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## MINUTES

### Shire of Wandering Council Meeting 15 September 2022

#### OUR VISION

*Wandering is a community of responsible, resilient and adaptable residents thriving in our scenic, economically diverse environment.*

*These Minutes of the Council meeting held 15 September 2022 are confirmed as a true and correct record of proceedings without amendment. Confirmed on 15 September 2022 by the Presiding Member, Cr I Turton.*

  
.....  
Cr Turton Presiding Member

15/9/2022

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The purpose of this council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or limitation of approval made by a member or officer of the Shire of Wandering during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Wandering. The Shire of Wandering warns that anyone who has an application lodged with the Shire of Wandering must obtain and only should rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Wandering in respect of the application.

Persons should be aware that the provisions of the Local Government Act 1995 (section 5.25 (e)) establish procedures for revocation or rescission of a Council decision.

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Alan Hart  
Chief Executive Officer

# SHIRE OF WANDERING

Minutes of the Ordinary Meeting of Council held in the Council Chambers on Thursday 15 September 2022 – commencing at 3.30pm.

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**1. Declaration of Opening / Announcements of Visitors**

The Presiding Member declared the meeting open at 4.15pm and wished to recognise the passing of the Queen and the ascension of the King and hoped his time is peaceful and wishes him every success for the future.

**2. Attendance / Apologies / Approved Leave of Absence**

**Councillors**

Cr Ian Turton (Shire President)  
Cr Paul Treasure (Deputy Shire President)  
Cr Graeme Parsons  
Cr Max Watts  
Cr Sheryl Little  
Cr Gillian Hansen

**Staff**

Alan Hart (Chief Executive Officer)  
Barry Gibbs (Executive Manager Technical Services)

**Apologies**

Bradley Hunt (Works Manager)

**Members of the Public**

Helen Herbert, President, Wandering Campout Weekend Committee (4.15pm – 4.25pm)

**3. Announcements by the Presiding Member**

Nil.

**4. Response to Previous Public Questions Taken on Notice**

Nil.

**5. Public Question Time**

No members of the public were present.

**6. Petitions / Deputations / Presentations / Submissions**

Helen Herbert, President of the Wandering Camp Out Weekend Committee attended to discuss the upcoming item on the agenda. Helen departed the meeting at 4.25pm and did not return.

**7. Applications for Leave of Absence**

Nil.

**8. Disclosures of Interest**

Nil

## **9. Confirmation of Minutes of Previous Meetings Held**

### **9.1 Ordinary Council Meeting Minutes – 18 August 2022**

#### **Statutory Environment:**

Section 5.22 of the *Local Government Act* provides that minutes of all meeting to be kept and submitted to the next ordinary meeting of the Council or the committee, as the case requires, for confirmation.

#### **Voting Requirements:**

Simple Majority

**010922 Moved: Cr S Little Seconded: Cr G Parsons**

#### **Recommendation and Council Decision:**

**That the Minutes of the Ordinary Meeting of Council held on 18 August 2022 be confirmed as true and correct.**

**Carried 6/0**

### **9.2 Special Council Meeting Minutes – 31 August 2022**

#### **Statutory Environment:**

Section 5.22 of the *Local Government Act* provides that minutes of all meeting to be kept and submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.

#### **Voting Requirements:**

Simple Majority

**020922 Moved: Cr P Treasure Seconded: Cr M Watts**

#### **Recommendation and Council Decision:**

**That the Minutes of the Special Meeting of Council held on 31 August 2022 be confirmed as true and correct.**

**Carried 6/0**

## **10. Reports of Committees of Council**

Nil



## **11. Reports from Councillors**

### **Cr Ian Turton (President)**

Central Country Zone Meeting

- new President Lee Ballard, Shire of Narrogin
- Main Roads Wickopin will focus on Wheatbelt South Freight Network

### **Cr Paul Treasure (Deputy President)**

Nil

### **Cr Graeme Parsons**

Nil

### **Cr Max Watts**

Nil

### **Cr Gillian Hansen**

Nil

### **Cr Sheryl Little**

Virtual Village – lots of activity

Araluen day trip

VRBLS day a study of effectiveness and feedback to Federal Government on funding, keep promoting it through Echo etc.

## **12. Chief Executive Officer**

### **12.1 Committees of Council**

<b>File Reference:</b>	<b>04.041.04112</b>
<b>Location:</b>	<b>N/A</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Lisa Boddy, Customer Service Coordinator</b>
<b>Authorising Officer</b>	<b>Alan Hart, Chief Executive Officer</b>
<b>Date:</b>	<b>5 September 2022</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Nil</b>
<b>Previous Reference:</b>	<b>Item 4.3 Ordinary Council Meeting 21 October 2021</b>

#### **Summary:**

With the resignation of Cr Gary Curtis, Council is requested to review the appointment of Elected Members to the External committees that Cr Curtis was a member of.

#### **Background:**

At the October 2021 Ordinary Council Meeting Council agreed to the following appointments:

#### **STANDING COMMITTEES OF COUNCIL**

<b>Audit Committee</b>	<b>All Elected Members</b>
------------------------	----------------------------

#### **OTHER COMMITTEES**

<b>Committee</b>	<b>Meeting Schedule</b>	<b>Delegate 1</b>	<b>Delegate 2</b>	<b>Proxy</b>
Central Wheatbelt WALGA Zone	Bi-monthly	Cr Turton	Cr Treasure	As required
Regional Road Group	Quarterly	Cr Parsons	Cr Turton	As required
Secondary Freight Routes Group	As required	Cr Turton	Cr Parsons	As required
HWEDA – transitioning into Marradong VROC	Quarterly	Cr Watts	Cr Hansen	As required
Bush Fire Advisory Committee	Twice yearly	Cr Parsons	Cr Curtis	As required
Development Assessment Panel (DAP)	As required	As required		
Peel Harvey Catchment Council	Bi-monthly	Cr Hansen	Cr Watts	
LEMC	Bi Monthly	Cr Curtis	Cr Treasure	As required
Worsley Alumina Community Liaison Committee	Quarterly	Cr Watts	Cr Hansen	
Newmont Goldcorp Boddington Community Reference Group	Quarterly	Cr Treasure	Cr Watts	
Community Centre Redevelopment Working Group	As Required	Cr Curtis	Cr Treasure	As required

At the June 2022 Ordinary Council Meeting Cr Gary Curtis was appointed to the Wandering Community Centre Upgrade Committee (formerly the Community Centre Redevelopment Working Group).

**Comment:**

Council requires to appoint Elected Members to those committees that had Cr Curtis representing the Shire. The term of the appointment is until October 2023.

**Consultation:**

Nil.

**Statutory Environment:**

*Local Government Act 1995*

**Policy Implications:**

There are no current policy implications.

**Financial Implications:**

There are no financial implications.

**Strategic Implications:**

**Provide Strong Leadership**

Our Goals	Our Strategies
A well informed Community	Foster Opportunities for connectivity between Council and the Community
We plan for the future and are strategically focused	Ensure accountable, ethical and best practice governance

**Sustainability Implications:**

- **Environmental:** There are no known significant environmental considerations.
- **Economic:** There are no known significant economic considerations.
- **Social:** There are no known significant social considerations.

**Risk Implications:**

Nil.

**Voting Requirements:**

Simple majority

030922 Moved: Cr M Watts Seconded: Cr P Treasure

**Recommendation and Council Decision:**

That Council endorses the appointments listed below:

**OTHER COMMITTEES**

Committee	Meeting Schedule	Delegate 1	Delegate 2	Proxy
Bush Fire Advisory Committee	Twice yearly	Cr Parsons	Cr Hansen	
LEMC	Bi Monthly	Cr Treasure	Cr Turton	
Wandering Community Centre Upgrade Committee	As Required	Cr Hansen	N/A	
Peel Harvey Catchment Council	Bi-monthly	Cr Hansen	Cr Watts	

Carried 6/0

## 12.2 Shire of Wandering Policy Manual Review

<b>File Reference:</b>	11.111.11101
<b>Location:</b>	N/A
<b>Applicant:</b>	N/A
<b>Author:</b>	Lisa Boddy, Customer Service Coordinator
<b>Authorising Officer</b>	Alan Hart, Chief Executive Officer
<b>Date:</b>	31 August 2022
<b>Disclosure of Interest:</b>	Nil
<b>Attachments:</b>	Policy 22 – Use of Common Seal Policy 51 – Crossovers Policy 31 – Amending Policies (for reference)
<b>Previous Reference:</b>	Item 12.1 Ordinary Council Meeting 18 August 2022

### Summary:

To begin the process of reviewing all Council policies to ensure they are still relevant and correct for the day to day workings of the Shire.

### Background:

At the Ordinary Council Meeting held on 18 August 2022 Council resolved to adopt Policy 83 – Policy Manual which states that:

***All policies within the Policy Manual are to be reviewed by Council every three years, being one third of Council's policies each year in a three year period. Council may review an individual policy at any time before the next review date if it determines it to be necessary.***

As there are currently 83 policies of the Shire it is proposed that each month two to three policies are reviewed by Council, this will ensure that all policies are reviewed in the stated three year period.

### Comment:

Two policies are to be reviewed this month:

Policy 22 - Use of Common Seal

Policy 51 - Crossovers

These policies were presented to the General Planning Forum on the 1<sup>st</sup> September 2022 and no amendments were made at the meeting. The policies remain unchanged.

Policy 31 'Amending Policies' has been included as a reference to guide the review process.

### Consultation:

Chief Executive Officer

Elected Members

### Statutory Environment:

Local Government Act 1995 S.2.7(2)(b)

### Policy Implications:

As reviewed.

### Financial Implications:

Nil.

**Strategic Implications:  
Provide Strong Leadership**

Our Goals	Our Strategies
A well informed Community	Foster Opportunities for connectivity between Council and the Community
We plan for the future and are strategically focused	Ensure accountable, ethical and best practice governance Service Level Plans detail operational roles, responsibilities and resources.

**Sustainability Implications:**

- **Environmental:** There are no known significant environmental considerations.
- **Economic:** There are no known significant economic considerations.
- **Social:** There are no known significant social considerations.

**Risk Implications:**

Not regularly updating the Shire’s Policy manual poses a reputable risk with a medium risk rating. In order to maintain transparency and to facilitate appropriate decision making processes, it is imperative that policy statements reflect the current position of Council and work practices at the Shire as well as best practice approaches.

**Voting Requirements:**

Simple Majority

**040922 Moved: Cr M Watts Seconded: Cr G Hansen**

**Recommendation and Council Decision:**

**That Council adopts the following policies with any amendments made.**

- **Policy 22 - Use of Common Seal**
- **Policy 51 - Crossovers**

**Carried 6/0**

**POLICY TYPE:** GOVERNANCE AND COUNCIL MEMBERS

**DATE ADOPTED:** 18/07/2019

**POLICY NO:** 22

**DATE LAST REVIEWED:** 17/09/2020  
16/09/2021

**LEGAL (PARENT):** S9.49A Local Government Act 1995

**LEGAL (SUBSIDIARY):**

**DELEGATION OF AUTHORITY APPLICABLE:** Yes

**DELEGATION NO.** 05

**ADOPTED POLICY**

**TITLE:** Use of Common Seal

**OBJECTIVE:**

- To establish the circumstances under which the official Council Common Seal may be affixed to documents.
- The application of this policy is to be by Council members and the CEO and any legislative requirements of the Local Government Act 1995 that may be enforced.

**POLICY STATEMENT**

**1. AFFIXING THE COMMON SEAL**

The *Local Government Act 1995 s9.49A* specifies the circumstances and conditions for affixing the Common Seal.

**2. DOCUMENTS REQUIRING THE COMMON SEAL TO BE AFFIXED**

The Common Seal is to be affixed only to documents required by Legislation to be executed using the Common Seal e.g., *Transfer of Land Act 1893*.

**3. PROCEDURES FOR THE USE OF THE COMMON SEAL**

The Chief Executive Officer is responsible for the security and proper use of the Common Seal.

**4. WORDING OF THE COMMON SEAL CLAUSE**

If the legislation is silent on the wording of the Common Seal clause then the following shall apply: Example - Where the Common Seal is Affixed by Resolution of Council

**DATED:** 20\_

**The Common Seal of the Shire of [name] was affixed by authority of a resolution of the Council in the presence of:**

**[INSERT NAME OF PRESIDENT]**

**PRESIDENT**

**[INSERT NAME OF CEO]**

**CHIEF EXECUTIVE OFFICER**

**5. COMMON SEAL REGISTER**

Entries in the register are to indicate;

- (a) The document to which the seal was affixed;
- (b) The date the seal was affixed;
- (c) The people who have attested to the seal being affixed to the document;
- (d) The date on which the Council resolved to make the decision or enter into the contract to which the document relates; and the date on which the Council resolved to grant authorisation for the seal to be affixed to the relevant document

**6. SECURITY OF THE COMMON SEAL**

The CEO is to make appropriate arrangements for:

- (a) Keeping the seal in a safe and secure location; and
- (b) The appointment of a person who is to have custody of the seal.



<b>POLICY TYPE:</b>	<b>COMMUNITY</b>
<b>DATE ADOPTED:</b>	18/07/2019

<b>POLICY NO:</b>	<b>51</b>
<b>DATE LAST REVIEWED:</b>	17/09/2020 15/10/2020 16/09/2021

<b>LEGAL (PARENT):</b>	<i>Local Government Act 1995</i>
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<b>LEGAL (SUBSIDIARY):</b>	
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<b>DELEGATION OF AUTHORITY APPLICABLE:</b>	
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<b>DELEGATION No.</b>	
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<b>ADOPTED POLICY</b>	
<b>TITLE:</b>	Crossovers
<b>OBJECTIVE:</b>	<ul style="list-style-type: none"> <li>To ensure consistency for landholders when looking to provide access to their property from a Shire road</li> </ul>

**POLICY STATEMENT**

The Shire of Wandering will provide one minimum width gravel crossover to each property free of charge as follows:

- Residential – 3.0m
- Rural Residential – 4.0m
- Rural – 6.0m

For the purposes of this policy, “each property” shall mean all the land described on a single rates assessment. Any additional crossovers required by the landholder shall be at their cost.

Damage: If the Shire damages a constructed crossover, it shall replace the damaged crossover with like for like construction at no cost to the landholder.

**POLICY TYPE:** GOVERNANCE AND COUNCIL MEMBERS

**DATE ADOPTED:** 18/07/2019

**POLICY NO:** 31

**DATE LAST REVIEWED:** 17/09/2020  
16/09/2021

**LEGAL (PARENT):** Local Government Act 1995

**LEGAL (SUBSIDIARY):**

**DELEGATION OF AUTHORITY APPLICABLE:**

**DELEGATION NO.**

**ADOPTED POLICY**

**TITLE:** Policies – process for adopting, amending or repealing

**OBJECTIVE:** • To establish a process for the introduction, amendment or repealing of a council policy

**POLICY STATEMENT**

The Shire of Wandering recognises the importance of maintaining this Policy Manual as a contemporary and relevant, appropriate document to guide the Council, administration and community.

Prior to introducing, amending or repealing a policy of Council, the proposal will go through the following process:

- (a) Comparisons with other Local Governments.
- (b) Likely effect on the residents - consultation if necessary.
- (c) Cost impact.
- (d) Need to include a sunset clause?
- (e) Legal implications.

All recommendations affecting policy must be made available to Council prior to the relevant Council Meeting and may not be introduced as a late item.

**12.3 Delegations Review**

<b>File Reference:</b>	<b>04.041.04111</b>
<b>Location:</b>	<b>N/A</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Lisa Boddy, Customer Service Coordinator</b>
<b>Authorising Officer</b>	<b>Alan Hart, Chief Executive Officer</b>
<b>Date:</b>	<b>31 August 2022</b>
<b>Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Delegations Register</b>
<b>Previous Reference:</b>	<b>Item 12.2 Ordinary Council Meeting 16 June 2022</b>

**Summary:**

To review the Shire of Wandering Delegations Manual in accordance with statutory requirements.

**Background:**

All delegations made under the Act must be made by absolute majority and recorded in a register. Sections 5.18 and 5.46 of the Act require that at least once every financial year, delegations are to be reviewed. Council undertook its last annual review of delegations in September 2021.

