



SHIRE OF YORK

DELEGATION MANUAL

Updated 2011

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DE1 Authority to Make Payments from Trust and Municipal Funds

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

5.43. Limits on Delegations to CEO's

That the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: To make payments on behalf of the Shire of York from the municipal fund and trust fund accounts.

GUIDELINES OR CONDITIONS:

1. All authorities for payment are to be countersigned by the Chief Executive Officer or the Deputy Chief Executive Officer and one of the following authorised officers:
 - Manager – Environmental Health Officer
 - Manager – Planning Services
 - Finance Officer - Administration
 - Finance Officer – Project Manager
2. The full meeting of the Council will be presented with the list of EFT payments made during the previous month, which are to be recorded in the minutes of the meeting at which it is presented, and is to include:

Payee's name
Amount of payment
Date of the payment
Sufficient information to identify the transaction
3. Access to the electronic funds transfer software passwords and encryption information is restricted to the following council officers:
 - Chief Executive Officer
 - Deputy Chief Executive Officer
 - Administration Officer – Rates
 - Administration Officer – Payroll
 - Finance Officer - Administration

- Finance Office – Project Officer

4. Make payment by Cheque or Electronic Fund Transfer (EFT) from the Trust and Municipal Funds subject to the following conditions:
 - a. That an EFT payments relating to payroll be authorised by at least two officers, with one authorising officer, being either the Chief Executive Officer or Deputy Chief Executive Officer.
 - b. In relation to (1) above, one officer must be the Chief Executive Officer and Deputy Chief Executive Officer.
 - c. That EFT payments other than payroll, be authorised by two officers, with at least one being a signatory to Council cheques.

DE2 Power to Speak on Behalf of Local Government

Legislation

Local Government Act 1995

5.41. Functions of CEO

TO: Chief Executive Officer

DELEGATIONS: The power to speak on behalf of the local government.

GUIDELINES OR CONDITIONS:

Nil.

DE3 Approval and Refusal of Building Licences

Legislation

Local Government (Miscellaneous Provisions) Act 1960

374(1b) Plans of buildings to be approved by local government

The Council resolved that the following delegations be approved:

TO: The person(s) appointed to the office of Building Surveyor or as previously approved by Council resolution as Building Surveyors and the Manager Environmental Health and Building Services.

DELEGATIONS: Approval or refusal of building licences issued pursuant to the Local Government (Miscellaneous Provisions) Act 1960.

GUIDELINES OR CONDITIONS:

These approvals are limited to those applications in conformity or contravention with the Building Code of Australia, the Building Regulations, Town Planning Scheme No.2, and related Council procedures and guidelines where applicable.

DE4 Appointment of Authorised Officers

Legislation

Local Government Act

5.42. Delegation of Some Powers and Duties to CEO

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The power to appoint authorised officers to carry out the statutory duties of the local government.

GUIDELINES OR CONDITIONS:

The appointment of officers shall be limited to those carrying out the local government duties in respect to the following statutory provisions:

- Local Government Act 1995
- Local Government (Miscellaneous Provisions Act) 1995
- Litter Act

DE5 Approval of Statutory Planning

Legislation

Local Government Act 1995

5.45 Other Matters Relevant to Delegations Under this Division

5.46 Register of, and records relevant to, delegations to CEO's and Employees

Shire of York Town Planning Scheme No. 2

8.2 Delegation

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

That pursuant to the provisions of section 8.2 of the Shire of York Town Planning Scheme No. 2 the Council delegates to the Chief Executive Officer by an absolute majority the following powers.

The Chief Executive Officer may sub delegate this approval to the appropriate officer e.g.: Manager of Planning Services and Planning/Compliance Officer.

Delegation of Authority - Statutory Planning

1.0 Purpose

To specify delegation of authority to the Chief Executive Officer in accordance with the Shire of York Town Planning Scheme No. 2 in respect of the Town Planning functions of the Council.

