



SHIRE OF YORK

2016

Register of Delegated Authority

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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) a local government from performing any of its functions by acting through a person other than the CEO; or
- b) 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, for a period exceeding 4 weeks and to issue all necessary notices, subject to Section 3.50 of the Local Government Act 1995.

Conditions and Exceptions:

The closure of any thoroughfare under this delegation is not to exceed 3 months. The permanent closure of thoroughfares is to be referred to Council for determination.

Chief Executive Officer Delegates to:

Executive Manager: Infrastructure and Development Services

Power or Duty delegated by Chief Executive Officer:

The CEO delegates to the above Officer 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 file to meet legislative requirements and Councillors informed at the next ordinary meeting of Council.

Financial Interest Return Required: Yes

Details of Review: Reviewed & Adopted – 18 April 2016 – Replaced DE 24 in part
Amended – 24 October 2016

DE1-2 Closing Certain Thoroughfares to vehicles (Not Exceeding 4 Weeks) for Any Purpose Permitted by Law, Including Events

Function to be performed:

A local government may close a thoroughfare to vehicles wholly or partially, for a period not exceeding 4 weeks, including for, but not limited to, events on roads.

Legislative Power or Duty delegated:

Section 3.50(1) Local Government Act 1995

Road Traffic (Events on Roads) Regulations 1991

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the power to close a thoroughfare, wholly or partially, for a period not exceeding 4 weeks, subject to Section 3.50(1) of the Local Government Act 1995.

The delegation includes the authority to determine applications for the temporary closure of thoroughfares for the purpose of conducting events.

Conditions and Exceptions:

In considering the short term closure of thoroughfares the CEO will also have regard to the Shire's local law.

Chief Executive Officer Delegates to:

Executive Manager: Infrastructure and Development Services.

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

Temporary road closures are to be noted in the Executive Manager: Infrastructure and Development Services monthly report to the Council.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 – Replaces DE 24 in part and DE25

DE1-3 Closing Certain Thoroughfares to Vehicles (Revocation)

Function to be performed:

An order to close a thoroughfare may be revoked by the local government.

Legislative Power or Duty delegated:

Section 3.50(6) of the Local Government Act 1995.

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the power to revoke an order to close a thoroughfare pursuant to Section 3.50(6) of the Local Government Act 1995.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Executive Manager: Infrastructure and Development Services.

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

Road closure revocations are to be noted in the Executive Manager: Infrastructure and Development Services monthly report to the Council.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 – Replaces DE24 in part

DE1-4 Partial Closure of Thoroughfare for Repairs and Maintenance

Function to be performed:

A local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure is for the purpose of carrying out repairs or maintenance and is unlikely to have a significant adverse effect on users of the thoroughfare.

Legislative Power or Duty delegated:

Section 3.50A of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the power to partially and temporarily close a thoroughfare, without giving local public notice, if the closure is for the purpose of carrying out repairs or maintenance and is unlikely to have a significant adverse effect on users of the thoroughfare pursuant to Section 3.50A of the Local Government Act 1995.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Executive Manager: Infrastructure and Development Services.

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

Nil

Financial Interest Return Required: No

Details of Review: Reviewed - 24 October 2016 – Replaces DE24 in part

DE1-5 Notices pursuant to Leases, Licences and Land Contracts

Function to be performed:

The exercise and enforcement of rights under, and to issue notices pursuant to, the following documents:

1. Lease or licence of:

- (a) Freehold land owned by the local government; or
- (b) Crown land managed by the local government; and

2. Contract for the sale or purchase of land by the local government.

Legislative Power or Duty delegated:

Section 3.18 of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the power to the exercise and enforcement of rights, and to the issue of notices, under the provisions of leases or licences of Shire of York freehold land or Crown Land managed by the Shire; and of any contract for the sale or purchase of land by the Shire.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Reporting Requirements:

Actions under this delegation are to be reported to the Council at the first opportunity.

Financial Interest Return Required: Yes

Details of Review: NEW - 24 October 2016

DE1-6 Public Thoroughfares – Fixing or Altering Levels or Alignments or Drainage onto Adjoining Land

Function to be performed:

To give notice before fixing or altering the level of, or the alignment of a public thoroughfare and before draining water from a public thoroughfare or other public place onto adjoining land, and to receive and consider submissions regarding a proposal.

Legislative Power or Duty delegated:

Section 3.51(3) and (4) of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to give notice before fixing or altering the level of, or the alignment of a public thoroughfare and before draining water from a public thoroughfare or other public place onto adjoining land, and to receive and consider submissions regarding a proposal. The CEO is authorised to approve a proposal if no objection is received.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Reporting Requirements:

Actions under this delegation are to be reported to the Council at the first opportunity.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 – Replaces DE27

DE1-7 Development Application and Building Application on Land Owned by, or Crown Land Managed by, the Shire of York

Function to be performed:

To sign as 'Landowner' for the submission of Development and/or Building Applications for consideration by planning and building staff. This function to be performed with respect to Shire of York owned land and Crown land under the control of the Shire on land where the Minister of Land's delegation (DETAILS) applies.

Legislative Power or Duty delegated:

Section 3.18 of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to sign as 'Landowner' Development Applications and Building Applications with respect to land owned by the Shire of York, or Crown land under the control of the Shire of York pursuant to Section 3.18 of the Local Government Act.

Conditions and Exceptions:

1. Applications are consistent with the terms of any relevant lease, management plan and current uses;
2. With respect to Crown Land the application is consistent with the Minister of Land's delegation to Chief Executive Officers.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

N/A

Reporting Requirements:

The CEO will inform the Council when this delegation is exercised preferably before an application is signed, or if this is not practicable then as soon as possible after the application is signed.

