



Shire of Tammin

REGISTER OF DELEGATIONS

ADOPTED – 27 JUNE 2019

ADOPTED – 25 JUNE 2020

ADOPTED – 25 NOVEMBER 2020

ADOPTED – 23 MARCH 2022

DRAFT – 19 JUNE 2023

ARRANGEMENT

Section 1 - Council / Governance

Section 2 - Administration / Organisation

Section 3 - Financial Management

Section 4 - Order / public safety

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HISTORY OF DELEGATION OF POWER BY COUNCIL SUMMARY

APPENDIX

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Summary of Delegations as at 23 June 2023

No.	Delegation	Council To CEO	CEO to:					Bldg Svyr
			MFC	MWS	Rangers	EHO	Plan. Consult	
1.1	Appointment of authorised persons	F	Not permitted					
1.2	Deleted							
2.1	Deleted							
2.2	Deleted							
3.1	Deleted							
3.2	Municipal Fund & Trust Fund – Payments from Bank Accs	F	F					
3.3	Investments	F	R	R				
3.4	Rates record, extensions and objections	F	Not permitted					
3.5	Sundry and rate debtors – Recovery and agreements	F	F					
3.6	Write off of sundry	F	Not permitted					
3.7	Tenders – power to set specification, criteria, call, accept, vary	F	F	R				
3.8	Contracts – Variations	F	R	R				
3.9	Disposing of property & impounded, confiscated. or uncollected. goods	F	F	F				
3.10	Disposing of land – leases, rentals etc	F	Not permitted					
3.11	Donations – Financial and In-kind Works / Services	F	Not permitted					
3.12	Recovery of Rate Debts – Actions to Take Possession of the Land	F						
4.1	Cat Act 2011	F	F	F	F			
4.2	Dog Act 1976	F	F	F	F			
4.3	Dogs Local Law 2006	F	F	F	F			
4.4	Parking and Parking Facilities Local Law 2006	F		F	F			
4.5	Impounding of vehicles and goods	F	F	F	F			
4.6	Impounding of cattle etc	F	F	F	F			
4.7	Disposal of sick or injured animals	F	F	F	F			
5.1	Issue of burning permits – CEO	F	R	R	R			
5.2	Fire fighting – Emergency plant hire	F	F	F				
5.3	Restricted burning periods – Variations	F	Not permitted					
5.4	Prohibited burning periods – Variations		Permitted only to President and Chief BFCO, jointly					
5.5	Firebreaks	F						
6.1	Control of environmental health matters	F				F		
6.2	Control of food matters	F				R		
7.1	Cemetery Local Law 2006	F	F	F	F			
8.1	Deleted							
8.2	Deleted							
10.1	Control of planning matters	F					F	
10.2	Applications for subdivision and amalgamations	F					F	
10.3	Response to State Administrative Tribunal review of planning decisions	F					F	
10.4	Control of building matters	F					F	F
10.5	Illegal development	F				F		F
10.6	Fencing Local Law 2006	F						R
11.1	Liquor Control Act	F	F			F		F
11.2	Local Government Property Local Law 2006	F	F	R	R	F		F
11.3	Activities on Thoroughfares and Public Places and Trading Local Law 2006	F	F	R	R	F		F
11.4	Discount/waiver/subsidy of facility hire fees	F	F					
13.1	Reserves under control of the local government	F		F				

No.	Delegation	Council To CEO	CEO to:					
			MFC	MWS	Rangers	EHO	Plan. Consult	Bldg Svyr
13.2	Things to be done on land not local government property	F		F				
13.3	Works on land outside the district	F		F				
13.4	Materials from land not under local government control	F		F				
13.5	Notices requiring certain things to be done	F		F				
13.6	Notice of local government works	F		F				
13.7	Private works/infrastructure on, over or under public land	F		F				
13.8	Events on roads	F		F				
13.9	Temporary road closures	F	F	F				
15.1	Control of Vehicles (Off-road Areas) Act 1978	F	F	F	F			
15.2	Native flora and fauna	F	F	F				
17.1	<i>Transferred to 6.2</i>							
18.1	<i>Deleted</i>							
18.2	<i>Transferred to 5.4</i>							

Section 1 - Council / Governance

1.1 Appointment of authorised persons

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. Legislation

The CEO is delegated power to appoint authorised persons for the purposes of performing functions under the following Acts and associated Regulations –

- a) Building Act 2011 –
 - s.127 – power to delegate
- b) Bush Fires Act 1954 –
 - s.38 – appointment of fire control and other officers
 - s.48 – a local government may delegate any function, other (than prohibited period variation)
- c) *deleted*
- d) *deleted*
- e) *deleted*
- f) *deleted*
- g) *deleted*
- h) Environmental Protection Act 1986 –
 - s.65(1) – if power to issue notices etc. delegated to the local government
- i) Food Act 2008 –
 - s.122 – an enforcement agency may appoint authorised person (if qualified)
- j) Litter Act 1979 –
 - s.26 – appointment of authorised officers
- k) *deleted*
- l) *deleted*
- m) *deleted*
- n) Public Health Act 2016 –
 - s.21(1)(b) – a local government may delegate to CEO
 - s.17 – Appointment of environmental health officers
- o) Health (Miscellaneous Provisions) Act 1911 –
 - s.26 – power to appoint a person who is an employee under LG Act s.5.36

2. Local Laws

The CEO is delegated power to appoint authorised persons for the purposes of performing functions under the following local laws –

- a) Activities on Thoroughfares and Public Places and Trading Local Law 2006;
- b) Local Government Property Local Law 2006;
- c) Parking and Parking Facilities Local Law 2006;
- d) Dogs Local Law 2006,
- e) Management and Control of Tammin Cemetery Local Law 2006,
- f) Fencing Local Law 2006.

3. Planning

The CEO is delegated power to appoint authorised persons for the purposes of performing functions under –

- a) Local Planning Scheme No.1 of 2010, clause 8.7.1;
- b) Local Planning Policy.

4. Infringement Notices

The CEO is delegated power to appoint employees with the power to issue infringement notices for the purposes of the *Criminal Procedure Act 2004* s.6(b) in accordance with the Local Government Act 1995 s.9.10(2), subject to –

- a) the power to withdraw any infringement notice or to extend the time to pay an infringement notice is restricted to the CEO as the person specified for this function, and may not be sub-delegated,
- b) where the infringement notice is issued by the CEO, a request to withdraw any infringement notice or extend the time to pay an infringement notice is to be referred to Council.

APPLICATION

5. The following exclusions apply to this delegation –

- a) Local Government Act 1995–
 - s.5.37(1) – determination that an employee or class of employee is or is not designated; and
 - s.5.37(2) – appointment or termination of a person to a designated position without Council's consent
- b) *deleted*

6. Appointments made by the CEO are limited to employees of the Shire, and are to state the appointment is for –

- a) the duration of employment by the Shire,
- b) the duration of the contract with the Shire, or
- c) specified time, event or purpose.

7. Appointment to a position by Council or CEO, in either a substantive or temporary capacity, includes the power to administer and perform the functions delegated to that position, subject to –

- a) any limitations specified in the relevant general delegation to the person or position;
- b) any specific limitations imposed by the Council or CEO in making the appointment.

8. All proposals to commence prosecution are to be referred to Council for decision, unless specifically authorised under delegated power or by specific decision.

9. Further delegation of this power by the CEO is not permitted.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES
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Not permitted

ADMINISTRATIVE

OBJECTIVE

To allow timely appointment of authorised persons.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.18(1) – local government to administer its local laws and perform its required functions under the Act

Criminal Procedure Act 2004 –

- s.6 – Regulations to provide for the appointment of authorised persons to issue infringement notices and specified persons permitted to withdraw or extend time to pay infringement notices

Legislation and local laws as noted in clauses 1 and 2 above.

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Authorised person's certificate of authorisation
- b) File copy of authorisation
- c) Personnel file
- d) Relevant subject file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA19, BUILD05, CVAN01, DOG01,
Adopted	28 June 2018
Adopted / amended	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020

REFERENCES

No delegated power for –

- legislation not listed,
- persons who are not employees.
- Meeting Procedure Local Law – not required
- Health Local Law 1999 cl.1.3 – stipulates that appointment of an EHO is to be by the Council, and therefore cannot be delegated to CEO
- Local Planning Scheme No.1 cl.8.7.1 – stipulates Council must resolve the delegation. This may be by position or by name.

Authorised persons exercise their authority directly from the Act, Regulation or local law that refers to “an authorised person”, and may be appointed directly by Council, or by the CEO under delegated power.

Where the Act, Regulation or local law refers to “local government” the function must be exercised through a formal delegation.

Where the Act, Regulation or local law refers to “Council”, it means the elected members in session.

Appointments of persons other than employees are to be referred to Council for determination.

Some appointments can be made independent of employment with the Shire, and unless revoked or otherwise limited, the appointment continues to remain valid. This is the case with Fire Control Officers, Authorised Dog Control Officers etc. Their appointment means –

- the community member is an officer of Council,
- as an officer of Council, there is a duty of care to the person, as well as to the community, and must ensure that the person is adequately resourced for the task, including training, equipment etc., as necessary,
- as an officer of the Shire, there is a legal responsibility for their actions, and in making the appointment there is an obligation to be satisfied that the person is appropriate and competent to exercise the authority.

As these appointments mean that the person is an officer of Council for that specific purpose, they have the statutory authority to commit Council to particular actions, initiate various proceedings etc., as listed in the authorising Act, and as permitted or limited by Council.

When making an appointment, the CEO must be certain that the person appointed is capable of undertaking the role, is a suitable, and provide the necessary resources for the role to be carried out such as training, equipment, etc.

This delegation does not apply to allocation of statutory functions made by the CEO to fulfil legislative requirements undertaken as a component of administrative tasks.

1.2 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	N/A
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

Section 2 - Administration / Organisation

2.1 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

2.2 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

Section 3 - Financial Management

3.1 *Deleted*

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA21
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Deleted	25 November 2020
Adopted / amended	23 March 2022

3.2 Municipal Fund and Trust Fund – Payments from Bank Accounts

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to make payments from the Municipal Bank Account and Trust Bank Account subject to –
 - a) being in accordance with the adopted Budget;
 - b) being authorised by a resolution of Council;
 - c) disbursement as authorised, of funds lodged to the Trust Account, or
 - d) being authorised emergency expenditure.

APPLICATION

2. The CEO is to ensure –
 - a) systems and procedures required by Financial Management Reg. r.5 are in place;
 - b) compliance with procedures developed in accordance with Financial Management Reg. r.11;
 - c) constant review of procedures in accordance with Audit Reg. r.17
3. All transactions are to have the authorised signatures or secure electronic passwords by any two of the following authorised persons, jointly –

Position	Authorising Signature / Electronic Password	
	Initial	Secondary
CEO	All	All
MFC	All	All
MWS	All	All
Payroll	Payroll	None
Creditors	Creditors	None

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full

ADMINISTRATIVE

OBJECTIVE

To ensure timely payment of creditors, salaries and wages etc.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.8 – expenditure from Municipal Fund
- s.6.8(1)(c) – Payment in an emergency

Local Government (Financial Management) Regulations 1996 –

- r.5 – CEO's duties as to financial management
- r.11 – Payments, procedures for making etc.
- r.12 – Payments from municipal fund or trust fund, restrictions on making
- r.13 – Duties of CEO

Local Government (Audit) Regulations 1996 –

- r.16 – CEO to review certain systems and procedures

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Copy of approval, authorisation, payment of invoice etc. with financial transaction
- b) Monthly report to Council Meeting

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	N/A
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

This delegation is not for the issue of purchase orders, use of credit cards, store cards or fuel cards, or procedures for the processing of creditors invoice.