2.0 Policy

2.1 Delegated Powers

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

- (a) Determination of applications for development approval, including applications involving:
 - (i) The variation of Scheme provisions, Planning Policy or provisions of the Residential Design Codes; or
 - (ii) The exercise of discretion under the Scheme, Planning Policy or the Residential Design Codes;
- (b) Refusal of all development applications where the proposed use is not permitted by the Scheme or where the development does not comply with the non-discretionary provisions of the Residential Design Codes or any mandatory statutory requirement or adopted Council policy;
- (c) Grant an extension of development approval for up to two (2) years;
- (d) Granting variations to relevant Planning Policies and provisions of the Residential Design Codes on Building License applications in accordance with the provisions of Clause 4.6 of the Town Planning Scheme No.2;
- (e) Deletion or modification of conditions of approval, whether imposed under delegated authority or not subject to compliance of Councils Planning objectives;
- (f) Making recommendations to the WA Planning Commission on:
 - applications for subdivision or amalgamation of land;
 - minor variations to approved subdivisions;
 - clearance of conditions of subdivision approval;
- (g) Determination of Applications for the relocation of Building Envelopes except where there is more than one (1) objection from an adjoining owner;
- (h) Adoption of Outline Development Plans and amendments to Outline Development Plans for the purposes of advertising;
- (i) Final adoption of amendments to Outline Development Plans provided that the modification is:

- (i) of a minor nature;
 - (ii) consistent with the intent of the zone and the Scheme; and
 - (iii) unlikely to have a detrimental effect on the amenity of the locality or any owner or occupier of land in the locality;
- (j) Provision of written and verbal responses to planning appeals, mediated settlements resulting from appeals and WA Planning Commission requests for reconsideration;
 - (k) Taking all necessary action against owners or occupiers of properties to cease illegal uses or comply with conditions of Development Approval, including pursuing prosecution through Council's Solicitors; and
 - (l) Formation of any opinion and consideration of any matter in the exercise of these delegated powers that would be required of Council under the Scheme, including, but not limited to, sufficient information required for the processing of applications, referral and advertising of applications, and interpretation of Scheme provisions, relevant Planning Policies and provisions of the Residential Design Codes.
 - (m) Determination of applications in relation to retrospective planning applications subject to no submissions being received.
 - (n) Delegations to include:
 - (i) Bed & Breakfast Facilities
 - (ii) Farmstays
 - (iii) Small outbuildings in a Heritage Area eg: Patios, Carports, Fences, Swimming Pools and Signs etc.
 - (iv) Ancillary Tourist Use
 - (v) Short term accommodation

2.2 Limits to Delegated Powers

With the exception of delegated power 2.1(b) above, 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 intent of the Town Planning Scheme, relevant Policies, Residential Design Codes, or any Outline Development Plan adopted by Council;
- (d) Where notification has been given to adjoining and nearby owners or the general public for comment in accordance with the Town Planning Scheme or any 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 intent of the Town Planning Scheme, Residential Design Codes and any relevant 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 policy are not satisfied; or
 - (ii) There is insufficient certainty as to whether the application complies with the intent of the Scheme, Residential Design Codes or any relevant Council 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.

DE6 Determination of Applications for Installation of Effluent Disposal Systems

Legislation

Health Act 1911

26. Powers of Local Government

The Council resolved that the following delegations be approved:

TO: Environmental Health Officer

DELEGATIONS: The approval of effluent disposal systems pursuant to the provisions of Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.

GUIDELINES OR CONDITIONS:

These approvals are limited to those applications in conformity with the requirements of the regulations and related council procedures and guidelines.

Effluent Disposal systems may only be approved by a local government if they are intended for use by a single dwelling or any other building that produces not more than 250 litres of sewage per day. All other applications are to be made to the Executive Director of Public Health.

DE7 Approval / Refusal of Applications for Advertisements

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

Shire of York Town Planning Scheme No. 2

8.2 Delegation of Functions

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

That pursuant to the provisions of section 8.2 of the Shire of York Town Planning Scheme No. 2 the Council delegates to the Chief Executive Officer by an absolute majority the following powers.

The Chief Executive Officer may sub delegate this approval to the appropriate officer eg: Manager of Planning Services.