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE1-8 Notices Pursuant to the Land Administration Act 1997

Function to be performed:

The issue of notices and infringements pursuant to the provisions of the *Land Administration Act 1997*.

Legislative Power or Duty delegated:

Section 3.18 of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to issue notices and infringements pursuant to the provisions of the *Land Administration Act 1997*

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Notices and infringements issued under the Land Administration Act are required to be reported to the Council.

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE1-9 Power to Remove and Impound Goods

Function to be performed:

Power to remove and impound.

Legislative Power or Duty delegated:

Section 3.39, 3.42, 3.44, 3.46 and 3.48 of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated to:

- Authorise an employee in accordance with Section 3.39 to remove and impound any goods that are involved in a contravention that can lead to impounding
- Take appropriate action in respect to impounded non-perishable goods in accordance with Section 3.42
- Give notice in accordance with Section 3.44 to collect goods
- Refuse to allow goods to be collected until all costs have been paid in accordance with Section 3.46
- Take action to recover expenses in accordance with Section 3.48

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

The CEO may sub-delegate this function to the Shire Ranger

Power or Duty delegated by Chief Executive Officer:

N/A

Reporting Requirements:

In aggregate only as part of a statistical report on Ranger activities

Financial Interest Return Required: No

Details of Review: Reviewed – 24 October 2016 – Replaces DE19 in part

DE1-10 Declaring a Vehicle to be an Abandoned Vehicle Wreck

Function to be performed:

Declaration that a vehicle is an abandoned wreck so that it can be removed and disposed of.

Legislative Power or Duty delegated:

Section 3.40A(4) of the Local Government Act 1995

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to remove an abandoned vehicle and subject to the process set out in the Act declare it an “abandoned vehicle wreck”.

Conditions and Exceptions:

Section 3.40A(4) (a) & (b) of the Local Government Act provides the process steps to be followed in order to declare an “abandoned vehicle wreck”.

Chief Executive Officer Delegates to:

Senior Ranger

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

In aggregate only as part of a statistical report on Ranger activities

Financial Interest Return Required: No

Details of Review: NEW – 24 October 2016 – Replaces DE20 in part

DE1-11 Disposing of Confiscated Goods

Function to be performed:

The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43 of the Act.

Legislative Power or Duty delegated:

Section 3.47(1) of the Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is authorised to sell or otherwise dispose of, pursuant to Section 3.47(1) of the Local Government Act 1995, any goods that have been ordered to be confiscated under section 3.43 of the Act.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

To be reported to the Council in the Executive Manager's monthly report

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016 – Replaces DE20 in part

DE1-12 Disposing of Uncollected Vehicle

Function to be performed:

The local government may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3) or 7 days of a declaration being made that a vehicle is an abandoned vehicle wreck.

Legislative Power or Duty delegated:

Section 3.42(2) of the Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to sell or otherwise dispose of, in accordance with Section 3.47(2) of the Local Government Act 1995, any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3) or 7 days of a declaration being made that a vehicle is an abandoned vehicle wreck.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

To be reported to the Council in statistical format

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016 – Replaces DE20 in part

DE1-13 Disposing of Uncollected Impounded Goods

Function to be performed:

The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in section 3.47(2b) of the date a notice is given under sections 3.42(1)(b) or 3.44 of the Local Government Act 1995.

Legislative Power or Duty delegated:

Section 3.47(2a) Local Government Act 1995.

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the authority to sell or otherwise dispose of, pursuant to Section 3.47(2a) of the Local Government Act 1995, impounded goods that have not been collected within the period specified in section 3.47(2b) of the date a notice is given under sections 3.42(1)(b) or 3.44 of the Local Government Act 1995.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

To be reported to the Council in the Executive Manager's monthly report

Financial Interest Return Required: Yes

Details of Review: New 24 October 2016 – Replaces DE20 in part

DE1-14 Disposing of Sick or Injured Impounded Animals

Function to be performed:

If an impounded animal is ill or injured to such an extent that treating it is not practicable, the local government may humanely destroy the animal and dispose of the carcass

Legislative Power or Duty delegated:

Section 3.47A(1) of the Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the authority to, pursuant to Section 3.47A(1) of the Local Government Act 1995, humanely destroy an impounded animal that is ill or injured to such an extent that treating it is not practicable, and to dispose of the carcass.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Senior Ranger

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

To be reported in aggregate in the Ranger's monthly report to the Council

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE1-15 Disposing of Property (Public Auction or Public Tender)

Function to be performed:

Dispose of property to the highest bidder at public auction or the most acceptable public tender.

Legislative Power or Duty delegated:

Section 3.58(2) Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the authority to dispose of property in accordance with Section 3.58(2) of the Local Government Act 1995 to the highest bidder at public auction or the most acceptable public tender.

Conditions and Exceptions:

Subject to the disposal being identified in the Shire's Annual Budget and the value of the property is less than \$50,000.

Chief Executive Officer Delegates to:

Nil

Reporting Requirements:

To be reported to the Council at the next CEO briefing

Financial Interest Return Required: Yes

Details of Review: New 24 October 2016

DE1-16 Disposing of Property (Private Treaty)

Function to be performed:

Dispose of property by private treaty where this is considered the most advantageous method.

Legislative Power or Duty delegated:

Section 3.58(3) Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the authority to dispose of property in accordance with Section 3.58(3) of the Local Government Act 1995.

Conditions and Exceptions:

Subject to the disposal being identified in the Shire's Annual Budget.

