



**SHIRE OF YORK**  
**2016**  
**REGISTER OF DELEGATED AUTHORITY**

Adopted 18 April 2016



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# Introduction

## Purpose of Delegating Authority

The key purpose of delegating authority is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation. This is consistent with and supports our commitment to a strong customer service ethos. The register details the related document(s) from which the power to delegate is derived, including legislation and policies of the Council. This supports ease of cross-referencing. This delegated authority register will be reviewed in accordance with the Local Government Act 1995 (the Act) on an annual basis. The co-ordination of the review will be performed through the Office of the CEO.

## Legislation

The Local Government Act 1995 allows for a local government to delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties under the Act except those listed in Section 5.43. The Council must make all delegations by absolute majority decision. {S5.42 (1)}.

## Associated Legislation

Legislation other than the Local Government Act 1995, its regulations and the local government's local laws created under the Act where delegations or authorisations may occur are as follows:-

- Planning and Development Act 2005 including regulations, and adopted policies;
- Dog Act 1976 and regulations;
- Cat Act 2011 and regulations;
- Bush Fires Act 1954, regulations and local laws created under that Act;
- Health Act 1911 (as amended) regulations and local law created under that Act;
- Freedom of Information Act 1992;
- Land Administration Act 1997, as amended and regulations;
- Litter Act 1979 and regulations;
- Local Government (Miscellaneous Provisions) Act 1960 as amended;
- Caravan Parks and Camping Grounds Act 1995;
- Control of Vehicles (Off-Road Areas) Act 1978 and regulations;
- Strata Titles Act 1985;
- Food Act 2008;
- Environmental Protection Act 2005;
- Building Act 2011 and Building Regulations 2012

Some legislation provides for authorisation of Local Government officers to have powers as are necessary in order for them to perform their required duties as a specific function of the local government. These duties are carried out as "acting through" functions under s.5.45(2) of the Local Government Act 1995.

The Planning and Development Act 2005 provides the WA Planning Commission with the powers to delegate under section 16(1) and (3)(e) "any function of the Commission under this Act or any other written law, except this power of delegation, a local government, a committee established under the Local Government Act 1995, or an employee of a local government."

Section 14(a)(iii) "Functions" of the Planning and Development Act recognises the functions of the Commission to advise the Minister on legislation and delegations associated with local planning schemes. This includes Council's Town Planning Scheme No 2.

## Delegation by the Chief Executive Officer

The Act provides for the Chief Executive Officer to delegate any of the powers to another Employee {S5.44 (1)}. This must be done in writing. {S5.44 (2)}. The Act allows for the Chief Executive Officer to place conditions on any delegations that he or she delegates. {S 5.44 (4)}

A register of delegations relevant to the Chief Executive Officer and other employees is to be kept and reviewed at least once every financial year. {S.5.46(1) and (2)}. If a person is exercising a power or duty that they have been delegated, the Act requires that records be kept whenever the delegated authority is used. {S 5.46 (3)}

The record is to contain the following information:

- how the person exercised the power or discharged the duty;
- when the person exercised the power or discharged the duty; and
- the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty. {Local Government (Administration) Regulations 1996 Regulation 19.}

Officers and/or sections of the organisation responsible for a work process are to ensure that data is captured and records managed in accordance with all legislation, as well as preparing reports to Council where required under a specific delegation. This includes recording of delegated authority of the Chief Executive Officer where applicable, once approved through a signed authority by the Chief Executive Officer.

A person to whom a power is delegated under the Act is considered to be a 'designated employee' under S 5.74(b) of the Act and is required to complete a primary and annual return each year.

There is no power for a person other than the Chief Executive Officer to delegate a power. {S 5.44 (1)}.

## Acting through another person

Local Government Act 1995 – Section 5.45 (2)

Nothing in this Division (Division 4 - Local Government Employees) is to be read as preventing –

- a local government from performing any of its functions by acting through a person other than the CEO; or
- a CEO from performing any of his or her functions by acting through another person.

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 principle of “acting through”. 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.

The difference between a delegated authority to exercise a discretion on behalf of the Shire and acting through another person to undertake a function on behalf of the Shire where no discretion exists is reinforced by Section 56 of the Interpretation Act 1984 which states –

56. “May” imports a discretion, “shall” is imperative

(1) Where in a written law the word “may” is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion.