**Comment:**

The annual review of delegations by Council is a statutory requirement and is also necessary to ensure the delegations remain consistent with legislation and applicable to the Shire’s current operational needs.

All delegations were presented to Council at the General Planning Forum on 1 September 2022 for discussion.

The recommendation to Council is the delegations remain unchanged from the last review.

**Consultation:**

Shire President  
Councillors  
Chief Executive Officer

**Statutory Environment:**

*Local Government Act 1995 S.2.7(2)(b)*

**Policy Implications:**

Nil.

**Financial Implications:**

Nil.

**Strategic Implications:**

**Provide Strong Leadership**

<b>Our Goals</b>	<b>Our Strategies</b>
We plan for the future and are strategically focused	Ensure accountable, ethical and best practice governance

**Sustainability Implications:**

- **Environmental:** There are no known significant environmental considerations.
- **Economic:** There are no known significant economic considerations.
- **Social:** There are no known significant social considerations.

**Risk Implications:**

Not regularly updating the Shire's Delegations poses a compliance risk with a medium rating. Failure to adequately review the Register of Delegations will result in non-compliance with the Local Government Act and could also lead to inefficient practices.

**Voting Requirements:**

Absolute Majority

**050922**      **Moved:**      **Cr G Hansen**      **Seconded: Cr S Little**

**Recommendation and Council Decision:**

**That Council endorses the Delegations Register as attached, with any amendments made.**

**Carried 6/0**

**SHIRE OF WANDERING**

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**Register of:  
Delegations,  
Sub-delegations,  
Appointments,  
and  
Authorisations**

*Adopted by Council 15/08/2019*

*Revised 16/04/2020*

*Reviewed: 17/09/2020*

*Reviewed: 15/07/2021*

*Reviewed: 16/09/2021*

*Reviewed 08/09/2022*



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### **Delegations Deleted 16/09/2021:**

Delegation No.	Heading	Amendments
04	Duplication of Services	Delete
07	Local Government Elections	Delete
09	Tenders and Expressions of Interest	Delete
10	Disposal of Property, Plant & Equipment	Delete
11	Information available to the Public	Delete
13	Expenditure in the event of an Emergency	Delete
16	Crown Reserves & Street Names (Council preference for dealing with such matters)	Delete
18	Rates Issues – General Delegation	Delete
20	Reimbursement of Expenses to Shire President & Council Members.	Delete
53	Building Site Refuse Disposal Bond (Policy 68 Deleted)	Delete



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# 1. INTRODUCTION

## FORMAT OF REGISTER

This Register includes:

- Delegations from the Council to the Chief Executive Officer, and where appropriate to other employees or other persons; and
- Sub delegations from the Chief Executive Officer to other employees or other persons
- Authorisations made by the Council or the Chief Executive Officer
- Appointments made by the Council or the Chief Executive Officer, or as of right by virtue of legislation

The Register includes the relevant delegation decision followed by a sub delegation decision (where relevant).

The Register includes instruments of sub delegation, authorisation and appointment by the Chief Executive Officer, which do not need to be adopted/approved by Council. They are included to reflect a “one stop shop” approach.

## TERMINOLOGY AND ACRONYMS

Clause – of the Shire of Wandering Town Planning Scheme No 3 referenced by ‘cl’, as in cl8.2.1.

Employee – refers to an employee of the Shire of Wandering. It should be noted although the Chief Executive Officer may generally only delegate a function or duty to an employee (s5.44 Local Government Act 1995 and others), any ‘person’ may be appointed an Authorised Person (although some Acts, such as the Building Act 2011 and Health Act 1911 require only employees or certain qualified employees to be ‘authorised’ or ‘appointed’). Thus, care needs to be taken to ensure that contractors are not ‘delegated’ functions or duties, although they may be appointed as Authorised Persons.

Regulation – subordinate legislation, referenced by ‘r’, as in r22.

Schedule – to an Act, referenced as ‘Sch’, as in Sch 3.2.

Section – of an Act, referenced by ‘s’, as in s5.42.

Sub delegation – the terms ‘sub delegate’ and ‘sub delegation’ are used as a style preference, rather than ‘on delegate’ or ‘on delegation’.

## DELEGATIONS AND SUB DELEGATIONS

The application of delegated authority is intended to improve the efficiency, effectiveness and timeliness of decision making and is consistent with the Shire’s Strategic Community Plan and commitment to a strong customer service focus.

The use of delegated and sub delegated authority does not ‘undermine’ the roles and responsibilities of elected members constituting the Council as the peak local decision-making body of the community. Rather it should free up the Council from some matters to better able to deal with high level strategic matters and in the knowledge that decision making on the former will be made by employees consistent with Council Policy and precedents.

The Council (and the Chief Executive Officer in the case of most sub delegations) will only delegate matters where the relevant employees (or other persons) have the appropriate skills and expertise to implement the delegation/sub delegation or authorisation within the Shire’s decision-making frameworks. At the same time the exercise of all delegated and sub delegated authority, as well as

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authorisations is subject to complying with relevant Policies of the Shire, which are cross referenced within each Instrument.

An important safeguard is also the principle that nothing prevents the delegating body or person from taking back a delegation or sub delegation or making the relevant decision on an issue.

This Register describes:

- the 'head of power' for the exercise of delegation to an elected member, employee, Committee or person,
- the 'head of power' for sub delegation (where such authority exists under the relevant legislation),
- the precise authority being delegated, including any limits, restrictions or conditions,
- relevant Shire policies applicable to the execution of the delegation or sub delegation,
- the statutory requirements for the Council to review all delegations, and others to review sub delegations

In general, for all matters, whether made under the Local Government Act 1995, or otherwise, the requirement of the Local Government Act 1995 to review the Register at least once every financial year will be followed, except where delegations under other Acts have different requirements. Where there is no statutory requirement for review, the provisions of the Local Government Act will be applied to ensure uniformity of approach and outcome.

### AUTHORISATIONS

This Register includes authorisations under the Local Government Act 1995 and other legislation. In most cases, authorisations are made by the Chief Executive Officer under delegated authority. In some cases, authorisations are made by the Council itself because the relevant statute requires.

Some legislation provides for authorisation of Local Government officers to have powers as are necessary 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 s5.45(2) of the Local Government Act 1995.

### APPOINTMENTS

Consistent with the aim of providing a single resource, this Register includes appointments under various statutes, in some cases such appointments are "as of right" and in others the Council or the Chief Executive Officer has chosen not to make an appointment at the date of adoption of this Register.

### LOCAL GOVERNMENT ACT 1995

The majority of delegations and sub delegations described in this Register originate under the Local Government Act 1995 which permits a local government (by absolute majority decision under s5.42(1)) to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act except those listed in s5.43, which are:

- any power or duty that requires a decision of an absolute majority or special majority of the local government,
- accepting a tender which exceeds an amount determined by the local government,
- appointing an auditor,
- acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government,



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- any of the local government's powers under s5.98, 5.98A, s5.99, s5.99A and s5.100 of the Act,
- borrowing money on behalf of the local government,
- hearing or determining an objection of a kind referred to in s9.5 of the Act,
- the power under s9.49A(4) of the Act to authorise a person to sign documents on behalf of the local government,
- any power or duty that requires the approval of the Minister or the Governor.

In addition, there are several other matters which cannot be delegated to the Chief Executive Officer:

- under r18G of the Local Government (Administration) Regulations s7.12a, 7.12A(3)(a) and s7.12(4), which relate to meetings with auditors,
- under r18C and 18D which relate to the recruitment and performance management of the Chief Executive Officer
- under r16 of the Local Government (Financial Management) Regulations which prevent the delegation of matters relating to internal audit to an employee who has been delegated the duty of maintaining the day to day accounts or financial management operations.

The delegation powers under the Local Government Act 1995 relate to the Act itself, Regulations made under the Act and Local Laws made under the Act.

### OTHER LEGISLATION

Legislation other than the Local Government Act 1995, its Regulations and the Shire's Local Laws created under the Act where delegations, authorisations or appointments may occur (and which are relevant to the Shire of Wandering) include:

- Animal Welfare Act 2002;
- Australian Citizenship Act 2007;
- Building Act 2011 and Building Regulations 2012
- Bush Fires Act 1954, regulations and local laws created under that Act;
- Cat Act 2011 and regulations;
- Caravan Parks and Camping Grounds Act 1995;
- Control of Vehicles (Off-Road Areas) Act 1978 and regulations;
- Dog Act 1976 and regulations;
- Equal Employment Opportunity Act 1984;
- Environmental Protection Act 1986;
- Food Act 2008;
- Freedom of Information Act 1992;
- Graffiti Vandalism Act 2016
- Health (Miscellaneous Provisions) Act 1911 regulations and local laws created under that Act;
- Health (Asbestos) Regulations 1992
- Land Administration Act 1997, and regulations;
- Litter Act 1979 and regulations;
- Local Government (Miscellaneous Provisions) Act 1960;

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- Parks and Reserves Act 1895;
- Planning and Development Act 2005 including regulations, policies and the Town Planning Scheme;
- Public Interest Disclosure Act 2003
- Public Health Act 2016
- Rates and Charges (Rebates and Deferments) Act 1982;
- Road Traffic Act 1974;
- Strata Titles Act 1985

The Shire of Wandering Town Planning Scheme No 3 permits delegation by Council to employees (rather than via the Chief Executive Officer as per the Local Government Act). Accordingly, the process defined by the Town Planning Scheme for delegating authority and duties is utilised.

### SUB DELEGATION BY THE CHIEF EXECUTIVE OFFICER

The Local Government Act 1995 allows the Chief Executive Officer to delegate any of the powers delegated to the office of Chief Executive Officer to another employee (s5.44(1)), in writing (s5.44(2)) and may include conditions (s5.44(4)).

### REVIEW OF DELEGATIONS

The Register of Delegations relevant to the Chief Executive Officer and other employees will be reviewed at least once every financial year (in accordance with the provisions of s5.46(1), (2)).

As a matter of principle, the Shire of Wandering will review all delegations, authorisations and appointments at least once in every financial year, whether under the Local Government Act 1995, or another Act. This is despite the varying requirements for review viz:

- Building Act 2011 - no requirement
- Bush Fires Act 1954 - no requirement
- Cat Act 2011 - annual review requirement
- Dog Act 1976 - annual review requirement
- Food Act 2008 - no requirement
- Graffiti Vandalism Act 2016 - no requirement
- Public Health Act 2016 - no requirement
- Planning and Development Act 2005 - annual review requirement

This will include the Chief Executive Officer reviewing all sub delegations, authorisations and appointments made by him or her.

### RECORD OF ACTIONS AND DECISIONS

If a person is exercising a power or duty that has been delegated (including sub delegated), the Local Government Act requires that records be kept whenever the delegated authority is utilised (s5.46(3)).

The record is to contain information on:

- how the person exercised the power or discharged the duty;
- when the person exercised the power or discharged the duty; and



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- 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 (r19 Local Government (Administration) Regulations 1996)

Departments/Sections 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.

Similar provisions do not exist under other legislation regarding record keeping.

The Chief Executive Officer has determined that in relation to all record keeping of the exercise of delegated authority under legislation other than the Local Government Act 1995 that the provisions of the latter will apply and the same record keeping approach as required under the Local Government Act will be applied. These requirements will be applied as an administrative instruction from the Chief Executive Officer.

### PRIMARY/ANNUAL RETURNS AND GIFT DISCLOSURES

A person to whom a duty or power is delegated under the Local Government Act 1995 is a 'designated employee' under s5.74(b) of the Act and is required to:

- disclose relevant interests s5.70 LGA
- complete a Primary Return s5.75 LGA
- complete Annual Returns s5.76 LGA

Although these requirements relate only to delegations under the Local Government Act 1995 and not any other Acts, the Council and the Chief Executive Officer have taken the decision to require compliance with those provisions, even where made under other Acts, to ensure all employees are treated equally in such disclosures.

A delegation has prepared in this Register to give effect to this approach, with the Chief Executive Officer delegated authority to nominate employees as "designated employees".

### ACTING THROUGH ANOTHER PERSON

The Local Government Act recognises that employees do not always need delegations (or sub delegations) to carry out their tasks and functions on behalf of the Shire. s5.45 (2) of the Act states:

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

- a local government from performing any of its functions by acting through a person other than the Chief Executive Officer; or
- a Chief Executive Officer 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. Thus, an employee may pay an account or issue an approval if directed to do so by another employee who has the authority to make such a decision and chooses to 'act through' another employee.

The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

For further information, see Department of Local Government and Communities Guideline No 17 - Delegations.

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## 2. DELEGATIONS BY COUNCIL AND SUB DELEGATIONS BY CEO

Delegation No: 01		Annual Electors' Meeting – Setting Date	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	Cannot be sub delegated
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s5.27(2)</i>	
Conditions	<p><i>Chief Executive Officer must consult the Shire President and reach agreement on the proposed date, or it must be submitted to Council for determination.</i></p> <p><i>A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to set the date for the annual electors' meeting.

### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 03		Appointment of Authorised Officers	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	Cannot be sub delegated
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s9.10(1); s9.11; s9.13; s9.16; s9.17; s9.19; s9.20</i>	
<b>Conditions</b>	<p><i>Appointed Authorised Persons are to hold a Certificate of Appointment in accordance with s9.10(2).</i></p> <p><i>A register of Authorised Persons is to be maintained as a Local Government Record.</i></p> <p><i>Only persons who are appropriately qualified and trained may be appointed as Authorised persons.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to appoint authorised persons for the purposes of Division 2 Sub Division 1 of the Local Government Act 1995.

The Chief Executive Officer is delegated authority to appoint Authorised Persons under s9.10(1), s9.11, s9.13, s9.16, s9.17, s9.19 and s9.20 of the Local Government Act 1995.

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 05		Executing Documents	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 22	SUB-DELEGATED TO:	Cannot be sub delegated
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s9.49</i>	
Conditions	<i>In accordance with s9.49A (3) of the Act, the common seal is to be affixed to a document in the presence of the Shire President and Chief Executive Officer. This duty cannot be delegated.</i>		

### POWER OR DUTY DELEGATED

Pursuant to s5.42 Local Government Act 1995 the Chief Executive Officer is delegated authority to execute documents under s9.49A(2) of the Local Government Act 1995 including:

- The affixing of the Common Seal of the Shire to a document that needs the Shire's Common Seal to be legally effective and that is in one or more of the following categories:
  - (a) Documents required to satisfy conditions of subdivision and/or development approval;
  - (b) Documents required to effect the transfer of land as part of a settlement transaction (sale and purchase);
  - (c) Documents required as part of a funding agreement for an approved grant;
  - (d) Documents required to effect the grant of leasehold interests in the land either by the Shire to a third party, or by a third party to the Shire;
  - (e) Documents required to effect the grant of a licence either by the Shire to a third party, or by a third party to the Shire; and
  - (f) Documents that are necessary or appropriate to enable a Chief Executive Officer to carry out their functions under any written law

### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 06		Gifts to Retiring Councillors	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 6	SUB-DELEGATED TO:	Cannot be sub delegated
POLICY REFERENCE:			
LEGAL (PARENT): POWER TO DELEGATE <i>Local Government Act 1995 s5.42</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED <i>Local Government Act 1995 s5.100A; s5.102</i>	
Conditions	<p><i>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.</i></p> <p><i>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).</i></p> <p><i>Must have regard to Division 8 of Part 5 of the Local Government Act 1995.</i></p> <p><i>The Chief Executive Officer to consult with the Shire President on any proposal for a gift, and if it relates to the Shire President, with the Deputy Shire President.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to decide a gift to retiring Councillors in accordance with s5.100A of the Local Government Act 1995 and r34AC of the Local Government (Administration) Regulations 1996.