Delegation applies to:

- a) All transactions to a maximum value of \$50,000 where no public submissions are received in response to public advertising as required by Section 3.58(3)(a).
- b) Any other transactions to a maximum value of \$50,000

Chief Executive Officer Delegates to:

Nil

Reporting Requirements:

To be reported to the Council at the next Chief Executive Officer briefing

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE1-17 Recovery of Impounding Expenses

Function to be performed:

If goods are removed and impounded under section 3.39 of the Act and the offender is convicted, the local government may, if the goods are not sold, recover any expenses incurred in removing and impounding the goods and disposing of them.

Legislative Power or Duty delegated:

Section 3.48 of the Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to recover, under Section 3.48 of the Local Government Act 1995 any expenses incurred in removing and impounding goods and disposing of them where they have been impounded under Section 3.39 of the Local Government Act 1995 and the offender has been convicted.

Conditions and Exceptions:

Compliance with Section 3.47 of the Local Government Act 1995 as to the process to be followed.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

To be reported to the Council at the next Chief Executive Officer briefing

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE1-18 Powers of Entry

Function to be performed:

Powers of entry are conferred by the Local Government Act 1995 to be used to perform any function that a local government has under the Act if entry is required for the performance of the function or in any other case in which entry is authorised by the Act.

Legislative Power or Duty delegated:

Local Government Act 1995

1. Enter on to land to perform any function of the local government under the Act. [refers s.3.28]
2. Give notice of entry. [s.3.32].
3. Seek and execute an entry under warrant. [s.3.33].
4. Execute an entry in an emergency, [s.3.34].
5. Give notice and effect entry by opening a fence [s.3.36]

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to exercise the powers of entry conferred by Sections 3.28, 3.32, 3.33, 3.34, and 3.36 of the Local Government Act 1995.

Conditions and Exceptions:

Where sub-delegated to any Officer the sub-delegation will be recorded in the Register of Delegations

Chief Executive Officer May Delegate to:

Executive Manager Corporate and Community Services
Executive Manager Infrastructure and Development Services
Works Manager
Ranger
Such other Officers as determined by the CEO.

Power or Duty delegated by Chief Executive Officer:

Where the CEO delegates the exercise of this delegated power to any Officer the exercise of the delegated power does not include the power of further delegation

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

Details of Review: New 24 October 2016

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 Councillors, 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: Adopted- 18 April 2016
Revised 24 October 2016

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 this Register of Delegated Authority.

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: Adopted – 18 April 2016
 Revised – 24 October 2016

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: Adopted – 18 April 2016
Revised – 24 October 2016

DE2-4 Training Travel and Accommodation – Elected Members

Function to be performed:

To provide for the participation of councillors in professional development by the attendance at training courses and conferences and to approve the associated travel and accommodation costs.

Legislative Power or Duty delegated:

Section 5.98 (2)(b) and (3) of the Local Government Act 1995 and Regulation 32 of the Local Government (Administration) Regulations 1995.

Policy:

G 1.2 Councillors: Professional Development
G 1.3 Councillors: Travel and Accommodation

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the authority to arrange appropriate travel and accommodation for councillors to participate in professional development by the attendance at training courses and conferences.

Conditions and Exceptions:

Policy G1.2 provides Council guidance on professional development.
Policy G1.3 provides detailed guidance on travel and accommodation.
The policies and this delegation are to be exercised within the budget envelop for Councillors' Professional Development and Training.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: No

Details of Review: New - 24 October 2016

DE2-5 Use of the Crest and Logo

Function to be performed:

The Chief Executive Officer to approve the use of the Shire of York Crest and Logo.

Legislative Power or Duty delegated:

Section 3.1 of the Local Government Act 1995

Policy:

CP1.2 Use of Shire of York Crest and Logo

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the authority to approve the use of the Shire of York Crest and Logo.

Conditions and Exceptions:

The exercise of this delegation is limited by the provisions of Policy CP1.2.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

No

Details of Review: New - 24 October 2016

DE2-6 Appointment of Authorised Persons to Execute Documents on Behalf of Council

Function to be performed:

Signing of various classes of documents on behalf of the Council.

Legislative Power or Duty delegated:

Section 9.49A(4) of the Local Government Act 1995

Policy:

CP1.1 Execution of Documents and Use of the Common Seal

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated the responsibility to arrange for the execution of documents and the use of the common seal in accordance with the provisions of Policy CP1.1 Execution of Documents and Use of the Common Seal

Conditions and Exceptions:

The provisions of CP1.1 Execution of Documents and Use of the Common Seal

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

As provided for in Policy CP1.1

Financial Interest Return Required: No

Details of Review: Reviewed – 24 October 2016 – Replaced DE18

DE2-7 Appointment of Authorised Persons under the Local Government Act 1995

Function to be performed:

Authority to appoint persons or classes of person for the purpose of fulfilling prescribed functions within the Local Government Act 1995.

Legislative Power or Duty delegated:

Local Government Act 1995

Section 3.24(1) Authorised persons under this subdivision Section 9.10 (1)

Appointment of authorised persons.

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to appoint persons or classes of person for the purpose of fulfilling prescribed functions within the Local Government Act 1995.

