

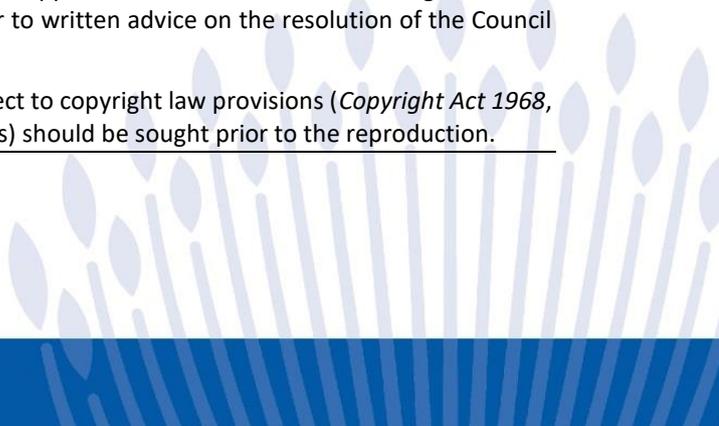
Audit & Risk Committee Meeting

Minutes | 13th June 2023

Disclaimer

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SHIRE OF QUAIRADING

Audit & Risk Committee Meeting

The Audit & Risk Committee Meeting Minutes of Meeting held on 13th June 2023 commencing at 5.00pm.

ITEM 1 OPENING & ANNOUNCEMENTS

The Chairperson opened the Meeting at 5.00 pm.

“Before we start our meeting, I would like to acknowledge that we are meeting on Noongar/Ballardong land. We pay respect to the original custodians of the land...past, present and future. I welcome you all here today for this meeting.”

ITEM 2 ATTENDANCE AND APOLOGIES

Councillors

Cr JN Haythornthwaite	Chairperson
Cr PD Smith	Shire President
Cr TJ Stacey	Deputy Shire President
Cr E Cheang	
Cr BR Cowcill	
Cr JC Hayes	

Council Officers

Ms NJ Gibbs	Chief Executive Officer
Ms T Brown	Executive Manager, Corporate Services
Ms SE Caporn	Executive Manager, Works & Services
Ms BJ Hadlow	Executive Officer

Observer/Visitor

Apologies

Ms NJ Ness	Executive Manager, Economic Development
Cr JR Hippisley	

Leave of Absence Previously Granted

Nil

ITEM 3 DEPUTATIONS/PRESENTATIONS/SUBMISSIONS/PETITIONS

Nil.

ITEM 4 DECLARATIONS OF INTEREST

Nil

ITEM 5 CONFIRMATION OF MINUTES AND BUSINESS ARISING

5.1 Confirmation of Minutes: Audit & Risk Committee Meeting – 14 March 2023

COMMITTEE RESOLUTION: ARC 021-22/23

Moved: Cr TJ Stacey

Seconded: Cr PD Smith

That the Minutes of the Audit & Risk Committee Meeting held on the 14 March 2023 be confirmed as a true and accurate record.

CARRIED 6/0

BUSINESS ARISING

Nil.

ITEM 6 STANDING ITEMS – EXTERNAL AUDIT**6.1 2022/2023 Financial Audit - Office of the Auditor General (OAG)****Responsible Officer** Nicole Gibbs, Chief Executive Officer**Reporting Officer** Tricia Brown, Executive Manager, Corporate Services

- Attachments**
1. Interim Management Letter to CEO - Shire of Quairading 30 June 2023 (i) [↓](#) 
 2. Interim Management Letter Attachment - Shire of Quairading - 30 June 2023 (ii) (confidential)
 3. Final Management Letter to CEO 30 June 2022 (iii) [↓](#) 
 4. Final Management Letter Attachment - Shire of Quairading - 30 June 2022 (iv) (confidential)
 5. Opinion - Shire of Quairading - 30 June 2022 (v) [↓](#) 
 6. DLGSC - Significant Items in Performance Audit Report Tabled in Parliament (vi) [↓](#) 
 7. Information-Systems-Audit-State-Government-2021-22 (vii) [↓](#) 
 8. Media Statement - Information Systems Audit - State Government 2021-22 (viii) [↓](#) 

Voting Requirements Simple Majority**Disclosure of Interest** Reporting Officer: Nil.

Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 022-22/23

Moved: Cr JC Hayes

Seconded: Cr TJ Stacey

That the Audit & Risk Committee recommend to Council, that Council:

1. Receive the independent auditors report and interim management letter attachment (attachment (i) and (ii)) from the Office of the Auditor General for the audit year ended 30 June 2023,
2. Notes the management responses and planned actions from the interim management letter, attachment (ii),
3. Accepts and adds the four new findings as contained within attachment (ii) to the Audit Register, for progress to be reported quarterly through the audit register – progress report,
4. Notes that the annual meeting (entrance meeting) with the auditor, pursuant to section 7.12A of the Local Government Act was held on 6th June 2023.
5. Receive the independent auditors report, Final Management letter and Opinion (attachment (iii) (iv) and (v)) from the Office of the Auditor General for the Annual Financial Report Audit for year ended 30 June 2022,
6. Receives the letter, report and media release from the Department of Local Government, Sport & Cultural Industries regarding the *Information Systems Audit – Local Government 2021-2022* tabled in Parliament (attachment (vi) (vii) (viii)).

CARRIED 6/0

IN BRIEF

- AMD Chartered Accountants (AMD) have been contracted by the Office of the Auditor General (OAG) to perform the Shire's financial report audit on the OAG's behalf for a 3-year period, which commenced with the audit for the year ended 30 June 2021.
- The 2022/2023 pre-audit (entrance) Meeting was conducted with Tim Partridge, Director of AMD; Caitlin McGowan, OAG Representative Director; Jo Haythornthwaite, Audit & Risk Chairperson and Executive Staff on the 6th June 2023. This meeting was conducted via teams online meeting.
- The Interim Audit has been completed by AMD, through offsite work and an onsite audit visit from 1-3 May 2023. The interim management letter showing four new findings and recommendations was received from OAG on 8th June 2023.
- Management provided comments on the findings and recommendations which were incorporated into the interim management letter which was received from the OAG on 8th June 2023.
- Council received Minister approval for an extension to the 30 September 2022 deadline for completing the annual financial report (AFR) due to the significant delays incurred from implementing the chart of accounts (COA) restructure and subsequent impacts to the new templates required for the annual budget and monthly financial reports.
- Council submitted the draft 2021/2022 annual financial report through Bob Waddell and Associates to AMD on the 25th of November 2022.
- Any matters raised in the interim management letter are to be addressed by management and reported to the Audit and Risk Committee through the audit register progress report.

MATTER FOR CONSIDERATION

Receipt of the independent auditor's report and interim management letter for the year ended 30 June 2023.

Receipt of the independent auditor's report for the Annual Financial Report for the year ended 30 June 2022.

BACKGROUND

The external audit, also known as financial audits or audit of the annual financial statements, focuses on providing an objective and independent examination of the financial statements prepared by the Shire, increasing the value and user confidence in the financial statements.

The Local Government Amendment (Auditing) Act 2017 made legislative changes to the Local Government Act 1995 to provide for the auditing of local governments by the Auditor General. This Act allows the Office of the Auditor General (OAG) to contract out some or all the financial audits, but all audits will be the responsibility of the Auditor General.

The changes also allow for the Auditor General to undertake performance audits that focus on the economy, efficiency, and effectiveness of any aspect of local government operations. These performance audits are similar to that of an internal audit; therefore, the Auditor General may undertake both external and internal audits.