(2) Where in a written law the word “shall” is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed.

Note:

Decisions that are made under delegation are required to be recorded. This may take place two ways. Many decisions under delegation are simply required to be recorded on the relevant file. In some cases a condition of the delegation is that decisions are reported to the Council. Where that is the case the requirement is recorded in the delegation document.





# Part 1 Functions of Local Governments

Local Government Act 1995 - Part 3



## DE1-1 CLOSING CERTAIN THOROUGHFARES TO VEHICLES (EXCEEDING 4 WEEKS)

### **Function to be performed:**

A local government may, after providing public notice of its intentions and reasons, inviting submissions and then considering submissions, order a thoroughfare to be wholly or partially closed to vehicles for a period exceeding 4 weeks.

### **Legislative Power or Duty delegated:**

Section 3.50(1a) and 3.50(4) Local Government Act 1995

### **Policy:**

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The CEO is delegated the power to close a thoroughfare, wholly or partially, subject to Section 3.50 of the Local Government Act 1995.

### **Conditions and Exceptions:**

The permanent closure of thoroughfares to be referred to Council for determination.

### **Chief Executive Officer Delegates to:**

Works Manager, Finance and Administration Manager

### **Power or Duty delegated by Chief Executive Officer:**

The CEO delegates to the above Officers the exercise of this delegated power. The exercise of the delegated power does not include the power of delegation.

### **Reporting Requirements:**

Action taken to close thoroughfares must be recorded in the appropriate record to meet legislative requirements and elected members informed at the next ordinary meeting of Council.

### ***Financial Interest Return Required: Yes***

### **Details of Review: New**



# Part 2 - Administration

Local Government Act 1995 - Part 5



## DE2-1 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER (FOR PERIODS OF 10 DAYS OR LESS)

### **Function to be performed:**

Appointment of Acting Chief Executive Officer (for periods of 10 days or less) to undertake the Chief Executive Officer's functions.

### **Legislative Power or Duty delegated:**

Section 5.36(1)(a) of the Local Government Act 1995

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The Chief Executive Officer is delegated the power to make appointments to the position of Acting Chief Executive Officer (for periods of 10 days or less).

### **Conditions and Exceptions:**

Delegated authority is only granted for appointments to the position of Acting Chief Executive Officer covering a period of 10 days or less. In instances where an appointment is required for a period exceeding 10 days, then that proposed appointment must be presented to Council for determination prior to the appointment taking effect.

### **Reporting Requirements:**

The Chief Executive Officer must advise Elected Members, upon use of the delegation, of any appointments which are made to the position of Acting Chief Executive Officer under delegated authority.

Details of the appointments must be recorded in the appropriate record to meet legislative requirements (including personal file).

### ***Financial Interest Return Required: Yes***

**Details of Review:** New





## DE2-2      DELEGATION OF POWERS AND DUTIES OF THE LOCAL GOVERNMENT ACT 1995 TO THE CHIEF EXECUTIVE OFFICER

### **Function to be performed:**

The CEO's functions to be performed shall encompass all parliamentary legislation. As such, it is necessary for the Chief Executive Officer to hold those powers necessary for them to perform the functions required of them in an expeditious and competent manner.

### **Legislative Power or Duty delegated:**

Section 5.42 of the Local Government Act 1995

### **Legislative Power to delegate:**

5.41(i) of the Local Government Act 1995

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

Council delegates to the Chief Executive Officer all of the delegable functions of the local government under all parliamentary legislation for the effective management of the Shire of York. This delegation is supplementary to the prescribed delegations in the Delegated Authority Register 2013.

### **Conditions and Exceptions:**

The delegation takes into account s5.43 of the Local Government Act. The delegation shall only be used when; an urgent operational function needs to be implemented and is not already prescribed as a delegated function, or, it is problematic for Council to convene to otherwise make the decision. Elected members will where possible be given at least 24 hours' notice via email of the CEO's intent to use this delegated authority.