Conditions and Exceptions:

Persons to be authorised for the purposes of the following sections of the Local Government Act 1995:

- s.3.25 Certain provisions about land
- s.3.39(1) Remove and impound goods
- s.3.40A(1) Remove and impound an abandoned vehicle wreck
- s.9.13 Onus of proof in vehicle offences may be shifted
- s.9.16 Giving a notice (infringement notice)
- s.9.17 For the purposes of receiving payment of modified penalties
- s.9.19 Extension of time (to pay)
- s.9.20 Withdrawal of notice (infringement notice)
- s.9.38 Evidence of documents coming from the Shire's

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

Details of Review: Reviewed 24 October 2016 – replaces DE4

DE2-8 Commissioning of Legal Advice

Function to be performed:

To commission legal advice as required

Legislative Power or Duty delegated:

Administrative function

Policy:

CP1.3 Commissioning Legal Advice

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated authority to procure all legal advice in accordance with Policy CP1.3

Conditions and Exceptions:

This delegation does not apply to legal advice required by the Council for matters related to the performance of the CEO and/or the relationship between the Council and the CEO.

Commissioning of legal advice must be obtained according to the requirements set out in the Procurement Policy F1.1.

A register of legal advice received by the Shire of York must be maintained and reviewed prior to commissioning of new advice.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

All legal advice that may impact on a Council decision on a matter must be reported to the Council.

Financial Interest Return Required: No

Details of Review: Reviewed – 24 October 2016 – Replaces DE30

DE2-9 Insurance – Public Liability Claims

Function to be performed:

Consideration of public liability claims against the Council where the value of the claim does not exceed the excess on the relevant insurance policy.

Legislative Power or Duty delegated:

Administrative function

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated authority to consider claims against the Council for property damage that do not exceed the insurance policy excess levels, and to accept or deny liability on behalf of the Council.

Conditions and Exceptions:

In cases where liability is accepted, payment may only be made up to the value of Council's relevant insurance excess amount and then only upon receipt of an appropriate release form prepared by Council's solicitors.

Chief Executive Officer Delegates to:

The CEO may delegate this function to the following officers:

- Executive Manager: Corporate and Community Services
- Executive Manager: Infrastructure and Development Services

Power or Duty delegated by Chief Executive Officer:

If the CEO delegates to the above officers the relevant legislative references id Section 5.44 of the Local Government Act 1995

Reporting Requirements:

Where the CEO or the above officers reach a settlement under this delegation it is to be reported to the next CEO briefing of Councillors.

Financial Interest Return Required: No

Details of Review: Reviewed – 24 October 2016 – Replaces DE29

DE2-10 Issuing of Licences, Approvals & Permits – Local Laws

Function to be performed:

Determine applications for the issue and/or renewal of licenses and permits that are provided for in Council local laws

Legislative Power or Duty delegated:

Administrative function

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated authority to determine applications for the issue and/or renewal of licenses and permits that are provided for in Council local laws.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

The CEO may delegate this function to the following officers:

- Executive Manager: Corporate and Community Services
- Executive Manager: Infrastructure and Development Services

Power or Duty delegated by Chief Executive Officer:

If the CEO delegates to the above officers the relevant legislative reference is Section 5.44 of the Local Government Act 1995. Any such delegation must be recorded the Shire Register of Delegated Authority.

Reporting Requirements:

Nil

Financial Interest Return Required: No

Details of Review: Reviewed – 24 October 2016 – Replaces DE35

DE2-11 Road Trains and Extra Mass Permits

Function to be performed:

Determine applications to use road trains and for extra mass permits on any road within the Shire.

Legislative Power or Duty delegated:

Administrative function

Policy:

N/A

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated authority to determine any application to use road trains and for extra mass permits on any road within the Shire, recommending approval or refusal, with or without conditions, for referral to Main Roads WA.

Conditions and Exceptions:

The CEO will have regard to any Council policy on the issue that may be established from time to time.

Chief Executive Officer Delegates to:

The CEO may delegate this function to the Executive Manager: Infrastructure and Development Services

Power or Duty delegated by Chief Executive Officer:

If the CEO delegates to the above officer the relevant legislative reference is Section 5.44 of the Local Government Act 1995. Any such delegation must be recorded the Shire Register of Delegated Authority.

Reporting Requirements:

Nil

Financial Interest Return Required: No

Details of Review: Reviewed – 24 October 2016 – Replaces DE36

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:

Making payments from Trust and Municipal Funds.

Legislative Power or Duty delegated:

Local Government (Financial Management) Regulations 1996, Regulation 12(1)(a). Payments from municipal fund or trust fund, restrictions on making.

Policy:

FP1.5 Authority to Make Payments from the Trust and Municipal Funds

Delegation to:

Chief Executive Officer
Executive Manager: Corporate and Community Services

Delegation:

The Chief Executive Officer and the Executive Manager Corporate and Community Services are delegated so that either one or the other must sign all cheques and authorise all electronic transfers. CEO or Executive Manager must sign jointly with one other designated officer.

Conditions and Exceptions:

The delegation must be exercised in accordance with Policy FP1.5 Authority to Make Payments from the Trust and Municipal Funds.

Access to electronic funds transfer software, passwords and encryption information is to be restricted to:

Chief Executive Officer
Executive Manager Corporate and Community Services
Financial Controller.

This delegation is subject to the requirements of Regulation 13 of the Local Government (Financial Management) Regulations 1996.

Chief Executive Officer Delegates to:

- a) In the case of cheques the Financial Controller or the Executive Manager Infrastructure and Development Services must sign with either the CEO or Executive Manager Corporate and Community Services;
- b) In the case of authorising electronic transfers the Financial Controller must provide the authorisation with either the CEO or Executive Manager Corporate and Community Services

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

Each payment from the municipal fund or the trust fund is to be noted on a list compiled for each

month which is to be presented at the next ordinary meeting of Council.

Financial Interest Return Required: Yes

Details of Review: Adopted 18 April 2016 to replace DE1
 Amended 24 October 2016

DE3-2 Invest Money Held in Municipal and Trust Funds

Function to be performed:

Invest funds that are not required for the time being.