3.3 Investments

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power 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.

APPLICATION

2. All transactions are to have two authorised signatures or secure electronic passwords, at least one of whom must be –
 - a) CEO; or
 - b) Manager of Finance and Corporate Services
3. Second signatories may be –
 - a) Manager Works and Services

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
As second signatory only

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate control of transfer of funds to and from investments.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.14 – Power to invest

Local Government (Financial Management) Regulations

- r.19 – Investments, control procedure for
- r.19C – Investments of money, restrictions on

Trustees Act 1962 –

Part III

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

Record of lodgement of funds for investment, and instructions given

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA16
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Financial Management Reg. r.19C imposes limits on institutions, duration of investment, type of investment etc.

3.4 Rates record, extensions and objections

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to –
 - a) amend rate records for the past five years preceding the current year,
 - b) refund of rates overpaid following an adjustment to the rate record if requested,
 - c) extend the time for making the objection for such period as the CEO thinks fit, on application by a person proposing to make an objection to the rate record
 - d) consider any objection to the rate record and may either disallow it or allow it, wholly or in part.

APPLICATION

2. Further delegation of this power by the CEO is not permitted.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

OBJECTIVE

To ensure the rate records are current and reconciled with information provided from Landgate.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.39 (2) – amend rate records for up to 5 years
- s.6.40 (3) – refund of rates after overpayment
- s.6.76 (4) – extension of time to make objection to rate record
- s.6.76 (5) – determination of objection to rate record

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of rates notice, payment, agreement or determination
- b) Property / Assessment file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA4, LGA20
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020

REFERENCES

3.5 Sundry and rate debtors – Recovery and agreements

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to negotiate an agreement for the payment of rates, service charge and sundry debts, together with the costs of proceedings, if any, for that recovery, subject to any administrative or instalment charges, penalty interest etc. being incorporated into the agreement.
2. The CEO is delegated power to recover unpaid rates or service charges after becoming due and payable, together with the costs of proceedings, if any, for that recovery –
 - a) by use of a debt collection agency,
 - b) in a court of competent jurisdiction;
 - c) by serving notice on a tenant to pay rent to the Shire;
 - d) other such means as is provided for and appropriate.
3. The CEO is delegated power to recover unpaid sundry debtors, together with the costs of proceedings, if any, for that recovery –
 - a) by use of a debt collection agency,
 - b) in a court of competent jurisdiction;
 - c) other such means as is provided for and appropriate.

APPLICATION

4. The arrangements agreed are to be on the basis that the total debt outstanding will be extinguished by 30 June following.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full

ADMINISTRATIVE

OBJECTIVE

To ensure timely recovery of sundry and rates debtors.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.49 – Agreement as to payment of rates and service charges
- s.6.56(1) – recovery of rates by complaint or action
- s.6.60(2) – recovery of rates by requiring payment of rent to Shire

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of instruction to court or debt collection agency etc., written agreement with debtor, notice to tenant etc.
- b) Property file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA2, LGA26
Adopted	28 June 2018
Adopted	27 June 2019

Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

3.6 Write off of sundry debts

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to write off small amounts to a maximum of \$300.00 ex GST per individual debt for –
 - a) sundry debtors and any interest, charges and associated cost where –
 - i) the debtor can no longer be traced,
 - ii) recovery is deemed unlikely, or
 - iii) cost of recovery is considered to be uneconomic;
 - b) interest on rates or service charges, or rate instalment charge where there is satisfactory evidence of attempt to pay by the required date –
 - i) where as a result of daily interest calculations, the rates were intended to be paid in full, but an error occurred, or the payment was received by mail after the calculation was made; or
 - ii) on transfer of the property from one owner to the next.

APPLICATION

2. This delegation does not apply to an amount of rates or any service charge levied on the annual rate notice.
3. Further delegation of this power by the CEO is not permitted.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

OBJECTIVE

To authorise the write-off of minor debtor amounts.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.95– information that is required to remain confidential
- s.6.12(c) – Power to write off any amount of money

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Listing of debts written off to be signed by CEO
- b) Report to Council via monthly briefing papers of the number of debts and total amount only

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA30
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

This delegation is not power for the write-off of rates or service charges, but rate interest and administration charges and sundry debts. 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.

Debt information –

- includes rate debts as well as sundry debts
- is to be kept confidential under the Local Government Act s.5.95(2), and therefore no identifying details should be in public documents such as Agendas or Minutes.

3.7 Tenders – power to set specifications, criteria, call, accept, vary

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power, subject to prior budget provision having been made or to give effect to a Council decision, to –
 - a) prepare and finalise specifications for calling all tenders, expressions of interest and panels for pre-qualified suppliers in accordance with Budget provision and at the appropriate time;
 - b) determine the criteria for assessment of all tenders, expressions of interest and panels for pre-qualified suppliers;
 - c) invite all tenders, expressions of interest and applications for panels of pre-qualified suppliers; or
 - d) approve a minor variation to an accepted tender, provided the intentions and purposes of the tender are not substantially altered, and where the effect on the total contract is a –
 - i) reduction;
 - ii) increase in cost to a cumulative total of \$25,000 ex GST or 5% whichever is the greater, where the adjusted total remuneration remains within Budget provision; or
 - iii) reasonable and unforeseen increase in duration of the contract.
2. The CEO is delegated power to accept tenders called where the value of the proposed purchase is less than the tender threshold stipulated by Regulations, without further reference to Council.

APPLICATION

3. All tenders and expressions of interest called under the Regulations are to be approved by Council.
4. Variation of tenders is limited to CEO only, as limited by 1(d)(ii) above.
5. All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
Within Works and Services Division only

ADMINISTRATIVE

OBJECTIVE

To allow for all administrative matters relating to tenders and expressions of interest to be managed.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.57– Tenders for providing goods or services
- s.3.58 – Disposing of property
- 5.43(b) – Limits on delegation to accept tenders

Local Government (Functions and General) Regulations 1996 –

Part 4 – provision of goods and services

- Division 1 – Purchasing policies for local government
 - o r.11A – requirement for a purchasing policy
- Division 2 – Tenders for providing goods and services, specifically –
 - o r.14(2a) – criteria for deciding on tender to be determined in writing prior

- r.14(4) – information to be disclosed, specifications, own tender to be determined prior
- r.14(5) – vary information disclosed subject to all being informed
- r.20 – Minor variation of requirements before entry into contract
- r.23 – Rejecting and accepting expressions of interest
- Division 3 – Panels of pre-qualified suppliers, specifically –
 - r.24AD(2a) – requirements to join panel of pre-qualified suppliers

Part 4A – Regional Price Preference

Part 6 - Miscellaneous

- 30 (3) – exempt disposition of property

CORPORATE CONTEXT

Delegation Register –

- 3.1 – Municipal Fund – Incurring expenditure

Policy Manual –

- 3.1 – Purchasing – Framework
- 3.2 – Purchasing – Regional Price Preference

FORMAL RECORD OF USE

- a) Report to Council via monthly briefing papers
- b) Tender register and documentation on file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA5, LGA6, LGA18
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Expression of interest is not a quote – refer Functions & General Regulations r.21(3). The mandatory requirements are equivalent to those for a tender.

As clarification –

- Panels of suppliers – (a), (b) and (c) only apply
- Expressions of interest – (a), (b), (c) and (d) only apply

This delegation applies to all tenders – whether acquisition or disposal.

3.8 Contracts – Variations

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power subject to prior budget provision having been made or to give effect to a Council decision to accept a minor variation of a contract entered into, subject to the intentions and purposes of the tender are not substantially altered, and where the effect on the total contract is a –
 - a) reduction;
 - b) increase in cost to a cumulative total of \$25,000 or 5% whichever is the greater, where the adjusted total remuneration remains within Budget provision; or
 - c) reasonable and unforeseen increase in duration of the contract.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
Within Works and Services Division only

ADMINISTRATIVE

OBJECTIVE

To allow for approval of unavoidable minor variations of contracts

STATUTORY CONTEXT

Local Government (Functions and General) Regulations 1996 –

- r.21A – Varying a contract for the supply of goods or services
- r.24AJ – Contracts with pre-qualified suppliers

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of authorised variation

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA18
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

3.9 Disposing of property, and impounded, confiscated or uncollected goods

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to dispose of a vehicle considered to be an abandoned vehicle wreck under section 3.40A(3).
2. The CEO is delegated power to dispose of goods confiscated under section 3.43.
3. The CEO is delegated power to take all appropriate action under section 3.48 that may be necessary to recover the costs of impounding good or vehicles.
4. The CEO is delegated power to dispose of property under section 3.58.

APPLICATION

5. This delegated power –
 - a) is subject to the operation of Delegation 3.7 Tenders;
 - b) applies to property other than land and buildings;
 - c) applies to property less than \$20,000 ex GST (individually or collective of associated similar items), unless prior authorisation given by Council specifically or by reference (such as trade-in vehicle or replacement vehicle);
 - d) applies to property that is surplus to requirements, unlikely to be used, damaged, or impounded;
 - e) is to be exercised ensuring disposal of assets is by offering them for public sale by any fair means, or to an appropriate not-for-profit community group;
6. Restrictions –
 - a) where the “income” from the asset being disposed of is to be used as part of consideration for the acquisition of a new asset, both disposal and acquisition must be disclosed in Budget;
 - b) if required, transfer of the property is subject to the asset not being available to the purchaser until such time as the replacement asset is available for Shire use; and
 - c) price offered is paid

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To permit timely disposal of relevant property other than land and buildings.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.39 – Power to remove an impound
- s.3.40 – Vehicle may be removed if goods to be impounded are in or on it
- s.3.40A – Abandoned vehicle wreck – disposal
- s.3.41 – Impounded perishable goods
- s.3.42 – Impounded non-perishable goods
- s.3.43 – Impounded non-perishable goods, court may confiscate
- s.3.44 – Notice to collect goods if not confiscate

- s.3.47(1) – Confiscated or uncollected goods, disposal of
- s.3.47(2b) – Periods of retention before disposal
- s.3.48 – Impounding expenses, recovery of
- s.3.58 – Disposing of property

Local Government (Functions and General) Regulations 1996 –

- r.29A – Abandoned vehicle wrecks, value etc. prescribed for
- r.30 – Disposition of property excluded from Act s.3.58
- r.31 – Anti-avoidance provision for Act s.3.58

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Acceptance of offer on disposal file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA9
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council.

3.10 Disposing of land and buildings – leases, rentals etc.

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to determine leases, licences or rental of land or property for periods of 12 months or less, in accordance with any policy, guidelines or conditions as set by Council from time to time.

APPLICATION

2. This delegation applies where the consideration is less than \$20,000 ex GST, unless prior authorisation given by Council specifically or by reference.
3. All leasing or rental of property for more than 12 months to be referred to Council for decision, except for employees in Shire owned housing.
4. All sale of land requires authorisation by Council resolution.
5. Further delegation of this power by the CEO is not permitted.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

OBJECTIVE

To permit quick approval of short term usage of Council land and buildings.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.58 – disposition of assets

Local Government (Function and General) Regulations 1996 –

- r.30 – limited exemption for disposition of assets

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- i) File copy of notice
- ii) Lease agreement/letter.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA8
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Dept. of Local Government and Communities considers leasing and rentals to be disposal of land under LG Act s.3.58 as it is a grant of exclusive right for the period agreed.