### **Specification:**

This delegation is limited only to the extent that a constraint is outlined by the statute within which the Chief Executive Officer is operating, to any Council resolutions in effect, and the following limitations and clarifications:

#### **LIMITATIONS –**

The CEO's delegated authority is subject to the following limitations:-

1. State Administrative Tribunals (SAT) negotiations and mediations up to a value of \$20,000.00 where there is a budget provision approved.

2. For the purposes of the administration of leases, acquire or dispose of any property lease valued at an amount not exceeding \$20,000.00 per annum.
3. Dispose of minor plant and equipment with a depreciated value of not more than \$20,000.00 without the requirement of Council approval.

Authorise a waiver, grant a concession, or write off an amount of money, not including a rate or service charge, owed to Council that does not exceed \$1,000.00.

**Reporting Requirements:**

Details of transactions must be recorded in the appropriate record to meet legislative requirements and elected members informed at the next ordinary meeting of Council.

***Financial Interest Return Required: Yes***

**Details of Review:**

This is a new delegation to ensure that Chief Executive Officer has the full flexibility to manage the operations of the Shire within appropriate limitations.

## DE2-3 COUNCILLORS: RECOGNITION OF SERVICE

### **Function to be performed:**

Council delegates the function of authorising gifts for all retired Councillors as prescribed in 34AC of the Local Government Act

### **Legislative Power or Duty delegated:**

Section 5.100A of the Local Government Act 1995

### **Legislative Power to delegate:**

Section 5.100A of the Local Government Act 1995

### **Policy Provision:**

To give effect to Policy G1.7

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

Council delegates to the Chief Executive Officer the delegable function of authorising gifts for all retired Councillors

### **Conditions and Exceptions:**

1. The retirement of a council member who has served at least one full 4 year term of office is prescribed under s5.100A(a) as circumstances in which a gift can be given to the Council member.
2. The amount as prescribed under section 5.100A(b) in respect of a gift given to a council member in the circumstances set out in sub-regulation (1).

### **Chief Executive Officer**

**delegates to:** N/A

### **Delegation delegated**

**by the CEO:** N/A

### **Reporting Requirements:**

Details recorded to meet legislative requirements and elected members informed at the next ordinary meeting of Council

### ***Financial Interest Return Required: Yes***

**Details of Review:** New delegation to give effect to new policy.



# Part 3 – FINANCIAL MANAGEMENT

Local Government Act 1995 - Part 6



## DE3-1      AUTHORITY TO MAKE PAYMENTS FROM TRUST AND MUNICIPAL FUNDS

### **Function to be performed:**

To make payments on behalf of the Shire of York from the trust fund and municipal funds

### **Legislative Power or Duty delegated:**

Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996

### **Legislative Power to delegate:**

Section 5.42 and Section 5.44 Local Government Act 1995

### **Policy Provision:**

To give effect to Policy F1.5

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

Chief Executive Officer is delegated the power to make payments from the municipal fund of the trust fund, subject to Regulation 12(1) of the Local Government (Financial Management) Regulations 1996 and Council Policy **F1.5 Authority to make Payments from Trust and Municipal Funds**.

### **Conditions and Exceptions:**

1. All authorities for payment by any means are to be signed by the Chief Executive Officer or the Deputy Chief Executive Officer and one of the following officers:

- Financial Controller
- Manager Development Services
- Works Manager
- Human Resources and Compliance Officer

Should the Chief Executive Officer and the Deputy Chief Executive Officer both be unavailable payments are to be signed by the Financial Controller and one other of the listed Officers.

2. Access to the electronic funds transfer software passwords and encryption information is restricted to the following officers:
  - Chief Executive Officer
  - Deputy Chief Executive Officer
  - Financial Controller

**Chief Executive Officer  
delegates to:** N/A

**Delegation delegated  
by the CEO:** N/A

**Reporting Requirements:**

A list of cheque and EFT payments made during the previous month is to be presented to each Ordinary Council Meeting and recorded in the minutes of the meeting. The list is to include:

Payee's name

Amount of the payment

Date of the payment

Sufficient information to identify the purpose of the transaction

***Financial Interest Return Required: Yes***

**Details of Review:** Replaces DE1



## DE3-3 WRITE OFF MONIES OWING (NOT RATES OR SERVICE CHARGES)

### **Function to be performed:**

A local government may waive or grant concessions in relation to any amount of money or write off any amount of money that it is owed to the local government

### **Legislative Power or Duty delegated:**

Section 6.12(1)(c) Local Government Act 1995

### **Legislative Power to delegate:**

Section 5.42 and Section 5.44 Local Government Act 1995

### **Policy Provision:**

n/a

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The CEO is delegated the power to waive, grant concessions or write off any amount of money owed to the Shire, subject to section 6.12(2) of the Local Government Act 1995.