AMD Chartered Accountants (AMD) have been contracted by the OAG to perform the Shire's financial report audit for a 3-year period, commencing with the audit for the year ended 30th June 2021 (prior year audit). The audit occurs in two steps; the first being an interim audit, with the second (final) stage being the audit work to attest the balances and notes that comprise the annual financial statements.

Bob Waddell and Associates were engaged to complete the Shire's Annual Financial Statements for the year ended 30th June 2022. The Shire went live with a new chart of accounts (COA) in April 2022, and experienced significant conversion issues that impacted operations. New monthly financial reporting templates and annual budgeting templates were required to be created to align to the new COA. This in turn delayed the annual financial report (AFR) and the Shire's Chief Executive Officer wrote to the Department of Local Government, Sport and Cultural Interests, pursuant to Section 6.4(3) of the *Local Government Act 1995*, to seek Minister approval for an extension to the 30th September 2022 deadline for completion of the AFR of the year ended 30 June 2022. Council received Minister approval for an extension to 25th November 2022.

The Shire prepared its annual financial report through Bob Waddell and Associates for the year ending 30 June 2022, in accordance with the Australian Accounting Standards and the specific requirements of the *Local Government Act 1995* and associated Regulations. The (draft) Annual Financial Report was submitted to AMD on the 25th November 2022.

One large change was requested by AMD and confirmed through the OAG in relation to the Skeleton Weed Lease/Loan. The Shire had previously recognised this as a right of use asset, with the vehicle being used by the Avon South LAG and funds administered by the Shire. The principal repayments were budgeted as capital, and interest repayments were budgeted as operational. AMD and the OAG's decision to change all repayments to be operational is due to the finding that the asset is not to be treated as a right-of-use by the Shire, just an operational expense. This has affected current and future year budgeting and monthly reporting.

Subsequent small changes were requested, and various amendments made to the annual financial reports, with the AFR being submitted by AMD to the OAG on 25th January 2023. The OAG then completed their review and a further query in relation to work-in-progress saw a last-minute amendment change made on the 7th March 2023.

The Final Management Letter and attachment for the Audit of the Annual Financial Report (attachment (iii) and (iv) and Opinion from the Auditor General (attachment (v) ending 30 June 2022 was received on 17 March 2023.

As per the draft letter received from AMD an unmodified opinion for the 2021/2022 financial year, with one finding present. The audit report is to be received and noted by Council with any matters raised in the management letter to be addressed by management and progress reported to the Audit and Risk Committee.

The annual interim audit of Council's financials for the audit year ending 30th June 2023 was conducted in an onsite visit from 1-3 May 2023, with minimal offsite work completed by AMD for a week following the May visit. An entrance meeting via Teams was conducted on 6th June 2023. The draft Interim Management Letter was received by the Shire on 8th June 2023, with seven findings being listed in the attachment. One of these findings was discussed with AMD prior to the release of the interim letter and was subsequently removed.

On 8 May 2023 we received a letter from Department of Local Government, Sport and Cultural Industries pertaining to significant items in performance audit tabled in Parliament in the *Information Systems Audit – Local Government 2021-2022* (attachment (vi) and (vii)). Attached is also the Media release from the OAG pertaining to the audit (attachment (viii)) The Shire of Quairading was identified as one of the audited entities.

The Shire is required to report to the Minister on the significant matters as required under section 7.12A of the Act by June 2023. The Information Systems Audit does not indicate a specific area that the Shire of Quairading may have significant matters in, so The Shire of Quairading will be addressing each and every one of the recommendations tabled.

Staff have met this week with executive staff to discuss the recommendations and to ensure that all the recommendations are being met. Our response will be tabled at the next Audit & Risk meeting.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Local Government (Audit) Regulations 1996

Australian Accounting Standards

International Financial Reporting Standards

POLICY IMPLICATIONS

Purchasing Policy

Delegation 1.1.13: Payments from the municipal or trust funds

Records Management Policy

Significant Accounting Policies

Delegations Register

FINANCIAL IMPLICATIONS

Council has a budget allocation of \$30,000 in the 2022/23 budget for the conduct of the external audit function by the Office of the Auditor General (OAG), for the audit of the 2021/22 annual financial statements. It is anticipated that a budget of similar amount is to be adopted each year but will be subject to an annual estimate of audit fees provided by the OAG. Officers' efforts to undertake the improvements and report on progress have not been estimated or reported.

ALIGNMENT WITH STRATEGIC PRIORITIES

- 5.3 Governance & Leadership:** Provide informed and transparent decision making that, meets our legal obligations, and the needs of our diverse community
- 5.4 Governance & Leadership:** Implement systems and processes that meet legislative and audit obligations

CONSULTATION

Nil.

RISK MANAGEMENT PRIORITIES

This report addresses the following identified Strategic Risk Management Priorities:

Financial misconduct by (a) a Shire employee, and (b) an executive/office holder results in financial, legal and/or reputational damage.

Misconduct (non-financial) by a Shire employee results in financial, legal and/or reputational damage.

RISK ASSESSMENT

	Option 1
Financial	Low <i>Cost of the audit is included in the budget. The audit's purpose is not to uncover any financial fraud, however having strong financial processes, as raised in the management report can reduce the risk of this occurring.</i>
Health	Low
Reputation	Low <i>Compliant with legislative requirements. Failure to complete the annual financial audit would lead to increased reputational risk and possible actions by the OAG.</i>
Operations	Low <i>Council's Management and administration staff assist AMD by providing all information and documents requested. Operational impact is minimal in reporting progress on audit findings, however the operational impact of not closing findings would be significantly higher if conditions escalated.</i>
Natural Environment	Low

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

Between November 2022 and March 2023, the final audit was conducted, with the independent auditor's report and management letter being produced. The letter confirmed one finding.

The matter identified is deemed significant as it has a potential to pose a significant risk to the entity should it not be addressed and remediated. Under the *Local Government (Financial Management) Regulations 1996*, section 17A, the Shire is required to perform a revaluation of its land, building and infrastructure assets every five (5) years. The last time this revaluation was performed was 2021, with the fair value being taken up as at the 30 June 2021.

The Office of the Auditor General's (OAG) finding states that despite this five-year requirement, given the current economic conditions, inflation and increases to building and infrastructure costs, their direction is that the Shire is to perform formal revaluation of assets annually to ensure that the carrying amount does not differ materially from the fair value of the assets.

It is noted that internal capacity to perform a task like this annually is unlikely to exist within the Shire and that input from an independent valuer would be highly likely. The current 5-year valuations are next scheduled to be completed in 2025/2026 and would be performed by an external body.

The management comment provided by the CEO and EMCS notes the OAG finding and agrees to review this with Council and Executive for the financial year ended 30 June 2023. It is understood that this is a new focus of the OAG with multiple small, regional local governments having the same finding in their audit reports, despite compliance with the 5-year regulation. As this finding is significant, Council will need to ensure that it is an area of focus whilst the economic conditions remain fluctuating.

The CEO and EMCS will continue to report on progress of audit findings through the Audit Progress Register that is submitted to the Audit and Risk Committee and recommended to Council.

COMMENTS AFFECTING COMMITTEE DECISION

The CEO stated that she was concerned that the audit findings did not detail information sufficient to ensure Council was informed:

1. Missing Fuel Receipt

Documentation was provided to the auditors to substantiate that there was no missing fuel receipt. The fuel station was unattended and the receipt machine was faulty. Multiple and varied attempts were made to contact the owners. Eventually, it was found that the business had been sold.