DELEGATIONS: Authority to approve/refuse applications for advertisements.

GUIDELINES OR CONDITIONS:

Subject to this delegations being only for exempt signs, as defined under the Shire of York Town Planning Scheme No.2

DE8 Approval of Strata Applications

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

Strata Titles Act 1985

23.4 & 23.5 Certificate of Local Government

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

The Chief Executive Officer may sub delegate this approval to the appropriate officer eg: Manager of Planning Services.

DELEGATIONS: Approve strata title applications subject to the building/s being in compliance with all relevant building and planning controls.

GUIDELINES OR CONDITIONS:

Excludes modifications to existing buildings.

DE9 Approval of Free Hire – Council Facilities

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

5.43. Limits on Delegations to CEO's

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATION: The authority to provide Council owned facilities free of charge to community groups who fulfill the following conditions:

GUIDELINES OR CONDITIONS:

1. Membership

York based organisations;

2. Income

Any income derived from the activity should be directed to a charitable cause or to the ongoing support of the organisation. It is the Council's intention, in providing this discount, that it shall assist a "not for profit" group.

3. Benefit to the community

A benefit to the community shall be deemed to exist where the performance or display shall provide a cultural opportunity to residents of the district, which is not normally satisfied by the existing activities in the town.

4. Cleaning

Community groups shall be responsible for the cleaning of the Town Hall both prior to and after the function to the satisfaction of the Council.

Should the cleaning not meet the Council's satisfaction, then the work will be completed by the Council's contractor and deducted from the bond paid by the community group.

5. Recognition of Sponsorship

The community group granted free access to a Council owned facility should recognise the Council's sponsorship.

6. Bond

The current level of bond, including liquor licence and keys, will apply to all approvals.

DE10 Write off of Debts

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

5.43. Limits on Delegations to CEO's

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: Authority to write off money (not including rates) that is owed to the Council up to the value of \$500.00 per amount owing.

GUIDELINES OR CONDITIONS: Nil.

DE11 Write off of Interest and Penalty Payments

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

5.43. Limits on Delegations to CEO's

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: To write off interest and penalty payments applied to properties, including those relating to deceased estates that accrue during the period prior to probate.

GUIDELINES OR CONDITIONS: Nil.

DE12 Issue of Notices

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

Local Government (Miscellaneous Provisions) Act 1960

374AAB Delegation of authority to approve plans of buildings or unauthorized building work

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: To issue notice under the following sections of the Local Government (Miscellaneous Provisions) Act.

Division 9	Notice of Required Alteration
Division 9a	Unlawful Works
Division 11	Dangerous Buildings

The Chief Executive Officer may sub delegate this approval to the appropriate officer eg: Manager Environmental Health and Building Services, Building Officer.

GUIDELINES OR CONDITIONS: Nil

DE13 Use of Materials – Planning Policy – Restriction on Building Materials

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: Delegated authority be given to the Chief Executive Officer for products that are listed below and exempt persons from the planning policy relating to a restriction on building materials.

GUIDELINES OR CONDITIONS:

Subject to the following conditions:

The dwelling is to be finished externally with a high profile textured coating, such as Dulux Acratex and Solvatex Coarse or an equally approved product that provides the same outward appearance and texture of face or rendered brick work. The finish must be applied prior to occupancy.

The Chief Executive Officer may sub delegate this approval to the appropriate officer e.g. Town Planner, Manager of Administration and Technical Services or Building Officer.

DE14 Health Local Law – Keeping Of Animals

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

Shire of York Health Local Law

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: Delegated authority be given to the Chief Executive Officer 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.

GUIDELINES OR CONDITIONS:

Nil

DE15 Donations or Financial Assistance

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: Council Delegates to the Chief Executive Officer, authority and power to consider applications received for financial assistance and make the appropriate recommendation to Council subject to the following.

GUIDELINES OR CONDITIONS:

A report being prepared for Council consideration.