### **Conditions and Exceptions:**

CEO authorisation shall apply to an amount up to a maximum value of \$500.00 per debtor.

### **Chief Executive Officer**

**delegates to:** N/A

**Delegation delegated  
by the CEO:** N/A

### **Reporting Requirements:**

Details recorded to meet legislative requirements and the Council informed at the next ordinary meeting.

***Financial Interest Return Required: Yes***

**Details of Review:** Replaces DE10



## DE3-4      CONSIDER OBJECTION TO THE RATE RECORD

### **Function to be performed:**

The local government is to promptly consider any objection to the rate record and may either disallow it or allow it, wholly or in part.

### **Legislative Power or Duty delegated:**

Section 6.76(5) Local Government Act 1995

### **Legislative Power to delegate:**

Section 5.42 and Section 5.44 Local Government Act 1995

### **Policy Provision:**

N/A

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The Chief Executive Officer is delegated the power to consider any objection to the rate record and may either disallow it or allow it, wholly or in part, subject to section 6.76(5) of the Local Government Act 1995.

### **Conditions and Exceptions:**

Nil

### **Chief Executive Officer**

**delegates to:** N/A

### **Delegation delegated**

**by the CEO:** N/A

### **Reporting Requirements:**

Details of the determination must be recorded in the appropriate record to meet legislative requirements.

***Financial Interest Return Required: Yes***

**Details of Review:** New



## DE3-5 CONCESSION FOR MINOR CHARGES

### Function to be performed:

A local government may approve the waiving or granting OF concessions in relation to any amount of money but shall not apply to an amount of money owing in respect of rates and service charges.

### Legislative Power or Duty delegated:

Section 6.12(1)(b) and 6.12(2) and (3) of the Local Government Act 1995

### Legislative Power to delegate:

Section 5.42 Local Government Act 1995

### Policy Provision:

N/A

### Delegation to:

Chief Executive Officer

### Delegation:

The Chief Executive Officer is delegated the power to approval concessions for minor charges where appropriate.

### Conditions and Exceptions:

Authorisation only applies to charges less than \$500. The delegate has the authority to deal with such matters AS ARE relevant to the delegation.

### Chief Executive Officer

delegates to: N/A

### Delegation delegated

by the CEO: N/A

### Reporting Requirements:

Details of minor variation must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: Yes***

**Details of Review:** Replaces DE 15 in part



## Part 4

# LOCAL GOVERNMENT UNIFORM LOCAL PROVISION) REGULATIONS 1996





## DE4-1 PRIVATE WORKS ON, OVER OR UNDER PUBLIC LAND

### Function to be performed:

A local government may grant permission to a person to construct anything on, over or under a public thoroughfare or other public place that is local government property.

### Legislative Power or Duty delegated:

Regulation 17(2) of the Local Government (Uniform Local Provisions) Regulations 1996.

### Legislative Power to delegate:

Section 5.42 and Section 5.44, Local Government Act 1995

### Policy Provision:

N/A

### Delegation to:

Chief Executive Officer

### Delegation:

The Chief Executive Officer is delegated the power to grant permission to a person to construct anything on, over or under a public thoroughfare or other public place that is local government property, subject to Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996 and Schedule 3.1, Division 2, item 3 and section 3.25(1)(b) of the Local Government Act 1995.

### Conditions and Exceptions:

That due process for the issuing of a notice under section 3.25 of the Act is followed.

### Chief Executive Officer

delegates to: N/A

### Delegation delegated

by the CEO: N/A

### Reporting Requirements:

Details of the permissions must be recorded in the appropriate record to meet legislative requirements.