Functions and General Regulations r.30 has different exemptions and different values for land and other property.

3.11 Donations – Financial and In-kind Works / Services

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

The CEO is delegated power to –

1. Financial

- a) Where a donation is provided for by name in the adopted Budget, the CEO may make payment at the appropriate time or on application by the recipient.
- b) Financial donations within the non-specified amount in the adopted Budget may be made by the CEO where –
 - i) the amount does not exceed \$300 ex GST in any financial year;
 - ii) the recipient is a community group, sporting club or non-profit organisation;
 - iii) the recipient is based locally, or the purpose has particular benefit or application to the district.
- c) Financial and works/service in-kind donations will not be considered for –
 - i) businesses,
 - ii) individuals;
 - iii) Deleted

Donations for specific appeals such as a crisis appeal will be considered individually by Council.

2. In-kind

In-kind works or services may be authorised by the CEO where –

- a) the amount does not exceed \$500 ex GST in any financial year;
- b) the recipient is a community group, sporting club or non-profit organisation;
- c) the recipient is based locally, or the purpose has particular benefit or application to the district.

APPLICATION

3. Further delegation of this power by the CEO is not permitted.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

OBJECTIVE

To permit decision regarding small donations and works in kind to be made.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.8 – expenditure from Municipal Fund

Local Government (Financial Management) Regulations 1996 –

- r.5 – CEO's duties as to financial management
- r.11 – Payments, procedures for making etc.
- r.12 – Payments from municipal fund or trust fund, restrictions on making

CORPORATE CONTEXT

Delegations Register –

- 3.1 – Municipal Fund – Incurring expenditure

FORMAL RECORD OF USE

- a) Office copy of approval / authorisation

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

3.12 Recovery of Rates Debts – Actions To Take Possession of the Land

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

The CEO is delegated power to –

1. Authority to take possession of land and hold the land against a person having an estate or interest in the land where rates or service charges have remained unpaid for at least three years [s.6.64(1)], including:
 - i. lease the land, or
 - ii. sell the land; or where land is offered for sale and a contract of sale has not been entered into after 12 months:
 - I. cause the land to be transferred to the Crown [s.6.71 and s.6.74]; or
 - II. cause the land to be transferred to the Shire of Tammin [s.6.71].
2. Authority to agree terms and conditions with a person having estate or interest in land and to accept payment of outstanding rates, service charges and costs within 7 days of and prior to the proposed sale [s.6.69(2)].

APPLICATION

- a. In accordance with s.6.68(3A), this delegation cannot be used where a decision relates to exercising a power of sale without having, within the previous 3-years attempted to recover the outstanding rates / charges through a court under s.6.56, as s.6.68(3A) requires that the reasons why court action has not been pursued must be recorded in Council Minutes.
- b. Exercise of this delegation must comply with the procedures set out in Schedule 6.3 of the *Local Government Act 1995*.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

STATUTORY CONTEXT

Local Government Act 1995:

- s.6.64(1) Actions to be taken
- s.6.69(2) Right to pay rates, service charges and costs, and stay proceedings
- s.6.71 Power to transfer land to Crown or local government
- s.6.74 Power to have land revested in Crown if rates in arrears 3 years

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

Assessment file records of recovery actions.

HISTORY OF DELEGATION OF POWER BY COUNCIL

REFERENCES

Section 4 - Order / public safety

4.1 Cat Act 2011

DELEGATION OF POWER BY COUNCIL TO CEO**FUNCTION DELEGATED**

1. The CEO is delegated power to exercise all discretionary matters in the Cat Act 2011, including –
 - a) issue of all notices and infringements etc.;
 - b) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
 - b) dealing with an objection.
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE**OBJECTIVE**

To ensure appropriate administration of the Cat Act.

STATUTORY CONTEXT

Cat Act 2011 –

- s.44 – Council may delegate to CEO
- s.45 – CEO may delegate to any employee
- s.48 – an authorised person may perform functions under the Act
- s.62 – infringement notice may only be issued by an authorised person who is an employee
- s.70 – dealing with objections – to be by Council
- s.73(1) – Prosecutions under the Act

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- i) File copy of notice, approval etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020

Adopted / amended 25 November 2020

Adopted / amended 23 March 2022

REFERENCES

The Act (e.g. s.63, s.64, s.65) restricts some matters to CEO.

4.2 Dog Act 1976

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to exercise all discretionary matters in the Dog Act 1976, including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc.;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice.

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
 - b) dealing with an objection.
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.
4. The CEO has power to waive the registration fee for a maximum of 12 months where a dog is rescued from impoundment by a new owner.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Dog Act.

STATUTORY CONTEXT

Dog Act 1976 –

- s.3(1) – appointment of authorised person to perform functions under Act
- s.11 – appointment of dog registration officer
- s.10AA – delegations must be to CEO, who may delegate functions
- s.29 – power to seize dogs
- s.33F – dealing with objections (dangerous dogs)
- s.44(2)(b) – enforcement proceedings by an authorised person

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	DOG01
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

4.3 Dogs Local Law 2006

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve all discretionary matters in the Shire of Tammin Dogs Local Law 2006 including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc.;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
 - b) dealing with an objection.
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Local Law

STATUTORY CONTEXT

Dogs Act 1976 –

- s.10AA – delegations must be to CEO, who may delegate functions
- s.29 – appointment of authorised person to perform functions under Act
- s.44(2)(b) – enforcement proceedings by an authorised person

Local Government Act 1995 –

- s.3.18 – A local government is to administer its local laws
- s.9.6 – Dealing with objection – to be by council

Shire of Tammin Dogs Local Law 2006 –

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of approval of discretionary use

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA1
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

4.4 Parking and Parking Facilities Local Law 2006

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve all discretionary matters in the Shire of Tammin Parking Local Law 2006 including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc.;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full
- b) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Local Law

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.18 – A local government is to administer its local laws

Parking and Parking Facilities Local Law 2006

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Duplicate of any infringement issued
- b) File copy of any notice, warning etc. issued

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA1
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

4.5 Impounding of vehicles and goods

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to the power to remove and impound goods from a public place if –
 - a) the goods or vehicle present a hazard to public safety;
 - b) the goods or vehicle obstruct the lawful use of any place;
 - c) the goods ore vehicle have been, or appear to have been abandoned
2. The CEO is delegated power to take all appropriate action that may be necessary to recover the costs of impounding vehicles and goods.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the provisions of the Act

STATUTORY CONTEXT

Local Government Act 1995 –

Part 3, Division 3, Subdivision 4 – Impounding abandoned vehicles wreck and goods involved in certain contraventions

CORPORATE CONTEXT

Delegations Register –

- 3.5 – Sundry and rates debtors – Recovery and agreements
- 3.9 – Disposing of property – sale

FORMAL RECORD OF USE

- a) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA27
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Disposal of impounded vehicles or goods is covered by Delegation 3.9.

Adopted / amended 23 March 2022

4.6 Impounding of cattle etc.

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1960, and Regulations.
2. The CEO is delegated power to take all appropriate action that may be necessary to recover the costs of impounding the animal.

APPLICATION

3. The CEO is authorised to make appropriate arrangements for the custody and care of cattle, either within a designated pound, or by written arrangement with a land holder, including any costs or charges the landholder may incur or impose
4. The CEO is authorised to recover the costs and charges imposed by the landholder from the owner of the cattle.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To ensure power for impounding of wandering or escaped animals

STATUTORY CONTEXT

Local Government (Miscellaneous Provisions) Act 1960 –

- s.458 – power to impound trespassing cattle
- s.459 – power to destroy cattle in certain circumstances
- s.460 – impounding in other than a public pound
- s.462 – fees for impounded cattle
- s.463 – damage by trespassing cattle
- s.464 – local government may vary fees of Sch.2, 3, 4 after notice in Government Gazette

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Impounding register

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA27
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Although “cattle” is not defined, the Local Government (Miscellaneous Provisions) Act provides for charges for various animals impounded, that include sheep–

- Schedule 2 – Ranger’s fees
- Schedule 3 – Poundage and sustenance charges
- Schedule 4 – rates for damage by trespass by cattle

Animals listed in the Schedules include in various combinations of descriptions –

- (1) Entire horses, mules, asses, camels, bulls or boars above or apparently above the age of 2 years
- (2) Entire horses, mules, asses, camels, bulls or boars under the age of 2 years
- (3) Mares, geldings, colts, fillies, foals, oxen, cows, steers, heifers, calves, rams or pigs
- (4) Pigs of any description
- (5) Rams, wethers, ewes, lambs, goats
- (6) Sheep of any description
- (7) Goats

4.7 Disposal of sick or injured animals

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to arrange for an impounded animal that is ill or injured to an extent that treatment is not practical, to be humanely destroyed.
2. The CEO is delegated power to take all appropriate action that may be necessary to recover the costs of destroying the animal.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To prevent or reduce the suffering if sick or injured animals

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.47A – Sick or injured animals, disposal of
- s.5.48 Impounding expenses, recovery of

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of written instruction or record of destruction of animal

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA27
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Fire Control

4.8 Issue of burning permits – CEO

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to issue, vary or prohibit burning permits in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.15(1).
2. The CEO is delegated power to approve applications to burn a road verge vested in the care, control and management of the Shire, in accordance with the Bush Fires Act 1954 s.18(9), subject to the applicant obtaining the approval of the Dept. of Parks and Wildlife.
3. The CEO is delegated power, in consultation with the Chief Bush Fire Control Officer and the issuing FCO if possible, to review or vary the conditions of a permit issued, or issue a permit if refused.
4. The CEO is delegated power to issue, vary or prohibit permits to burn clover in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.16.
5. The CEO is delegated power, in consultation with the Chief Bush Fire Control Officer, to issue instructions, restrictions or conditions relating to burning permits to apply generally throughout the Shire.