DE16 Invest Money held in Municipal and Trust Funds

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

Trustees Act 1962 - Part III — Investments

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: Council delegates its authority and power to the Chief Executive Officer, to invest money held in the Municipal or Trust funds that is not required for the time being for any purpose in accordance with part 111 of the Trustees Act 1962 or in an investment approved by the Minister subject to the following conditions.

GUIDELINES OR CONDITIONS:

Transfer surplus funds, not required by the Shire for immediate use, to an appropriate secured investment account/term deposit.

1. The establishment of documented internal control procedures to be followed to ensure control over the investments; and
2. Compliance with Regulation 19(2) Local Government (Financial Management) Regulations and Council Administrative Policy Financial Management Investments.

DE17 Appointment of Authorised Officers – Food Act

Legislation

5.42. Delegation of Some Powers and Duties to CEO

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

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

GUIDELINES OR CONDITIONS:

DE18 Common Seal

Legislation

Local Government Act 1995

- 5.42. Delegation of Some Powers and Duties to CEO
- 2.5. Local governments created as bodies corporate
- 3.62. Constitution and purpose of a regional local government
- 9.49A. Execution of documents

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: Council Delegates its authority to the President and Chief Executive Officer to affix the Common Seal of the Shire of York where required.

GUIDELINES OR CONDITIONS:

It is further noted that in accordance with s9.49 a document is, unless the Act requires otherwise, sufficiently authenticated by a local government without its Common Seal if signed by the CEO or an employee who purports to be authorised by the CEO to so sign.

DE19 Power to Remove & Impound Goods

Legislation

Local Government Act 1995

5.42. Delegation of Some Powers and Duties to CEO

3.39. Power to remove and impound

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: The Chief Executive Officer 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.

GUIDELINES OR CONDITIONS:

The Chief Executive Officer has the following officers for this purpose:

- Engineer – Manager of Works
- Manager – Environmental Health and Building Services
- Environmental Health Officer
- Building Surveyor
- Ranger
- Deputy Chief Executive Officer

DE20 Disposing of Confiscated or Uncollected Goods

Legislation

Local Government Act

- 5.42. Delegation of Some Powers and Duties to CEO
- 5.43 Limits on Delegations to CEO's
- 5.44 CEO may delegate powers and duties to other employees
- 3.47 Disposing of confiscated or uncollected goods
- 3.48 Recovery of impounding expenses

The Council resolved that the following delegations be approved:

TO: The Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to dispose of, in accordance with s3.58 of the Local Government Act 1995, any vehicles, animals or goods that have been impounded/seized/confiscated under the provisions of s3.47 of the Local Government Act 1995.

GUIDELINES OR CONDITIONS:

In disposing said goods by way of auction or after calling public tenders in accordance with Part 4 of the Local Government (Functions and General) Regulations. The Chief Executive Officer is authorised pursuant to s5.43(b) of the Local Government Act 1995 to accept any tender up to the value of \$20,000. Tenders for amounts exceeding \$20,000 shall be referred to the Council for consideration.

The Chief Executive Officer in accordance with s5.44, Division 4 of Part 5 of the Local Government Act has further delegated this task to:

- Engineer – Manager of Works
- Manager – Environmental Health and Building Services
- Deputy Chief Executive Officer

DE21 Approval of Camping Other than at a Caravan Park or Camping Ground

Legislation

Caravan Parks and Camping Grounds Regulations 1997 – Regulation 11

The Council resolved that the following delegations be approved:

TO: Manager Environmental Health and Building Services
Environmental Health Officer

DELEGATIONS: Approval of Camping Other than at a Caravan Park or Camping Ground

GUIDELINES OR CONDITIONS:

Regulation 11 of the Caravan Parks & Camping Grounds Regulations allows the Local Government 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.

The Caravan Parks and Camping Grounds Regulations 1997 (Regulation 6) allow Council to delegate this function to any person **authorised** by the Local Government.

DE22 Certificates of Classification

Legislation

Local Government (Miscellaneous Provisions) 1960

374C Classification of Buildings

Local Government Act 1995

5.44 CEO may delegate powers and duties to other employees

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to issue Certificates of Classification in accordance with Section 374C of the Local Government (Miscellaneous Provisions) Act 1960.