### *Financial Interest Return Required: Yes*

### Details of Review: New



# Part 5 – LOCAL GOVERNMENT (FUNCTIONS AND GENERAL) REGULATIONS 1996



## DE5-1 DETERMINING THAT TENDERS DO NOT HAVE TO BE INVITED FOR THE SUPPLY OF GOODS AND SERVICES

### **Function to be performed:**

A local government is not required to publicly invite tenders for the supply of goods or services even though the consideration under the contract is, or is expected to be, worth more than \$150,000 if it has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier.

### **Legislative Power or Duty delegated:**

Section 3.57(1) of the Local Government Act 1995 and Regulation 11(2)(f) of the Local Government (Functions and General) Regulations 1996.

### **Legislative Power to delegate:**

Section 5.42 and Section 5.44, Local Government Act 1995

### **Policy Provision:**

F1.2 Procurement

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The power to determine that the Shire has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier and not publicly invite tenders before the Shire enters into a contract for the supply of goods or services even though the consideration under the contract is, or is expected to be, worth more than \$150,000.

### **Conditions and Exceptions:**

The determination is to be supported by a detailed report and subject to the requirements and conditions of Council's Purchasing and Tender Policy.

### **Chief Executive Officer**

**delegates to:** N/A

### **Delegation delegated**

**by the CEO:** N/A

### **Reporting Requirements:**

Details of the determination must be recorded in the appropriate record to meet legislative requirements.

***Financial Interest Return Required: Yes***



## DE5-2 TENDERS EVALUATION CRITERIA

### **Function to be performed:**

The local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

### **Legislative Power or Duty delegated:**

Regulation 14(1), (2), (3), (4) or (5) of the Local Government (Function and General) Regulations 1996.

### **Legislative Power to delegate:**

Section 5.42 and Section 5.44, Local Government Act 1995

### **Policy Provision:**

F1.2 Procurement

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The Chief Executive Officer is delegated the power to determine in writing the tender evaluation criteria prior to tenders being advertised.

### **Conditions and Exceptions:**

After a notice has been given under the Local Government (Function and General) Regulations 1996 14(1) or (2), a local government may vary the information referred to in (3) by taking reasonable steps to give each person who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation.

### **Chief Executive Officer**

**delegates to:** N/A

### **Delegation delegated**

**by the CEO:** N/A

### **Reporting Requirements:**

Details of the determination must be recorded in the appropriate record to meet legislative requirements.

***Financial Interest Return Required: Yes***

**Details of Review:** New – complementary to the Procurement Policy





## DE5-3 MINOR VARIATION FOR GOOD AND SERVICES

### Function to be performed:

A local government may, with the approval of the tenderer, make a minor variation in a contract for goods or services before it enters the contract with the successful tenderer.

### Legislative Power or Duty delegated:

Regulation 20(1) of the Local Government (Function and General) Regulations 1996

### Legislative Power to delegate:

Section 5.42 and Section 5.44, Local Government Act 1995

### Policy Provision:

F1.2 Procurement

### Delegation to:

Chief Executive Officer

### Delegation:

The Chief Executive Officer is delegated the power, with the approval of the tenderer, to make a minor variation in a contract for goods or services before the Shire enters the contract with the successful tenderer, subject to Regulation 20(1) of the Local Government (Functions and General) Regulations 1996.

### Conditions and Exceptions:

Minor variations before entering a contract are limited to a maximum value of aggregated variations which remain under 10% of the total contract value and remain within the relevant adopted Budget allocation.

### Chief Executive Officer

delegates to: N/A

### Delegation delegated

by the CEO: N/A

### Reporting Requirements:

Details of the minor variation must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: Yes***

**Details of Review:** New complementary to the Procurement Policy



## DE5-4 EXPRESSIONS OF INTEREST

### **Function to be performed:**

To determine the appropriate circumstances for application of the Expression of Interest process and to call for Expressions of Interest [F&G Reg.21] and to accept or reject any Expression of Interest.