APPLICATION

6. Points 3 to 5 above are restricted to the CEO.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
Functions 1 and 2 only
- b) Manager Works and Services
Functions 1 and 2 only
- c) Rangers
Functions 1 and 2 only

ADMINISTRATIVE

OBJECTIVE

To allow for the issue of burning permits as appropriate

STATUTORY CONTEXT

Bush Fires Act 1954 –

- s.18 – Restricted burning times
 - (1) – nothing in this section permits burning in prohibited period
 - (2) – prohibited & restricted times to be published in Government Gazette
 - (5) – Local government may vary burning periods after consultation
 - (5B) – variation for maximum of 14 days
 - (5C) – burning period restrictions apply to variation period
 - (6) – permit required to set fire to bush from either FCO or CEO
 - (7) – person issuing permit may apply requirements or conditions
 - (8) – permit holder to comply with conditions
 - (9) – permit may authorise burning of bush on adjoining road reserve

- (10A) – local government may adopt enforceable schedule for burning
- (11) – if fire escapes etc. expenses up to \$10,000 may be recouped
- (12) – penalty on first breach \$4,500, subsequent breaches \$10,000
- s.23(2)(a)(iv) – road verge burning between constructed portion of road and established fire break only
- s.24A – clover may be burnt in prohibited burning period with permit

Bush Fire Regulations 1954 –

- r.15(1) – Permit to burn as per section 18 of the Act
- r.15(2) – If request to burn is conditional or refused, review is only by the local government or CBFCO
- r.15A – BFCO to comply with directions of local government
- r.15B – Permit holder to comply with permit conditions
- r.15C – Local Government may prohibit burning on certain days
- r.16 – CEO or specifically authorised person may permit burning of clover in prohibited period
- r.17 – permit required to burn clover
- r.18 – 7 days notice of clover burn required, under specified restrictions
- r.19A – duties of clover burning permit holder
- r.20 – local government may prohibit issue of clover burn permits
- r.21A – permit holder may be required to advertise clover burn
- r.21B – FCO may postpone clover burn

Activities on Thoroughfares and Public Places and Trading Local Law 2006 –

- cl.2.2 – Shall not light a fire on a thoroughfare except with a permit under cl.3.13
- cl.5.13 – Permit to burn thoroughfare

Local Government Property Local Law 2006 –

- cl.3.13(1) – a person shall not light a fire on a thoroughfare without a permit

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Duplicate copy of permit issued

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	BFIRE01, BFIRE02
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

The Act s.16(6)(a) stipulates

...obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer ...

Issue of burning permits may be done by an authorised person – see Delegations 1.1.

4.9 Fire fighting – Emergency plant hire

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to commit expenditure for the private hire of plant and equipment necessary for the efficient fighting and control of fires.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To ensure adequate resources in an emergency

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.8(1)(c) – authorisation of unbudgeted expenditure in an emergency

Bush Fires Act 1954 –

- s.38(3)(4)(5) – appointed BFCO's may exercise specific authorities given to them

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Report to Council via briefing papers
- b) Duplicate copy of purchase order issued
- c) File copy of notes

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

The approval to be sought is an administrative function for expenditure purposes only, and does not extend to giving of operational instructions.

Where possible, the CEO is to seek advice from the senior FCO at the fire, and approval from the President or Deputy President. However, since this delegation will only be used in emergency situations, it is acknowledged that this may not be possible.

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.

4.10 Restricted burning periods – Variations

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to exercise the powers of Council under the Bush Fires Act 1954 s.18(5) to vary the restricted burning times,

APPLICATION

2. Prior to advertising the variation, the CEO is to consult with –
 - the Dept. of Parks and Wildlife in accordance with s.18(5), and
 - the Chief BFCO, or Deputy Chief BFCO if Chief BFCO is unavailable.
3. Further delegation of this power by the CEO is not permitted.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

OBJECTIVE

To permit variation of restricted burning times according to seasonal conditions

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.18(5) – power to vary restricted burning time
- s.18(5B) – time may not be varied by more than 14 days
- s.18(5C) – compliance requirements as per s.17(8),(9),(10),(11)
- s.48(1) – power to delegate to CEO

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of variations approved

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

4.11 Prohibited burning periods – Variations

DELEGATION OF POWER BY COUNCIL TO SHIRE PRESIDENT AND CHIEF BFCO, JOINTLY

FUNCTION DELEGATED

1. The Shire President and Chief Bush Fire Control Officer are delegated power to jointly exercise the powers of Council under the Bush Fires Act 1954 s.17 (7), (8), (10) – prohibited burning periods.

APPLICATION

2. Should the Shire President be unavailable or hold joint office as Chief BFCO, the Deputy Shire President is deemed to be Acting Shire President in relation to this matter.
3. If the Chief BFCO is unavailable, the Deputy Chief BFCO is deemed to be Acting Chief BFCO.
4. In the absence of Deputy President or a Deputy Chief BFCO, the CEO is authorised to act for that person, but not for both.
5. The CEO is to be advised in order that public notification may be arranged.
6. Further delegation of this power by the Shire President and Chief BFCO is not permitted by the Act.

DELEGATION OF POWER BY SHIRE PRESIDENT AND CHIEF BFCO, JOINTLY, TO OTHERS

Not permitted

ADMINISTRATIVE

OBJECTIVE

To facilitate variation of the prohibited burning period

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.17(7) – power to vary prohibited burning time
- s.17(7B) – time may not be varied by more than 14 days
- s.17(8) – requirements to give various notice, and Minister may rescind or modify the variation
- s.17(9) – publication requirements
- s.17(10) – local government may delegate to President and Chief BFCO jointly
- s.17(11) – Local government may rescind delegation or vary any delegated decision

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Written advice to CEO

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	BFIRE03
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Former Delegation	18.2
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Variation of the prohibited burning period automatically reinstates the underlying restricted burning conditions.

4.12 Firebreaks

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. Authority to give written notice to an owner or occupier of land or all owners or occupiers of land within the District, requiring, to the satisfaction of the Shire of Tammin:
 - a. clearing of firebreaks as determined necessary and specified in the notice; and
 - b. act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and
 - c. as a separate or coordinated action with any other person carry out similar actions [s.33(1)].
2. Authority to direct a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with [s.33(4)].
 - a. Authority to recover any costs and expenses incurred in doing the acts, matters or things required to carry out the requisitions of the notice [s.33(5)].

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

Not permitted

ADMINISTRATIVE

OBJECTIVE

To facilitate variation of the prohibited burning period

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.33 Local government may require occupier of land to plough or clear fire-breaks.

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

File copy of notice.

HISTORY OF DELEGATION OF POWER BY COUNCIL

REFERENCES

Section 5 - Environmental Health / Food

5.1 Control of environmental health matters

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to exercise and discharge all or any of the powers and functions of the local government with regard to –
 - a) the *Public Health Act 2016* and
 - b) the *Health (Miscellaneous Provisions) Act 1911* and Regulations, including but not limited to –
 - Part IV Sanitary Provisions,
 - Part V Dwellings;
 - Part VI Public Buildings;
 - Part VII Nuisances and Offensive Trades;
 - Part IX Infectious Diseases;
 - Part XV Miscellaneous Provisions;

APPLICATION

2. Where approvals are required, compliance is also mandatory with –
 - a) the Health legislation and Regulations,
 - b) the Building Code of Australia,
 - c) the Local Planning Scheme and Planning Policies
 - d) the Shire of Tammin Health Local Laws 1999.
3. Any application not complying is to be refused, unless there is a discretion, in which case it is to be referred to Council for decision.
4. The delegation excludes –
 - a) determination of any fee or charge;
 - b) dealing with an objection,
5. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.
6. Any prosecution proposed is to be referred to Council for decision to proceed.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Environmental Health Officer
In full
Required, being a qualified person

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Act and Regulations

STATUTORY CONTEXT

Public Health Act 2016 –

- s.4(2) – authorised officer
- s.21 – power to delegate to CEO
- s.24 – authorised person must be qualified

- s.25 – authorised person must have acceptable qualifications or be an EHO

Health (Miscellaneous Provisions) Act 1911

Shire of Tammin Health Local Laws 1999

Government Gazette of 24 Jan 2017 – Designation of Health Authorised Officers

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Report to Council via monthly briefing papers
- b) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

In some instances the EHO may be required to act without reference to Council or CEO, and regardless of Council's or CEO's wishes.

The Public Health Act 2016 –

21. Enforcement agency may delegate

- (1) A power or duty conferred or imposed on an enforcement agency may be delegated —
 - (a) if the enforcement agency is the Chief Health Officer, in accordance with section 9; or
 - (b) if the enforcement agency is a local government, to —
 - (i) the chief executive officer of the local government; or
 - (ii) an authorised officer designated by the local government;

The effect of the delegation is that the CEO is to cause various actions to be taken by an authorised person.

Authorised person must be either –

- a) an EHO in the employ of the Shire at the time of the Public Health Act 2016 coming into force, or
- b) hold an appropriate qualification as published in the *Government Gazette* of 24 January 2017.

5.2 Control of food matters

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to exercise and discharge the powers and functions of the local government with regard to the Food Act 2008, including but not limited to –
 - a) powers of entry to premises,
 - b) taking of food samples for analysis,
 - c) formal warnings;
 - d) improvement notices;
 - e) prohibition orders; and
 - f) infringement notices.

APPLICATION

2. The CEO may appoint a qualified person under Delegation 1.1
3. The delegation excludes –
 - a) determination of any fee or charge;
 - b) dealing with an objection,
4. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.
5. Any prosecution proposed is to be referred to Council for decision to proceed.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Environmental Health Officer
Matters requiring a qualified person for health matters

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the legislation

STATUTORY CONTEXT

Food Act 2008 –

- s.118(2)(b) – power to delegate functions and obligations to qualified authorised person
- s.122(1)(b) – authorised person must hold office as an environmental health officer under the *Health Act 1911*

Food Regulations 2009 –

- s.5 – a local government is an appropriate enforcement agency for the purposes of certain food businesses, animal processing premises and retail pet meat shops

Public Health Act 2016

- s.4(2) – authorised officer
- s.24 – authorised person must be qualified
- s.25 – authorised person must have acceptable qualifications or be an EHO

Government Gazette of 24 Jan 2017 – Designation of Health Authorised Officers

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of notice, record of inspection etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	FOOD01
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Former Delegation	17.1
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Council may appoint a person as an authorised person who is not an employee.

CEO may appoint an employee as an authorised person under Delegation 1.1

It should be noted that under the Act, the EHO may be required to prosecute, regardless of Council's direction or wishes.

Section 6 - Community Services

6.1 Cemetery Local Law 2006

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve all discretionary matters in the *Shire of Tammin Management and Control of Tammin Cemetery Local Law 2006* including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc.;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full
- c) Rangers
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Local Law

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.18 – A local government is to administer its local laws

Cemeteries Act 1976

Shire of Tammin Management and Control of Tammin Cemetery Local Law 2006

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of approval of grant of right of burial, pre-need certificate, notice etc.
- b) Duplicate copy of infringement etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA1
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Section 7 - Deleted

7.1 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

7.2 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

Section 8 - Occupational Safety & Health

This section is currently empty

Section 9 - Building / Development

10.1 Control of planning matters

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

The CEO is delegated power in accordance with Clauses 82 and 83 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows –

1. Advertising and Determining Applications for Development Approval

Notification and Advertising of Applications for Development Approval in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* determine that a particular application will be advertised and carry out the means and extent of such advertising.

2. Consideration of Applications for Planning Approval

1.1 Determine applications with a use permissibility classification of 'P', 'D' and 'A' in Table 1 for Development Approval in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, Shire of Tammin Local Planning Scheme No. 2 and/or Western Australian Planning Commission State Planning Policy No. 3.1 – Residential Design Codes where no objections have been received (if advertised) and impose conditions as required.

1.2 Refusal of all development applications where the proposed use is not permitted by the Scheme or where the development does not comply with the non-discretionary provisions of the Residential Design Codes or any mandatory statutory requirement or adopted Council policy.

1.3 Grant an extension of development approval for up to two (2) years.

3. Use Not Listed

To determine if a use that is not specifically listed in the Zoning Table (Table 1) of the Tammin Local Planning Scheme No. 2 is consistent, maybe consistent or is not consistent with the objectives of the zone.