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 08		Private Property and Thoroughfares	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	Executive Manager Technical Services
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s3.20 s3.24; s3.25; s3.26(2), (3); s3.27(1); s3.28; s3.31 – s3.36</i> <i>Sch 3.1, 3.2 and 9.1 Local Government Act 1995 Local Government (Uniform Local Provisions) Regulations 1996</i>	
<b>Conditions</b>	<p><i>In relation to s3.32 (1)</i></p> <ul style="list-style-type: none"> <li><i>A notice of an intended entry is to be given to the owner or occupier of the land, premises or thing that is to be entered.</i></li> <li><i>The notice is to specify the purpose for which the entry is required and continues to have effect for so long as that requirement continues.</i></li> <li><i>The notice is to be given not less than 24 hours before the power of entry is exercised.</i></li> <li><i>Successive entries for the purpose specified in the notice are to be regarded as entries to which that notice relates.</i></li> <li><i>Approvals given are subject to regulation 14(2) of the Local Government (Uniform Local Provisions) Regulations 1996 (where relevant).</i></li> </ul> <p><i>In relation to r12, r13, r14, r15, r16, r17 of the Local Government (Uniform Local Provisions) Regulations 1996 due process must be followed for the issuing of a notice under s3.25 of the Act.</i></p> <p><i>Decisions under this Delegation must be exercised in alignment with Obstruction of Footpaths and Thoroughfares (where same exists).</i></p> <p><i>Actions under this Delegation must comply with the procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996.</i></p> <p><i>Delegated authority may only be used, where there is imminent or substantial risk to public safety or property.</i></p> <p><i>Actions under this Delegation must comply with procedural requirements detailed in the <a href="#">Local Government (Uniform Local Provisions) Regulations 1996</a>.</i></p> <p><i>In relation to r.9 Local Government (Uniform Local Provisions) Regulations 1996: Permission to have gate across public thoroughfare – Sch.9.1 cl.5(1) - each approval provided must be recorded in the Shire’s statutory Register of Gates in accordance with Uniform Local Provisions Regulation 8</i></p> <p><i>In relation to r.11(1), (4), (6) &amp; (8) Local Government (Uniform Local Provisions) Regulations 1996: Dangerous excavation in or near public thoroughfare – Sch.9.1 cl.6 - Permission may only be granted where, the proponent has:</i></p> <ul style="list-style-type: none"> <li><i>Where appropriate, obtained written permission from or entered into a legal agreement with, each owner of adjoining or adjacent property which may be impacted by the proposed works.</i></li> </ul>		

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	<ul style="list-style-type: none"><li>• <i>Provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good the public assets at the completion of works.</i></li><li>• <i>Provided evidence of sufficient Public Liability Insurance.</i></li><li>• <i>Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.</i></li><li>• </li></ul>
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### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated:

- the powers and duties of the local government, and specifically authorised under s.3.20, s3.24, s3.25, s3.26(2), (3), s3.27(1), s3.28, s3.31, 3.32, 3.33, 3.34, 3.35 & 3.36 and Sch 3.1,3.2 and 9.1 of the *Local Government Act 1995* in relation to notices requiring certain things to be done by owner or occupier of land and additional powers when notice is given.
- the power to deem an excavation to be dangerous and to fill in or fence the excavation, or request the owner or occupier to fill or securely fence the excavation, subject to Regulation 11(1) of the *Local Government (Uniform Local Provisions) Regulations 1996* and Schedule 3.1, Division 2, item 2:

The Chief Executive Officer is delegated authority to undertake the following pursuant to Schedule 3.1, Division 1 Things a notice may require to be done including:

- Prevent water from dripping or running from a building on the land onto any other land.
- Place in a prominent position on the land a number to indicate the address.
- Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.
- Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law — (a) is suitably enclosed to separate it from the public place; and (b) where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place. (2) The notice cannot be given to an occupier who is not an owner.
- Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly. (2) In this item — “unsightly”, in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality. (3) The notice cannot be given to an occupier who is not an owner.
- Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy. In this item — “disused material” includes disused motor vehicles, old motor vehicle bodies and old machinery.
- Take specified measures for preventing or minimizing sand drifts on the land that are likely to adversely affect other land.
- Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown.
- Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government’s control or management and adjoins the land where the tree is situated.



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- Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.
- Take specified measures for preventing or minimizing— (a) danger to the public; or (b) damage to property, which might result from cyclonic activity.
- Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.
- Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired.
- Take specific measures to prevent — (a) artificial light being emitted from the land; or (b) natural or artificial light being reflected from something on the land, creating a nuisance.
- Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised. (2) In this item — “private thoroughfare” has the same meaning as in Schedule 9.1 clause 7(1) and s3.25(1)(b) of the Local Government Act 1995:
- Schedule 3.1, Division 2 Provisions contraventions of which may lead to a notice requiring things to be done
- Regulations under Schedule 9.1, clause 3 (Obstructing or encroaching on public thoroughfare).
- Regulations under Schedule 9.1, clause 5(1) (Gates and other devices across public thoroughfares) requiring a person to remove a gate or other device from across a public thoroughfare when requested by a local government to do so.
- Regulations under Schedule 9.1, clause 6 (Dangerous excavation in or near public thoroughfare).
- Regulations under Schedule 9.1, clause 7(2) (Crossings from public thoroughfares to private land or to private thoroughfares) that — (a) prohibit a person from constructing a crossing; or (b) by means of a notice in writing given to a person by the Commissioner of Main Roads, require the person to bring a crossing into accordance with an approval by the Commissioner of Main Roads or to remove a crossing and restore the place where it was to its former condition.
- Regulations under Schedule 9.1, clause 8(1) (Constructing private works on, over, or under public places).
- Regulations under Schedule 9.1, clause 9 (Protection of watercourses, drains, tunnels and bridges).
- Regulations under Schedule 9.1, clause 10 (Protection of thoroughfares from water damage).
- Regulations under Schedule 9.1, clause 12 (Wind erosion and sand drifts).
- Grant permission or refuse permission to construct a specified thing on, over, or under a specified public thoroughfare or public place that is local government property [ULP r.17(3)].
- Impose conditions on permission including those prescribed in r.17(5) and (6) [ULP r.17(5)].
- Give Notice re wind erosion and sand drifts – Sch.9.1 cl.12, r.21(1)

### REVIEW REQUIREMENTS

At least once every financial year.

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Sub Delegation No: 08a		Private Property and Thoroughfares	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Executive Manager Technical Services
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.44</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s3.20, s3.24; s3.25; s3.26(2), (3); s3.27(1); s3.28; s3.31 – s3.36</i> <i>Sch 3.1, 3.2 and 9.1 Local Government Act 1995 Local Government (Uniform Local Provisions) Regulations 1996</i>	
<b>Conditions</b>	<p><i>In relation to s3.32 (1)</i></p> <ul style="list-style-type: none"> <li>• A notice of an intended entry is to be given to the owner or occupier of the land, premises or thing that is to be entered.</li> <li>• The notice is to specify the purpose for which the entry is required and continues to have effect for so long as that requirement continues.</li> <li>• The notice is to be given not less than 24 hours before the power of entry is exercised.</li> <li>• Successive entries for the purpose specified in the notice are to be regarded as entries to which that notice relates.</li> <li>• Approvals given are subject to regulation 14(2) of the Local Government (Uniform Local Provisions) Regulations 1996 (where relevant).</li> </ul> <p><i>In relation to r12, r13, r14, r15, r16, r17 of the Local Government (Uniform Local Provisions) Regulations 1996 due process must be followed for the issuing of a notice under s3.25 of the Act.</i></p> <p><i>Decisions under this Delegation must be exercised in alignment with Obstruction of Footpaths and Thoroughfares (where same exists).</i></p> <p><i>Actions under this Delegation must comply with the procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996.</i></p> <p><i>Delegated authority may only be used, where there is imminent or substantial risk to public safety or property.</i></p> <p><i>Actions under this Delegation must comply with procedural requirements detailed in the <a href="#">Local Government (Uniform Local Provisions) Regulations 1996</a>.</i></p> <p><i>In relation to r.9 Local Government (Uniform Local Provisions) Regulations 1996: Permission to have gate across public thoroughfare – Sch.9.1 cl.5(1) - each approval provided must be recorded in the Shire’s statutory Register of Gates in accordance with Uniform Local Provisions Regulation 8</i></p> <p><i>In relation to r.11(1), (4), (6) &amp; (8) Local Government (Uniform Local Provisions) Regulations 1996: Dangerous excavation in or near public thoroughfare – Sch.9.1 cl.6 - Permission may only be granted where, the proponent has:</i></p> <ul style="list-style-type: none"> <li>• Where appropriate, obtained written permission from or entered into a legal agreement with, each owner of adjoining or adjacent property which may be impacted by the proposed works.</li> </ul>		



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- |  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• <i>Provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good the public assets at the completion of works.</i></li> <li>• <i>Provided evidence of sufficient Public Liability Insurance.</i></li> <li>• <i>Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.</i></li> </ul> |
|--|---|

### POWER OR DUTY DELEGATED

The Executive Manager Technical Services is sub delegated:

- the powers and duties of the local government, and specifically authorised under s3.20, 3.24, s3.25, s3.26(2), (3), s3.27(1), s3.28, s3.31, 3.32, 3.33, 3.34, 3.35 & 3.36 and Sch 3.1,3.2 and 9.1 of the *Local Government Act 1995* in relation to notices requiring certain things to be done by owner or occupier of land and additional powers when notice is given.
- the power to deem an excavation to be dangerous and to fill in or fence the excavation, or request the owner or occupier to fill or securely fence the excavation, subject to Regulation 11(1) of the *Local Government (Uniform Local Provisions) Regulations 1996* and Schedule 3.1, Division 2, item 2:

The Executive Manager Technical Services is sub delegated authority to undertake the following pursuant to Schedule 3.1, Division 1 Things a notice may require to be done including:

- Prevent water from dripping or running from a building on the land onto any other land.
- Place in a prominent position on the land a number to indicate the address.
- Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.
- Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law — (a) is suitably enclosed to separate it from the public place; and (b) where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place. (2) The notice cannot be given to an occupier who is not an owner.
- Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly. (2) In this item — “unsightly”, in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality. (3) The notice cannot be given to an occupier who is not an owner.
- Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy. In this item — “disused material” includes disused motor vehicles, old motor vehicle bodies and old machinery.
- Take specified measures for preventing or minimizing sand drifts on the land that are likely to adversely affect other land.
- Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown.
- Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government’s control or management and adjoins the land where the tree is situated.

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- Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.
- Take specified measures for preventing or minimizing— (a) danger to the public; or (b) damage to property, which might result from cyclonic activity.
- Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.
- Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired.
- Take specific measures to prevent — (a) artificial light being emitted from the land; or (b) natural or artificial light being reflected from something on the land, creating a nuisance.
- Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised. (2) In this item — “private thoroughfare” has the same meaning as in Schedule 9.1 clause 7(1) and s3.25(1)(b) of the Local Government Act 1995:
- Schedule 3.1, Division 2 Provisions contraventions of which may lead to a notice requiring things to be done
- Regulations under Schedule 9.1, clause 3 (Obstructing or encroaching on public thoroughfare).
- Regulations under Schedule 9.1, clause 5(1) (Gates and other devices across public thoroughfares) requiring a person to remove a gate or other device from across a public thoroughfare when requested by a local government to do so.
- Regulations under Schedule 9.1, clause 6 (Dangerous excavation in or near public thoroughfare).
- Regulations under Schedule 9.1, clause 7(2) (Crossings from public thoroughfares to private land or to private thoroughfares) that — (a) prohibit a person from constructing a crossing; or (b) by means of a notice in writing given to a person by the Commissioner of Main Roads, require the person to bring a crossing into accordance with an approval by the Commissioner of Main Roads or to remove a crossing and restore the place where it was to its former condition.
- Regulations under Schedule 9.1, clause 8(1) (Constructing private works on, over, or under public places).
- Regulations under Schedule 9.1, clause 9 (Protection of watercourses, drains, tunnels and bridges).
- Regulations under Schedule 9.1, clause 10 (Protection of thoroughfares from water damage).
- Regulations under Schedule 9.1, clause 12 (Wind erosion and sand drifts).
- Grant permission or refuse permission to construct a specified thing on, over, or under a specified public thoroughfare or public place that is local government property [ULP r.17(3)].
- Impose conditions on permission including those prescribed in r.17(5) and (6) [ULP r.17(5)].
- Give Notice re wind erosion and sand drifts – Sch.9.1 cl.12, r.21(1)

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 12		Donations, Discounts and Debt Write-offs	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 41	SUB-DELEGATED TO:	
POLICY REFERENCE:			
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s6.5; s6.7; s6.9</i> <i>Local Government (Financial Management) Regulations 1996</i>	
Conditions	<p><i>Must comply with relevant policies</i></p> <p><i>Includes power to waive or reduce fees charged for the use of Shire facilities by not-for-profit community organisations.</i></p> <p><i>Does not include authority to write off rates or service charges (s6.12(2))</i></p> <p><i>Details of donations and waivers of fees and charges approved under delegated authority must be recorded in the appropriate record to meet legislative requirements and Council informed of approved applications at the next ordinary meeting of Council.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to make donations to not for profit community organisations in accordance with s6.7 (2) of the Local Government Act 1995 to a maximum value of \$1,000 per annum

The Chief Executive Officer is delegated authority to defer, grant discounts, waive or write off debts, in accordance with s6.12 (1) (b), (c) and s6.12 (3) of the Local Government Act 1995 to a maximum amount of \$20 per transaction.

### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 14		Investment of Surplus Funds	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 10	SUB-DELEGATE TO:	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s6.14</i> <i>Local Government (Financial Management) Regulations</i>	
<b>Conditions</b>	<p><i>In exercising this delegated authority, Chief Executive Officer shall observe s6.14 of the Act.</i></p> <p><i>The Chief Executive Officer is to establish and document internal control procedures to be followed by employees to ensure control over investments in accordance with the Local Government (Financial Management) Regulations 1996.</i></p> <p><i>The control procedures are to enable the identification of the nature and location of all investments and the transactions related to each investment.</i></p> <p><i>A report detailing the investment portfolio's performance, exposures and changes since last reporting, is to be provided as part of the Monthly Financial Reports.</i></p> <p><i>Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles.</i></p> <p><i>The Chief Executive Officer is to review every two years the list of eligible institutions and those used by the Shire.</i></p> <p><i>All investment activity must comply with Local Government (Financial Management) Regulations r19C and Council Policy.</i></p> <p><i>Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once each financial year. [Audit r.17]</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to invest any funds held in the Municipal Fund, Reserve Fund or the Trust Fund that is not, for the time being, required for any other purpose. Such investments are to be made with banking institutions as provided for under Part III of the Trustees Act 1962.

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 15		Legal Representation and Cost Indemnification	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 13	SUB-DELEGATED TO:	
LEGAL (PARENT): POWER TO DELEGATE <i>Local Government Act 1995 s5.42</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED <i>Local Government Act 1995 s6.7(2)</i>	
Conditions	<p><i>Must comply with relevant policies</i></p> <p><i>Legal expenses do not exceed \$5,000.00 in respect of each application.</i></p> <p><i>Where it is the Chief Executive Officer who is seeking urgent financial support for legal services, the Council shall deal with the application.</i></p> <p><i>An application approved by the CEO is to be submitted to the next ordinary meeting of Council for advice only.</i></p>		

### POWER OR DUTY DELEGATED

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the Chief Executive Officer may exercise, on behalf of the Council, the powers of the Council under Policy 13 to a maximum of \$5,000 in respect of each application.

### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 17		Payment from Municipal or Trust Funds	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>	Policy 12 Policy 40	<b>SUB-DELEGATED TO:</b>	<i>Executive Manager Technical Services CRC Coordinator</i>
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s6.5; s6.7; s6.9 Local Government (Financial Management) Regulations 1996</i>	
<b>Conditions</b>	<p><i>Must comply with relevant policies</i></p> <p><i>Subject to the requirements of r5,11,12 and 13 of the Local Government (Financial Management) Regulations 1996.</i></p> <p><i>All payments from the Municipal Fund or Trust Fund are to be authorised and signed in accordance with the Council's policies and the Shire's approved work procedures. Authority to the Chief Executive Officer is unlimited subject to annual budget limitations.</i></p> <p><i>Payment authorisation via internet banking or cheque payment requires a combination of two signatories one of which must include the CEO, or Executive Manager Technical Services or CRC Coordinator.</i></p> <p><i>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 to the next available ordinary meeting of the Council.</i></p> <p><i>Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles.</i></p> <p><i>Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once each financial year. (Audit r.17)</i></p> <p><i>Each matter is to be reviewed at least once in every 3 financial years, with a report on each matter to be provided to the Audit and Risk Committee that details the findings, including any identified deficiencies, and actions required.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to make payments from the municipal or trust funds and to establish systems and procedures which give effect to internal controls and risk mitigation for:

- Collection of money owed to the Shire;
- Safe custody and security of money collected or held by the Shire;
- Maintenance and security of all financial records, including payroll, stock control and costing records;
- Proper accounting of the Municipal and Trust Funds, including revenue, expenses and assets and liabilities;
- Proper authorisation of employees for incurring liabilities, including authority for initiating Requisition Orders, Purchase Orders and use of Credit and Transaction Cards;

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- Payments from the Shire's Municipal Fund or Trust Fund in accordance with r12 of the Local Government (Financial Management) Regulations 1996. This includes the authority to make payments of accounts and salaries and wages, payroll deductions and other obligations by cheque or Electronic Funds Transfer.
- Preparation of budgets, budget reviews, accounts and reports as required by legislation or operational requirements.