The Chief Executive Officer in exercising authority under Section 5.44 of the Local Government Act, has further delegated this task to:

- Manager – Environmental Health and Building Services
- Manager of Planning Services

GUIDELINES OR CONDITIONS:

DE23 Swimming Pool Inspections

Legislation

Local Government (Miscellaneous Provisions) 1960

2 Constitution and administration of this Act

245A Private swimming pools

Local Government Act 1995

5.42 Delegations of some powers and duties to the CEO

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer, in accordance with the Local Government (Miscellaneous Provisions) Act 1960, s2 and Local Government Act 1995, s5.42, is delegated authority to appoint suitably qualified persons as authorised persons for the purpose of undertaking inspections, and issuing notices and to take such action as is deemed necessary to enforce the provisions of s245 of the Local Miscellaneous Provisions) Act 1960.

For the purposes of s245 of the Local Government (Miscellaneous Provisions) Act 1960, the CEO appoints as said Authorised Persons:

- Manager – Environmental Health and Building Services
- Environmental Health Officer
- Building Surveyor

GUIDELINES OR CONDITIONS:

Contractors may be appointed eg. Royal Lifesaving

DE24 Temporary Closure of Thoroughfares to Vehicles

Legislation

Road Traffic Act 1974

92 Roads may be closed

81D Road closure

Local Government Act 1995

5.42 Delegation of some powers and duties to the CEO

3.50 Closing certain thoroughfares to vehicles

3.50A Partial closure of thoroughfare for repairs or maintenance

Local Government (Functions and General) Regulations – Part 2

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to close any thoroughfare, wholly or partially, for a period of up to 4 weeks and give the necessary notices and take all appropriate actions to temporarily close any thoroughfare under its management for any period exceeding 4 weeks but not exceeding 3 months. The Chief Executive Officer, in exercising this delegated authority, shall observe the requirements of Section 3.50 and 3.50a of the Local Government Act.

The Chief Executive Officer in exercising authority under section 5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

- Deputy Chief Executive Officer
- Engineer – Manager of Works
- Manager – Environmental Health and Building Services

GUIDELINES OR CONDITIONS:

Any proposal to close a thoroughfare for any period exceeding 3 months shall be referred to Council for determination.

DE25 Events on Roads

Legislation

Local Government Act 1995

5.42 Delegation of some powers and duties to the CEO

Road Traffic (Events on Roads) Regulations 1991

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to determine applications for the temporary closure of thoroughfares under its management for the purpose of conducting events in accordance with the Road Traffic (Events on Roads) Regulations 1991. The Chief Executive Officer shall have regard to s3.50 of the Local Government Act 1995 and Council's Local Law.

The Chief Executive Officer in exercising authority under s5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

- Deputy Chief Executive Officer
- Engineer – Manager of Works
- Manager – Environmental Health and Building Services

GUIDELINES OR CONDITIONS:

DE26 Crossovers

Legislation

Local Government Act 1995

5.42 Delegations of some powers and duties to the CEO

Schedule 9.1

Cl 7 Crossing from public thoroughfare to private land or private thoroughfare

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated 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 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 the provisions of Sch 9.1(7) of the Act.

This delegated authority relates to all of the provisions of Local Government (Uniform Local Provisions) Regulations 1996, Regulation numbers 12 to 16 inclusive.

The Chief Executive Officer in exercising authority under s5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

- Deputy Chief Executive Officer
- Engineer - Manager of Works
- Works: Technical Support Officer

GUIDELINES OR CONDITIONS:

DE27 Public Thoroughfares – Fixing or Altering Levels or Alignments or Drainage onto Adjoining Land

Legislation

Local Government Act 1995

5.42 Delegations of some powers and duties to the CEO

5.44 CEO may delegate powers and duties to other employees

3.51 Affected owners to be notified of certain proposals

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to give the required notices as specified in Section 3.51(3) and (4) 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.

Further, the Chief Executive Officer is delegated authority to consider submissions received and proceed with the proposal if no objection is received.