Legislative Power or Duty delegated:

Section 5.42 Local Government Act 1995
Trustees Act 1962 – Part III

Policy:

F1.4 Investment

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to invest money held in the Municipal or Trust Funds that is not required for the time being for any purpose.

Conditions and Exceptions:

Funds are to be transferred to an appropriate secured investment account or term deposit. All investments are to be fully compliant with Council policy “**F1.4 Investment**”.

Transfers must follow documented internal control procedures to ensure control over investments.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

A monthly investment report must be provided to the Council in accordance with Policy F1.4.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 – Replaces DE 16

DE3-3 Agreement as Payment of Rates and Service Charges

Function to be performed:

Make an agreement to accept payment of a rate or service charge due and payable by a person.

Legislative Power or Duty delegated:

Section 6.49 Local Government Act 1995

Policy:

F1.1 Revenue Collection

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to enter into agreements with individuals who are having difficulty in meeting their rates payments.

Conditions and Exceptions:

Subject to the arrangements agreed to being on the basis that the total debt outstanding will be extinguished by 30 June next following.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

To be reported in aggregate to the Council.

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE3-4 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: Reviewed - 18 April 2016 - Replaces DE10

DE3-5 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: Adopted – 18 April 2016
Reviewed - 24 October 2016

DE3-6 Extension of Time for Objection to the Rate Record

Function to be performed:

The local government may, on application by a person proposing to make an objection to the rate record, extend the time for making the objection for such period as it thinks fit.

Legislative Power or Duty delegated:

Section 6.76(4) Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated authority to extend time for making the objection to the rate record.

Conditions and Exceptions:

An extension is not to be granted for a period exceeding six weeks

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: No

Details of Review: New - 24 October 2016

DE3-7 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 this delegation 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 approve concessions for minor charges, including Town Hall and other public hall hire charges, where he considers it 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: Adopted – 18 April - Replaced DE 15 in part
Reviewed – 24 October 2016

DE3-8 Rates or Service Charges Recoverable in Court

Function to be performed:

To determine that court action will be taken if a rate or service charge remains unpaid after it becomes due and payable.

Legislative Power or Duty delegated:

Section 6.56(1) Local Government Act 1995

Policy:

F1.1 Revenue Collection

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to determine that court action will be taken if a rate or service charge remains unpaid after it becomes due and payable

Conditions and Exceptions:

As set out in Policy F1.1 Revenue Collection

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Decisions to pursue Court action for recovery are to be advised to the Council at the next CEO briefing.

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE3-9 Require Lessee to Pay Rent in Satisfaction of rates and Service Charge

Function to be performed:

If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.

Legislative Power or Duty delegated:

Section 6.60(2) Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to give notice to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.

Conditions and Exceptions:

Subject to Section 6.60(3) of the Local Government Act 1995

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE3-10 Recover Amount of rates or Service Charge from the Lessee

Function to be performed:

The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.

Legislative Power or Duty delegated:

Section 6.60(4) Local Government Act 1995

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

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: Adopted – 18 April 2016
Reviewed – 24 October 2016

DE4-2 Crossovers

Function to be performed:

Construction of Crossovers from Public Thoroughfare to Private Land or Private Thoroughfare

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 authority to determine applications for the construction of a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving the land and may agree to construct the crossing for the applicant subject to Council's operating procedures.

The Chief Executive Officer is delegated authority to give notice to an owner or occupier of private land requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land in accordance with provisions of Sch 9.1 (7) of the Act.

Conditions and Exceptions:

This delegation relates to all of the provisions of the Local Government (Uniform Local Provisions) Regulations 1996.

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: Reviewed 24 October 2016 – Replaces DE26

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

Details of Review: Adopted – 18 April 2016
Reviewed – 24 October 2016

DE5-2 Tender 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: Adopted - 18 April 2016
Reviewed – 24 October 2016

DE5-3 Minor Variation for Goods 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: Adopted – 18 April 2016
Reviewed – 24 October 2016

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: Adopted – 18 April 2016
Reviewed – 24 October 2016

DE5-5 Tenders to be invited for Certain Contacts

Function to be performed:

- a) Determining, in writing, the criteria for deciding which tender should be accepted prior to tenders being publicly invited; and
- b) Publicly inviting tenders before entering into a contract for the supply of goods or services if the consideration under the contract is, or is expected to be, worth more than \$150,000.

Legislative Power or Duty delegated:

- a) Regulation 14(2a) of the Local Government (Function and General) Regulations 1996; and
- b) Section 3.57(1) of the Local Government Act 1995; and
- c) Regulation 11(1) of the Local Government (Function and General) Regulations 1996.

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to:

- a) Determining, in writing, the criteria for deciding which tender should be accepted prior to tenders being publicly invited; and
- b) Publicly inviting tenders before entering into a contract for the supply of goods or services if the consideration under the contract is, or is expected to be, worth more than \$150,000.

Conditions and Exceptions:

Tenders will be let by the Council on receipt of a report on the evaluation against predetermined criteria and officers' recommendation.