### **Legislative Power or Duty delegated:**

S3.57 of the Local Government Act 1995

Local Government (Function and General) Regulations 1996

- Reg 11 Tenders to be invited for certain contracts
- Reg 14 (2a), (4)(a) and (5) Requirements for publicly inviting tenders
- Reg 21 Limitation may be placed on who can tender
- Reg 23 Rejecting and accepting expressions of interest to be notified of outcome

### **Legislative Power to delegate:**

Section 5.42 and Section 5.44, Local Government Act 1995

**Policy Provision:** F1.2 Procurement

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

Authorisation is given to call for Expressions of Interest for the supply of goods or services where appropriate and to accept or reject any Expression of Interest received.

### **Conditions and Exceptions:**

The delegate has the authority to deal with such matters as are relevant to this declaration.

Details of the expression of interest sought must be recorded in the appropriate record and in the Tender Register as required by the Local Government (Functions and General) Regulations 1996, Regulation 17. A determination to call a tender must only occur where the procurement or disposal is identified in Annual Budget allocations.

### **Chief Executive Officer**

**delegates to:** N/A

### **Delegation delegated**

**by the CEO:** N/A

### **Reporting Requirements:**

Tender Closing Checklist to be completed and the delegations of authority used to be recorded in the appropriate record to meet legislative requirements.

**Financial Interest Return Required: Yes**

**Details of Review:** New – complementary to the Procurement Policy



# Part 6 – OTHER LEGISLATION

*The Local Government may delegate, appoint and authorise Shire staff directly under the following Acts:*

*Building Act 2011*

*Bush Fires Act 1985*

*Cat Act 2011*

*Dog Act 1976*

*Food Act 2008*

*Liquor Control Act 1988*

*Residential Tenancy Act 1997*

*Strata Titles Act 1985*



## DE6-1 BUILDING ACT 2011 – ALL MATTERS

### Function to be performed:

The powers and functions of a permit authority under the Building Act 2011

### Legislative power to delegate:

S127 of the Building Act 2011

#### 1. Legislative Power or Duty delegated:

Section 96	Authority to appoint authorised persons
Section 110	Authority to issue Building Orders in relation to: Stop work, alter a building or evacuate a building where there is a contravention of a provision of the Act Take specific action to prevent contravention of the Act Finish an outward facing side of a wall
Section 117	Authority to revoke Building Orders
Section 139	Authority to commence prosecution

#### Delegation to:

Chief Executive Officer

#### 2. Legislative Power or Duty delegated:

Section 19	Certificate of design compliance
Section 20	Authority to grant or refuse to grant building permits
Section 21	Authority to grant or refuse demolition permits
Section 22	Authority to refuse to grant Building Permits or Demolition Permits if: There appears to be an error in the documents or information provided in the application; or If an application is inconsistent with: a) a function that the Permit Authority has under any written law; or b) an agreement between the Permit Authority and the applicant
Section 27 (1) & (3)	Conditions imposed by permit authority
Section 55	Further information
Section 56	Certificate of construction compliance
Section 57	Certificate of building compliance
Section 58	Authority to grant, modify or refuse to grant Occupancy Permits or Building Approval certificates
Section 62(1) & (3)	Conditions imposed by permit authority
Section 65	Authority to extend the period to which the occupancy permit or modification or the building approval certificate has effect
Section 88(3)	Finishes of walls close to boundaries
Section 100	Entry powers
Section 101	Powers of entry for compliance purposes

Section 102      Obtaining information and documents  
Section 103      Use of force and assistance  
Section 104      Directions generally  
Section 110      Building Orders  
Section 111(1)   Notice of proposed building order other than a building order (emergency)  
Section 131 (2)   Inspection, copies of building records

**Delegation to:** Manager Development Services and persons appointed to the office of Building Surveyor

**Conditions and Exceptions:**

S 127 of the Building Act 2011 provides that this delegation may not be sub-delegated

**Reporting Requirements:**

Details of the actions must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** Replaces DE3



## DE6-2 BUSH FIRES ACT 1954 – POWERS AND DUTIES

**Function to be performed:**

All powers, duties and functions under the Bush Fires Act 1954

**Legislative Power or Duty delegated:**

All of the local authority's powers and duties

**Legislative Power to delegate:**

Section 48 of the Bush Fires Act 1954

**Policy Provision:**

N/A

**Delegation to:**

Chief Executive Officer

**Delegation:**

All powers and duties under the Act

**Conditions and Exceptions:**

Excludes powers and duties that:

- are prescribed in the Act with the requirement for a resolution by the local government
  - are prescribed in the Act for performance by prescribed offices; or
- are subject to separate delegate authority within this register.