### REVIEW REQUIREMENTS

At least once every financial year.



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Sub Delegation No: 17a		Payment from Municipal or Trust Funds	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	04/10/2019 16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>	Policy 12 Policy 40	<b>SUB-DELEGATED TO:</b>	Executive Manager Technical Services CRC Coordinator
<b>LEGAL (PARENT): POWER TO DELEGATE</b> Local Government Act 1995 s5.44		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> Local Government Act 1995 s6.5; s6.7; s6.9 Local Government (Financial Management) Regulations 1996	
<b>Conditions</b>	<p><i>Must comply with relevant policies</i></p> <p><i>Subject to the requirements of r5,11,12 and 13 of the Local Government (Financial Management) Regulations 1996.</i></p> <p><i>All payments from the Municipal Fund or Trust Fund are to be authorised and signed in accordance with the Council's policies and the Shire's approved work procedures. Authority to the Chief Executive Officer is unlimited subject to annual budget limitations.</i></p> <p><i>Payment authorisation via internet banking or cheque payment requires a combination of two signatories one of which must include the CEO, or Executive Manager Technical Services or CRC Coordinator.</i></p> <p><i>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 to the next available ordinary meeting of the Council.</i></p> <p><i>Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles.</i></p> <p><i>Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once each financial year. (Audit r.17)</i></p> <p><i>Each matter is to be reviewed at least once in every 3 financial years, with a report on each matter to be provided to the Audit and Risk Committee that details the findings, including any identified deficiencies, and actions required.</i></p>		

### POWER OR DUTY DELEGATED

The Executive Manager Technical Services, CRC Coordinator are delegated authority to make payments from the Shire's Municipal Fund or Trust Fund in accordance with r12 of the Local Government (Financial Management) Regulations 1996, subject to the following limits:

- Executive Manager Technical Services – \$200,000 - or as directed by the CEO for special circumstances
- CRC Coordinator - \$150,000.

This includes the authority to make payments of accounts and salaries and wages, payroll deductions and other obligations by cheque or Electronic Funds Transfer.

*Note: The Shire's current banking arrangements via internet banking or cheque payment requires a combination of two signatories.*

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### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 18 Temporary Overdraft Facility - Municipal Fund			
DATE ADOPTED:	17/03/2022	DELEGATE:	CEO
DATE LAST REVIEWED:		SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	N/A
LEGAL (PARENT): POWER TO DELEGATE <i>Local Government Act 1995 s5.42</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED <i>Local Government Act 1995 s6.5; s6.7; s6.9</i> <i>Local Government (Financial Management) Regulations 1996</i>	
Conditions	<p><i>Must comply with relevant policies</i></p> <p><i>Subject to the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996.</i></p> <p><i>Maximum overdraft facility limit, without explicit prior approval of Council, to be \$300,000.</i></p> <p><i>To allow for payments from the Municipal Fund of normal day to day operational expenses only and to be authorised and signed in accordance with the Council's policies and the Shire's approved work procedures. Authority to the Chief Executive Officer is unlimited subject to annual budget limitations.</i></p> <p><i>Payment authorisation via internet banking or cheque payment requires a combination of two signatories one of which must include the CEO, or Executive Manager Technical Services or CRC Coordinator.</i></p> <p><i>Each occasion the temporary overdraft facility is used the CEO is to inform Council including the overdraft limit established and the manner in which such facility is to be repaid such as through receipt of a grant or rate income.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to put in place a temporary overdraft facility for the municipal fund and to establish systems and procedures which give effect to internal controls and risk mitigation for:

- Collection of money owed to the Shire;
- Safe custody and security of money collected or held by the Shire;
- Maintenance and security of all financial records, including payroll, stock control and costing records;
- Proper accounting of the Municipal Fund, including revenue and expenses;
- Proper authorisation of employees for incurring liabilities, including authority for initiating Requisition Orders, Purchase Orders and use of Credit and Transaction Cards;

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 19		Rates – Recovery where Unpaid	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 12 - Policy 41 & Policy 71	SUB-DELEGATED TO:	
POLICY REFERENCE:			
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 s6.50(1), (2); s6.56(1); s6.60(2), (3), (4); s6.64(1), (3); s6.71(1); s6.74(1); s6.76(4), (5); Sch 6.2 1(1); Sch 6.3 1(4), 4(1)</i>	
Conditions	<i>Must comply with relevant policies</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to exercise the powers and discharge the duties of the Council under s6.50(1), 6.50(2), 6.56(1), 6.60(2), 6.60(3), 6.60(4), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4), 6.76(5), Sch 6.2 1(1), Sch 6.3 1(4), Sch 6.3 4(1) of the Local Government Act 1995.

- This delegation includes the powers, duties and functions of the local government including to:
- Determine the date that a rate or service charge becomes due and payable in accordance with s6.50 of the Local Government Act 1995.
- Recovery of rates and service charges pursuant to the provisions of s6.56(1) of the Local Government Act 1995.
- Require a lessee to pay rent in accordance with s6.60(2), 6.60(3), 6.60(4) of the Local Government Act 1995.
- Lodge caveats on land where the rates are in arrears and it is considered that the interests of the Council should be protected and the subsequent withdrawal of caveats once arrears of rates have been settled in accordance with s6.64(3).

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 21		Impounding Abandoned Vehicles and Goods	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act s3.39; s3.40A (1), (4); s3.42; s3.43; s3.44; s3.46, s3.47 (1), (2) s3.47(2A) s3.47A; s3.48</i> <i>r32 Local Government (Administration) Regulations 1995.</i>	
Conditions	<i>Delegation only to be used where the Delegate's reasonable efforts to identify and contact an owner have failed.</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to exercise the powers and duties of the Shire in respect to:

- Remove and impound any goods that are involved in a contravention that can lead to impounding in accordance with s3.39.
- Impound abandoned vehicle wrecks in accordance with s3.40A (1), (4).
- Take appropriate action in respect to impounded non-perishable goods in accordance with s3.42 and s3.43.
- Give notice in accordance with s3.44 to collect goods.
- Refuse to allow goods to be collected until all costs have been paid in accordance with s3.46.
- Sell or dispose of confiscated or uncollected goods in accordance with s3.47 (1) (2) and s3.47(2a)
- Disposal of sick or injured animals in accordance with s3.47A.
- Take action to recover expenses in accordance with s3.48.

### REVIEW REQUIREMENTS

At least once every financial year.

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### Delegation No: 22 Permits for Stall Holder, Trader and/or Outdoor Eating Facilities

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b>	
<b>Conditions</b>	<i>Regard must be had for the relevant local laws of the Shire.</i>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to determine applications for new permits or renewal of permits for the activity of a stallholder, trader and/or an outdoor eating facility.

#### REVIEW REQUIREMENTS

At least once every financial year.

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### Delegation No: 23 Closure of Streets, Thoroughfares, Control of Reserves & Unvested facilities

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	Executive Manager Technical Services
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 – s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government Act 1995 – s3.50(1) (1a) (4) (5) (6); s3.50A; s3.51(3); s3.52; s3.53; s3.54; Sch 3.1, Division 2</i> <i>Road Traffic Act 1974 and Road Traffic (Events on Roads) Regulations 1991.</i> <i>r6(3) Local Government (Functions and General) Regulations 1996</i> <i>r12, r13, r15 Local Government (Uniform Local Provisions) Regulations 1996</i>	
<b>Conditions</b>	<p><i>Must comply with relevant policies</i></p> <p><i>Temporary closure of streets must not exceed 28 days.</i></p> <p><i>The Chief Executive Officer, or any employee sub delegated the authority must ensure any applicant has obtained relevant Police approval and provided appropriate indemnities and insurance cover.</i></p> <p><i>Where exercising powers and duties pursuant to s3.50, the following conditions apply:</i></p> <ol style="list-style-type: none"> <li><i>Sufficient measures are in place to advise affected parties, minimise disruption to road users and to protect public and Shire assets.</i></li> <li><i>Have regard to the provisions of s3.50(1).</i></li> </ol> <p><i>If, under s.3.50(1), a thoroughfare is closed without giving local public notice, local public notice is to be given as soon as practicable after the thoroughfare is closed [s.3.50(8)].</i></p> <p><i>Limited to matters where the financial implications do not exceed a relevant and current budget allocation, and which do not create a financial liability in future budgets.</i></p> <p><i>The permanent closure of thoroughfares is to be referred to Council for determination</i></p>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to exercise the powers and discharge the duties of the Shire regarding closing certain thoroughfares to vehicles and partial closure of thoroughfare for repairs or maintenance and temporary closures (including revocation of Orders) for events in accordance with s3.50, 3.50(1), 3.50(1a), 3.50(4), 3.50(5), 3.50(6), 3.50A Local Government Act, r6(3) Local Government (Functions and General) Regulations 1996, S81(c)(2)(b) Road Traffic Act 1974 and Road Traffic (Events on Roads) Regulations 1991 (where relevant).

The Chief Executive Officer is delegated authority to give the required notices as specified in s3.51(3) 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.

The Chief Executive Officer is delegated authority to:



## SHIRE OF WANDERING

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- Ensure that public thoroughfares are kept open for public use as required under s3.52(2) of the Act.
- In fixing or altering the level of, or the alignment of a public thoroughfare, ensure that access by vehicle to land adjoining the thoroughfare can be reasonably provided in accordance with s3.52(3).
- Keep plans of the levels and alignments of public thoroughfares that are under the Council's control or management and make those plans available for public inspection in accordance with s3.52(4).
- Control and manage otherwise unvested facilities within the Shire in accordance with s3.53 of the Local Government Act 1995.
- Control and manage land that is vested to the Shire in accordance with s3.54 of the Local Government Act 1995.
- Approve the construction of a crossing (vehicle crossover) giving access from a public thoroughfare to:
  - i. the land; or
  - ii. a private thoroughfare serving the land;

in accordance with r12, 13 and 15 of the Local Government (Uniform Provisions) Regulations 1996.

### REVIEW REQUIREMENTS

At least once every financial year.

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### Sub Delegation No: 23a Closure of Streets, Thoroughfares, Control of Reserves & Unvested facilities

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	Executive Manager Technical Services
<b>LEGAL (PARENT):</b> <i>Local Government Act 1995 – s5.44</i>	<b>LEGAL (SUBSIDIARY):</b> <i>Local Government Act 1995 – s3.50(1) (1a) (4) (5) (6); s3.50A; s3.51(3); s3.52; s3.53; s3.54; Sch 3.1, Division 2</i> <i>Road Traffic Act 1974 and Road Traffic (Events on Roads) Regulations 1991.</i> <i>r6(3) Local Government (Functions and General) Regulations 1996</i> <i>r12, r13, r15 Local Government (Uniform Local Provisions) Regulations 1996</i>		
<b>Conditions</b>	<p><i>Must comply with relevant policies</i></p> <p><i>Temporary closure of streets must not exceed 28 days.</i></p> <p><i>The Executive Manager Technical Services, or any employee sub delegated the authority must ensure any applicant has obtained relevant Police approval and provided appropriate indemnities and insurance cover.</i></p> <p><i>Where exercising powers and duties pursuant to s3.50, the following conditions apply:</i></p> <ol style="list-style-type: none"> <li><i>1. Sufficient measures are in place to advise affected parties, minimise disruption to road users and to protect public and Shire assets.</i></li> <li><i>2. Have regard to the provisions of s3.50(1).</i></li> </ol> <p><i>If, under s.3.50(1), a thoroughfare is closed without giving local public notice, local public notice is to be given as soon as practicable after the thoroughfare is closed [s.3.50(8)].</i></p> <p><i>Limited to matters where the financial implications do not exceed a relevant and current budget allocation, and which do not create a financial liability in future budgets.</i></p>		

#### POWER OR DUTY DELEGATED

The Executive Manager Technical Services is delegated authority to exercise the powers and discharge the duties of the Shire regarding closing certain thoroughfares to vehicles and partial closure of thoroughfare for repairs or maintenance and temporary closures (including revocation of Orders) for events in accordance with s3.50, 3.50(1), 3.50(1a), 3.50(4), 3.50(5), 3.50(6), 3.50A Local Government Act, r6(3) Local Government (Functions and General) Regulations 1996, S81(c)(2)(b) Road Traffic Act 1974 and Road Traffic (Events on Roads) Regulations 1991 (where relevant).

The Executive Manager Technical Services is delegated authority to give the required notices as specified in s3.51(3) 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.

The Executive Manager Technical Services is delegated authority to:

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- Ensure that public thoroughfares are kept open for public use as required under s3.52(2) of the Act.
- In fixing or altering the level of, or the alignment of a public thoroughfare, ensure that access by vehicle to land adjoining the thoroughfare can be reasonably provided in accordance with s3.52(3).
- Keep plans of the levels and alignments of public thoroughfares that are under the Council's control or management and make those plans available for public inspection in accordance with s3.52(4).
- Control and manage otherwise unvested facilities within the Shire in accordance with s3.53 of the Local Government Act 1995.
- Control and manage land that is vested to the Shire in accordance with s3.54 of the Local Government Act 1995.
- Approve the construction of a crossing (vehicle crossover) giving access from a public thoroughfare to:
  - i. the land; or
  - ii. a private thoroughfare serving the land;

in accordance with Regulations 12, 13 and 15 of the *Local Government (Uniform Provisions) Regulations 1996*.

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 24		Obstruction of Thoroughfares	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Executive Manager Technical Services
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>s.5.42 Delegation of some powers or duties to the CEO</i> <i>s.5.43 Limitations on delegations to the CEO</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Local Government (Uniform Local Provisions) Regulations 1996:</i> <i>r.5(2) Interfering with, or taking from, local government land</i> <i>r.6 Obstruction of public thoroughfare by things placed and left – Sch. 9.1 cl. 3(1)(a)</i> <i>r.7A Obstruction of public thoroughfare by fallen things – Sch.9.1 cl.3(1)(b)</i> <i>r.7 Encroaching on public thoroughfare – Sch.9.1. cl.3(2)</i>	
Conditions	<i>Actions under this Delegation must comply with procedural requirements detailed in the <a href="#">Local Government (Uniform Local Provisions) Regulations 1996</a>.</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated:

- Authority to determine, by written notice served on a person who is carrying out plastering, painting or decorating operations (the work) over or near a footpath on land that is local government property, to require the person to cover the footpath during the period specified in the notice so as to:
  - a. prevent damage to the footpath; or
  - b. prevent inconvenience to the public or danger from falling materials [ULP r.5(2)].
- Authority to provide permission including imposing appropriate conditions or to refuse to provide permission, for a person to place on a specified part of a public thoroughfare one or more specified things that may obstruct the public thoroughfare. [ULP r.6(2) and (4)].
- Authority to renew permission to obstruct a thoroughfare and to vary any condition imposed on the permission effective at the time written notice is given to the person to whom permission is granted [ULP r.6(6)].
- Authority to require an owner or occupier of land to remove any thing that has fallen from the land or from anything on the land, which is obstructing a public thoroughfare [ULP r.7A].
- Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare [ULP r.7].

### REVIEW REQUIREMENTS

At least once every financial year.

