (5C)
Express Power or Duty Delegated:	Bush Fires Act 1954: s.17 Prohibited burning times may be declared by Minister – subsections (7) and (8) s.18 Restricted burning times may be declared by FES Commissioner – subsection (5)
Delegate:	Shire President and Chief Bush Fire Control Officer (jointly)
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. In accordance with the Bush Fires Act 1954 section 17 (10) the President and the Chief Bush Fire Control Officer are authorised to exercise the powers of Council under the Bush Fires Act 1954 section 17 (7) and (8). 2. The Fire and Emergency Services Authority and surrounding shires should be consulted, prior to a decision being made. 3. Should the President or Chief BFCO be unavailable or hold joint office – <ul style="list-style-type: none"> - the deputy to that position, or - the CEO as Chief BFCO, only, may act in that office in relation to this matter. 4. If not holding joint office, the CEO is to be advised in order that notification to other FCOs, Shires and the community may be arranged as quickly as possible.
<i>Council Conditions on this Delegation:</i>	Delegation power is limited only to those applications that comply with 4.1 Council Policy on Outbuildings detailed in Local Planning Scheme No.1 Policy No.2 'Outbuildings in Residential and Townsite Zoned Areas'
Express Power to Sub-Delegate:	Nil - Sub-delegation is prohibited by s.48(3)

2.1.2 Environmental Health

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>	Health Act 1911 – s.26 – the local government may appoint a deputy (i.e. delegate) to discharge all or any of the functions and powers Shire of Trayning Health Local Laws
Express Power or Duty Delegated:	Bush Fires Act 1954: s.17 Prohibited burning times may be declared by Minister – subsections (7) and (8) s.18 Restricted burning times may be declared by FES Commissioner – subsection (5)
Delegate:	Environmental Health Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. The EHO is appointed and authorised to exercise and discharge all or any of the powers and functions of the Local Authority, under the Health Act 1911 with regard to – <ol style="list-style-type: none"> a) Part IV Sanitary Provisions, b) Part V Dwellings; c) Part VI Public Buildings; d) Part VII Nuisances and Offensive Trades; e) Part IX Infectious Diseases; f) Part XV Miscellaneous Provisions; g) Regulations and made pursuant to the above parts of the Health Act 1911, specifically including the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974, - subject to Delegation Schedule 3.2 Septic Tank Licences h) Shire of Trayning Health Local Laws 2. The following matters are to be referred to Council for decision – <ol style="list-style-type: none"> a) commencement of any action for prosecution of an offence
<i>Council Conditions on this Delegation:</i>	<ol style="list-style-type: none"> 1. Persons to be appointed as authorised environmental health officers must satisfy the criteria published in Government Gazette No 22 of 24 January 2017 - Public Health Act 2016 – Guidelines on the Designation of Authorised Officer. 2. A register (list) of authorised officers is to be maintained in accordance with s27. 3. Subject to each person so appointed being issued with a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices {r.15D(6)}
Express Power to Sub-Delegate:	Nil

2.1.3 Building Control

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>	Building Act 2011: s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	Building Act 2011: s.18 Further Information s.20 Grant of building permit s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit Building Regulations 2012: r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required to determine a building permit application [s.18(1)]. 2. Authority to grant or refuse to grant a building permit [s.20(1) & (2) and s.22] or demolition permit [s.21]. 3. Authority to impose, vary or revoke conditions on a building or demolition permit [s.27(1) and(3)]. 4. Authority to determine an application to extend time during which a building permit has effect [r.23]. <ol style="list-style-type: none"> a) Subject to being satisfied that work for which the building permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] b) Authority to impose any condition on the building permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].
<i>Council Conditions on this Delegation:</i>	<ol style="list-style-type: none"> 1. Persons to be appointed as authorised environmental health officers must satisfy the criteria published in Government Gazette No 22 of 24 January 2017 - Public Health Act 2016 – Guidelines on the Designation of Authorised Officer. 2. A register (list) of authorised officers is to be maintained in accordance with s27. 3. Subject to each person so appointed being issued with a Reference: E20/5259 Page 167 of 236 Register of Delegations and Sub-delegations certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices {r.15D(6)}
Express Power to Sub-Delegate:	Nil

2.1.4 Food Control

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>	Food Act 2008: s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation p
Express Power or Duty Delegated:	Food Act 2008 – <ul style="list-style-type: none"> - s.118 – authority to delegate functions and obligations - s.122(1)(b) – authorised person must hold office as an environmental health officer under the <i>Health Act 1911</i> Food Regulations 2009 – <ul style="list-style-type: none"> - s.5 – a local government is an appropriate enforcement agency - s.56 – appointment of an environmental health officer - s.65(1) Prohibition orders - s.66 Certificate of clearance to be given in certain circumstances - s.67(4) Request for re-inspection
Delegate:	Chief Executive Officer Environmental Health Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. The EHO is authorised to exercise and discharge the powers and functions of the local authority with regard to the Food Act 2008. <ul style="list-style-type: none"> - Authority to serve a prohibition order on the proprietor of a food business in accordance with s.65 of the Food Act 2008 [s.65(1)]. - Authority to give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66]. - Authority to give written notice to proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection [s.67(4)]. 2. The following matters are to be referred to Council for decision – <ol style="list-style-type: none"> a) commencement of any action for prosecution of an offence
<i>Council Conditions on this Delegation:</i>	It should be noted that under the Act, the EHO may be required to prosecute, regardless of Council’s direction.
Express Power to Sub-Delegate:	Nil – Food Regulations 2009 do not provide for sub-delegation.

2.1.5 Food Business Registrations

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>	Food Act 2008: s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express Power or Duty Delegated:	Food Act 2008: s.110 Registration of food business s.112 Variation of conditions or cancellation of registration of food businesses
Delegate:	Chief Executive Officer Environmental Health Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [s.110(1) and (5)]. 2. Authority to vary the conditions or cancel the registration of a food business [s.112].
<i>Council Conditions on this Delegation:</i>	1. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: a) Food Act 2008 Regulatory Guideline No.1 Introduction of Regulatory Food Safety Auditing in WA b) Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No.1 c) WA Priority Classification System d) Verification of Food Safety Program Guideline
Express Power to Sub-Delegate:	Nil – Food Regulations 2009 do not provide for sub-delegation.