Subject to –

- a) An officer to whom delegated power is granted is not to exercise that power in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.
- b) With the exception of delegated power 2.0 above, all applications will be submitted to a meeting of Council for determination in the following circumstances:
- c) Where the delegated decision would be contrary to the intent of a previous decision made at a Council meeting, or any law or regulation;
- d) Where written objection is received to the proposal from any statutory agency;
- e) Where the proposal is inconsistent with the intent of the Local Planning Scheme, relevant Policies, Residential Design Codes, or any Outline Development Plan adopted by Council;
- f) Where notification has been given to adjoining and nearby owners or the general public for comment in accordance with the Local Planning Scheme or any Policy and written objections have been received within the time specified.

4. Advertising Extension for Town Planning Scheme Amendments

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

Subject to –

- a) An officer to whom delegated power is granted is not to exercise that power in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.

5. Directions regarding unauthorised development

To give directions in relation to unauthorised development and to authorise any action available to the responsible authority under the *Planning and Development Act 2005* incidental to such written direction, including but not limited to issuing a notice to correct or amend the development or to commence legal action in accordance with the Council's endorsed procedure for compliance and enforcement.

Subject to –

- a) An officer to whom delegated power is granted is not to exercise that power in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.

6. Structure Plans, Activity Centre Plans and Local Development Plans

Acceptance of Structure Plans and amendments to Structure Plans, Activity Centre Plans and Local Development Plans for the purposes of advertising in accordance with the provisions of Regulation 18 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

7. Responsible Authority Reports to the Development Assessment Panel

To submit Responsible Authority Reports to the Development Assessment Panel pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulations 2011 in relation to applications for planning approval under Shire of Tammin Local Planning Scheme No. 3.

Subject to:

- a) The Chief Executive Officer is to advise Council of the lodgement and subsequent decision of a Development Assessment Panel (DAP) application at the next available Council meeting.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Planning Consultant
In full

ADMINISTRATIVE

OBJECTIVE

To ensure timely management of straightforward planning matters.

STATUTORY CONTEXT*Planning and Development Act 2005 –*

Part 5 – Local planning schemes

- s.68 – Town planning schemes continued as local planning schemes
- s.72 – Local government may prepare or adopt scheme
- s.73 – Provisions of a local planning scheme
- s.214 (2)(3)(5) – development works not in compliance may have written stop work or remedial action order issued

Planning and Development (Local Planning Schemes) Regulations 2015 –

- s.82 – a local government may delegate to a committee or to the CEO
- s.83 – CEO may delegate to any employee

These Regulations override the provisions of the Planning Scheme.

*Shire of Tammin Local Planning Scheme No.3***CORPORATE CONTEXT**

Local Planning Policies

Policy Manual –

- 10.1 – Relocated Buildings

FORMAL RECORD OF USE

- a) Approvals etc. on file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	34
Adopted	28 June 2018
Amended	23 August 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

- a) These Delegations do not preclude the Delegate or Sub-Delegate referring the categories of development or legal proceedings outlined above, to Council for determination, after having regard to the circumstances of a particular case.
- b) All matters determined under Delegated Power are to be listed at the first available Ordinary Meeting of Council.

10.2 Applications for subdivision and amalgamations

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

The CEO is delegated power in respect to –

1. WA Planning Commission applications

Exercise discretion and make recommendations to the Western Australian Planning Commission on applications to subdivide, re-subdivide or amalgamate land as follows –

- 1.1 No objection to the granting of approval of an application to amalgamate two (2) or more lots (including lots forming part of any strata-title scheme) into a single allotment.
- 1.2 No objection to the granting of approval of an application to rationalise or reconfigure existing allotments where there is no nett increase in lots created, and the new lot sizes will conform with the relevant requirements of prevailing town planning schemes and their policies, and policies adopted pursuant to section 5AA of the Planning and Development Act 2005.

Subject to –

- a) the imposition of relevant conditions on any approval proposed to be granted by the WAPC, that are considered necessary to secure the objectives of any prevailing regional or Shire town planning scheme/s, and any land use plan or strategy adopted by Council.
- c. No objection to the granting of approval of an application of to up to five (5) lots where the application accords with an endorsed local area plan, structure plan and/or the *Residential Design Codes of WA*.

Subject to –

- a) the imposition of relevant conditions on any approval proposed to be granted by the WAPC, that are considered necessary to secure the objectives of any prevailing regional or Shire town planning scheme/s, and any land use plan or strategy adopted by Council.

2. Certifications

Certify to the WAPC that conditions imposed on an approval granted to subdivide, re-subdivide or amalgamate land contained within the municipality, that pertain to the Shire's jurisdiction, role and function, have been completed and fulfilled to the satisfaction of the Shire.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Planning Consultant
In full

ADMINISTRATIVE

OBJECTIVE

To permit administrative approvals for small scale merger and rationalisation of land

STATUTORY CONTEXT*Planning and Development Act 2005 –*

- s.4 – Subdivision includes amalgamation
- s.135 – subdivision (and amalgamation) not permitted without WA Planning Commission approval
- s.138(2) – Commission to have due regard to local planning scheme
- s.142 – Commission to seek local government's comments, objections, recommendations

Planning and Development (Local Planning Schemes) Regulations 2015 –

- s.82 – a local government may delegate to a committee or to the CEO
- s.83 – CEO may delegate to any employee

These Regulations override the provisions of the Planning Scheme.

*Shire of Tammin Local Planning Scheme No.3***CORPORATE CONTEXT**

Local Planning Policies

FORMAL RECORD OF USE

- a) File copy of advice of decision to applicant, developer etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	35
Adopted	28 June 2018
Amended	23 August 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

10.3 Response to State Administrative Tribunal review of planning decisions

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

The CEO is delegated power in respect to –

1. Response

Respond to applications for review lodged with the State Administrative Tribunal, including preparation of statements by respondent, liaison with the State Administrative Tribunal and representation of the Council at review hearings, where a decision made by the Council, or a condition or conditions associated with that decision, is substantively in accordance with the Responsible Officer's recommendation

Subject to –

- a) The outcome of the SAT determination to be reported to Council.
- b) The exercise of these powers on the discharge of these duties, is subject to the Officers and/or Employees exercising the Delegation: keeping a written record of, and recording within an appropriate Database, details of how the Delegation was exercised, when the delegation was exercised, the persons or classes of persons directly affected by the exercise of the power on the discharge of the duty

2. Professional advice

In the event of a decision of Council is appealed to SAT, Council delegates its power and power to the Chief Executive Officer to engage independent professional advice, including legal advice, where a decision made by the Council, or a condition or conditions associated with that decision, is substantially different from the Shire reporting officer's recommendation.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Planning Consultant
In full

ADMINISTRATIVE

OBJECTIVE

To permit administrative approvals for small scale merger and subdivision of land

STATUTORY CONTEXT

Planning and Development Act 2005 –

- s.4 – Subdivision includes amalgamation
- s.135 – subdivision (and amalgamation) not permitted without WA Planning Commission approval
- s.138(2) – Commission to have due regard to local planning scheme
- s.142 – Commission to seek local government's comments, objections, recommendations

Planning and Development (Local Planning Schemes) Regulations 2015 –

- s.82 – a local government may delegate to a committee or to the CEO
- s.83 – CEO may delegate to any employee

These Regulations override the provisions of the Planning Scheme.

Shire of Tammin Local Planning Scheme No.1

CORPORATE CONTEXT

Local Planning Policies

FORMAL RECORD OF USE

- a) File copy of advice of decision to applicant, developer etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	36
Adopted	23 August 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

10.4 Control of building matters

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to determine matters under the Building Act 2011 –
 - a) sections 18, 20, 22, 23, 24 – Building permits
 - b) sections 21, 22, 23, 24 – Demolition permits
 - c) section 27 – Conditions for building permit or demolition permit
 - d) section 32 – Duration of building permit or demolition permit
 - e) sections 58, 59, 60 – occupancy permit
 - f) section 62 – conditions of occupancy permit
 - g) section 65 – duration of occupancy permit
 - h) sections 110, 111, 112 – Issue of notices and building orders
 - i) section 117 – Revocation of building orders
 - j) section 118 – giving effect to building order if non-compliance
2. The CEO is delegated power to determine matters under the Regulations –
 - a) r.61 – use of battery powered smoke alarms in buildings
3. The CEO only is permitted to withdraw or extend time to pay an infringement in accordance with Delegation 1.1 clause 4.

APPLICATION

4. The delegation to CEO excludes –
 - a) determination of any matter requiring a registered building surveyor
5. The delegation excludes –
 - a) determination of any fee or charge;
 - b) dealing with an objection.
6. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) is an infringement notice remains unpaid after reasonable attempts to obtain payment.
7. The CEO is to be consulted prior to use of any sub-delegation in relation to 1(b), (h), (i) and (j).
8. A building permit may be issued if –
 - a) a valid Certificate of Design Compliance is presented;
 - b) compliance with requirements for bush fire prone areas;
 - c) all buildings where permitted in accordance with the Building Act 2011 and
 - d) the information required by the Regulations is provided.
9. A building permit is not to be issued unless payment has been received for –
 - a) the assessed building permit fees
 - b) Building Services Levy
 - c) Building and Construction Industry Training Fund levy, or production of evidence of payment or exemption where applicable
10. The following matters are to be referred to Council for decision
 - a) s.192 – Dangerous Buildings
 - b) s.193 – Removal of Neglected Building
11. Any prosecution proposed is to be referred to Council for decision to proceed.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- b) Environmental Health Officer
Matters requiring a qualified person for health matters
- c) Building Surveyor
Matters requiring a qualified person for building matters

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the legislation

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.36 – Local government employees

Building Act 2011 –

- s.3 – authorised person to be designated under s.96
- s.96(3) – the local government may designate a person to be authorised
- s.127(3) – delegation by a local government must be to an employee
- s.127(6A) – further delegation of power given to CEO

Building Regulations 2012 –

- r.31B – applicable standards for buildings in bush fire prone areas
- r.61 – use of battery powered smoke alarms in dwellings

Building Services (Registration) Act 2011

- s.17 – registration of building service practitioners

Building Services (Registration) Regulations 2011 –

- r.4 – prescribed levels for building surveying
- Part 3A – Building surveyors

CORPORATE CONTEXT

Delegations Register –

- Delegation 1.1 Appointment of Authorised Person
(4) – restrictions on issue, withdrawal and extension of time to pay infringements

FORMAL RECORD OF USE

- a) Report to Council via monthly briefing papers – Items (a), (b), (h), (i)
- b) File copy of permit, notice etc. issued

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	10, 11, 12, 13, 15, 16, 18
Adopted	28 June 2018
Amended	23 August 2018 (from 10.3)
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Building permits are separate from the Local Planning Scheme functions, but are governed by them.

Any authorised person can issue a permit or notice etc. – certifications can only be issued by a Registered Building Surveyor

The Building Act 2011 requires response –

- within 10 days of lodgment, if a valid CDC is presented, as all assessment and preparation is done prior to lodgment in order to obtain the CDC, accordingly there is no reason that the CEO and other appropriate persons cannot be authorised to approve applications.
- for Class 1 and 10 buildings only, within 25 days of lodgement if a valid CDC is not presented, and the local government is required to source/provide the CDC.