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Sub Delegation No: 24a		Obstruction of Thoroughfares	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Executive Manager Technical Services
<b>LEGAL (PARENT):</b> <i>s.5.44 Delegation of some powers or duties to the CEO</i> <i>s.5.43 Limitations on delegations to the CEO</i>		<b>LEGAL (SUBSIDIARY):</b> <i>Local Government (Uniform Local Provisions) Regulations 1996:</i> <i>r.5(2) Interfering with, or taking from, local government land</i> <i>r.6 Obstruction of public thoroughfare by things placed and left</i> <i>- Sch. 9.1 cl. 3(1)(a)</i> <i>r.7A Obstruction of public thoroughfare by fallen things –</i> <i>Sch.9.1 cl.3(1)(b)</i> <i>r.7 Encroaching on public thoroughfare – Sch.9.1. cl.3(2)</i>	
Conditions	<i>Actions under this Delegation must comply with procedural requirements detailed in the <a href="#">Local Government (Uniform Local Provisions) Regulations 1996</a>.</i>		

### POWER OR DUTY DELEGATED

The Executive Manager Technical Services is delegated:

- Authority to determine, by written notice served on a person who is carrying out plastering, painting or decorating operations (the work) over or near a footpath on land that is local government property, to require the person to cover the footpath during the period specified in the notice so as to:
  - a. prevent damage to the footpath; or
  - b. prevent inconvenience to the public or danger from falling materials [ULP r.5(2)].
- Authority to provide permission including imposing appropriate conditions or to refuse to provide permission, for a person to place on a specified part of a public thoroughfare one or more specified things that may obstruct the public thoroughfare. [ULP r.6(2) and (4)].
- Authority to renew permission to obstruct a thoroughfare and to vary any condition imposed on the permission effective at the time written notice is given to the person to whom permission is granted [ULP r.6(6)].
- Authority to require an owner or occupier of land to remove any thing that has fallen from the land or from anything on the land, which is obstructing a public thoroughfare [ULP r.7A].
- Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare [ULP r.7].

### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 25		Roads – Heavy Vehicle Access	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Executive Manager Technical Services
LEGAL (PARENT): POWER TO DELEGATE <i>Local Government Act 1995 s5.42</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED	
Conditions	<p><i>Must comply with relevant policies</i></p> <p><i>The Council supports 'as of right' vehicles as defined by Main Roads WA (MRWA) or approved RAV routes, except where roads are closed for safety reasons.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to determine applications by heavy vehicle transport operators for Restricted Access Vehicle (RAV) and Accredited Mass Management Scheme (AMMS) Networks to access roads managed and maintained by the Council.

### REVIEW REQUIREMENTS

At least once every financial year.



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Sub Delegation No: 25a		Roads – Heavy Vehicle Access	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Executive Manager Technical Services
LEGAL (PARENT):	LEGAL (SUBSIDIARY):		
	<i>Local Government Act 1995 s5.44</i>		
Conditions	<i>Must comply with relevant policies                      The Council supports 'as of right' vehicles as defined by Main Roads WA (MRWA) or approved RAV routes, except where roads are closed for safety reasons.</i>		

### POWER OR DUTY DELEGATED

The Executive Manager Technical Services is delegated authority to determine applications by heavy vehicle transport operators for Restricted Access Vehicle (RAV) and Accredited Mass Management Scheme (AMMS) Networks to access roads managed and maintained by the Council.

### REVIEW REQUIREMENTS

At least once every financial year.



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Delegation No: 28		Group Values on Contiguous Land	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 20	SUB-DELEGATED TO:	
LEGAL (PARENT): POWER TO DELEGATE <i>Local Government Act 1995 – s5.42</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED	
Conditions	<i>Must comply with relevant policies The final determination for group rating rests with the Valuer General, the CEO may only recommend an outcome</i>		

### DEFINITION

For the purpose of this delegation, pieces of land will be taken to be contiguous if they abut one another at any point or if they are separated only by intervening land being a street, road, lane, footway, court, railway, thoroughfare, travelling stock route, a reserve or other similar open space dedicated for public purposes.

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated the power to determine applications for group values on contiguous land.

### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 29		Street Stalls/Appeals	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Local Government Act 1995 – s5.42</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b>	
Conditions	<i>Must comply with relevant policies</i> Regard must be had for the relevant local laws of the Shire.		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated the power, to determine applications for street stalls/ appeals subject to satisfactory insurance arrangements and compliance with any statutes.

### REVIEW REQUIREMENTS

At least once every financial year.

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### Delegation No: 30 Building Act & Regulations – Powers, Duties and Functions

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Building Act 2011: s.127(1) &amp; (3) Delegation: special permit authorities and local government</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Building Act 2011: various, as detailed Building Regulations 2012: various, as detailed</i>	
<b>Conditions</b>	<p><i>Must comply with relevant policies</i></p> <p><i>Sub delegation may only be to employees of the Shire (s127(3)).</i></p> <p><i>This delegation includes the power to serve notice on the builder or owner requiring alterations to a building, or in relation to encroachments, pursuant to s189, S190 of the Building Act 2011. These powers cannot be sub delegated.</i></p> <p><i>In undertaking the functions of this delegation, Building Surveyors (registered) must be employed by the Shire of Wandering in accordance with s5.36 of the Local Government Act 1995; and with respect to uncertified applications, hold the appropriate qualification as set out under r6 of the Local Government (Building Surveyors) Regulations 2008.</i></p> <p><i>In relation to s21 this sub delegation does not apply to places listed on the State's Register of Heritage Places or the Council's Heritage Register or to places classified by the National Trust.</i></p> <p><i>Must observe s100(2) of the Building Act 2011 in relation to entry to private residence.</i></p> <p><i>In relation to s110 this delegation permits a sub delegate to determine that an Order is to remain in effect in accordance with s117(2) of the Building Act 2011 where it is considered appropriate.</i></p> <p><i>In relation to s93(2)(d) of the Building Act 2011 and s.53 of the Building Regulations 2012 - *Regulation 52 (2): For the purposes of section 93(2)(d) a person who was an authorised person for the purposes of section 245A of the repealed provisions immediately before repeal day is to be taken to be an authorised person in relation to the inspection of private swimming pool enclosures for the period commencing on repeal day and ending on the day that is 5 years after that day.</i></p>		

#### POWER OR DUTY DELEGATED

Pursuant to s96 of the Building Act 2011 the Chief Executive Officer is delegated the authority to appoint authorised persons for the purposes of the Building Act 2011 and the Building Regulations 2012 in relation to buildings and incidental structures located or proposed to be located in the local government's district.

Pursuant to s99 the CEO is delegated authority to impose limitations on powers of authorised persons.

Pursuant to s127 the Chief Executive Officer is delegated all the powers and duties of the local government under the Building Act and Regulations and is authorised to take legal proceedings pursuant to s133 of the Act in relation to both the Act and Regulations.

These delegations include the powers and duties specified at:



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- s18(1) - to require an applicant to provide any documentation or information required to determine a building permit application;
- s20 – to approve, or refuse to approve a certified or uncertified application for a building permit;
- s21,22 – to approve, or refuse to approve an application for a demolition permit;
- s27(1), (3) - to impose conditions on permit
- s.55 - Further information
- s58 – to approve, modify or refuse to approve an application for an occupancy permit or approve or refuse to approve an application for a building approval certificate;
- s62 – to impose conditions on an occupancy permit or modification of a building approval certificate;
- s65 – to approve, or refuse to approve an application to extend the time in which an occupancy permit or modification or building approval certificate has effect;
- s76 – to give consent for encroachments on Crown land under the care, control and maintenance of the local government;
- s93(2)(d) of the Building Act 2011 and s.53 of the Building Regulations 2012;
- S96(3) of the Building Act (and subject to s100(2) of the Building Act 2011) to appoint Authorised Persons;
- s110 – to make a Building Order in relation to building work, demolition work and/or, an existing building or incidental structure, whether completed before, or after commencement day;
- s111 – to give Notice of proposed building order other than building order (emergency)
- s114 – serve a building order;
- s117 – revoke a building order; and
- s118(2), (3) – to take action in relation to non-compliance with building orders;
- s131(2) - to determine applications for the inspection of or to seek copies of building records;
- s133 - to commence a prosecution for an offence against this Act;
- s145A(1) - to undertake local government functions in relation to Referrals and Issuing Certificates including authority to refer uncertified applications under s.17(1) to a building surveyor who is not employed by the local government;
- S145A(2) - authority to issue a certificate for Design Compliance, Construction Compliance or Building Compliance whether or not the land subject of the application is located in the Shire's District [s.145A(2)];
- r23 (application to extend time), r24 (extension of time), r26 (approval of new responsible person);
- r40 - extension of period of duration of time of occupancy permit or building certificate;
- r51 - private pool barriers - alternatives solutions;
- r55, 61 - smoke alarms - alternative solutions - local government approval of battery powered smoke alarms

### REVIEW REQUIREMENTS



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### Delegation No: 31 Building Act & Regulations – Occupancy Permits and Building Approval Certificates for Strata Plans and Survey Strata Plans

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Building Act 2011:</i> <i>s.127(1) &amp; (3) Delegation: special permit authorities and local government</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Strata Titles Act 1985 – sA5B, s25 in respect of Built Strata Applications except for those applications listed as exceptions in WAPC Planning Bulletin 52/2009. Includes issue of Form 26</i>	
<b>Conditions</b>	<p><i>Must comply with relevant policies</i></p> <p><i>Delegation and authority do not apply to those applications that:</i></p> <ol style="list-style-type: none"> <li><i>1. Propose the creation of a vacant lot;</i></li> <li><i>2. Proposed vacant air stratas in multi-tiered strata scheme developments;</i></li> <li><i>3. In the opinion of the WAPC as notified to the local government in writing, or in the opinion of the local government as notified to the WAPC in writing, relate to:</i> <ol style="list-style-type: none"> <li><i>a) type of development; and/or</i></li> <li><i>b) land within an area, which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.</i></li> </ol> </li> <li><i>4. The WAPC is to be provided with data on all applications determined under this Instrument of Delegation at the conclusion of each financial year in the format prescribed by the WAPC.</i></li> </ol>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is authorised to issue occupancy permits and building approval certificates for strata plans and survey strata plans as required by s5B of the Strata Titles Act 1985 and to make certain decisions pursuant to s25 Strata Titles Act 1985 in respect of Built Strata Applications except for those applications listed as exceptions in Western Australian Planning Commission (WAPC) Planning Bulletin 52/2009.

Includes authority to issue Form 26

#### REVIEW REQUIREMENTS

At least once every financial year.

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Delegation No: 32		Bush Fires Act – General Delegation	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No power to sub delegate
POLICY REFERENCE:		SUB-DELEGATED TO:	
LEGAL (PARENT): POWER TO DELEGATE <i>Bush Fires Act 1954 – s48</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED	
Conditions	<p><i>Must comply with relevant policies</i></p> <p><i>Does not include those matters in the Act which require a resolution of the Council, are prescribed in the Act for performance by prescribed employees or are subject to separate delegated authority within this Register.</i></p> <p><i>Only the Chief Executive Officer or the Shire President may withdraw infringement notices pursuant to s59A (3) Bush Fires Act 1954 and r4 Bush Fires (Infringements) Regulations 1958</i></p>		

### POWER OR DUTY DELEGATED

Pursuant to s48 Bush Fires Act 1954 the Chief Executive Officer is delegated authority to exercise the powers and discharge the duties of the local government.

This delegation includes the authority to initiate legal action and prosecution.

The Chief Executive Officer is delegated authority to hand over the control of bush fires to the Department of Fire and Emergency Services (DFES).

### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.



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Delegation No: 33		Bush Fires Act – Prohibited Burning Times	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No power to sub delegate
POLICY REFERENCE:		SUB-DELEGATED TO:	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Bush Fires Act 1954 – s48</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Bush Fires Act 1954:</i> <i>s.17(7) Prohibited burning times may be declared by Minister</i> <i>s.27(2) and (3) Prohibition on use of tractors or engines except under certain conditions</i> <i>s.28(4) and (5) Occupier of land to extinguish bush fire occurring on own land</i> <i>Bush Fire Regulations 1954:</i> <i>r.15 Permit to burn (Act s.18), form of and apply for after refusal etc.</i> <i>r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times</i> <i>r.39B Crop dusters etc., use of in restricted or prohibited burning times</i>	
Conditions	<i>Must comply with relevant policies</i> <i>Decisions under s,17(7) must be undertaken jointly by both the Shire President and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) and (8).</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to:

- where seasonal conditions warrant it, determine a variation of the prohibited burning times, after consultation with an authorised CALM Act officer s.17(7).
- determine permits to burn during prohibited burning times that have previously been refused by a Bush Fire Control Officer [r.15].
- declare that the use of any harvesting machinery on any land under crop during the whole or any part of any Sunday or public holiday in the whole or a specified part of the District during Restricted Burning Times is prohibited, unless written consent of a Bush Fire Control Officer is obtained [r.38C].
- determine, during a Prohibited Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared [r.39B(2)].
- issue directions, during a Prohibited Burning Time, to a Bush Fire Control Officer, regarding matters necessary for the prevention of fire on land used as a landing ground for an aeroplane [r.39B(3)].
- prohibit the use of tractors, engines or self-propelled harvester, during a Prohibited Burning Times, and to give permission for use of same during the Restricted Burning Time subject to compliance with requirements specified in a notice [s.27(2) and (3)].

### REVIEW REQUIREMENTS



## SHIRE OF WANDERING

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Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 34		Bush Fires Act – Variations to Fire Break Orders	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No power to sub delegate
POLICY REFERENCE:		SUB-DELEGATED TO:	
LEGAL (PARENT): POWER TO DELEGATE <i>Bush Fires Act 1954 – s48</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED	
Conditions	<i>Must comply with relevant policies                      Maximum approval period to be twelve (12) months.                      CEO to consult with relevant Brigade Fire Control Officer prior to exercising this delegation.</i>		

### POWER OR DUTY DELEGATED

Pursuant to s48 Bush Fires Act 1954 the Chief Executive Officer is delegated authority to vary or approve alternative arrangements to the Shire’s Firebreak Orders.

### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

## SHIRE OF WANDERING

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### Delegation No: 35 Bush Fires Act – Restricted Burning Times and other Matters

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No power to sub delegate
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Bush Fires Act 1954 – s48</i>		<i>Legal (Subsidiary): Power or duty delegated</i> <i>Bush Fires Act 1954:</i> <i>s.18(5), (11) Restricted burning times may be declared by FES Commissioner</i> <i>s.22(6) and (7) Burning on exempt land and land adjoining exempt land</i> <i>s.24F Burning garden refuse during limited burning times</i> <i>s.24G Minister or local government may further restrict burning of garden refuse</i> <i>s.25 No fire to be lit in open air unless certain precautions taken</i> <i>s.25A Power of Minister to exempt from provisions of section 25</i> <i>s.27(2) and (3) Prohibition on use of tractors or engines except under certain conditions</i> <i>s.28(4) and (5) Occupier of land to extinguish bush fire occurring on own land</i> <i>s.27D Requirements for carriage and deposit of incendiary material</i> <i>Bush Fire Regulations 1954:</i> <i>r.15 Permit to burn (Act s.18), form of and apply for after refusal etc.</i> <i>r.15C Local Government may prohibit burning on certain days</i> <i>r.27(3) Permit, issue of</i> <i>s.33 Local government may require occupier of land to plough or clear fire-breaks</i> <i>r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times</i> <i>r.39B Crop dusters etc., use of in restricted or prohibited burning times</i> <i>r.39C Welding and cutting apparatus, use of in open air</i> <i>r.39CA Bee smoker devices, use of in restricted or prohibited burning times etc.</i> <i>r.39D Explosives, use of</i> <i>r.39E Fireworks, use of</i> <i>s.46 Bush fire control officer or forest officer may postpone lighting fire</i>	

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	<p><i>s.52(1) Approved area may be declared</i></p> <p><i>s.58 General penalty and recovery of expenses incurred</i></p> <p><i>s.59 Prosecution of offences</i></p> <p><i>s.59A(2) Alternative procedure – infringement notices</i></p>
<p><b>Conditions</b></p>	<p><i>Must comply with relevant policies</i></p> <p><i>Maximum approval period to be twelve (12) months.</i></p> <p><i>CEO to consult with relevant Brigade Fire Control Officer and Chief Bush Fire Control Officer prior to exercising this delegation.</i></p>

### POWER OR DUTY DELEGATED

Pursuant to s48 Bush Fires Act 1954 the Chief Executive Officer is delegated authority to:

- where seasonal conditions warrant it and after consultation with an authorised CALM Act officer, to determine to vary the restricted burning times in respect of that year [s.18(5)].
  - a) a. Authority to determine to prohibit burning on Sundays or specified days that are public holidays in the District [r.15C].
- Where a permitted burn fire escapes or is out of control in the opinion of the Bush Fire Control Officer or an officer of the Bush Fire Brigade, to determine to recoup bush fire brigade expenses arising from preventing extension of or extinguishing an out of control permitted burn [s.18(11)].
- Determine permits to burn during restricted times that have previously been refused by a Bush Fire Control Officer [r.15].
- Arrange with the occupier of exempt land, the occupier of land adjoining it and the Bush Fire Brigade to cooperate in burning fire-breaks and require the occupier of adjoining land to provide by the date of the burning, ploughed or cleared fire-breaks parallel to the common boundary [s.22(6) and (7)].
- Give written permission, during prohibited times and restricted times, for an incinerator located within 2m of a building or fence, only where satisfied it is not likely to create a fire hazard [s.24F(2)(b)(ii) and (4)].
- Prohibit or impose restrictions on the burning of garden refuse that is otherwise permitted under s.24F [s.24G(2)].
  - a) Issue directions to an authorised officer as to the manner in which or the conditions under which permits to burn plants or plant refuse shall be issued in the District [r.27(3), r.33(5)].
  - b) Authority to prohibit (object to) the issuing of a permit for the burning of a proclaimed plan growing upon any land within the District [r.34].
- Provide written approval, during prohibited times and restricted times, for fires to be lit for the purposes of:
  - a) a. camping or cooking [s.25(1)(a)].
  - b) b. conversion of bus into charcoal or for the production of lime, in consultation with an authorised CALM Act officer [s.25(1)(b)].
- Prohibit the lighting of fires in the open are for the purposes of camping or cooking for such period during the prohibited burning times as specified in a note published in the Gazette and newspaper circulating in the District and authority to vary such notice [s.25(1a) and (1b)].