S48(3) of the Act provides that this delegation may not be sub-delegated

**Chief Executive Officer**

**delegates to:** N/A

**Delegation delegated**

**by the CEO:** N/A

**Reporting Requirements:**

Details of all notices must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** New umbrella delegation for Bush Fires



## DE6-3 BUSH FIRES ACT 1954 – PROHIBITED BURNING TIMES

### Function to be performed:

- Determine to vary Prohibited Burning Times, in accordance with s17(7) and (8), regarding:
- shortening, extending, suspending or reimposing a period of prohibited burning times; or
  - imposing a further period of prohibited burning times

### Legislative Power or Duty delegated:

Declaration of Prohibited Burning Times

### Legislative Power to delegate:

Section 17 (10) of the Bush Fires Act 1954

### Policy Provision:

N/A

### Delegation to:

President and Chief Bush Fire Officer jointly

### Delegation:

Powers under Sections 17.7 and 17.8 to declare and vary prohibited burning times

### Conditions and Exceptions:

N/A

### Chief Executive Officer

delegates to: N/A

### Delegation delegated

by the CEO: N/A

### Reporting Requirements:

Details of all notices must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** Replaces DE 34



## DE6-4 BUSH FIRES ACT 1954 – INFRINGEMENTS

### **Function to be performed:**

Issue infringement notices under the Bush Fires Act 1954

### **Legislative Power or Duty delegated:**

Bush Fires Act 1954  
s59A(2) Alternative Procedure – Infringement Notices

### **Legislative Power to delegate:**

Section 59(3) – Delegation by local governments Bush Fires Act 1954

### **Policy Provision:**

N/A

### **Delegation to:**

Chief Executive Officer  
Chief Bush Fire Control Officer  
Fire Control Officers

### **Delegation:**

Section 59(3) – Delegation by local governments Bush Fires Act 1954

### **Conditions and Exceptions:**

S59A(3) and Bush Fires (Infringements) Regulations 1958, Reg.4(a) provide that only the President or the Chief Executive Officer may withdraw an infringement notice.

### **Chief Executive Officer**

**delegates to:** N/A

**Delegation delegated  
by the CEO:** N/A

### **Reporting Requirements:**

Details of all notices must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** Replaces DE34



## DE6-5 BUSH FIRES ACT 1954 – PROSECUTIONS

### Function to be performed:

Consider allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district.

### Legislative Power or Duty delegated:

Bush Fires Act 1954  
s59(3) Prosecution of Offences  
s59A(2) Alternative Procedure – Infringement Notices

### Legislative Power to delegate:

Section 59(3) – Delegation by local governments Bush Fires Act 1954

### Policy Provision:

N/A

### Delegation to:

Chief Executive Officer

### Delegation:

Section 59(3) – Delegation by local governments Bush Fires Act 1954

### Conditions and Exceptions:

S59A(3) and Bush Fires (Infringements) Regulations 1958, Reg.4(a) provide that only the President or the Chief Executive Officer may withdraw an infringement notice.

### Chief Executive Officer

delegates to: N/A

### Delegation delegated

by the CEO: N/A

### Reporting Requirements:

Details of all notices must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** New





FOOD ACT 2008

## DE6-6 FOOD ACT 2008 - APPOINTMENT OF AUTHORISED OFFICERS

**Function to be performed:**

Appointment of authorised officers under the provisions of the Food Act 2008 and Food Regulations 2009

**Legislative Power or Duty delegated:**

Food Act 2008  
s122 Appointment of Authorised Officers

**Legislative Power to delegate:**

Section 118(2) of the Food Act

**Policy Provision:**

N/A

**Delegation to:**

Chief Executive Officer

**Delegation:**

Appointment of Authorised Officers

**Conditions and Exceptions:**

Prospective Appointees must be suitably qualified for appointment

**Chief Executive Officer**

**delegates to:** N/A

**Delegation delegated**

**by the CEO:** N/A

**Reporting Requirements:**

Details of all appointments must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** Replaces DE 17