With the Building Act 2011, the functions separated are –

- (a) Issue of permits, notices etc. –
 - o does not require a registered person (Registered Building Surveyor), since the Certificate of Design Compliance has to be signed by a registered person
 - o the decision is on the basis of whether all the requirements of CDC have been met, and any appropriate person can do that if authorised
 - o delegation to issue permits can be made under this amended delegation
- (b) Building inspection and certification of plans still requires a registered person –
 - o who is registered as per the Act and Regulations and holding appropriate qualifications
 - o to provide a building certification service

10.5 Illegal development

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to issue notices in relation to illegal or delayed works in accordance with the Planning and Development Act 2005 s 214(2), (3) and (5).

APPLICATION

2. Where a notice is not complied with, the CEO is authorised to commence prosecution without reference to Council.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Environmental Health Officer
In full
- b) Building Surveyor
In full

ADMINISTRATIVE

OBJECTIVE

To ensure prompt action is able to be taken against illegal development

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.42(1)(b) – Delegation to CEO of powers under the Planning and Development Act 2005 s.214(2), (3) and (5)

Planning and Development Act 2005 –

- s.214 – development in contravention of planning scheme or interim development order
 - (2) – power to order stop work
 - (3) – power to remove, alter etc. and restore land to original condition
 - (5) – if delay interferes with scheme operation, power to order work to be undertaken

CORPORATE CONTEXT

Local Planning Policies

FORMAL RECORD OF USE

- a) Report to Council via monthly briefing papers
- b) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	N/A
Adopted	28 June 2018
Amended	23 August 2018 (from 10.4)
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

10.6 Fencing Local Law 2006

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve all discretionary matters in the *Shire of Tammin Fencing Local Law 2006* including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc.;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
 - b) dealing with an objection.
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Building Surveyor
Matters requiring a qualified person for building matters

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Local Law

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.18 – A local government is to administer its local laws

Building Act 2011

Fencing Local Law 2006

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of advice of decision to applicant, developer etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA1
Adopted	28 June 2018
Amended	23 August 2018 (from 10.2)
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Section 10 - Public Facilities

10.1 Liquor Control Act 1988

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to determine matters under the Liquor Control Act 1988, including –
 - a) s.39 – Issue Certificates advising compliance with food, health and local government laws.
 - b) s.40 – Issue Certificates of the local planning authority
 - c) s.66 (1)(d) and (2) – Respond to applications for extended trading permits;
 - d) s.69 (8) – Make submissions on health grounds regarding a license;
 - e) s.153 (2) – Request copies of reports produced by the Liquor Licensing Authority;
 - f) s.156 – Report to the Liquor Licensing Authority any offences committed by a licensee and ensure appropriate assistance is given to the Authority if requested.

APPLICATION

2. Matters determined are to comply with all Shire planning, health and building requirements.
3. The delegation excludes –
 - (a) determination of any fee or charge,
 - (b) dealing with an objection.
4. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Environmental Health Officer
In full
- c) Building Surveyor
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the legislation

STATUTORY CONTEXT

Liquor Control Act 1988 –

- s.39 – Certificate of local government of compliance with laws
- s.40 – Certificate of planning authority of compliance with planning laws
- s.156 – Local governments, functions of

Local Planning Scheme No. 1

CORPORATE CONTEXT

Local Planning Policies

FORMAL RECORD OF USE

- a) File copy of approval, notice etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

10.2 Local Government Property Local Law 2006

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve all discretionary matters in the Shire of Tammin Local Government Property Local Law 2006 including –
 - a) hire of facilities, including issue of permit for consumption/sale of alcohol;
 - b) granting, refusal, cancellation and setting conditions of approval to conduct activities in public places or on local government property;
 - c) issue of all notices and infringements etc.;
 - d) extending the time period within which infringement notices may be paid;
 - e) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - f) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) setting of any fee or charge
 - b) cl.2.1 – making of a Determination;
 - c) cl.2.6 – amending or revoking a Determination;
 - d) cl.3.5 – making of a policy;
 - e) cl.8.1 – dealing with an objection or appeal.
3. On written application made under cl.3.3, the CEO is authorised to give permission to hirers of premises or land under the control and management of the local government to consume and sell liquor on the premises or land, under such conditions and in such areas as considered appropriate.
4. Every permit issued for consumption/sale of alcohol is to be advised to the relevant Police Station.
5. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
Enforcement functions only
- c) Environmental Health Officer
In full
- d) Building Surveyor
In full
- e) Rangers
Enforcement functions only

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Local Law

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.18 – A local government is to administer its local laws

Food Act 2008

Local Government Property Local Law 2006

Health Local Law 1999

CORPORATE CONTEXT

Delegation Register –

- 11.2 – Discount/waiver/subsidy of facility hire fees
- 15.2 – Native Flora and Fauna

FORMAL RECORD OF USE

- a) File copy of hire, approval, notice, etc.
- b) File copy of advice of decision to applicant, developer etc.
- c) Duplicate copy of infringement etc.
- d) Local government property file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA1, LGA15
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

10.3 Activities on Thoroughfares and Public Places and Trading Local Law 2006

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve all discretionary matters in the Shire of Tammin Activities on Thoroughfares and Public Places and Trading Property Local Law 2006 including –
 - a) hire of facilities, including issue of permit for consumption/sale of alcohol;
 - b) granting, refusal, cancellation and setting conditions of approval to conduct activities in public places or on local government property;
 - c) issue of all notices and infringements etc.;
 - d) extending the time period within which infringement notices may be paid;
 - e) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - f) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) setting of any fee or charge
 - b) cl.2.2 – Activities allowed with a permit –
 - (j) provided, erect or install a building or structure in or over a thoroughfare, subject to Delegation 13.7 ;
 - c) cl.8.1 – dealing with an objection or appeal.
3. On written application made under cl.2.3, the CEO is authorised to give permission to hirers of premises or land under the control and management of the local government to consume and sell liquor on the premises or land, under such conditions and in such areas as considered appropriate.
4. Every permit issued for consumption/sale of alcohol is to be advised to the relevant Police Station.
5. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
Enforcement functions only
- c) Environmental Health Officer
In full
- d) Building Surveyor
In full
- e) Rangers
Enforcement functions only

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the Local Law

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.18 – A local government is to administer its local laws

Food Act 2008

Activities on Thoroughfares and Public Places and Trading Local Law 2006

Health Local Law 1999

CORPORATE CONTEXT

Delegation Register –

- 11.4 – Discount/waiver/subsidy of facility hire fees
- 13.7 – Private works/infrastructure on, over or under public land
- 15.2 – Native Flora and Fauna

FORMAL RECORD OF USE

- a) File copy of hire, approval, notice, etc.
- b) File copy of advice of decision to applicant, developer etc.
- c) Duplicate copy of infringement etc.
- d) Local government property file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA1, LGA15
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

10.4 Discount/waiver/subsidy of facility hire fees

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve reduction in fees and charges of Council owned facilities, subject to –
 - a) the request is from a local community, charitable or not-for-profit organisation; or
 - b) the event is for the specific benefit of the local community; and
 - c) each request of the organisation does not exceed \$500 ex GST;
 - d) cleaning cost of the venue hire is not to be discounted.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full

ADMINISTRATIVE

OBJECTIVE

To permit decisions regarding small requests to be made

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.12(1)(b) – Power to defer, grant discounts etc.

CORPORATE CONTEXT

Delegations Register –

- 3.11 – Donations Financial and In-kind Works / Services

Policy Manual –

- 3.4 – Requests for Financial and Other Assistance

FORMAL RECORD OF USE

- a) Copy of approval of written request

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Section 11 - Tourism

This section is currently empty

Section 12 - Works & Services

12.1 Reserves under control of the local government

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to do anything on land vested or under the control and management of Council –
 - a) subject to prior budget provision having been made, or
 - b) to give effect to a Council decision.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.54(1) – Reserves under control of a Local Government

Land Administration Act 1997

Activities on Thoroughfares and Public Places and Trading Local Law 2006

- cl.2.2 – activities allowed with a permit on land under Shire management and control including roads

CORPORATE CONTEXT

Policy Manual –

- 13.1 – Road Reserves – Crossovers
- 13.2 – Road Reserves – Stormwater discharge in townsites
- 13.3 – Road Reserves – Drainage and interceptor banks

FORMAL RECORD OF USE

- a) File copy of decision on written application

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

12.2 Things to be done on land not local government property

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to carry out work on land that is not local government property subject to –
 - a) prior budget provision having been made,
 - b) to give effect to a Council decision;
 - c) if the matter is considered to be an emergency;
 - d) the consent is obtained of –
 - the owner of the land;
 - if the land is occupied, the occupier of the land; and
 - if the land is under the control or management of any other person, that other person.
 - e) compensation agreed for the functions is provided for within the adopted Budget or is specifically approved.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.24 – Authorising person under this subdivision
- s.3.27 – Particular things local government can do on land that is not local government property
- s.3.33 – Entry under warrant
- s.3.34(1) – Entry in an emergency
- Sch.3.2 – Particular things local governments can do on land even though it is not local government property

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA11
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

The delegation applies to land not under local government control that is within the district, and is in relation to things being done on the land, not taken from the land.

12.3 Works on land outside the district

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to undertake necessary executive functions on land outside the district that is not property of the Shire provided that –
 - a) the consent is obtained of –
 - the owner of the land;
 - if the land is occupied, the occupier of the land; and
 - if the land is under the control or management of any other person, that other person.
 - b) compensation agreed for the functions is provided for within the adopted Budget or is specifically approved.

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.20 – performing function outside the district
- s.3.21 – duties when performing functions
- s.3.22 - compensation

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of agreement, consent etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA22
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Executive functions do not include private works requested of the Shire by an individual or other local government, but does apply to sourcing of roadmaking materials and water.

The delegation applies to land not under local government control that is also outside the district, and is in relation to things being done on the land, not taken from the land.

12.4 Materials from land not under local government control

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to negotiate with land owners and/or occupiers for access to materials required for local government functions, principally –
 - a) extraction of gravel, sand or other materials from land;
 - b) water, etc.

APPLICATION

2. The CEO is to apply to the Department of Water and Environmental Regulation for permits to clear vegetation as applicable.
3. The agreement reached with the land owner/occupier is to –
 - a) state a specific duration, that it is indefinite or otherwise provide for termination;
 - b) provide for mutually agreed compensation;
 - c) specify rehabilitation responsibilities if appropriate;
 - d) within the budget provision.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.21 – Duties when performing functions
- s.3.22 – Compensation for materials, damage, access etc.

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Written agreement with land owner/occupier
- b) Property file where the land is within the district

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

The delegation applies to land not under local government control that that may be either within or outside the district, and is in relation to materials to be taken from the land, not things being done on the land.

Until such time as agreement is signed, or compulsory notice of acquisition is given under the Act, employees should not access the materials.

12.5 Notices requiring certain things to be done

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to issue notices requiring certain things to be done by the owner or occupier of land.
2. The CEO is delegated power to take any necessary action to achieve the purpose for which the notice was given in the event of non-compliance of the notice recipient.
3. The CEO is delegated power to seek a warrant for entry to carry out the works of a notice where the owner or occupier of land has not complied with the notice in the time specified.
4. The CEO is delegated power to –
 - a) issue a notice under Section 3.25(1)(b) to a person who has not complied with a condition imposed on a permission given under (1) above.
 - b) undertake action considered necessary to achieve, so far as is practicable, the purpose for which the notice was given under (a) above.
 - c) recover the cost of anything done under (b) above as a sundry debt in accordance with Council Policy.