Chief Executive Officer Delegates to:

Nil

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

Details of Review: New – 24 October 2016

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

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: Executive Manager Infrastructure and 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: Reviewed & Adopted – 18 April 2016 - Replaces DE3
Reviewed – 24 October 2016

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: Reviewed & Adopted – 18 April 2016 – Replaces DE 32 – 33
Reviewed – 24 October 2016

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: Reviewed & Adopted – 18 April 2016 - Replaces DE 34
Reviewed – 24 October 2016

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:

Reviewed & Adopted - 18 April 2016 - Replaces DE34

Reviewed – 24 October 2016

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: Adopted – 18 April 2016
Reviewed – 24 October 2016

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: Reviewed & Adopted – 18 April 2016 Replaces DE 17
Reviewed – 24 October 2016

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
Executive Manager: Infrastructure and Development Services
Environmental Health Officers

Delegation:

1. The Executive Manager: Infrastructure and 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 Executive Manager Infrastructure and 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 Executive Manager: Infrastructure and 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 for 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

Details of Review: Adopted – 18 April 2016
Reviewed – 24 October 2016

DE6-8 Food Act 2008 – Issue of Prohibition Orders

Function to be performed:

To serve a prohibition order on the proprietor of a food business in accordance with Section 65 of the Food Act 2008 and to instigate proceedings against an alleged offender for breach of the Food Act 2008

Legislative Power or Duty delegated:

Section 65 of the Food Act 2008
Section 125 of the Food Act 2008

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to initiate proceedings under Sections 65 and 125 of the Food Act 2008.

Conditions and Exceptions:

A decision to initiate proceedings must be advised to the Council before the decision is acted upon.

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

A decision to initiate proceedings must be advised to the Council before the decision is acted upon.

Financial Interest Return Required: No

Details of Review: New - 24 October 2016

DE6- 9 Food Act 2008 - Certificates of Clearance

Function to be performed:

Issue a certificate of clearance in accordance with Section 66 of the Food Act 2008 OR Give written notification to the proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection under Section 66 or 67 of the Food Act 2008.

Legislative Power or Duty delegated:

Sections 66 and 67 of the Food Act 2008

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the power to exercise the Council's responsibilities under Sections 66 and 67 of the Food Act 2008.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

A decision to initiate proceedings must be advised to the Council before the decision is acted upon. A decision to withdraw proceedings is to be reported to the Council as soon as practicable after the decision is made.

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE6-10 Food Act Registrations

Function to be performed:

To grant, apply conditions, refuse, vary or cancel registration of a food business.

Legislative Power or Duty delegated:

Section 110 and Section 112 of the Food Act 2008

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The Chief Executive Officer is delegated to undertake all matters related to the registration of premises under the Food Act 2008

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

Aggregate statistical information reported to the Council

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE6-11 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
Executive Manager: Infrastructure and Development Services

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: Reviewed & Adopted – 18 April 2016 – replaces DE31
Reviewed – 24 October 2016

DE6-12 Cat Act 2011 – Appointment of Authorised Persons

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: Adopted – 18 April 2016
Reviewed – 24 October 2016

DE6-13 Dog Act 1976 – Approval to Keep More Than Two Dogs

Function to be performed:

The grant of an exemption to particular premises for the keeping of more dogs than is allowed under the Shire's local laws pursuant to section 26(3) of the Dog Act 1976.

Legislative Power or Duty delegated:

Dog Act 1976 Section 26 (3) Limitation as to numbers

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to grant exemptions as to the number of dogs kept on premises.

Conditions and Exceptions:

Rangers inspecting the premises to ensure means exist to effectively confine the dogs within the premises.

Provisions of the Shire of York Dogs Local Law

Chief Executive Officer Delegates to:

Shire of York Ranger

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

Statistical information to be reported to the Council

Financial Interest Return Required: No

Details of Review: New - 24 October 2016

DE6-14 Health Act 1911 - Appointment and Authorisation of Deputy

Function to be performed:

The Shire's deputy for the purpose of discharging its powers and functions as a local government under the Health Act 1911.

The signing of such documents and initiation of appropriate legal action on behalf of the Shire in relation to the Health Act, subsidiary legislation and the Shire's Health Local Law.

To administer the provisions of the Health Act 1911 and regulations made thereunder and the Shire's Health Local Law 2000, including signing approvals and licenses relating to the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.

Legislative Power or Duty delegated:

Section 26 of the Health Act 1911

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to undertake the responsibility of the Shire of York under the Health Act 1911.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

Nil

Reporting Requirements:

The CEO to report any significant action he takes under this delegation to the Council.

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE6-15 Authorisation of Senior Environmental Health Officers

Function to be performed:

Administer the provisions of the Health Act 1911 and regulations made there under and the Shire's Health Local Law, including signing approvals and licenses relating to the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 and the signing of notices and approvals under Part VI (Public Buildings) of the Health Act 1911.

Legislative Power or Duty delegated:

Section 26 of the Health Act 1911

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to undertake the responsibility of the Shire of York under the Health Act 1911.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Senior Environmental Health Officer

Power or Duty delegated by Chief Executive Officer:

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

Reporting Requirements:

Nil

Financial Interest Return Required: Yes

Details of Review: New - 24 October 2016

DE6-16 Approval of Camping Other than at a Caravan Park or Camping Ground

Function to be performed:

Approval of camping other than at a caravan park or camping ground.

Legislative Power or Duty delegated:

Regulation 11 of the Caravan Parks and Camping Grounds Regulations 1997 allows the Council to grant approval for a person to camp on land he or she has a legal right to occupy, for up to 3 months per 12 month period, or up to 12 consecutive months while a building licence is issued to that person in respect of the land.

Regulation 6 of the Caravan Parks and Camping Grounds Regulations 1997 allows the Council to delegate this function to any person authorised by the Local Government

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority approve camping other than at a caravan park or camping ground in accordance with the Regulations.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

N/A

Reporting Requirements:

Approvals granted under this delegation are to be reported to the Council in statistical format at the monthly CEO briefing.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 (replaces DE21)

DE6-17 Strata Titles Act 1985 - Approval of Strata Applications/Certificates

Function to be performed:

Approval of strata title applications subject to the building/s being in compliance with all relevant building and planning controls.