## **FOOD ACT 2008**

### **DE6-7 FOOD ACT 2008 - POWERS OF AN ENFORCEMENT AGENCY**

#### **Function to be performed:**

Authority to exercise the functions conferred or imposed on the Shire as an enforcement agency

#### **Legislative Power or Duty delegated:**

All powers of the local government as an enforcement agency

#### **Legislative Power to delegate:**

Section 118 of the Food Act 2008

#### **Policy Provision:**

N/A

#### **Delegation to:**

Chief Executive Officer  
Manager Development Services  
Environmental Health Officers

#### **Delegation:**

1. The Manager Development Services and all Environmental Health Officers employed by the Shire of York as staff members or contractors are appointed as "Authorised Officers" pursuant to Section 122(1)(b) of the Food Act 2008
2. Under the provisions of Section 126(2) of the Food Act 2008 the "Authorised Officers" are to be "designated officers" for the purposes of issuing infringement notices.
3. The Manager Development Services (Authorised Officer) is delegated to:
  - Issue "prohibition notices" under S65 of the Food Act 2008
  - Clear and remove "prohibition notices" under S66 of the Food Act 2008
  - Provide written notification not to issue a certificate of clearance in accordance with S67 of the Food Act 2008
  - Grant, apply conditions, refuse, vary or cancel registration of a food business in accordance with S110 and S112 of the Food Act 2008
4. The Manager Development Services is a "designated officer" under the provisions of S126(6) and 126(7) of the Food Act 2008 to extend and revoke 'infringement notices'.
5. The Chief Executive Officer is the "designated officer under S126(3) of the Food Act 2008 to receive payment infringement notices.

6. The Chief Executive Officer is authorised to:

- appoint authorised officers in accordance with section 122(1) of the Food Act 2008
- issue certificates of authority to authorised officers in accordance with Section 123(1) and 123(2) of the Food Act 2008

**Conditions and Exceptions:**

See detail of the delegation above

**Chief Executive Officer**

**delegates to:** N/A

**Delegation delegated**

**by the CEO:** N/A

**Reporting Requirements:**

Details of all actions must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

## DE6-8 LIQUOR CONTROL ACT 1988 – AUTHORITY TO ISSUE CERTIFICATES

### **Function to be performed:**

An application made to the licensing authority for the grant or removal of a licence, or for a change in the use or condition of any premises shall be accompanied by a certificate from the local government for the district in which the premises to which the application relates are situated, or are to be situated, unless the licensing authority otherwise determines

### **Legislative Power or Duty delegated:**

Section 39 & 40 of the Liquor Control Act 1988

### **Legislative Power to delegate:**

Section 39 & 40 of the Liquor Control Act 1988

### **Policy Provision:**

N/A

### **Delegation to:**

Chief Executive Officer  
Development Services Manager

### **Delegation:**

To issue a certificate on behalf of the Shire, subject to Section 39 and 40 of the Liquor Control Act 1988

### **Conditions and Exceptions:**

Nil

### **Chief Executive Officer**

**delegates to:** N/A

### **Delegation delegated**

**by the CEO:** N/A

### **Reporting Requirements:**

Details of all certificates must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** New – replaces DE 31



## DE6-9 CAT ACT 2011

### **Function to be performed:**

A local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions under the Cat Act 2011.

### **Legislative Power or Duty delegated:**

Section 48 of the Cat Act 2011

### **Legislative Power to delegate:**

Cat Act 2011

### **Policy Provision:**

N/A

### **Delegation to:**

Chief Executive Officer

### **Delegation:**

The Chief Executive Officer is delegated the power to appoint authorised persons for the purposes of performing particular functions under the Cat Act 2011.

### **Conditions and Exceptions:**

Nil

### **Chief Executive Officer**

**delegates to:** N/A

**Delegation delegated  
by the CEO:** N/A

### **Reporting Requirements:**

Details of all appointments must be recorded in the appropriate record to meet legislative requirements

***Financial Interest Return Required: No***

**Details of Review:** New





PART 7

SHIRE OF YORK

TOWN PLANNING SCHEME NO 2

PLANNING AND DEVELOPMENT ACT  
2005