APPLICATION

5. Any prosecution proposed resulting from non-compliance with a notice is to be referred to Council for decision to proceed.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.24 – Authorising person under this subdivision
- s.3.25(1) – Notices requiring certain things to be done by owner or occupier of land
- s.3.26(2) – Additional powers when notice is given
- s.3.33 – Entry under warrant
- s.3.34(5) – Entry in an emergency, notice not require if not practical
- s.9.60 – Regulations that operate as local laws
- Sch.3.1 – Powers under notices to owners or occupiers of land
- Sch.9.1(6) – dangerous excavations in or near public thoroughfare
- Sch.9.1(7) – Matters for which regulations under s.9.60 may be made

Local Government (Uniform Local Provisions) Regulations 1996 –

- r.11 – dangerous excavation in or near public thoroughfare
- 13 – Requirement to construct or repair crossing

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA7, LGA11, LGA29
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Under LG Act s.9.6(1) an objection to a notice must be dealt with by Council and cannot be delegated.

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

12.6 Notice of local government works

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to give the required public notice and individual notice to landowners and occupiers adjoining proposed works to –
 - a) fix or alter the levels, or the alignment of a public thoroughfare, or
 - b) drain water from a public thoroughfare or public place onto adjoining land

APPLICATION

N/A

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.51(3)(4) – notice to adjoining owners affected by works

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of notice
- b) Advertisement records
- c) Property file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA3
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

12.7 Private works/infrastructure on, over or under public land

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve private works/infrastructure on, over or under public places subject to –
 - a) written application being made;
 - b) the applicant accepts all liability for every part and aspect of the works/infrastructure;
 - c) imposing of appropriate conditions, such as –
 - building permit, structural engineering certification, environmental assessment etc., where appropriate;
 - any damage or interference to public assets to be made good to the satisfaction of CEO (roadway, fence, other structure etc.)
 - traffic management plan to be approved
 - d) where deemed appropriate, an insurance certificate indemnifying the Shire while works are underway, or for any structure, is to be provided;
 - e) estimated value of works does not exceed \$25,000 ex GST.

2. The CEO is delegated power to –
 - a) issue a notice under Section 3.25(1)(b) to a person who has not complied with a condition imposed on a permission given under (1) above.
 - b) undertake action considered necessary to achieve, so far as is practicable, the purpose for which the notice was given under (a) above.
 - c) recover the cost of anything done under (b) above as a sundry debt in accordance with Council Policy.

APPLICATION

3. The CEO may enter into an agreement with the applicant to carry out the works/infrastructure as a private works, which is to include –
 - a) a legally enforceable indemnity is required of the land owner for any damage to the road reserve, trafficable surface or endangered flora
 - b) an approved plan for any infrastructure to be constructed that may be required, including but not limited to –
 - structures,
 - pipes,
 - signage,
 - road drainage
 - rehabilitation etc.
 - c) agreement by the landowner to cover the full cost of any construction works
 - d) a deed providing for the future maintenance and replacement of any construction works to be at the landowners cost
 - e) details of the indemnity and deed are to be registered on the Certificate of Title of the property as a caveat in favour of the Shire

4. Proposed works in excess of (1(e) above are to be referred to Council.

5. Any prosecution proposed for non-compliance is to be referred to Council for decision to proceed.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To permit decision to be for minor works on lands under Shire control that will be owned by persons other than the Shire.

STATUTORY CONTEXT*Local Government Act 1995 –*

- s.3.37 – Contraventions that can lead to impounding
- s.9.60 – Regulations that operate as local laws
- Sch.9.1(8) – Private works/infrastructure on, over, or under public places
- Sch.9.2(5) – gates across public thoroughfares

Local Government (Uniform Local Provisions) Regulations 1996 –

- r.9 – gates across a public thoroughfare
- r.17 – Private works on, over, or under public places
 - (4) approval of local government required
 - (5) conditions may be imposed
 - (6) mandatory conditions – no permanent impairment of public use, public safety to be ensured, damaged to be fully repaired
 - (7) penalty for non-compliance is \$5,000 and \$500 daily
 - (8) person constructing is responsible for maintenance, and must insure structure, specifically indemnifying Council against any claim
 - (9) unauthorised constructions, or contravention of approval/conditions can lead to impounding

Activities on Thoroughfares and Public Places and Trading Local Law 2006 –

- cl.2.2 - activities allowed with a permit on land under Council management and control including roads

CORPORATE CONTEXT

Council Policy –

- 13.3 – Road Reserve – Drainage and interceptor banks

FORMAL RECORD OF USE

- a) Report to Council via monthly briefing papers if significant infrastructure
- b) File copy of written approval
- c) Property file of applicant
- d) Copy on road/reserve/local government property file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA12, LGA23
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

If insurance indemnity is required, a certificate is to be provided to the Shire annually. It is to be a condition of approval that a lapse of insurance means automatic withdrawal of approval, and removal of the previously insured structure is required within 14 days.

This delegation includes minor works on the road such as –

- drilling for soil testing,
- pressure or gravity pipe from a water tank or windmill to a stock trough,
- bus shelter for school children,
- farm drainage etc.

12.8 Events on roads

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power –
 - a) in consultation with the President, to approve with or without conditions or refuse to approve, an event or function on a thoroughfare in accordance with section 81C of the *Road Traffic Act 1974*;
 - b) in consultation with the President, to approve with or without conditions, or refuse to approve, the temporary suspension of written law in accordance with section 83 of the *Road Traffic Act 1974*; and
 - c) make all necessary arrangement to comply with Road Traffic (Events on Roads) Regulations r.9.
2. The CEO is delegated power, in consultation with the President, to respond to any request for information made under section 7(1) of the *Public Order in Streets Act 1984*.

APPLICATION

3. In considering any application, the CEO is to have regard to Police and Main Roads WA guidelines.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate community events requiring closure of roads

STATUTORY CONTEXT

Road Traffic Act 1974 –

- s.81C(2) – Making order for road closure for event
- s.81D – Road closure, how effected by local government

Road Traffic (Administration) Act 2008 –

- s.139(2) – Temporary suspension of road law

Road Traffic (Events on Roads) Regulations 1991 –

- s.4 – local government approval and payment of fee required
- r.9 – Erection of barriers, signs and other equipment

Activities on Thoroughfares and Public Places and Trading Local Law 2006 –

- cl.2.2 - activities allowed with a permit on land under Council management and control including roads

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of decision on written application

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA28
Adopted	28 June 2018

Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

See Road Traffic (Administration) Act –

135. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under a road law.*
- (3) A local government is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1) in relation to a function of a local government under section 11, 139 or 141.*

141. Closure of roads

- (2) A local government may cause a road in its district to be closed for such period that the local government considers necessary if the local government considers that the road is unsafe for traffic but the road cannot be closed by the local government for more than one month without with the Minister's written approval to do so.*

See Events on Roads Regulations –

9. Erection of barriers, signs and other equipment

- (1) A road closure ordered by the Commissioner of Police under Part VA of the Act shall be effected by the erection and maintenance by the local government for the district within which the road concerned is situated of —*
 - (a) barriers, being free standing posts and rails, or other barriers which are substantial and uniform in construction;*
 - (b) signs, being substantial and uniform in design, with the words "Road Closed" or similar, clearly printed in black letters upon a reflective background; and*
 - (c) such other equipment as the local government considers is reasonably necessary to effect the road closure.*
- (2) The costs of erecting, maintaining and removing barriers, signs and other equipment to effect a road closure are payable to the local government by the person or body who applied for the order for that road closure.*
- (3) A local government may waive the payment of all or any of the costs referred to in subregulation (2).*
- (4) Any costs payable to a local government under subregulation (2) may be recovered as a debt due to that local government in a court of competent jurisdiction.*

Main Roads WA – Traffic Management for Events on Roads: "Code of Practice"

12.9 Temporary road closures

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to –
 - a) temporarily close a thoroughfare or a portion of a street for a period not exceeding 28 days (without providing local public notice) if of the opinion –
 - a thoroughfare is likely to be damaged by the passage of traffic generally or traffic of any particular class;
 - that the thoroughfare is unsafe for use.
 - b) temporarily close a road or portion of a road for repairs and maintenance;
 - c) temporarily close a thoroughfare for a period in excess of 28 days by providing local public notice.

APPLICATION

2. Where a person uses a road that has been temporarily closed, commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To facilitate works that are to be undertaken and for public amenity and safety

STATUTORY CONTEXT

Local Government Act 1995 –

- s.3.50 – closing to vehicles
- s.3.50A – closure for repairs or maintenance

Road Traffic Act 1974 –

- s.81D – how a road is to be closed
- s.92 – power to close unsafe roads

Activities on Thoroughfares and Public Places and Trading Local Law 2006 –

- cl.2.9 – no driving on closed thoroughfare

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of public notice, instruction to employees etc.

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	LGA28
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Section 13 - Plant / Equipment

This Section is currently empty

Section 14 - Natural Resource Management

14.1 Control of Vehicles (Off-road Areas) Act 1978

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to exercise all discretionary matters in the Control of Vehicles (Off-road Areas) Act 1978, including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc.;
 - c) extending the time period within which infringement notices may be paid.
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice;

APPLICATION

2. The delegation excludes –
 - a) determination of any fee or charge
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) an infringement notice remains unpaid after reasonable attempts to obtain payment.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To ensure appropriate administration of the legislation for the amenity of residents and protection of the environment

STATUTORY CONTEXT

Control of Vehicles (Off-road Areas) Act 1978 –

- s.5(1) – Duty of local government to administer and enforce the Act
- s.38(3) – authorised person

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) File copy of notice

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	CoVEH01
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

14.2 Native flora and fauna

DELEGATION OF POWER BY COUNCIL TO CEO

FUNCTION DELEGATED

1. The CEO is delegated power to approve a request for permission to pick wildflowers and / or collect seed on lands under Council's control, under the following conditions –
 - a) written application is to be made;
 - b) it is for their own domestic or hobby use;
 - c) permission is given for a period not exceeding one week;
 - d) the area of picking and/or collection is strictly limited;
 - e) not more than one collector is permitted in any one location;
 - f) a maximum of 10% of seed only to be taken in any one area.
2. The CEO is delegated power to approve an application for commercial picking of wildflowers or collection of seed where –
 - a) Council has previously approved an application,
 - b) the application is in consecutive years,
 - c) under identical terms and conditions, including ownership and purpose.

APPLICATION

3. All applications for commercial picking of wildflowers or collection of seed are to be referred to Council for consideration, and required details include –
 - a) collector's credentials and purpose (collector includes the permit holder and up to 2 assistants),
 - b) duration of approval, if any,
 - c) the area of picking and/or collection
 - d) not more than one collector being permitted in any one location
 - e) a maximum of 25% of seed only to be taken in any one area
4. All applications for the collection of animals, reptiles, amphibians and birds from lands under Council's control, are to be referred to Council for consideration.
5. All applications to collect flora or fauna are to provide the following information at minimum –
 - a) collector's credentials, including any person acting on the collector's behalf
 - b) purpose of collection – domestic, hobby, display, educational, commercial
 - c) flora/fauna to be collected – rarity, locality, need for preservation etc.
 - d) locality of collection – ease of access, likelihood of general public-knowledge or access
 - e) period or duration sought
6. The following statement is to be included in every approval by the CEO –

The approval of the Department of Parks and Wildlife is mandatory, and Shire permission is invalid without the Department's written consent accompanying Shire approval.