2. Purchase Orders

Council received a finding to say that there were purchase orders that came in after the invoice. Some of this is human error but most of it is through uncontrolled variables. For example, Main Roads may do some work and then send in an invoice without informing the Shire, so the purchase order must be made after the invoice is received. It is illegal to backdate purchase orders. The Senior Finance Officer has now been made responsible for the oversight of all purchase orders.

Cr Smith asked if the auditor verifies with officers at the time whether purchase orders are non-compliant. The CEO answered in the negative.

Cr Haythornthwaite said when she reviews the payments she reports back if the purchase orders dates are after the invoice dates.

A paper will be brought to the June Ordinary Council meeting regarding these findings.

Cr Haythornthwaite said she was present at the annual entrance meeting which was held on 06 June 2023. At this stage, the auditors are on target to complete the audit by the end of the year under two provisos:

1. Valuers are required to be accredited.
2. If the draft financial statements are completed on time.

Cr Stacey asked why Council must value properties every year and when it is going to stop. According to the regulations, Council is compliant. The CEO said it was a frustrating finding, as Council was breached for something that is not lawfully required to be done. According to the regulations the valuations should be carried out every five years.



Our Ref: 4170

Ms Nicole Gibbs
Chief Executive Officer
Shire of Quairading
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QUAIRADING WA 6383

7th Floor, Albert Facey House
469 Wellington Street, Perth

Mail to: Perth BC
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PERTH WA 6849

Tel: 08 6557 7500
Email: info@audit.wa.gov.au

Dear Ms Gibbs

**ANNUAL FINANCIAL REPORT
INTERIM AUDIT RESULTS FOR THE YEAR ENDING 30 JUNE 2023**

We have completed the interim audit for the year ending 30 June 2023. We performed this phase of the audit in accordance with our audit plan. The focus of our interim audit was to primarily evaluate your financial control environment, and to obtain an understanding of the key business processes, risks and internal controls relevant to our audit of the annual financial report.

Management Control Issues

We would like to draw your attention to the attached listing of deficiencies in internal control and other matters that were identified during the course of the interim audit. These matters have been discussed with management and their comments have been included on the attachment. The matters reported are limited to those deficiencies that were identified during the interim audit that we have concluded are of sufficient importance to merit being reported to management.

This letter has been provided for the purposes of your local government and may not be suitable for other purposes.

We have forwarded a copy of this letter to the President. A copy will also be forwarded to the Minister for Local Government when we forward our auditor's report on the annual financial report to the Minister on completion of the audit.

Feel free to contact me on 6557 7552 if you would like to discuss these matters further.

Yours sincerely,

Cait McGowan
Assistant Director
Financial Audit
7 June 2023

Attach



Our Ref: F21/69

Ms Nicole Gibbs
Chief Executive Officer
Shire of Quairading
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Dear Ms Gibbs

ANNUAL FINANCIAL REPORT FOR THE YEAR ENDED 30 JUNE 2022

The Office has completed the audit of the annual financial report for your Shire. In accordance with section 7.12AD (2) of the *Local Government Act 1995*, we enclose the Auditor General's auditor's report, together with the audited annual financial report.

We have also forwarded the reports to the President and the Minister for Local Government, as required by the Act. You are required to publish the annual report, including the auditor's report and the audited financial report, on your Shire's official website within 14 days after the annual report has been accepted by your Council.

Management Control Issues

While the result of the audit was satisfactory, I would like to draw your attention to the attached listing of deficiencies in internal control and other matters that were identified during the audit. These matters have been discussed with management and their comments have been included in the attachment.

Please note that the purpose of our audit was to express an opinion on the financial report. The audit included consideration of internal control relevant to the preparation of the financial report in order to design audit procedures that were appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control.

An audit is not designed to identify all internal control deficiencies that may require management attention. The matters being reported are limited to those deficiencies that have been identified during the audit that are of sufficient importance to warrant being reported. It is possible that other irregularities and deficiencies may have occurred and not been identified as a result of our audit.

An audit is not designed to identify all internal control deficiencies that may require management attention. It is possible that irregularities and deficiencies may have occurred and not been identified as a result of our audit.

The date that entities provided their annual financial report to the Office has been recorded for purposes of reporting to Parliament. The date recorded for the receipt of your financial statements was 3 August 2022. The date that Office has recorded for our receipt of a good and complete set of financial statements was 25 January 2023.

This letter has been provided for the purposes of the Shire and the Minister for Local Government and may not be suitable for other purposes.

I would like to take this opportunity to thank you, the management and the staff of the Shire for their cooperation with the audit team during our audit.

Feel free to contact me on 6557 7605 if you would like to discuss these matters further.

Yours sincerely



Vignesh Raj
Assistant Director
Financial Audit
16 March 2023

Attach



Auditor General

INDEPENDENT AUDITOR'S REPORT 2022 Shire of Quairading

To the Councillors of the Shire of Quairading

Opinion

I have audited the financial report of the Shire of Quairading (Shire) which comprises:

- the Statement of Financial Position at 30 June 2022, the Statement of Comprehensive Income by Nature or Type, Statement of Changes in Equity, and Statement of Cash Flows and Rate Setting Statement for the year then ended
- Notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion, the financial report is:

- based on proper accounts and records
- presents fairly, in all material respects, the results of the operations of the Shire for the year ended 30 June 2022 and its financial position at the end of that period
- in accordance with the *Local Government Act 1995* (the Act) and, to the extent that they are not inconsistent with the Act, Australian Accounting Standards.

Basis for opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial report section below.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Other information

The Chief Executive Officer (CEO) is responsible for the preparation and the Council for overseeing the other information. The other information is the information in the entity's annual report for the year ended 30 June 2022, but not the financial report and my auditor's report.

My opinion on the financial report does not cover the other information and, accordingly, I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial report, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial report or my knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I did not receive the other information prior to

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the date of this auditor's report. When I do receive it, I will read it and if I conclude that there is a material misstatement in this information, I am required to communicate the matter to the CEO and Council and request them to correct the misstated information. If the misstated information is not corrected, I may need to retract this auditor's report and re-issue an amended report.

Responsibilities of the Chief Executive Officer and Council for the financial report

The Chief Executive Officer of the Shire is responsible for:

- preparation and fair presentation of the financial report in accordance with the requirements of the Act, the Regulations and Australian Accounting Standards
- managing internal control as required by the CEO to ensure the financial report is free from material misstatement, whether due to fraud or error.

In preparing the financial report, the CEO is responsible for:

- assessing the Shire's ability to continue as a going concern
- disclosing, as applicable, matters related to going concern
- using the going concern basis of accounting unless the State Government has made decisions affecting the continued existence of the Shire.

The Council is responsible for overseeing the Shire's financial reporting process.

Auditor's responsibilities for the audit of the financial report

As required by the *Auditor General Act 2006*, my responsibility is to express an opinion on the financial report. The objectives of my audit are to obtain reasonable assurance about whether the financial report as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial report. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.

A further description of my responsibilities for the audit of the financial report is located on the Auditing and Assurance Standards Board website. This description forms part of my auditor's report and can be found at https://www.auasb.gov.au/auditors_responsibilities/ar4.pdf.

My independence and quality control relating to the report on the financial report

I have complied with the independence requirements of the *Auditor General Act 2006* and the relevant ethical requirements relating to assurance engagements. In accordance with ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, and Other Assurance Engagements*, the Office of the Auditor General maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Matters relating to the electronic publication of the audited financial report

This auditor's report relates to the financial report of the Shire of Quairading for the year ended 30 June 2022 included in the annual report on the Shire's website. The Shire's management is responsible for the integrity of the Shire's website. This audit does not provide assurance on the integrity of the Shire's website. The auditor's report refers only to the financial report. It does not provide an opinion on any other information which may have been hyperlinked to/from the annual report. If users of the financial report are concerned with the inherent risks arising from publication on a website, they are advised to contact the Shire to confirm the information contained in the website version.