Legislative Power or Duty delegated:

Sections 23.4 and 23.5 Certificate of Local Government

Policy:

To be exercised in accordance with relevant provisions of the Town Planning Scheme

Delegation to:

Chief Executive Officer

Delegation:

The CEO is delegated the authority to approve strata title applications subject to the building/s being in compliance with all relevant building and planning controls.

Conditions and Exceptions:

Does not include modifications to existing buildings

Chief Executive Officer Delegates to:

Nil

Power or Duty delegated by Chief Executive Officer:

N/A

Reporting Requirements:

Approvals granted under this delegation are to be reported to the Council in statistical format at the monthly CEO briefing.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 (replaces DE8)

DE6-18 Health Local Law – Keeping of Animals

Function to be performed:

To approve or refuse applications to keep certain animals within the Townsite of York.

Legislative Power or Duty delegated:

Division 2 and 3 of the Shire of York Health Local Laws

Policy:

To be exercised in accordance with any relevant policies or provisions of the Shire of York Town Planning Scheme.

Delegation to:

Chief Executive Officer

Delegation:

The DEO is delegated the authority to approve or refuse applications to keep certain animals within the Townsite of York made in accordance with Division 2 and 3 of the Shire of York Health Local Laws.

Conditions and Exceptions:

Nil

Chief Executive Officer Delegates to:

The CEO may sub-delegate this approval to the Executive Manager Infrastructure and Development Services.

Power or Duty delegated by Chief Executive Officer:

N/A

Reporting Requirements:

Approvals granted under this delegation are to be reported to the Council in statistical format at the monthly CEO briefing.

Financial Interest Return Required: Yes

Details of Review: Reviewed - 24 October 2016 (replaces DE14)

Part 7 – Statutory Planning

Function to be performed:

The functions of the Council with respect to: Development Applications; Subdivision Applications; Enforcement, Appeals and Legal Proceedings; Structure Plans; Local Development Plans; and Miscellaneous Matters.

Legislative Power or Duty delegated:

To specify delegation of authority to the Chief Executive Officer in accordance with Schedule 2, Clauses 82, 83 and 84 of the *Planning and Development (Local Planning Schemes) Regulations 2015* in respect of the Town Planning functions of the Council

Policy:

Nil

Delegation to:

Chief Executive Officer

Delegated Powers (including Limits):

The Chief Executive Officer is delegated authority to perform the functions of Council in respect of the following matters:

1.1.1 Development Application Delegations

- (a) Determination of applications for development approval, including applications involving:
 - (i) The variation of Local Planning Scheme provisions or provisions of the Residential Design Codes; or
 - (ii) The exercise of discretion under the Local Planning Scheme, a Local Planning Policy or the Residential Design Codes;
- (b) Refusal of all development applications where the proposed use is not permitted by the Local Planning Scheme or where the development does not comply a mandatory requirement of the Local Planning Scheme, or with the non-discretionary provisions of the Residential Design Codes;
- (c) Determine requests to amend or cancel a development approval or to extend development approval for up to two (2) years;
- (d) Deletion or modification of conditions of approval, whether imposed under delegated authority or not subject to compliance of Council's Planning objectives;
- (e) Determination of applications for the relocation of building envelopes.

Limits to Development Application Delegations

With the exception of delegated power 2.1.1(b), all applications will be submitted to a meeting of Council for determination in the following circumstances:

- (a) Where the delegated decision would be contrary to the intent of a previous decision made at a Council meeting, or any law or regulation;

- (b) Where written objection is received to the proposal from any statutory agency;
- (c) Where the proposal is inconsistent with the general objectives and/or intent of a Local Planning Policy, approved Structure Plan or the discretionary provisions of the Local Planning Scheme;
- (d) 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 Local Planning Policy and written objections have been received within the time specified, unless in the opinion of the Chief Executive Officer:
 - (i) the proposal is for exercise of discretion under the R-Codes and is consistent with the objectives and/or intent of the Local Planning Scheme, Residential Design Codes and any relevant Local Planning Policy; and
 - (ii) the objections can be overcome by imposing a condition(s) on the development approval, or modifying the design of the development; or
 - (iii) the objection does not relate to valid planning and development issues associated with the proposal.
- (e) Where, in the opinion of the Chief Executive Officer:
 - (i) any of the requirements of this delegation are not satisfied; or
 - (ii) there is insufficient certainty as to whether the application complies with the intent of the Local Planning Scheme, Residential Design Codes or any relevant Local Planning Policy; or
 - (iii) it would be in the public interest or consistent with the principles of administrative accountability for Council to determine the application; or
 - (iv) the decision involves a matter of principle which, in the opinion of the Chief Executive Officer, should be made by the Council; or
 - (v) a condition recommended by a statutory agency is unnecessary or impractical, or unreasonable to be enforced by the Shire of York.

1.1.2 Subdivision Application Delegations

Making recommendations to the Western Australian Planning Commission on:

- (a) applications for subdivision or amalgamation of land;
- (b) minor variations to approved subdivisions;
- (c) clearance of conditions of subdivision approval.

Limits to Subdivision Application Delegations

Applications are required to be submitted to Council for consideration where the proposed subdivision will result in the creation of 20 lots or more and/or the application is inconsistent with an approved Structure Plan.

1.1.3 Enforcement, Appeals and Legal Proceedings Delegations

- (a) Provision of written and verbal responses to planning appeals, mediated settlements resulting from appeals and Western Australian Planning Commission requests for reconsideration;
- (b) Taking action against owners or occupiers of properties to cease illegal uses or comply with conditions of Development Approval, including the issuance of a written direction pursuant to Section 214 of the *Planning and Development Act 2005*;
- (c) Obtaining legal advice where necessary to assist in the performance of these delegations.