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- Serve written notice on a person to whom an exemption has been given under s.25 for lighting a fire in open air, prohibiting that person from lighting a fire and to determine conditions on the notice [s.25A(5)].
- Give written notice to an owner or occupier of land or all owners or occupiers of land within the District, requiring, to the satisfaction of the Shire of Wandering
  - a) clearing of firebreaks as determined necessary and specified in the notice; and
  - b) act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and
  - c) as a separate or coordinated action with any other person carry out similar actions [s.33(1)].
- Direct a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with [s.33(4)].
  - a) Authority to recover any costs and expenses incurred in doing the acts, matters or things required to carry out the requisitions of the notice [s.33(5)].
- Declare that the use of any harvesting machinery on any land under crop during the whole or any part of any Sunday or public holiday in the whole or a specified part of the District during Restricted Burning vary Times is prohibited, unless written consent of a Bush Fire Control Officer is obtained [r.38C].
- Appoint persons to be Bush Fire Control Officers for the purposes of the Bush Fires Act 1954; and
  - a) Of those Officers, appoint 2 as the Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer; and
  - b) Determine the respective seniority of the other Bush Fire Officers so appointed [s.38(1)].
- Issue directions to a Bush Fire Control Officer to burn on or at the margins of a road reserve under the care, control and management of the Shire of Wandering [s.38(5A)]
- Appoint a Fire Weather Officer, selected from senior Bush Fire Control Officers previously appointed and where more than one Fire Weather Officer is appointed, define a part of the District in which each Fire Weather Officer shall have exclusive right to exercise the powers of s.38(17). [s.38(8) and (9)].
- Appoint deputy Fire Weather Officer/s as considered necessary and where two or more deputies are appointed, determine seniority [s.38(10)].
- Determine, during a Restricted Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared [r.39B].
- Issue directions, during a Restricted Burning Time, to a Bush Fire Control Officer, regarding matters necessary for the prevention of fire on land used as a landing ground for an aeroplane [r.39B(3)].
- Prohibit the use of tractors, engines or self-propelled harvester, during a Restricted Burning Times, and to give permission for use of same during the Restricted Burning Time subject to compliance with requirements specified in a notice [s.27(2) and (3)].
- Recover the cost of measures taken by the Shire of Wandering or Bush Fire Control Officer, to extinguish a fire burning during Restricted Burning Times, where the occupier of the land has failed to comply with requirements under s.28(1) to take all possible measures to extinguish a fire the land they occupy [s.28(4)], including authority to recover expenses in any court of competent jurisdiction [s.28(5)].

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- Give directions to a Bush Fire Control Officer regarding matters necessary for the prevention of fire arising from:
  - a) a person operating a bee smoker device during a prescribed period [r.39CA(5)].
  - b) a person operating welding apparatus, a power operated abrasive cutting disc [r.39C(3)].
  - c) a person using explosives [r.39D(2)].
  - d) a person using fireworks [r.39E(3)].
- Determine directions or requirements for the carriage and deposit of incendiary materials (hot or burning ash, cinders, hot furnace refuse, or any combustible matter that is burning) [s.27D].  
*Note: this authority is also prescribed to a Bush Fire Control Officer, a Bush Fire Liaison Officer or an authorised CALM Act officer.*
- Prohibit or postpone the lighting of a fire, despite a permit having been issued, where in the opinion of the Delegate the lighting of a fire would be or become a source of danger by escaping from the land on which it is proposed to be lit [s.46(1A)].
  - a) Where it is proposed that the fire will be lit on land within 3kms of the boundary of forest land, and an authorised CALM Act office is not available or has not exercised the power to prohibit or proposed a fire considered to become a source of danger, then the Delegate may make the decision [s.46(1B)].
- Apply to the Minister to have the local government district, or part of the district, declared as an approved area. [s.50(1)] (Note - The declaration of a district, or part thereof, as an approved area, results in a reduction in insurance premium of crops within that area s.53.)
- Recover general penalty and recovery of expenses incurred s58
- Institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59].
- To serve an infringement notice for an offence against this Act [s.59A(2)].

### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 35		Cat Act – Duties and Functions	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	
LEGAL (PARENT): POWER TO DELEGATE <i>Cat Act 2011 – s44</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED <i>Cat Act Regulations 2012</i>	
Conditions	<p><i>Pursuant to s48(2) only an employee of the Shire can be appointed under s62.</i></p> <p><i>Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the Cat Act 2011.</i></p> <p><i>In relation to authority to reduce or waiver a fee payable under Schedule 3 clauses (2) or (3) in respect to any individual cat – it should be noted this delegation does NOT provide authority to determine to reduce or waiver the fees payable in regard to any <u>class of cat</u> within the District. This matter requires a Council decision in accordance with s.6.16, 6.17 and 6.18 of the Local Government Act 1995.</i></p>		

### POWER OR DUTY DELEGATED

Pursuant to s44 Cat Act 2011 the Chief Executive Officer is delegated authority to perform all duties and functions of the local government under the Cat Act 2011 and Cat Act Regulations 2012.

### REVIEW REQUIREMENTS

At least once every financial year.



## SHIRE OF WANDERING

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Delegation No: 36		Dog Act – Duties and Functions	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Ranger Executive Manager Technical Services
LEGAL (PARENT): POWER TO DELEGATE <i>Dog Act 1976 – s10AA(1) and (3)</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED <i>Dog Act 1976 - as detailed below</i>	
Conditions	<p><i>Must comply with relevant policies</i></p> <p><i>Cannot delegate authority to commence enforcement proceedings at s44 of the Dog Act 1976</i></p> <p><i>In relation to S.31 Control of dogs in certain public places – this cannot be delegated because it requires an absolute majority and therefore must be determined by Council.</i></p>		

### POWER OR DUTY DELEGATED

Pursuant to s10AA(1) of the Dog Act 1976 the Chief Executive Officer is delegated all powers and duties of the local government under the Dog Act 1976 and regulations and the Shire's Dogs Local Law.

Pursuant to s10AA(3) of the Dog Act 1976 the Chief Executive Officer is specifically authorised to sub delegate any and all of these powers and duties to other employees or other persons.

These delegations specifically exclude (and which must be determined by the Council):

- s.33E(1) - Individual dog may be declared to be dangerous dog (declared)
- s.33F(6) s.33G(4) s.33H(1) - Owners to be notified of making of declaration, Seizure and destruction - Local government may revoke declaration or proposal to destroy

### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 36a		Dog Act – Duties and Functions	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	Yes
POLICY REFERENCE:		SUB-DELEGATED TO:	Contract Ranger Executive Manager Technical Services
LEGAL (PARENT): POWER TO DELEGATE <i>Dog Act 1976 – s10AA(1) and (3)</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED <i>Dog Act 1976 –s12A; s14; s29; s38; s39; s43; s47; s12A; s14; s16(2); s16(3A); s16(3); s16(3C); s16(6); s26; s33E; s33F; s33G; s33H; s39; s43A;</i>	
Conditions	<i>Must comply with relevant policies No authority to commence enforcement proceedings at S44 of the Dog Act 1976.</i>		

### POWER OR DUTY DELEGATED

Pursuant to s10AA(1) of the *Dog Act 1976* the Chief Executive Officer has been delegated all powers and duties of the local government.

Pursuant to s10AA(3) of the *Dog Act 1976* the Chief Executive Officer is specifically authorised to sub delegate any and all of these powers and duties

The Chief Executive Officer sub delegates all powers and duties to the Contract Ranger.

These delegations specifically exclude:

- s.33E(1) - Individual dog may be declared to be dangerous dog (declared)
- s.33F(6) s.33G(4) s.33H(1) - Owners to be notified of making of declaration Seizure and destruction Local government may revoke declaration or proposal to destroy

### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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### Delegation No: 37 Fines, Penalties & Infringement Notices – Appointment of Prosecution Officers

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Fines, Penalties and Infringement Notices Enforcement Act 1994 – s13(2); s16; s22</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b>	
<b>Conditions</b>	<i>Appointed Designated Officers give written notice of their designated authority to the Registrar.</i> <i>Appointed Designated Officers hold a Certificate of Appointment.</i>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is authorised to appoint Designated Officers for the purposes of the Fines, Penalties and Infringement Notices Enforcement Act 1994, Section 13(2), administer the issuing of, and any subsequent proceedings in relation to, the notice.

#### REVIEW REQUIREMENTS

At least once every financial year.



## SHIRE OF WANDERING

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Delegation No: 38		Food Act – Payment of Compensation	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No power to sub-delegate
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Food Act 2008:</i> s.56(2) Compensation to be paid in certain circumstances s.70(2) and (3) Compensation	
<b>Conditions</b>	<p><i>In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.</i></p> <p><i>Compensation under this delegation may only be determined upon documented losses up to a maximum of \$200.00.</i></p> <p><i>Compensation requests above this value are to be reported to Council.</i></p>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to:

- determine applications for compensation in relation to any item seized, if no contravention has been committed and the item cannot be returned [s.56(2)].
- determine an application for compensation from a person on whom a prohibition notice has been served and who has suffered loss as the result of the making of the order and who considers that there were insufficient grounds for making the order [s.70(2) and (3)].

### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 39		Food Act – Prohibition Orders	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No power to sub-delegate
POLICY REFERENCE:		SUB-DELEGATED TO:	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Food Act 2008:</i> <i>s.118 Functions of enforcement agencies and delegation</i> <i>(2)(b) Enforcement agency may delegate a function conferred on it</i> <i>(3) Delegation subject to conditions [s.119] and guidelines adopted [s.120]</i> <i>(4) Sub-delegation permissible only if expressly provided in regulations</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Food Act 2008:</i> <i>s.65(1) Prohibition orders</i> <i>s.66 Certificate of clearance to be given in certain circumstances</i> <i>s.67(4) Request for re-inspection</i>	
Conditions	<i>In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to:

- Serve a prohibition order on the proprietor of a food business in accordance with s.65 of the Food Act 2008 [s.65(1)].
- Give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66].
- Give written notice to proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection [s.67(4)].

### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 40		Food Act – Food Business Registrations	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No power to sub-delegate
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Food Act 2008:</i> <i>s.118 Functions of enforcement agencies and delegation</i> <i>(2)(b) Enforcement agency may delegate a function conferred on it</i> <i>(3) Delegation subject to conditions [s.119] and guidelines adopted [s.120]</i> <i>(4) Sub-delegation permissible only if expressly provided in regulations</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Food Act 2008:</i> <i>s.110(1) and (5) Registration of food business</i> <i>s.112 Variation of conditions or cancellation of registration of food businesses</i>	
<b>Conditions</b>	<i>In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:</i> <i>Food Act 2008 Regulatory Guideline No.1 Introduction of Regulatory Food Safety Auditing in WA</i> <i>Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No.1</i> <i>WA Priority Classification System</i> <i>Verification of Food Safety Program Guideline</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to:

- consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [s.110(1) and (5)].
- vary the conditions or cancel the registration of a food business [s.112].

### REVIEW REQUIREMENTS

At least once every financial year.



## SHIRE OF WANDERING

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### Delegation No: 41 Food Act – Appoint Authorised Officers and Designated Officers

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No power to sub-delegate
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Food Act 2008:</i> <i>s.118 Functions of enforcement agencies and delegation</i> <i>(2)(b) Enforcement agency may delegate a function conferred on it</i> <i>(3) Delegation subject to conditions [s.119] and guidelines adopted [s.120]</i> <i>(4) Sub-delegation permissible only if expressly provided in regulations</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Food Act 2008:</i> <i>s.122(1) Appointment of authorised officers</i> <i>s.126(6), (7) and (13) Infringement Officers</i>	
<b>Conditions</b>	<i>In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:</i> <i>Appointment of Authorised Officers as Meat Inspectors</i> <i>Appointment of Authorised Officers</i> <i>Appointment of Authorised Officers – Designated Officers only</i> <i>Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer</i>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to:

- appoint a person to be an authorised officer for the purposes of the Food Act 2008 [s.122(2)].
- appoint an Authorised Officer appointed under s.122(2) of this Act or the s.24(1) of the *Public Health Act 2016*, to be a Designated Officer for the purposes of issuing Infringement Notices under the *Food Act 2008* [s.126(13)].
- appoint an Authorised Officer to be a Designated Officer (who is prohibited by s.126(13) from also being a Designated Officer for the purpose of issuing infringements), for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)].

#### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 42 Food Act – Debt Recovery and Prosecutions Officers			
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No power to sub-delegate
POLICY REFERENCE:		SUB-DELEGATED TO:	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Food Act 2008:</i> <i>s.118 Functions of enforcement agencies and delegation</i> <i>(2)(b) Enforcement agency may delegate a function conferred on it</i> <i>(3) Delegation subject to conditions [s.119] and guidelines adopted [s.120]</i> <i>(4) Sub-delegation permissible only if expressly provided in regulations</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Food Act 2008:</i> <i>s.54 Cost of destruction or disposal of forfeited item</i> <i>s.125 Institution of proceedings</i>	
Conditions	<i>In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to:

- to recover costs incurred in connection with the lawful destruction or disposal of an item (seized) including any storage costs [s.54(1)] and the costs of any subsequent proceedings in a court of competent jurisdiction [s.54(3)].
- institute proceedings for an offence under the Food Act 2008 [s.125].

### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 43		Food Act – Food Businesses List – Public Access	
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No power to sub-delegate
POLICY REFERENCE:		SUB-DELEGATED TO:	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Food Act 2008:</i> <i>s.118 Functions of enforcement agencies and delegation</i> <i>(2)(b) Enforcement agency may delegate a function conferred on it</i> <i>(3) Delegation subject to conditions [s.119] and guidelines adopted [s.120]</i> <i>(4) Sub-delegation permissible only if expressly provided in regulations</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Food Act 2008:</i> <i>r.51 Enforcement agency may make list of food</i>	
Conditions	<i>In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to decide to make a list of food businesses maintained under s.115(a) or (b), publicly available [r.51].

### REVIEW REQUIREMENTS

At least once every financial year.