Patrick Arulsingham
Senior Director Financial Audit
Delegate of the Auditor General for Western Australia
Perth, Western Australia
16 March 2023



Department of
**Local Government, Sport
and Cultural Industries**

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Ms Nicole Gibbs
Chief Executive Officer
Shire of Quairading
PO Box 38
Quairading WA 6383

Dear Ms Gibbs

SIGNIFICANT ITEMS IN PERFORMANCE AUDIT REPORT TABLED IN PARLIAMENT

On 29 March 2023, the Auditor General tabled a report in Parliament on the *Information Systems Audit – Local Government 2021-22*. In this report, the Auditor General recommended that under section 7.12A of the *Local Government Act 1995* (the Act), that local governments identified as having significant information systems issues:

- Is to prepare an action plan addressing significant matters relevant to their entity; and
- For submissions to the Minister for Local Government (the Minister) be made within 3 months of the report being tabled.

The Department of Local Government Sport and Cultural Industries (DLGSC) received an in-confidence a list from the Office of the Auditor General that identified the Shire of Quairading (the Shire), as one of the audited entities.

The DLGSC is seeking to remind the Shire of their requirement to report to the Minister on the significant matters as required under section 7.12A of the Act by 29 June 2023.

Subsequent to the aforementioned action having been completed could the Shire please provide evidence, including copies of any correspondence forwarded to the Minister addressing significant matters from the Auditor-General's audit report to DLGSC via the LG.Accounting@dlgsc.wa.gov.au inbox.

Given the current public focus on information systems security, the Shire is still within its statutory timeframe to report to the Minister.

If you have any questions relating to the reporting requirements under the Act, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Tim Fraser'.

Tim Fraser
Executive Director Local Government

08/05/2023

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Report 17: 2022-23 | 22 March 2023

INFORMATION SYSTEMS AUDIT

State Government 2021-22



**Office of the Auditor General
Western Australia**

Audit team:

Aloha Morrissey
Kamran Aslam
Svetla Alphonso
Information Systems Audit team
Financial Audit teams

National Relay Service TTY: 133 677
(to assist people with hearing and voice impairment)

We can deliver this report in an alternative format for those with visual impairment.

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

Image credit: SquareMotion/shutterstock.com

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

**Information Systems Audit –
State Government 2021-22**

Report 17: 2022-23
22 March 2023

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**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

INFORMATION SYSTEMS AUDIT – STATE GOVERNMENT 2021-22

This report has been prepared for submission to Parliament under the provisions of section 24 of the *Auditor General Act 2006*.

Our information systems audits focus on the computer environments of entities to determine if their general computer controls effectively support the confidentiality, integrity and availability of information systems and the information they hold.

This is the 15th year we have separately reported on State government entities' general computer controls.

I wish to acknowledge the entities' staff for their cooperation with this audit.

A handwritten signature in black ink, appearing to read 'C Spencer'.

CAROLINE SPENCER
AUDITOR GENERAL
22 March 2023

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Auditor General's overview

This report summarises the results of the 2021-22 annual cycle of information systems audits for Western Australian State government entities (including tertiary institutions). These audits were performed between February 2022 and March 2023.



Last year's significant data breaches across sectors and jurisdictions impacted many Australians and highlighted the critical importance of good information and cyber security controls. Along with the many benefits for the public sector that come from the convergence of IT and operational technology, an increasingly mobile workforce and the use of cloud and IT supply chains, is the ever present and evolving nature of cyber security threats. Our IS audits are designed to help entities remain vigilant in their identification, detection and mitigation of cyber risks. The State Government's \$500 million Digital Capability Fund¹ provides further support for entities to upgrade their legacy systems and invest in digital transformation. While the full value of this investment will take many years to realise, the enhancements are essential and it is pleasing that a number of entities have already accessed funding to address some audit findings.

We reported 566 general computer control findings to 61 entities for 2021-22. Concerningly, and similar to last year, half of the audit findings (282) were unresolved issues from 2020-21. At 13 entities, control weaknesses were so pervasive they resulted in qualified audit opinions – a serious matter – due to weak system access management, and network security controls. These findings, if not addressed, could result in data breaches, system outages and financial loss to the State and its citizens.

In recognition of growing cyber security threats, during this audit cycle we introduced an updated capability maturity model. The updated model expands the number of control categories to 10, five of which now relate to information and cyber security controls. The model provides more information to entities and the Parliament on the discrete state of system, information and cyber security in the State public sector, and what needs to be done to improve it.

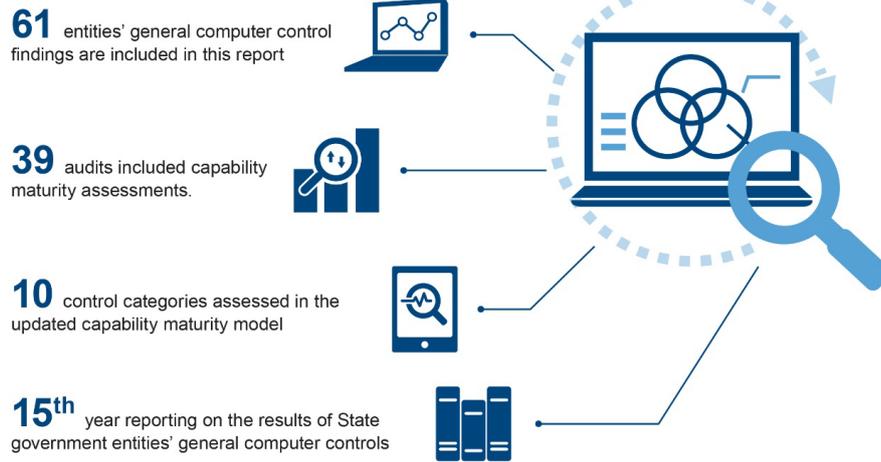
In 2021-22 over half of the entities failed to meet the benchmark for endpoint security, access management and human resource security. In the category of network security more than half the entities met the benchmark, but a number of findings were significant and high risk. We also saw a drop in physical security after a 10-year period of increased stability.

As always, I am grateful to my skilled and dedicated Information Systems Audit team. I also acknowledge the hard work being done by staff and leaders across State government, including the Office of Digital Government, to ensure the delivery of public services is supported by efficient, effective, reliable and secure information systems.

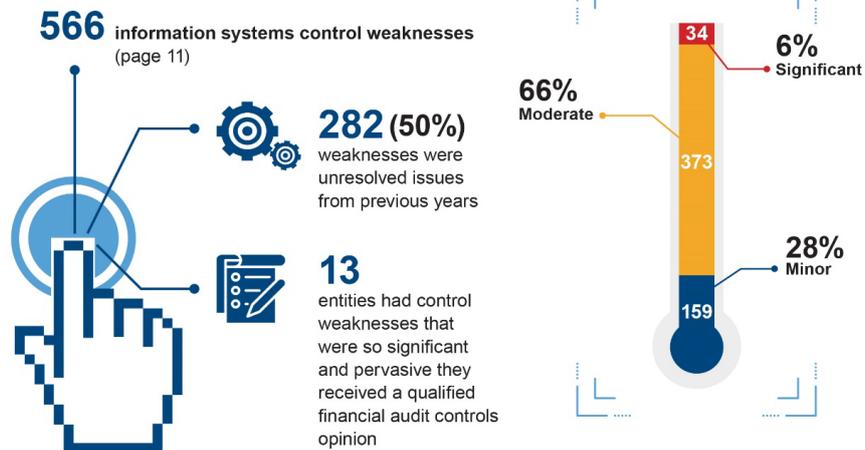
¹ Department of the Premier and Cabinet, '[The Digital Capability Fund](https://www.wa.gov.au/government/department-of-the-premier-and-cabinet/digital-capability-fund)', [WA.gov.au](https://www.wa.gov.au), 29 September 2022, accessed 20 March 2023.