Limits to Enforcement, Appeals and Legal Proceeding Delegations

The following matters are required to be referred to Council for determination:

- (a) Whether to commence prosecution action through the Council's solicitors;
- (b) Whether to apply for an injunction to the Supreme Court under Section 216 of the *Planning and Development Act 2005*;
- (c) The obtainment of urgent legal advice where that advice would exceed \$5000 and there are no specific funds allocated within the budget or funds allocated by a resolution of Council;
- (d) The determination of a position with respect to any mediation process resulting from an appeal against a decision on a proposal that was previously referred to Council.

1.1.4 Structure Plan Delegations

- (a) Formation of the opinion that a Structure Plan or amendment to a Structure Plan contains sufficient information for the purposes of advertising;
- (b) Making recommendations to the Western Australian Planning Commission on amendments to Structure Plans after being advertised for public comment.

Limits to Structure Plan Delegations

The exercise of this delegation is conditional on the following:

- (a) Prior to the commencement of the advertising of any new Structure Plan, or amendment thereto, elected members must be notified of the proposal in writing advising the dates when the public comment period will start and finish, the means by which the proposal will be advertised and each elected member provided with copies of relevant plans and information relating to the proposal;
- (b) All new Structure Plans are to be referred to Council after being advertised for public comment;
- (c) Any recommendation of a Structure Plan Amendment pursuant to Clause 20(2) of the deemed provisions may be determined by the Chief Executive Officer, after being advertised for public comment provided that:
 - i) Any objection received does not, in the opinion of the Chief Executive Officer, raise

relevant planning considerations;

- ii) Elected members are notified in writing of the Chief Executive Officer's intention to do so and provided a copy of submissions and Administration's recommendations in respect of those submissions;
- iii) Elected members are provided with five working days in which to request that the proposal be referred to Council for determination; and
- iv) The recommendation does not include any modifications to the advertised Structure Plan Amendment.

1.1.5 Local Development Plan Delegations

- (a) Determine that a Local Development Plan is required and to seek the approval of the Western Australian Planning Commission for the preparation of a Local Development Plan.
- (b) Formulate the opinion that a Local Development Plan or amendment to a Local Development Plan is suitable for the purposes of advertising.
- (c) Determine that a Local Development Plan or amendment to a Local Development Plan is not required to be advertised for public comment where they are of:
 - i) Of a minor nature;
 - ii) Consistent with the intent of the zone and the objectives of the Local Planning Scheme; and
 - iii) Unlikely to have a material detrimental effect on the amenity of the locality or any owner or occupier or land in the locality.
- (d) Determine a Local Development Plan or an amendment to a Local Development Plan after advertising.
- (e) Endorse and arrange for the publication of Local Development Plans, pursuant to the deemed provisions.

Limits to Local Development Plan Delegations

The exercise of this delegation is conditional on the following:

- (a) Prior to the commencement of the advertising of any new Local Development Plan, or amendment thereto, elected members must be notified of the proposal in writing advising the dates when the public comment period will start and finish, the means by which the proposal will be advertised and each elected member provided with copies of relevant plans and information relating to the proposal;
- (b) A Local Development Plan or amendment thereto may be determined by the Chief Executive Officer, after being advertised for public comment provided that:

- i) Any objection received does not, in the opinion of the Chief Executive Officer, raise relevant planning considerations;
- ii) Elected members are notified in writing of the Chief Executive Officer's intention to do so and provided a copy of submissions and Administration's recommendations in respect of those submissions;
- iii) Elected members are provided with five working days in which to request that the proposal be referred to Council for determination.
- iv) The determination will not result in a refusal of or require modifications to a Local Development Plan or amendment to a Local Development Plan after advertising.

1.1.6 Miscellaneous

- (a) Formation of any opinion and consideration of any matter in the exercise of these delegated powers that would be required of Council under the Local Planning Scheme, including, but not limited to, sufficient information required for the processing of proposals (including development applications, structure plans, local development plans), referral and advertising of such proposals, and interpretation of Local Planning Scheme provisions, relevant Planning Policies and provisions of the Residential Design Codes.
- (b) The execution of any documents or instruments required to fulfill a condition(s) of subdivision or development approval.

Limits to Miscellaneous Delegations

This exercise of delegated authority is conditional upon:

- a) Prior to the commencement of advertising of any proposal, elected members must be notified of the proposal in writing advising the dates when the public comment period will start and finish, the means by which the proposal will be advertised and each Elected Member provided with copies of relevant plans and information relating to the proposal.
- b) Any application is to be referred to Council for determination if one or more elected members requests such referral by written request to the Chief Executive Officer within ten working days of the commencement of advertising.
- c) A report being forwarded to Council every month detailing the number of proposals determined under delegated authority within that period, the type of proposal and the decision made on each proposal.

Chief Executive Officer Delegates to:

The Chief Executive Officer may sub-delegate this approval to the appropriate officer e.g. Planning Officer.

Power or Duty delegated by Chief Executive Officer:

N/A

Reporting Requirements:

Reporting requirements are detailed in the body of the delegation.

Financial Interest Return Required: Yes

Details of Review:

Date of Meeting 22 April 2003

Endorsed Reviewed May 2004

Endorsed 19 July 2004

Reviewed & Amended July 2005

Endorsed 18 July 2005

Amended & Endorsed 23 January 2006

Endorsed 18 June 2007

Reviewed - 24 October 2016 (replaces DE5)