## SHIRE OF WANDERING

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Delegation No: 44		Graffiti Vandalism Act – General Delegation	
<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	<i>Executive Manager Technical Services</i>
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Graffiti Vandalism Act 2016 – s16(1)</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b>	
<b>Conditions</b>	<p><i>In accordance with s17(1) of the Graffiti Vandalism Act 2016, the Chief Executive Officer may only sub delegate to an employee of the Shire.</i></p> <p><i>The CEO may not sub delegate authority to commence enforcement proceedings.</i></p> <p><i>The CEO may not delegate authority to deal with Objections pursuant to s20, 21 and 22 of the Act</i></p>		

### POWER OR DUTY DELEGATED

Pursuant to s16(1) Graffiti Vandalism Act 2016 the Chief Executive Officer is delegated all powers and duties of the Local Government under the Graffiti Vandalism Act 2016.

### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

## SHIRE OF WANDERING

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### Sub Delegation No: 44a Graffiti Vandalism Act – General Delegation

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	Yes
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	<i>Executive Manager Technical Services</i>
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Graffiti Vandalism Act 2016 – s16(1)</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b>	
<b>Conditions</b>	<p><i>In accordance with s17(1) of the Graffiti Vandalism Act 2016, the Chief Executive Officer may only sub delegate to an employee of the Shire.</i></p> <p><i>The CEO may not sub delegate authority to commence enforcement proceedings.</i></p> <p><i>The CEO may not delegate authority to deal with Objections pursuant to s20, 21 and 22 of the Act</i></p>		

#### POWER OR DUTY DELEGATED

Pursuant to s17(1) Graffiti Vandalism Act 2016 the Chief Executive Officer sub delegates:

The Executive Manager Technical Services to exercise the powers and duties of the local government under the following sections of the Graffiti Vandalism Act 2016:

- s18 Giving Notices;
- s19 Additional Powers;
- s25 Graffiti removal;
- s26 Powers of Entry;
- s27 Procedures;
- s28 Notice of Entry;
- s29 Entry under Warrant; and
- s30 Purpose of Entry.

#### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

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### Delegation No: 47 Public Health Act 2016 – Enforcement Reports to the Chief Health Officer

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Public Health Act 2016:</i> <i>s.21 Enforcement agency may delegate</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Public Health Act 2016</i> <i>s.22 Reports by and about enforcement agencies</i>	
<b>Conditions</b>	<i>Subject to each person so appointed being issued with a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices [r.15D(6)].</i>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to prepare and provide to the Chief Health Officer, the Local Government's report on the performance of its functions under this Act and the performance of functions by persons employed or engaged by the Shire of Wandering. [s.22(1)]

#### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.



## SHIRE OF WANDERING

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### Delegation No: 48 Public Health Act 2016 – Authority to Designate Authorised Officers

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Public Health Act 2016:</i> <i>s.21 Enforcement agency may delegate</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Public Health Act 2016</i> <i>s.24(1) and (3) Designation of authorised officers</i>	
<b>Conditions</b>	<p><i>Subject to each person so appointed being;</i></p> <ul style="list-style-type: none"> <li><i>Appropriately qualified and experienced [s.25(1)(a)]; and</i></li> <li><i>Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31].</i></li> </ul> <p><i>And a Register (list) of authorised officers is to be maintained in accordance with s.27</i></p>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to designate a person or class of persons as authorised officers for the purposes of:

- i. The Public Health Act 2016 or other specified Act
- ii. Specified provisions of the Public Health Act 2016 or other specified Act
- iii. Provisions of the Public Health Act 2016 or another specified Act, other than the specified provisions of that Act.

Including:

- a. an environmental health officer or environmental health officers as a class; OR
- b. a person who is not an environmental health officer or a class of persons who are not environmental health officers, OR
- c. a mixture of the two. [s.24(1) and (3)].

#### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

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### Delegation No: 49 Public Health Act 2016 – Determine Compensation for Seized Items

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Public Health Act 2016:</i> <i>s.21 Enforcement agency may delegate</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Public Health Act 2016</i> <i>s.264 Compensation</i>	
<b>Conditions</b>	<i>Compensation is limited to a maximum value of \$200 with any proposal for compensation above this value to be referred for Council's determination.</i>		

#### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to, in response to an application for compensation, to determine compensation that is just and reasonable in relation to any item seized under Part 16 if there has been no contravention of the Act and the item cannot be returned or has in consequence of the seizure depreciated in value [s.264].

#### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

## SHIRE OF WANDERING

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Delegation No: 50 Public Health Act 2016 – Commence proceedings			
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Public Health Act 2016:</i> <i>s.21 Enforcement agency may delegate</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Public Health Act 2016</i> <i>s.280 Commencing Proceedings</i>	
Conditions			

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to commence proceedings for an offence under the Public Health Act 2016 [s.280]

### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.



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### Delegation No: 51 Town Planning Scheme No. 3 – Various duties, powers and functions

<b>DATE ADOPTED:</b>	15/08/2019	<b>DELEGATE:</b>	CEO
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	No
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT): POWER TO DELEGATE</b> <i>Shire of Wandering Town Planning Scheme No. 3</i>		<b>LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED</b> <i>Planning and Development Act 2005</i>	
<b>Conditions</b>	<p><i>The Chief Executive Officer is to advise Councillors of the lodgement of a JDAP application, and report to Council at the earliest opportunity, the outcome of the JDAP decision.</i></p> <p><i>This Delegation does not preclude the Delegate from referring the categories of development or legal proceedings, to Council for determination, after having regard to the circumstances of a particular case.</i></p>		

#### POWER OR DUTY DELEGATED

That pursuant to the Division 2 Part 10 Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* and Sections 5.45 and 5.46 LGA Council delegate its authority and power to the Chief Executive Officer the following:

#### ADVERTISING

##### Notification and Advertising of Applications for Planning Consent

1. In accordance with Clause 9.4 of the Shire of Wandering Local Planning Scheme No 3 determine that a particular application will be advertised and notify the applicant accordingly.
2. Determine those landowners and occupiers to whom notice of an application for Planning Consent required to be advertised shall be provided pursuant to Clause 9.4.3(b) of Shire of Wandering Local Planning Scheme No. 3.
3. Determine the requirement for consultation with other of authorities for an application for Planning Approval pursuant to Clause 10.1 of the Shire of Wandering Local Planning Scheme No. 3.
4. Determine the requirement for advertising for public comment a draft Development Plan/s pursuant to Clause 8.1 of the Shire of Wandering Local Planning Scheme No. 3.
5. To extend the advertising period for planning scheme amendments and development plans, where considered necessary to provide for adequate consultation and/or accommodate specific community consultation exercises (e.g. special electors meetings, workshops etc).

#### WAPC REFERRALS OF APPLICATIONS FOR SUBDIVISION APPROVALS

Pursuant to s142 of the *Planning and Development Act 2005*, provide comment to the Western Australian Planning Commission (WAPC) on matters associated with subdivision applications, proposed development plans (or similar) and licence applications.

#### CLEARANCE OF LOCAL GOVERNMENT CONDITIONS ASSOCIATED WITH SUBDIVISION APPROVAL

## SHIRE OF WANDERING

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Pursuant to s143 of the *Planning and Development Act 2005* and where the WAPC has included conditions on a subdivision approval relevant to the Shire, determine the 'clearance' of a condition designated (LG) in a subdivision approval issued by the WAPC.

### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

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Delegation No: 52 Fence Line Clearing within Road and Other Reserves			
DATE ADOPTED:	15/08/2019	DELEGATE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:	Policy 52	SUB-DELEGATED TO:	NA
LEGAL (PARENT): POWER TO DELEGATE <i>Local Government Act 1995 s5.42</i>		LEGAL (SUBSIDIARY): POWER OR DUTY DELEGATED	
Conditions	<i>Must comply with relevant policies</i>		

### POWER OR DUTY DELEGATED

The Chief Executive Officer is delegated authority to determine applications for fence line clearing in accordance The *Environmental Protection (Clearing of Native Vegetation) Regulations 2004 r5 – Item 11*, and with Policy 52.

### REVIEW REQUIREMENTS

To be reviewed at least once every financial year.



## SHIRE OF WANDERING

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Delegation No: 54

Financial Hardship

DATE ADOPTED:	16/04/2020
DATE LAST REVIEWED:	16/09/2021
POLICY REFERENCE:	Policy 71

DELEGATE:	CEO
SUB-DELEGATED:	No
SUB-DELEGATED TO:	Nil

<b>LEGAL (PARENT):</b> <i>Local Government Act 1995 s5.42</i>
--

<b>LEGAL (SUBSIDIARY):</b>
----------------------------

<b>Conditions</b>	<i>Must comply with relevant policies</i>
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### POWER OR DUTY DELEGATED

Council delegate its authority and power to the Chief Executive Officer to:

1. In consultation with the Shire President, determine financial hardship; and
2. Implement payment arrangements.

### REVIEW REQUIREMENTS

At least once every financial year.

## SHIRE OF WANDERING

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### 3. DELEGATIONS, APPOINTMENTS AND AUTHORISATIONS BY OUTSIDE ORGANISATIONS

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EV402

#### ENVIRONMENTAL PROTECTION ACT 1986

##### Delegation No. 112

I, Jason Banks, in my capacity as Acting Chief Executive Officer of the Department of Environment Regulation responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to any person for the time being holding or acting in the office of a Chief Executive Officer under the *Local Government Act 1995*, my powers and duties under the *Environmental Protection (Noise) Regulations 1997*, other than this power of delegation, in relation to--

- (a) waste collection and other works--noise management plans relating to specified works under regulation 14A or 14B;
- (b) bellringing or amplified calls to worship--the keeping of a log of bellringing or amplified calls to worship requested under regulation 15(3)(c)(vi);
- (c) community activities--noise control notices in respect of community noise under regulation 16;
- (d) motor sport venues--noise management plans in relation to motor sport venues under Part 2 Division 3;
- (e) shooting venues--noise management plans in relation to shooting venues under Part 2 Division 4;
- (f) calibration results--requesting, under regulation 23(b), details of calibration results undertaken and obtained under Schedule 4;
- (g) sporting, cultural and entertainment events--approval of events or venues for sporting, cultural and entertainment purposes under Part 2 Division 7, subject to the following limitation--
  - (i) Subregulation 18(13)(b) is not delegated.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 68, gazetted 22 June 2007 is hereby revoked.

Dated the 12th day of December 2013.

JASON BANKS, Acting Chief Executive Officer.

Approved by--

JOHN DAY, Acting Minister for Environment; Heritage.

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**EV405**

### **ENVIRONMENTAL PROTECTION ACT 1986**

#### Delegation No. 119

I, Jason Banks, in my capacity as the Acting Chief Executive Officer of the Department responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to the holder for the time being of the offices of--

- (a) Chief Executive Officer under the *Local Government Act 1995*; and
- (b) to any employee of the local government under the *Local Government Act 1995* who is appointed as an Authorised Person under section 87 of the Act,

all my powers and duties in relation to noise management plans under regulation 13 of the *Environmental Protection (Noise) Regulations 1997*, other than this power of delegation.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 111, gazetted 20 December 2013, is hereby revoked.

Dated the 1st day of May 2014.

JASON BANKS, Acting Chief Executive Officer.



## SHIRE OF WANDERING

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**EV405**

### **ENVIRONMENTAL PROTECTION ACT 1986**

Delegation No. 119

I, Jason Banks, in my capacity as the Acting Chief Executive Officer of the Department responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to the holder for the time being of the offices of--

- (a) Chief Executive Officer under the *Local Government Act 1995*; and
- (b) to any employee of the local government under the *Local Government Act 1995* who is appointed as an Authorised Person under section 87 of the Act,

all my powers and duties in relation to noise management plans under regulation 13 of the *Environmental Protection (Noise) Regulations 1997*, other than this power of delegation.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 111, gazetted 20 December 2013, is hereby revoked.

Dated the 1st day of May 2014.

JASON BANKS, Acting Chief Executive Officer.

## SHIRE OF WANDERING

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DoL FILE 1738/2002v8; 858/2001v9

### PLANNING AND DEVELOPMENT ACT 2005

### INSTRUMENT OF AUTHORISATION

I, **Donald Terrence Redman MLA**, Minister for Lands, a body corporate continued by section 7(1) of the *Land Administration Act 1997*, under section 267A of the *Planning and Development Act 2005*, HEREBY authorise, in respect of each local government established under the *Local Government Act 1995* and listed in Column 2 of the Schedule, the person from time to time holding or acting in the position of Chief Executive Officer of the relevant local government, to perform the powers described in Column 1 of the Schedule subject to the conditions listed in Column 3 of the Schedule.

Dated the 2<sup>nd</sup> day of June 2016

HON DONALD TERRENCE REDMAN MLA  
MINISTER FOR LANDS

# SHIRE OF WANDERING

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## SCHEDULE

This is the Schedule referred to in an Instrument of Authorisation relating to Development Applications under the *Planning and Development Act 2005*

Column 1	Column 2	Column 3
<p>The power to sign as owner in respect of Crown land that is:</p> <ul style="list-style-type: none"> <li>a reserve managed by the local government pursuant to section 46 of the <i>Land Administration Act 1997</i> and the development is consistent with the reserve purpose and the development is not for a commercial purpose; or</li> <li>the land is a road of which the local government has the care, control and management under section 55(2) of the <i>Land Administration Act 1997</i> and where there is no balcony or other structure proposed to be constructed over that road unless that structure comes within the definition of a "minor encroachment" in the Building Regulations 2012 (Regulation 45A), or is an "awning, verandah or thing" (Regulation 45B), or is a ground anchor, and where the development is consistent with the use of the land as a road.</li> </ul> <p>In respect of development applications being made under or referred to in:</p> <p>(i) section 99(2) of the <i>Planning and Development Act 2005</i> in respect of development for which approval is required under a regional Interim development order (as that term is defined in that Act);</p> <p>(ii) section 103(2) of the <i>Planning and Development Act 2005</i> in respect of development for which approval is required under a local Interim development order (as that term is defined in that Act);</p> <p>(iii) section 115 of the <i>Planning and Development Act 2005</i> in respect of development within a planning control area (as that term is defined in that Act);</p> <p>(iv) section 122A of the <i>Planning and Development Act 2005</i> in respect of which approval is required under an improvement scheme (as that term is defined in that Act);</p> <p>(v) section 162 of the <i>Planning and Development Act 2005</i> in respect of developments for which approval is required under a planning scheme or interim development order (as those terms are defined in that Act);</p> <p>(vi) section 153 of the <i>Planning and Development Act 2005</i> in respect of development on land which is comprised within a place entered in the Register maintained by the Heritage Council under the <i>Heritage of Western Australia Act 1990</i>, or of which such a place forms part;</p> <p>(vii) section 171A of the <i>Planning and Development Act 2005</i> in respect of a prescribed development application (as that term is defined in that section of that Act).</p>	<p>City of Albany City of Armadale Shire of Ashburton Shire of Augusta-Margaret River Town of Bassendean City of Baywater City of Belmont Shire of Beverley Shire of Bodington Shire of Boyup Brook Shire of Bridgetown-Greenbushes Shire of Brooking Shire of Broome Shire of Broome's F-Tambelup Shire of Bruce Rock City of Bunbury Shire of Bushellton Town of Cambridge City of Canning Shire of Capel Shire of Carnamah Shire of Carnarvon Shire of Chapman Valley Shire of Chittaring Shire of Christmas Island Town of Claremont City of Cockburn Shire of Cocos (Keeling) Islands Shire of Collie Shire of Coolgardie Shire of Coorow Shire of Corrigin Town of Cottleston Shire of Cranbrook Shire of Cuballing Shire of Cue Shire of Cunderdin Shire of Dalwallinu Shire of Dandaragan Shire of Dardanup Shire of Denmark Shire of DerbyWest Kimberley Shire of Donnybrook-Balingup Shire of Dowerin Shire of Dumbleyung Shire of Dundas Town of East Fremantle Shire of East Pilbara Shire of Esperance Shire of Exmouth City of Fremantle City of Greater Geraldton</p> <p>Shire of Gingin Shire of Gnowangerup Shire of Goomalling City of Gosnells Shire of Halls Creek Shire of Harvey Shire of Irwin Shire of Jerramungup City of Joondalup Shire of Kalamunda City of Kalgoorlie-Boulder Shire of Katanning Shire of Kellerberrin Shire of Kent Shire of Kojonup Shire of Kondinin Shire of Koorda Shire of Kulin City of Kwinana Shire of Lake Grace Shire of Laverton Shire of Leonora City of Mandurah Shire of Manjimup Shire of Meekatharra City of Melville Shire of Menzies Shire of Merredin Shire of Mingenew Shire of Moora Shire of Morawa Town of Mosman Park Shire of Mount Magnet Shire of Mt Marshall Shire of Mukinbudin Shire of Mundaring Shire of Murchison Shire of Murray</p>	<p>In accordance with and subject to approved Government Land policies.</p> <p>Any signature subject to the following endorsement: Signed only as acknowledgement that a development application is being made in respect of a proposal that includes Crown land, Crown reserves under management for the purpose, or a road and to permit this application to be assessed under the appropriate provision of the <i>Planning and Development Act 2005</i> (including any planning scheme). The signature does not represent approval or consent for planning purposes. Further, in the event that development approval is granted for the proposal, the above signature should not be taken as an acknowledgement of or consent to the commencement or carrying out of the proposed development or to any modification of the tenure or reservation classification of the Crown land component.</p>