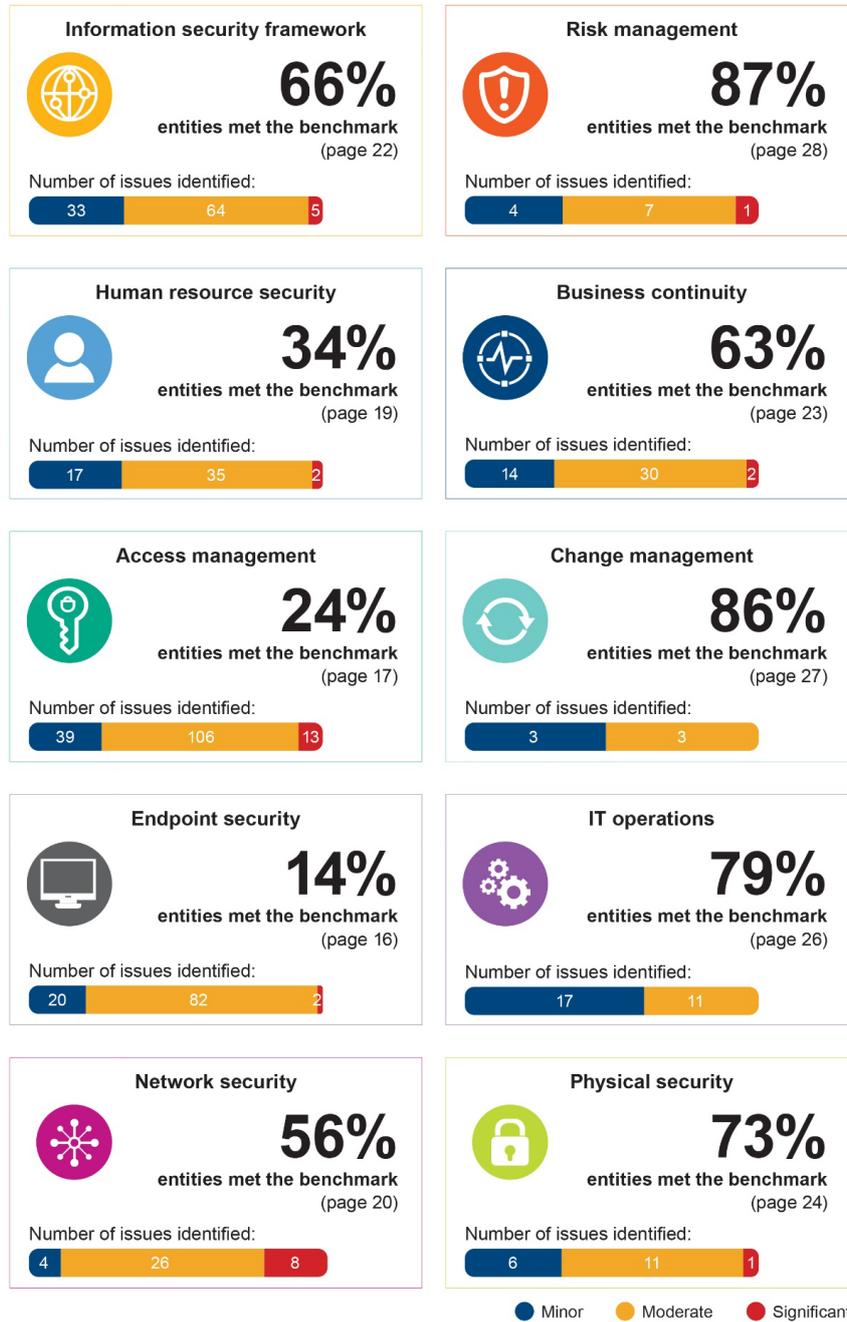
2021-22 information systems audits at a glance

Auditing State government entities



Audit results





Introduction

This is our 15th report on the audits of State government entities' general computer controls (GCC). The objective of our GCC audits is to determine if entities' computer controls effectively support preparation of financial statements, delivery of key services and the confidentiality, integrity and availability of information systems. Cyber criminals target organisations of all sizes and nature. Well operating controls help entities protect their information systems and IT environments from data breaches and cyber security threats.

For 2021-22, we reported GCC findings to 61 State government entities (Table 1) and provided 39 of the 61 entities with capability maturity assessments. These assessments look at how well-developed and capable entities' established IT controls are and compare their self-assessments with our audit results.

39 entities issued GCC findings and capability assessments			
Central Regional TAFE	Commissioner of Main Roads	Curtin University	Department of Biodiversity, Conservation and Attractions
Department of Communities	Department of Education	Department of Finance	Department of Justice
Department of Local Government, Sport and Cultural Industries	Department of Planning, Lands and Heritage	Department of Primary Industries and Regional Development	Department of the Premier and Cabinet
Department of Training and Workforce Development	Department of Transport	Department of Treasury	Department of Water and Environmental Regulation
Disability Services Commission	East Metropolitan Health Service	Edith Cowan University	Government Employees Superannuation Board
Health Support Services	Housing Authority	Lotteries Commission (Lotterywest)	Mental Health Commission
Murdoch University	North Metropolitan Health Service	North Metropolitan TAFE	North Regional TAFE
Office of the Information Commissioner	PathWest Laboratory Medicine WA	Racing and Wagering Western Australia	Rottnest Island Authority
South Metropolitan Health Service	South Metropolitan TAFE	South Regional TAFE	University of Western Australia
WA Country Health Service	WA Police Service	Western Australian Land Information Authority (Landgate)	
22 entities issued GCC findings only			
Building and Construction Industry Training Board	Botanic Gardens and Parks Authority	Corruption and Crime Commission	Department of Fire and Emergency Services
Department of Health	Department of Jobs, Tourism, Science and Innovation	Electricity Generation and Retail Corporation (Synergy)	Electricity Networks Corporation (Western Power)

Forest Products Commission	Fremantle Port Authority	Gold Corporation	Kimberley Ports Authority
Parliamentary Services Department	Pilbara Ports Authority	Public Transport Authority of Western Australia	Regional Power Corporation (Horizon Power)
Water Corporation	Western Australian Health Promotion Foundation	Western Australian Land Authority (LandCorp)	Western Australian Sports Centre Trust (VenuesWest)
Western Australian Tourism Commission	Zoological Parks Authority		

Source: OAG

Table 1: State government entities issued GCC findings and assessments

Our audits incorporate recognised industry better practices and consider factors, such as the:

- business objectives of the entity
- level of entity reliance on IT
- technological sophistication of entity computer systems
- significance of information managed by the entity.

As signalled in our previous information systems report², we have modernised and updated our capability maturity model for the 2021-22 audits to increase understanding, transparency and guidance to entities in the area of information and cyber security. It builds on our previous model, increasing the control categories from six to 10, by breaking down the category of information security into the following five categories:

- information security framework
- human resource security
- manage access
- endpoint security
- network security.

² Office of the Auditor General, [Information Systems Audit Report 2022 – State Government Entities](#), OAG, Perth, 2022.