The Chief Executive Officer in exercising authority under section 5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

- Engineer - Manager of Works
- Manager – Planning Services

GUIDELINES OR CONDITIONS:

DE28 Licence to Deposit Materials on or Excavate Adjacent to a Street

Legislation

Local Government Act 1995

5.44 CEO may delegate powers and duties to other employees

Local Government (Miscellaneous Provisions) Act 1960

377 No materials to be deposited on streets without licence

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated the authority to issue licences to deposit materials on a street, way or other public place and to excavate on land abutting or adjoining a street, way or other public place pursuant to Section 377 of the Local Government (Miscellaneous Provisions) Act 1960.

The Chief Executive Officer shall first obtain confirmation from appropriate staff that the proposed activity will not create undue interference with the operation of the street, way or public place. Licences are to be issued subject to the conditions detailed in Section 377 of the Local Government (Miscellaneous Provisions) Act 1960 and such other conditions as considered relevant by the Chief Executive Officer.

The Chief Executive Officer in exercising authority under section 5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

Engineer - Manager of Works

GUIDELINES OR CONDITIONS:

DE29 Insurance – Public Liability Claims

Legislation

Local Government Act 1995

5.42 Delegations of some powers and duties to the CEO

5.44 CEO may delegate powers and duties to other employees

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

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

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.

The Chief Executive Officer in exercising authority under section 5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

- Engineer - Manager of Works
- Deputy Chief Executive Officer
- Manager – Environmental Health and Building Services

GUIDELINES OR CONDITIONS:

DE30 Instruct Legal Action

Legislation

Local Government Act 1995

5.42 Delegations of some powers and duties to the CEO

5.44 CEO may delegate powers and duties to other employees

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to instruct Council's Solicitors to take legal action in respect of any breach, contravention or offence under the Town Planning and Development Act 2005, gazetted Town Planning Schemes, the Local Government (Miscellaneous Provisions) Act 1960 and all subsidiary legislation made under those acts including signing and executing documents on behalf of the Shire.

The Chief Executive Officer in accordance with Section 5.44 of the Local Government Act has further delegated this task to:

Deputy Chief Executive Officer

GUIDELINES OR CONDITIONS:

Delegated authority is only to authorise urgent legal services to the value of \$5,000 subject to:

Specific funds being allocated in the budget or funds being allocated by a resolution of Council.

Staff are not to make contact with legal representatives for advice or input on any matter unless a report has been prepared for the Chief Executive Officer and the content is approved.

DE31 Authority to Issue Section 39 and 40 Certificates

Legislation

Liquor Licensing Act 1988

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The following Officers are delegated to issue Section 39 and 40 Certificates under the Liquor Licensing Act 1988.

Section 39 – Certificate of Local Government:

- Manager – Environmental Health and Building Services
- Environmental Health Officer

Section 40 – Certificate of Local Planning Authority:

- Manager – Planning Services

GUIDELINES OR CONDITIONS:

DE32 Firebreak Order - Variation

Legislation

Bush Fires Act 1954

33 Firebreaks

48 Delegations

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: In accordance with s48(1) of the Bush Fires Act 1954 the CEO is delegated authority to approve or refuse applications to provide firebreaks in alternative positions and to approve or refuse applications to provide alternative fire protection measures on land in consultation with the Chief Bush Fire Control Officer.

GUIDELINES OR CONDITIONS:

s48(3) of the Bush Fires Act 1954 precludes sub delegation from the CEO to others

DE33 Burning, Prohibited (Variations)

Legislation

Bush Fires Act 1954

17 Prohibited burning times may be declared by the Minister

18 Restricted burning times may be declared by Authority

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: That pursuant to Sections 17(10), the Shire President and the Chief Bush Fire Control Officer be delegated **jointly** the Council's powers and duties under the Bush Fires Act 1954, to vary the prohibited burning times and restricted burning times (s17(7)), and give notice of such (s17.8).

GUIDELINES OR CONDITIONS:

Provided that the Officer in Charge of the Department of Environment and Conservation (DEC) is consulted with before the authority under this delegation is exercised in accordance with the provisions of s18 of the Bush Fires Act 1954.