# SHIRE OF WANDERING

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Shire of Nannup  
Shire of Narembeen  
Shire of Narrogin  
Town of Narrogin  
City of Nedlands  
Shire of Ngaanyaljaraku  
Shire of Northam  
Shire of Northampton  
Shire of Nungarin  
Shire of Peppermint Grove  
Shire of Perenjori  
City of Perth  
Shire of Pingelly  
Shire of Plantagenet  
Town of Port Hedland  
Shire of Quairading  
Shire of Ravensthorpe  
City of Rockingham  
Shire of Roebourne  
Shire of Sandstone  
Shire of Serpentine Jarrahdale  
Shire of Shark Bay  
City of South Perth  
City of Stirling  
City of Subiaco  
City of Swan

Shire of Tammin  
Shire of Three Springs  
Shire of Toodyay  
Shire of Trayning  
Shire of Upper Gascoyne  
Town of Victoria Park  
Shire of Victoria Plains  
Town of Vincent  
Shire of Wagin  
Shire of Wandering  
City of Wanneroo  
Shire of Waroona  
Shire of West Arthur  
Shire of Westonia  
Shire of Wickiepin  
Shire of Williams  
Shire of Wiluna  
Shire of Wongan-Ballidu  
Shire of Woodanilling  
Shire of Wyalkatchem  
Shire of Wyndham-East Kimberley  
Shire of Yalgoo  
Shire of Yilgarn  
Shire of York

HON DONALD TERENCE REDMAN MLA  
MINISTER FOR LANDS

2<sup>nd</sup> day of June 2016

# SHIRE OF WANDERING

22 Watts Street, Wandering WA 6308  
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## PLANNING AND DEVELOPMENT ACT 2005 Instrument of Delegation Del 2009/03 Powers of Local Governments

**Delegation to local governments of certain powers and functions of the Western Australian Planning Commission relating to the issuing of certificates of approval under section 25 of the *Strata Titles Act 1985***

### Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function under the Act or any other written law to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or imposed on the WAPC by the Act or any other written law as the case requires.

### Resolution under section 16 of the Act (delegation)

On 26 May 2009, pursuant to section 16 of the Act, the WAPC RESOLVED—

A TO DELEGATE to local governments, and to members and officers of those local governments, its powers and functions under section 25 of the *Strata Titles Act 1985* as set out in clause 1 of Schedule, within their respective districts, subject to the conditions set out in clause 2 of Schedule 1.

TONY EVANS, Western Australian Planning Commission.

## SCHEDULE 1

### 1. Applications made under section 25 of the *Strata Titles Act 1985*

Power to determine applications for the issuing of a certificate of approval under section 25 of the *Strata Titles Act 1985* for a plan of subdivision, re-subdivision or consolidation, except those applications that—

- (a) propose the creation of a vacant lot;
- (b) propose vacant air stratas in multi-tiered strata scheme developments;
- (c) in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing, relate to—
  - (i) a type of development; and/or
  - (ii) land within an area,

which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

### 2. Reporting requirements

A local government that exercises the power referred to in clause 1 is to provide WAPC with data on all applications determined under this Instrument of Delegation at the conclusion of each financial year in the format prescribed by the WAPC.



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**WESTERN AUSTRALIA  
ROAD TRAFFIC CODE 2000  
REGULATION 297(2)  
INSTRUMENT OF AUTHORISATION**

**RELATING TO  
TRAFFIC MANAGEMENT FOR EVENTS**

Pursuant to Regulation 297(2) of the *Road Traffic Code 2000* the Commissioner of Main Roads ("the Commissioner") hereby authorises (Insert name of Local Government) (Authorised Body") by itself, its employees, consultants, agents and contractors (together "Representatives") to, from the date indicated below, erect, establish, display, alter or take down such road signs of whatsoever type or class (except for permanent traffic control signals) as may be required for the purpose and duration of any:

- i) "event" subject to an order from the Commissioner of Police pursuant to Part VA of the *Road Traffic Act 1974*;
- ii) race meeting or speed test for which the Minister referred to in section 83 of the *Road Traffic Act 1974* has, under that provision, temporarily suspended the operation of any provisions of the *Road Traffic Act 1974* or regulations made under that Act; or
- iii) public meeting or procession the subject of a permit granted by the Commissioner of Police under the *Public Order in Streets Act 1984*;

or as may be required for the purpose of controlling traffic on a road adjacent to, or in the vicinity of, any event or organised activity approved by the Authorised Body under its local laws, on a road (other than a main road or highway) within its jurisdiction, SUBJECT ALWAYS to the following terms and conditions:

- (a) the Authorised Body shall at all times observe, perform and comply with the provisions of the "Traffic Management for Events Code of Practice" (as amended or replaced from time to time in consultation with the Traffic Management for Events Advisory Group) issued by Main Roads Western Australia ("the Code") referring to the version which is current at the time of the event, a copy of which can be obtained from Main Roads Western Australia from [www.mainroads.wa.gov.au](http://www.mainroads.wa.gov.au) or by contacting Main Roads by phone;
- (b) the Authorised Body shall develop and implement procedures that will satisfy the Commissioner that traffic management implemented by the Authorised Body, its employees, agents and contractors will in all respects conform to and comply with the requirements of the Code; and
- (c) the Authorised Body shall ensure that its Representatives comply with the terms and conditions identified above at paragraphs (a) and (b) as if they were named in those paragraphs in place of the Authorised Body.

By executing and returning the acknowledgment at the foot of this authorisation, the Authorised Body agrees to observe, perform and comply with the above terms and conditions.

The powers in this Instrument of Authorisation do not change or replace:

- 1) any prior Instrument of Authorisation from the Commissioner of Main Roads for the purposes of undertaking traffic management for works on roads; and
- 2) any powers and responsibilities of a local government provided in regulation 9 of the *Road Traffic (Events on Roads) Regulations 1991*.



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### WESTERN AUSTRALIA ROAD TRAFFIC CODE 2000 REGULATION 297(2) INSTRUMENT OF AUTHORISATION

Pursuant to Regulation 297(2) of the Road Traffic Code 2000 the Commissioner of Main Roads ("the Commissioner") hereby authorises .....  
("Authorised Body") by itself, its employees, consultants, agents and contractors (together "Representatives") to, from the date indicated below, erect, establish, display, alter or take down such traffic signs and traffic control devices of whatsoever type or class (except for permanent traffic control signals) as may be required for the purpose and duration of any works, survey or inspection, associated with the construction, maintenance or repair on a road (other than a main road or highway), any adjoining land or any portion thereof within its jurisdiction, SUBJECT ALWAYS to the following terms and conditions:

- (a) the Authorised Body shall at all times observe, perform and comply with the provisions of the "Traffic Management for Works on Roads Code of Practice" (as amended or replaced from time to time in consultation with the Traffic Management for Roadworks Advisory Group) issued by Main Roads Western Australia ("the Code") referring to the version which is current at the time of the relevant works, a copy of which can be obtained from Main Roads Western Australia from [www.mainroads.wa.gov.au](http://www.mainroads.wa.gov.au) or by contacting Main Roads by phone;
- (b) the Authorised Body shall develop and implement procedures that will satisfy the Commissioner that traffic management implemented by the Authorised Body, its employees, agents and contractors will in all respects conform to and comply with the requirements of the Code; and
- (c) the Authorised Body shall ensure that its Representatives comply with the terms and conditions identified above at paragraphs (a) and (b) as if they were named in those paragraphs in place of the Authorised Body.

By executing and returning the acknowledgment at the foot of this authorisation, the Authorised Body agrees to observe, perform and comply with the above terms and conditions.

This Instrument of Authorisation replaces any prior Instrument of Authorisation under Regulation 297(2) of the Road Traffic Code 2000 between the Commissioner and the Authorised Body. The Commissioner's delegation dated 17 July 1975 to a number of Local Governments outside the Perth metropolitan area, is not affected by this Instrument of Authorisation except that this Instrument of Authorisation prevails wherever roadworks are concerned. That 1975 delegation was made under Regulation 301 of the Road Traffic Code 1975 and related to non-regulatory signage.

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Government of Western Australia  
Department of Transport  
Driver and Vehicle Services

### ROAD TRAFFIC (VEHICLES) ACT 2012

*Road Traffic (Vehicles) Regulations 2014*

RTVR-2017-202046

#### APPROVAL UNDER REGULATION 327(4)(f) FOR CERTAIN LOCAL GOVERNMENT VEHICLES AS SPECIAL USE VEHICLES

Pursuant to the *Road Traffic (Vehicles) Regulations 2014* (the *Regulations*), I, Christopher Davers, Assistant Director Strategy and Policy, Driver and Vehicle Services, Department of Transport, and delegate of the Chief Executive Officer of the Department of Transport by way of a delegation instrument dated 7 August 2017, hereby approve vehicles owned by a local government and ordinarily used by persons authorised or appointed by that local government to perform functions on its behalf under:

- (a) the *Local Government Act 1995*;
- (b) regulations made under the *Local Government Act 1995*;
- (c) a local law;
- (d) any other legislation empowering a local government to authorise or appoint persons to perform functions on the behalf of the local government (including but not limited to the *Dog Act 1976*); or
- (e) any combination of the above paragraphs (a) to (d);

as special use vehicles for the purposes of paragraph "f" of the definition of "special use vehicle" in regulation 327(4) of the *Regulations*, with the effect that those vehicles may be fitted with one or more yellow flashing lights under regulation 327(3)(b) of the *Regulations*, subject to the following conditions:

#### CONDITIONS

1. Those lights must emit rotating, flashing yellow coloured light(s) and must not be a strobe light.
2. At least one flashing light shall be mounted on top of the vehicle and when lit, shall be visible in normal daylight up to a distance of not less than 200 metres to vehicles approaching from any direction.
3. No part of the lens of the flashing lights is visible either directly or indirectly to the driver when seated in the normal driving position.
4. If more than one flashing light is fitted, they must be placed symmetrically about the centre line of the vehicle or combination of vehicles.
5. An on/off switch for the flashing lights must be installed so as to be easily operated from the driver's seat.
6. Any additional equipment fitted to the vehicle must not interfere with the overall safe operation of the vehicle.
7. Any vehicle fitted with flashing lights for the purposes of this approval must:



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### 4. APPOINTMENTS AND AUTHORISATIONS

Appointment/Authorisation No: 1      Animal Welfare Act 2002 – General Inspector			
DATE ADOPTED:	15/08/2019	APPOINTEE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	No
POLICY REFERENCE:		SUB-DELEGATED TO:	NA
LEGAL (PARENT):	LEGAL (SUBSIDIARY):		
	<i>Animal Welfare Act 2002 – s33(2)(a)(v)</i>		
Conditions	<i>General Inspectors must be employees. General Inspectors are only able to issue infringement notices and cannot be appointed as both General Inspectors and Authorised Persons.</i>		

#### POWER OR DUTY DELEGATED

Pursuant to s33(2)(a)(v) Animal Welfare Act 2002 the Chief Executive Officer is appointed as a General Inspector.

#### REVIEW REQUIREMENTS

Although these Delegations are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.



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### Appointment/Authorisation No: 2 Caravan Parks and Camping Grounds Act 1995 – Authorised Persons

<b>DATE ADOPTED:</b>	15/08/2019	<b>APPOINTEE:</b>	CEO Executive Manager Technical Services Administration Assistant
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	NA
<b>PREVIOUS APPOINTMENT / AUTHORISATION:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT):</b> <i>Caravan Parks and Camping Grounds Act 1995 –s17(1)</i>		<b>LEGAL (SUBSIDIARY):</b>	
<b>Conditions</b>	<i>Employees appointed under s17(1) must have an identity card in accordance with s17(1)(b).</i>		

#### APPOINTMENT

The Chief Executive Officer, Executive Manager Technical Services, Administration Assistant are appointed as an Authorised Person pursuant to s17(1) *Caravan Parks and Camping Grounds Act 1995*.

#### REVIEW REQUIREMENTS

Although these Appointments are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

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Appointment/Authorisation No: 3		Caravan Parks and Camping Grounds Act 1995 - Enforcement	
<b>DATE ADOPTED:</b>	15/08/2019	<b>APPOINTEE:</b>	CEO Executive Manager Technical Services
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	NA
<b>POLICY REFERENCE:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT):</b> <i>Caravan Parks and Camping Grounds Act 1995 –s22; s23(2), (5), (7), (11)</i>		<b>LEGAL (SUBSIDIARY):</b> <i>Caravan Parks and Camping Grounds Regulations 1997</i>	
<b>Conditions</b>	<p><i>Employees appointed under s23(2) cannot be appointed under s23(3), (5) or (7).</i></p> <p><i>Employees appointed under s23(2) must hold a certificate stating the person is authorised in accordance with s23(12).</i></p> <p><i>In accordance with r11(2) (c) any approval must be in writing.</i></p>		

### APPOINTMENT

1. The Chief Executive Officer is appointed an Authorised Person under s22, 23(5), 23(7), 23(11) *Caravan Parks and Camping Grounds Act 1995*.
1. The Executive Manager Technical Services is appointed as an Authorised Person under s23(2) *Caravan Parks and Camping Grounds Act 1995*.
2. The Executive Manager Technical Services is appointed as an Authorised Person to undertake all functions of the local government for the purposes of r6 and r11(2)(c) of the *Caravan Parks and Camping Grounds Regulations 1997*.

### REVIEW REQUIREMENTS

Although these Appointments are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.

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### Appointment/Authorisation No: 4 Control of Vehicles (Off Road Areas) Act 1978

<b>DATE ADOPTED:</b>	15/08/2019	<b>APPOINTEE:</b>	CEO Executive Manager Technical Services
<b>DATE LAST REVIEWED:</b>	16/09/2021	<b>SUB-DELEGATED:</b>	NA
<b>PREVIOUS APPOINTMENT / AUTHORISATION:</b>		<b>SUB-DELEGATED TO:</b>	NA
<b>LEGAL (PARENT):</b> <i>Control of Vehicles (Off Road Areas) Act 1978 – s38(3)</i>		<b>LEGAL (SUBSIDIARY):</b> <i>Control of Vehicles (Off-Road Areas) Regulations 1979</i>	
<b>Conditions</b>	<i>In accordance with s38(4)(d) each authorised person appointed must have a certificate stating the employee is an authorised person for the purpose of this Act.</i>		

#### APPOINTMENT

Pursuant to s38(3) of *Control of Vehicles (Off Road Areas) Act 1978* and the *Control of Vehicles (Off-road Areas) Regulations 1979*, the Chief Executive officer and Executive Manager Technical Services are appointed as Authorised Officers to perform all functions of the local government under the Act.

#### REVIEW REQUIREMENTS

Although these Appointments are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.



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Appointment/Authorisation No: 5 Control of Council Property and Facilities			
DATE ADOPTED:	15/08/2019	APPOINTEE:	CEO
DATE LAST REVIEWED:	16/09/2021	SUB-DELEGATED:	NA
POLICY REFERENCE:		SUB-DELEGATED TO:	NA
LEGAL (PARENT):	LEGAL (SUBSIDIARY):		
	<i>Criminal Code Act Compilation Act 1913 – 570A(1)(a)</i>		
Conditions			

### APPOINTMENT

The Chief Executive Officer is deemed to be the person in authority of local government property and facilities, including the Council Chambers during Council and Committee meetings

### REVIEW REQUIREMENTS

Although these Appointments are not required to be reviewed annually, Council has determined that they will be reviewed at least once every financial year.