Our 2021-22 audits, focused on these 10 categories:



Source: OAG

Figure 1: GCC categories for 2021-22

Conclusion

We reported 566 general computer control findings to 61 entities this year, compared to 526 findings to 54 entities last year. These findings, if not addressed, could result in data breaches, system outages and financial loss. Recent cyber security incidents both in Australia and globally highlight the ever present risk of cyber attacks and the need for entities to manage and secure their information system environments.

Concerningly, half of this year's audit findings (282) were unresolved issues from the previous year. Similar to last year it highlights a tendency for entities not to resolve weaknesses from one year to the next. It is crucial entities prioritise addressing audit findings to safeguard their information systems against constantly evolving and increasingly sophisticated threats.

Our updated capability maturity model now includes 10 control categories, five of which relate broadly to information and cyber security, areas of significant concern to us. Over half of the entities failed to meet the benchmark in three of these categories: endpoint security was the weakest, followed by access management and human resource security. Although more than half of the entities met the benchmark for network security, 21% of findings in this category were significant and high-risk. There was no material change in IT risk management, change management and business continuity however, a noticeable decline in physical security this year.

One entity met the benchmark in all 10 control categories. A small number of other entities met the benchmark in at least seven of the 10 categories and have showed consistent performance in our prior reports.

At 13 entities³, their access management and network security control weaknesses were so significant and pervasive that their financial audit controls opinion was qualified.

³ Office of the Auditor General, [Financial Audit Results – State Government 2021-22](#), OAG, Perth, 2022, pp. 76–81.

What we found: General computer controls

In 2021-22, we alerted 61 entities to 566 information system weaknesses: 34 were rated significant, 373 moderate and 159 minor.

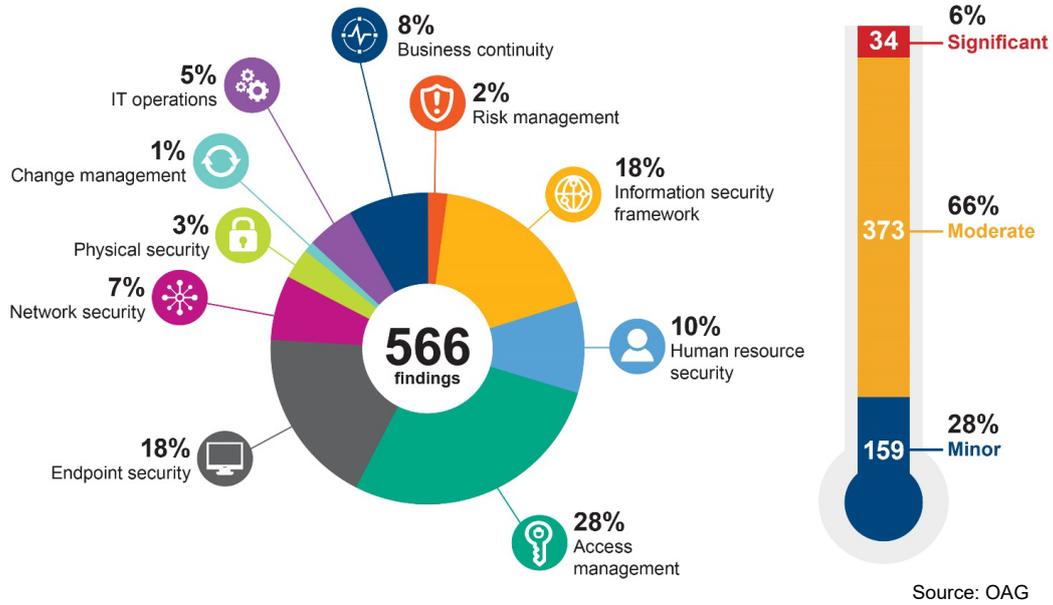


Figure 2: Ratings for GCC findings in each control category

What we found: Capability assessments

We provided capability maturity assessments covering 10 GCC categories to 39 State government entities.

We use a 0-5 rating scale⁴ (Figure 3) to evaluate each entities' capability maturity level in each of the 10 GCC categories. We expect entities to achieve a level 3 (Defined) rating or better in each category.

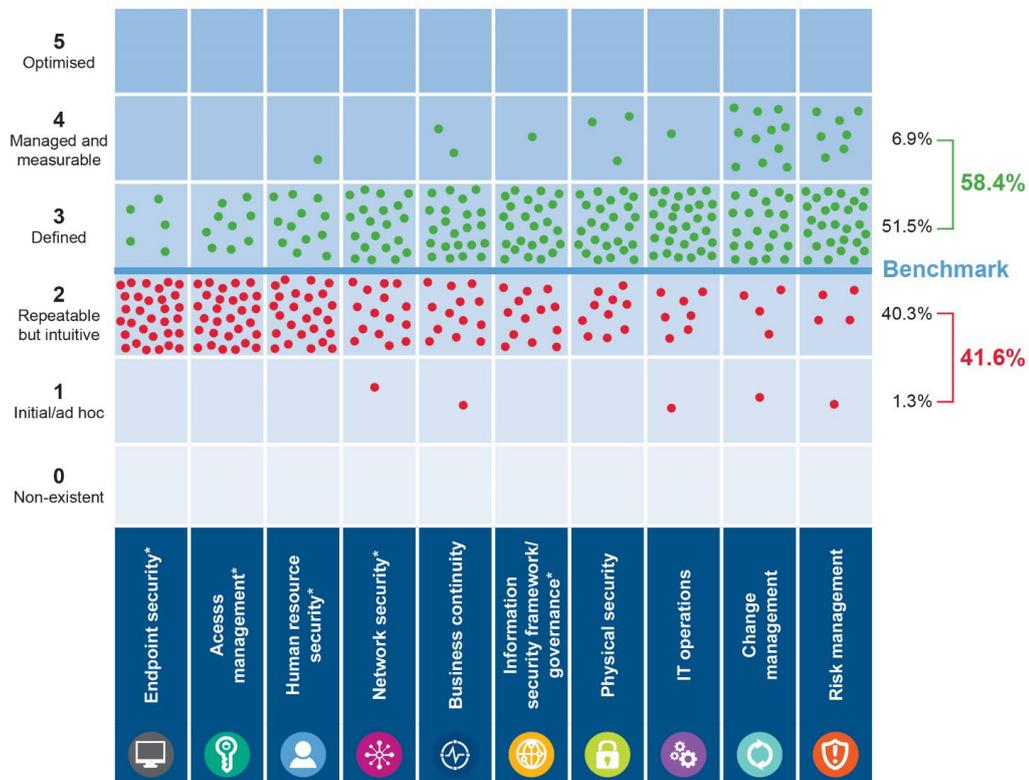


Source: OAG

Figure 3: Rating scale and criteria

⁴ The information within this maturity model assessment is derived from the criteria defined within COBIT 2019, released in 2018 by ISACA.

Figure 4 shows the results of our capability assessments across the 10 control categories.



Source: OAG

* Information and cyber security control categories.

Figure 4: Capability maturity assessment results

The percentage of entities rated level 3 or above for individual categories was as follows:

Category	2021-22 %	2020-21 %
1. Endpoint security	14	50
2. Access management	24	
3. Human resource security	34	
4. Network security	56	
5. Information security framework	66	
6. Business continuity	63	65
7. Physical security	73	94

Direct comparison not available. First year reported as separate categories.

Category	2021-22 %		2020-21 %
8. IT operations ⁵	79	↓	94
9. Change management	86	—	85
10. Risk management	87	—	86

Source: OAG

Table 2: Percentage of entities rated level 3 or above

Our assessments show that endpoint security, access management and human resource security require attention. In addition, while more than half of the entities met the benchmark for network security, 21% of weaknesses in this area were rated as significant and high risk.