DE34 Offences – Bush Fires Act

Legislation

Bush Fires Act 1954

59 Prosecution of offences

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: In accordance with s59(3) of the Bush Fires Act 1954, the Chief Executive Officer, Deputy Chief Executive Officer and the Engineer – Manager of Works are delegated authority generally to consider allegations of offences alleged to have been committed against the Bush Fires Act within the district and to institute and carry out proceedings in the name of the Shire against any person alleged to have committed any of those offences.

GUIDELINES OR CONDITIONS:

This delegation extends to the issue of infringement notices by authorised Fire Control Officers in accordance with the provisions of s59A of the Act.

DE35 Issuing of Licences, Approvals & Permits – Local Laws

Legislation

Local Government Act 1995

5.44 CEO may delegate powers and duties to other employees

9.10 Appointment of authorised persons

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to determine applications for the issue and or renewal of licenses and permits that are provided for in Council local laws.

The Chief Executive Officer in accordance with Section 5.44, Division 4 of Part 5 of the Local Government Act has further delegated this task to:

- Engineer - Manager of Works
- Manager – Planning Services
- Manager – Environmental Health and Building Services
- Deputy Chief Executive Officer

GUIDELINES OR CONDITIONS:

DE35 Road Trains & Extra Mass Permits

Legislation

Local Government Act 1995

5.42 Delegations of some powers and duties to the CEO

The Council resolved that the following delegations be approved:

TO: Chief Executive Officer

DELEGATIONS: The Chief Executive Officer is delegated authority to determine any application to use road trains and for extra mass permits on any local road within the district recommending approval or refusal, with or without conditions, for referral to Main Roads WA. The Chief Executive Officer shall have regard to any Council policy on the issue that may be established from time to time.

The Chief Executive Officer in exercising authority under s5.44, Division 4 of Part 5 of the Local Government Act 1995, has further delegated this task to:

Engineer – Manager of Works

GUIDELINES OR CONDITIONS:

In accordance with Resolution 030108 – attached.

Roads to be included on the list require Council approval.

“That Council:

- 1. Approve the use of restricted access vehicles on the following roads, subject to strict compliance with the listed conditions and details:**

Type A

<u>Road Number</u>	<u>Road Name</u>	<u>Comments</u>
4330145	Yarra Road	Type A – 60kph
4330078	Corner Well Road	Type A – 60kph
4330038	Cubbine Road	Type A – 60kph
4330063	Moore Road	Type A – 40kph
4330061	Flea Pool Road	Type A – 60kph from Mannavale Road to Wallaby Road

Type B

<u>Road Number</u>	<u>Road Name</u>	<u>Comments</u>
4330047	Williams Road	
4330030	Wallaby Road	
4330037	Badgin Road	
4330036	Quonamining Road	Type B can only enter and exit from York-Tammin Road
4330081	Rickeys Siding	
4330079	Keebles Road	
4330080	Halbert Road	
4330025	Lennard Road	Type B – 40kph
4330061	Flea Pool Road-	Type B – 40kph From Wallaby to end. No right turn from Flea Pool Road to Mannavale Road or left turn from Mannavale Road into Flea Pool Road

- 2. Approve the following conditions for the use of restricted access vehicles on the roads listed in item (1):**

Roads which are classed as Low Volume (with AADT of less than 75VPD) will have the following conditions:

Type A Roads,

- * **A current written approval from Local Government, permitting use of the road, must be carried and produced on demand;**
- * **Operation only during day light hours;**
- * **Headlights to be switched on at all times;**
- * **No operation on unsealed road segment when visibly wet;**
- * **School bus curfews, as specified in the local government approval letter, must be observed;**
- * **Direct radio contact must be maintained with other RAV's to establish their position on or near the road (suggest UHF Ch40);**
- * **A speed limitation of either 40, 60 or 80km/h**

Type B Roads will have the additional conditions:

- * **Single lane road. Road not to be entered until driver has established by radio contact that there is no other RAV on the road travelling in the oncoming direction;**
- * **A speed limitation of 40km/h”**