DELEGATION OF POWER BY CEO TO OTHER EMPLOYEES

- a) Manager of Finance and Corporate Services
In full
- b) Manager Works and Services
In full

ADMINISTRATIVE

OBJECTIVE

To manage picking of seed and collection of flora and fauna for the protection of the environment

STATUTORY CONTEXT*Environmental Protection Act 1986 –*

- s.51C – Unauthorised clearing of native vegetation

Wildlife Conservation Act 1950 –

- s.14 – Protection of fauna
- s.23C – Licences to take protected flora
- s.23D – Taking and sales of protected flora on private land

*Wildlife Conservation Regulations 1970**Activities on Thoroughfares and Public Places and Trading Local Law 2006*

- Part 5 – Roadside conservation

Local Government Property Local Law 2006 –

- cl.4.3 – taking or injuring any fauna

CORPORATE CONTEXT

None

FORMAL RECORD OF USE

- a) Copy of letter advising decision on file

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Adopted / amended	25 November 2020
Adopted / amended	23 March 2022

REFERENCES

Dept. of Parks and Wildlife –

- may issue a permit for a maximum of one year;
- is to be provided a copy of every approved application.

Section 15 - Unclassified

This Section is currently empty

Section 16 - Deleted

16.1 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	FOOD01
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Transferred	25 November 2020 – to Delegation 6.2

Section 17 - Deleted

17.1 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Deleted	25 November 2020 – function of FCO as an authorised person under the Bush Fires Act

17.2 Deleted

HISTORY OF DELEGATION OF POWER BY COUNCIL

Former Delegation	BFIRE03
Adopted	28 June 2018
Adopted	27 June 2019
Adopted	25 June 2020
Transferred	25 November 2020 –to Delegation 5.4

HISTORY OF DELEGATION OF POWER BY COUNCIL SUMMARY

Item	Meeting	Purpose	Applies	Delegations affected
1	28 June 2018	Revocation	29 June 2018	All previous Delegations
2	28 June 2018	Adoption	29 June 2018	All delegation in this Register
3	27 June 2019	Adoption	28 June 2019	All Delegations in this Register
4	25 June 2020	Adoption	26 June 2020	All Delegations in this Register
5	25 November 2020	Adoption	25 November 2020	All Delegations in this Register
6	23 March 2022	Adoption	23 March 2022	All Delegations in this Register

APPENDIX

This document records the compiled delegations made by Council under the Local Government Act 1995 and other legislative instruments as specified.

This register is the formal written record by which a delegation is made and conferred. Therefore, committees, the CEO and those having secondary delegations are provided with this document as their record of delegation/s made to them.

Definitions

The LG Act has not defined the term “delegation” or “delegated power”. However:

s.5.16 refers to “... the exercise of any of its powers and duties ...”

s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The following terms used in this document apply insofar as they are consistent with enabling legislation.

Council means the elected members in session,

Council Policy is the standing instruction resolved by Council as to how a particular matter is to be implemented:

delegation means the power for a Committee, the CEO or other person to exercise a power, or discharge a duty, as conferred by absolute majority decision of council under the provisions of the relevant legislation.

employee means –

- a) a person employed directly by the Shire receiving a salary or wage,
- b) a person employed directly by the Shire on a fixed term contract,
- c) a person appointed for the purposes of exercising a delegation who –
 - i) is engaged under a contract for services either directly or with a firm,
 - ii) is the specific person named in the contract, and
 - iii) is authorised to issue notices on behalf of the Shire,

Standard Procedure means the requirement for a person to act in accordance with a direction given by the CEO.

Planning Policy is established under the Planning & Development Act 2005, and the local planning scheme, and has mandatory procedures to adopt, amend or revoke.

power means the permission or requirement for Council, a Committee or a person to act in accordance with:

- the Local Government Act, Regulation or other legislation,
- a delegation made by Council,
- a policy made by Council, or
- a specific decision by Council, or
- Standard Procedural Direction given or authorised by the CEO.

Shire means the organisation or the district as the context requires,

Statutory Context

This Delegations Register has been prepared in accordance with –

Local Government Act 1995:

s.5.16 – Delegation of some powers and duties to certain committees

- Separate document as differing provisions apply

s.5.17 – Limits on delegations of powers and duties to certain committees

s.5.18 – Register of delegations to committees

s.5.42 – Delegation of some powers and duties to CEO

s.5.43 – Limits on delegations to CEO

s.5.44 – CEO may delegate powers and duties to other employees

s.7.1B – Delegation of some powers and duties to audit committees

Local Government (Administration) Regulations 1996 –

r.19 – Record to be kept by delegates

Other legislation includes, but is not limited to –

Building Act 2011
 Bushfires Act 1954
 Cat Act
 Dog Act 1976
 Food Act 2008
 Health Act 1911
 Local Government (Miscellaneous Provisions) Act 1960
 Planning and Development Act 2005

Shire of Tammin Local Laws, currently adopted –

Activities on Thoroughfares and Public Places and Trading Local Law 2006
 Local Government Property Local Law 2006
 Dogs Local Law 2006
 Management and Control of Tammin Cemetery Local Law 2006
 Fencing Local Law 2006
 Parking and Parking Facilities Local Law 2006
 Health Local Laws 1999

Local Planning Scheme

Shire of Tammin Local Planning Scheme No.1

Unless stated otherwise, the Local Government Act 1995 section 5.42 is the fundamental statutory context for Council to make the delegations in Parts A and B.

Local Government Act 1995 –

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under –
- (a) this Act other than those referred to in section 5.43; or
 - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

It is inadequate to quote this reference as the specific power for the function delegated.

Various other legislative instruments empower or require Council to make delegations. The legislative empowerment is stated within each delegation.

Council expects the CEO to apply the provisions of the Local Government Act s.5.44 and other legislation to delegate powers and duties to other employees, including s.5.44(3) powers and duties which have been delegated to the CEO under s5.42.

Corporate context

The Council is responsible for functions and activities under numerous Acts and other legislation, many of which permit Council to delegate responsibilities and to stipulate conditions, standards or methods of control and management.

This Delegations Register has been prepared to complement a range of obligations imposed by legislation including local laws, and various document adopted by Council.

The order of priority for compliance is –

1. Federal and State legislation and regulations,
2. the Local Planning Scheme,
3. a specific resolution of Council,
4. Delegations Register – being specific authorisations resolved by Council, and having a statutory context under the Local Government Act,
5. Local Planning Policy – as it is made under the Local Planning Scheme, by resolution of Council,
6. Council Policy – being instructions resolved by Council on how particular matters are to be dealt with,
7. Standard Procedure – standing instructions or procedures issued by the CEO,
8. administrative directions or instructions.

Although not decisions of Council, and therefore not a requirement, consideration should be given to the following as being best practice –

- DLGRD Guidelines
- WALGA Councillors Manual, Practice Notes etc.

Unless specifically resolved that a delegation is to be included in the Delegations Register, it is considered that it is for a specific matter, and is not a general or on-going Delegation.

There are some Delegations that have specific legislative provision, and these are noted in the individual Delegation.

IMPORTANT – Consequences of breaching Council Policy

Where there is a breach of Delegations –

- a) it may result in disciplinary action up to and including termination of employment,
- b) the Shire may also be obligated to refer a breach to an external agency where an employee may be held personally liable for their actions;
- c) the employee in breach may also be personally liable for their actions, such costs charged to the Shire or to repair as a result of the private/personal or unauthorised use.

Guidelines No.17 – Delegations (Department of Local Government)

The Department of Local Government and Communities has published Guidelines for the formation of Delegations.

The Guidelines outline the concept of “delegation” and “acting through” in parts 3 and 4, particularly in paragraph 13 where it is stated –

... the key difference between a delegation and “acting through” is that a delegate exercises the delegated decision making function in his or her own right. 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.

In effect, “acting through” is an action that could reasonably be expected to be carried out as the result of a decision by Council (e.g. advertising of a tender), or as a function reasonably expected of the position that a person holds.

Not all matters which will be recorded in Policy are “acting through” matters. Similarly, not all “acting through” matters will be listed. Policy describes how that action or some other action is to be carried out.

Primary delegation

The primary delegation recipient includes the person acting in that position should the named recipient be absent from duty. This provision does not apply where the named person is on duty, but not present at the office at the time.

Secondary delegation by CEO

The CEO is expected and encouraged to further delegate to appropriate persons, subject to the limitations imposed by the Local Government Act, other enabling legislation, or the conditions of the delegation made by Council to the CEO –

- s.5.43 – limits on delegations to CEO
- s.5.44 (1) – does not permit the CEO to delegate the capacity to further delegate, and further stipulates that the delegation may only be to employees
 - o no such stipulation is made for delegations under other legislation
- s.5.46 – requires the CEO to review sub-delegations to other employees at least annually

The delegation by the CEO is to be –

- in a signed document to the person,
- the recipient to return a signed acceptance, which is to be placed on file, and
- a copy to be retained by them.

Use of delegations

Delegations are made to assist with the smooth operation of the organisations, and allow appropriate levels of power to determine a wide range of matters.

There is no requirement for any authorised person to use a delegation. It is at the person’s discretion whether or not to exercise a delegated power, and they may refer the matter to a higher level at any time, should it appear in their judgement to be the best option.

Record of use of delegations

The Act requires that the use of each delegation is recorded, but does not require that the use is reported to Council, nor does it specify recording or listing the use in a particular format. Such requirements would result in an unwieldy volume of work that is unproductive.

However, in some instances, the use of the delegation is of sufficient importance that Council should be advised so as to be aware of the impact of the decision made.

In order to reduce the unnecessary paperwork burden as far as is possible, the formal record of use of a delegation is the document that is produced in the normal course of administration of the matter. This document may be a form approving or refusing an application, a letter, batch approval for payment of creditors, file note, email or similar.

All these satisfy the requirement of the State Records Office for recordkeeping.

Making, amending and revoking delegations

Delegations from Council may be made, amended or revoked at any time by an absolute majority of Council.

Where permitted by Council in the delegation, the CEO may authorise a secondary delegation at any time.

Delegations from the CEO to other employees are at the discretion of the CEO and do not require a Council resolution. The CEO can delegate a power or duty, the exercise or discharge of which has been delegated by a local government to the CEO, subject to any conditions imposed by the local government on its delegation to the CEO (s.5.44 (3)).

It is a requirement that the use of all delegated power is recorded but it is not a requirement to report the use of delegated power to Council.

Council may impose limitations on secondary delegation or the functions delegated as they see fit. The CEO is not obligated to delegate the whole or any delegation authorised by Council, but may choose not to or place further limitations on the delegation.

However, unless specifically resolved that the power is to be included in the Delegations Register, the power to act is for a specific matter, and is not a general or on-going delegation.

Review of delegations

A delegation has effect for the period of time specified in the delegation or indefinitely if no period has been specified.

It is a requirement of the Local Government Act s5.18 and s.5.46 (1) that all delegations made under that Act be reviewed by the delegator at least once in each financial year.

Any decision to amend or revoke a delegation by a local government is to be by an absolute majority s.5.45 (1) (b).

Review of delegations from the Council to committees and the CEO will be carried out before the end of each financial year and preferably in conjunction with the annual review of Council policies.

The CEO will review secondary delegations as required on changeover of employees etc or change of functions and will review all delegations at least once in the financial year in accordance with the legislation.

– End