There was no material change in IT risk management, change management and business continuity, but physical security saw a decline in performance this year. While the IT operations category also declined, this is mainly because some controls previously tested in this area now fall in the new access management category.

The Department of Water and Environmental Regulation met the benchmark in all 10 control categories.

The following entities met the benchmark in at least seven of the 10 categories and have consistently performed well in our prior reports:

- Department of Finance
- Department of the Premier and Cabinet
- Department of Training and Workforce Development
- Lotterywest
- Racing and Wagering Western Australia
- Landgate
- Curtin University.

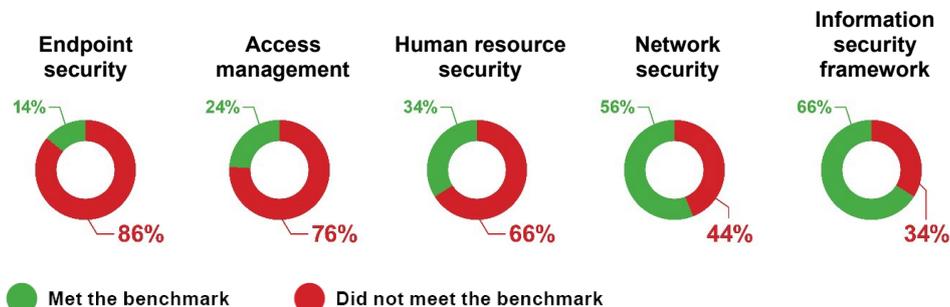
Information and cyber security

Last year we reported⁶ that significant information security weaknesses contributed to the highest number of qualified opinions on financial statements controls or key performance indicators ever reported by this Office. In 2021-22, information cyber security control weaknesses continued to contribute towards an increased number of qualified opinions.

⁵ Some controls tested under IT operations previously, have been moved to access management category in 2021-22.

⁶ Office of the Auditor General, [Information Systems Audit Report 2022 – State Government Entities](#), OAG, Perth, 2022.

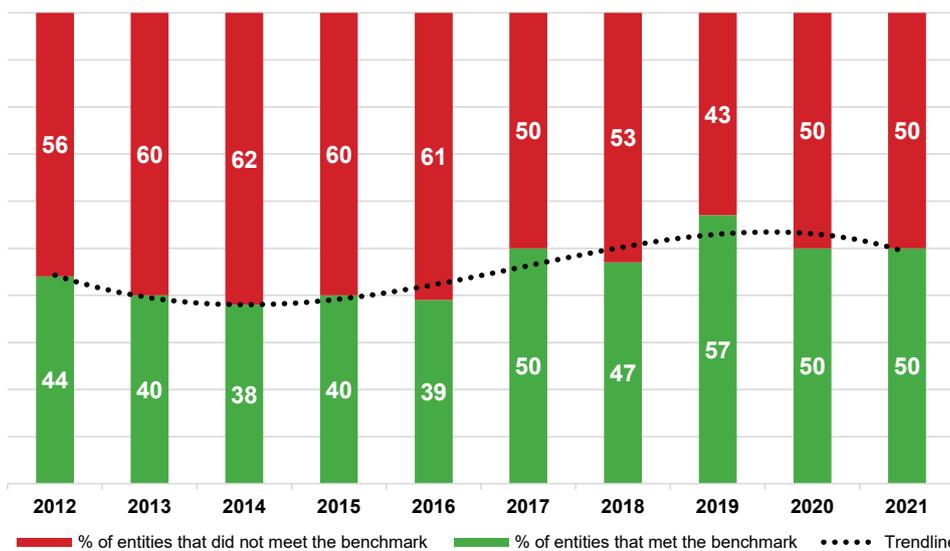
Our 2021-22 findings again highlight the need for entities to take proactive measures to address weaknesses and keep information and cyber security as a heightened area of focus.



Source: OAG

Figure 5: Percentage of entities that met/did not meet the benchmark in the five categories for information and cyber security

This year we have not directly compared our information and cyber security findings to prior year results as our model now separates controls in this area into five categories instead of one. Instead, the following graph provides past year results on the percentage of entities that met/did not meet the benchmark for our old information security category.



Source: OAG

Figure 6: Percentage of entities that met/did not meet the benchmark for information security from 2012 to 2021

As a result of seeing little noticeable improvement, information security has been our top concern over the past 10 years. We found numerous vulnerabilities and shortcomings in critical areas that could be remediated by implementing Australian Cyber Security Centre’s (ACSC) mitigation strategies with a key focus on Essential 8 controls, also mandated by the

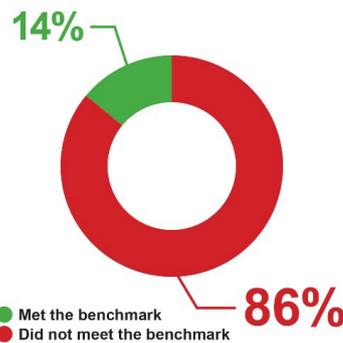
WA Government Cyber Security Policy⁷. Essential 8 strategies are designed to help entities manage and address common cyber security risks and improve their information and cyber security posture. While the WA Government Cyber Security Policy is not mandatory for Government trading entities or the tertiary sector, we encourage adoption of the principles in their approach to information and cyber security.

1. Endpoint security

Endpoint security was the weakest of the 10 categories, leaving entities more susceptible to attacks that compromise their information and operations. Only 14% of entities met the benchmark.

Endpoint security ensures devices connected to the network are secure. If left unsecured, the risk of cyber attacks and data breaches increase.

We reviewed entities' malware controls and if vulnerabilities are promptly identified and addressed. We also tested if the installation of software is controlled, unapproved applications and macros are prevented and if email authentication controls work. As staff and contractor devices may connect remotely we tested if entities checked the security posture of devices before allowing access.



Source: OAG

Figure 7: Percentage of entities that met/did not meet the benchmark for endpoint security



Source: OAG

Figure 8: Endpoint security controls included in our GCC audits

Common weaknesses included:

- **Unapproved applications were not blocked** – heightening the risk of malware infections that can compromise an entity's network and systems.
- **Untrusted code was not blocked** – malicious code including macros can spread malware resulting in loss of services or ransomware.
- **Email systems were not adequately configured** – lack of controls or misconfigured email authentication can result in impersonation and data breaches. Controls such as

⁷ Department of the Premier and Cabinet, [WA Government Cyber Security Policy](#), DPC, Perth, 2021.

domain-based message authentication (DMARC), sender policy framework (SPF) and domain keys identified mail (DKIM) were not implemented or not configured properly.

- **Ineffective vulnerability management processes** – a high number of vulnerabilities persisted due to unsupported or unpatched systems, which could be exploited by malicious actors.

The following case study illustrates a common weakness we found in endpoint security.

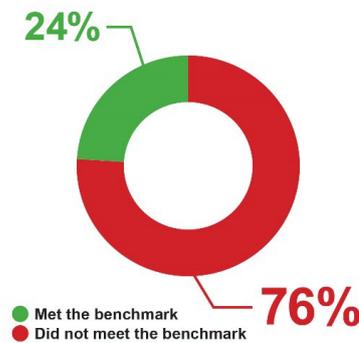
Case study 1: Malicious actor impersonated a government executive officer

Ineffective email authentication controls allowed a malicious actor to impersonate a government executive officer and sent emails containing false claims to internal and external parties. This incident could have been prevented with effective email authentication controls.

2. Access management

Access management is another area of information and cyber security weakness, with only 24% of entities meeting the benchmark. This is a concerning sign that entities are not doing enough to secure their sensitive data and systems. Poor access management controls increase the risk of security incidents, financial loss and reputational damage.

We reviewed entities' controls, including access rights and reviews for key business applications, active user accounts, privileged access, password policies, multi-factor authentication and the use of generic/shared accounts.



Source: OAG

Figure 9: Percentage of entities that met/did not meet the benchmark for access management



Source: OAG

Figure 10: Access management controls included in our GCC audits

Common weaknesses included:

- **Access was not promptly revoked** – there is a heightened risk of inappropriate or unauthorised access when accounts of former staff are not promptly deactivated.
- **Password configurations did not meet entities' standards** – insufficient enforcement of password requirements to access databases and applications can result in information loss or a data breach.
- **Privileged access given to an excessive number of accounts** – privileged accounts, including generic accounts, increase the risk of unintentional or intentional misuse of access.
- **Non-existent or ineffective system logging and monitoring** – malicious activity may go unnoticed if processes to log and monitor system access do not exist or are ineffective.
- **Multi-factor authentication (MFA) was not used for privileged accounts** – use of legacy authentication and not enforcing MFA can lead to unauthorised access.

These common weaknesses and their importance to information and cyber security are further highlighted in the following case studies.

Case study 2: Lack of MFA results in data breach

At one entity, a malicious insider reset the password of another staff member to gain access to a key business system and then copied information. This inappropriate access could have been prevented or made more difficult if multi-factor authentication was enforced.

The entity was unaware of the malicious access and data extraction for several months as their access logging and monitoring processes did not work properly.

We also found very weak database passwords were in use and network passwords did not fully comply with the entity's password standards. These vulnerabilities increase the entity's susceptibility to internal and external malicious actors.

Case study 3: Highly privileged account of a former employee was being used by other employees

At one entity, the privileged account of a former IT staff member who left the entity in 2019 was still active and being used by other staff in 2022. This highly privileged account had not been disabled.

Individual accounts allow entities to hold staff accountable for any unauthorised or unintentional modifications to IT systems and information.

Case study 4: Principle of least privilege not applied to cloud environment

One entity had assigned an unusually high number of accounts with privileged roles, contrary to better practice. It had:

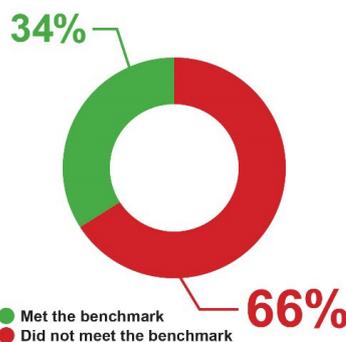
- 27 global administrators
- 20 exchange administrators
- 28 SharePoint administrators
- 12 enterprise administrators.

A large number of users with privileged roles increases the risk of a security breach and malicious activity. Accounts should only be given the privileges required for the role.

3. Human resource security

Only 34% of the entities met the benchmark in human resource (HR) security. If HR risks are not managed there is an increased likelihood that insider threats will go unnoticed which may result in theft of information and lead to other security incidents.

HR security ensures that employees, contractors and third-party vendors adhere to security policies and procedures. Proper screening, training and awareness programs can help prevent insider threats, protect against social engineering attacks and safeguard confidential information.



Source: OAG

Figure 11: Percentage of entities that met/did not meet the benchmark for human resource security

We reviewed if entities have formal and effective processes for pre-employment screening, staff induction, confidentiality/non-disclosure requirements and termination procedures. Entities also need programs to educate staff about their information security responsibilities, including ongoing security awareness programs and disciplinary processes to address breaches.



Source: OAG

Figure 12: Human resource security controls included in our GCC audits

Common weaknesses included:

- **Background screenings not performed** – if background checks are not performed for key positions, there is an increased risk of unauthorised system access, fraud and malicious activity.
- **Onboarding processes lacked IT acceptable use acknowledgement** – lack of acknowledgement of individual responsibilities can heighten the risk of misuse and inappropriate actions.
- **Information security awareness training was either not mandatory or not provided** – creating a culture of security requires regular training. Employees who haven't undergone information and cyber security training may not know what good security behaviours look like or how to practice them.
- **No contractor central register** – unauthorised network and system access may go undetected without visibility of contractors working for an entity.
- **Employee termination processes were not fully effective** – ineffective termination processes may contribute to unauthorised access to entity premises, information and systems, and financial loss if assets aren't returned by departing individuals.

The following case study illustrates common weaknesses in HR security.

Case study 5: Former employee gained unauthorised access to the financial system

One entity failed to complete exit procedures required to revoke an employee's access to network and systems. We found that a former employee accessed the entity's physical facility, logged on to the entity's network and accessed the financial system more than one month after their employment had been terminated. Usually, this type of behaviour is associated with malicious intent.

Additionally, a lack of security event logging and monitoring meant the entity could not perform a forensic analysis to determine what records or systems were accessed by the former employee and if any malicious activity occurred.

In addition to strengthening its employee termination processes, including revoking system access, the entity should log and monitor system access and develop a security incident response plan to help it respond to and contain security breaches.

4. Network security

Forty-four percent of the entities did not meet the benchmark for network security with 21% of the weaknesses rated as significant. Network security controls protect the network and key systems from cyber intrusions.

We assessed if entities had secure administration processes and network segregation, prevented unauthorised devices from connecting to the network and performed regular penetration tests.

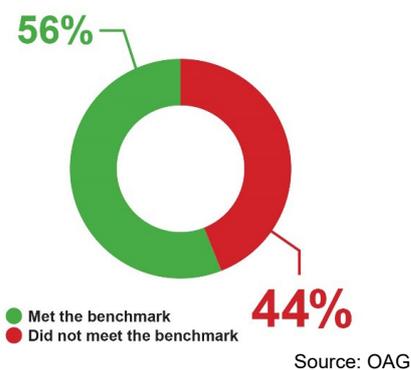


Figure 13: Percentage of entities that met/did not meet the benchmark for network security



Source: OAG

Figure 14: Network security controls included in our GCC audits

Common weaknesses included:

- **Outdated equipment** – aging network infrastructure may not support security controls and leave entities more susceptible to cyber intrusions.
- **Lack of network segregation** – cyber breaches may spread and be difficult to contain when networks are not segregated. IT and operational technology devices should also be segregated to avoid breaches and potential loss of life in clinical settings.
- **Unauthorised devices were allowed to connect to the network** – unauthorised devices could be used as an attack vector to spread malware or eavesdrop on communications.

The following case studies illustrate the importance of network security controls.

Case study 6: Network outage caused by an unauthorised device

One entity did not have any controls to stop unauthorised devices from connecting to its network and suffered a network intrusion when an unauthorised device was connected. Applications and systems became unavailable for a number of staff, disrupting the entity’s key services to the public.

Lack of effective monitoring controls meant the entity was unable to locate the device or determine if it was connected for malicious purposes. The entity only prepared a cyber security incident report to appropriately investigate the matter after our audit notified them of the need to classify the incident as a cyber security breach.

Case study 7: Decades old network equipment leaves entity at significant security risk

One entity with a significant number of connected sites, has not kept its network infrastructure up-to-date. Key network devices lack modern security features, the network is not segregated and there are no controls to detect or prevent unauthorised devices at the majority of its sites. If one site is compromised, the attack would spread to other connected locations severely impacting the entity’s ability to deliver important services to the community.

Furthermore, the entity has not segregated its IT network from its operational technology. This further increases the risk of cyber intrusion and loss of key service delivery if an attack

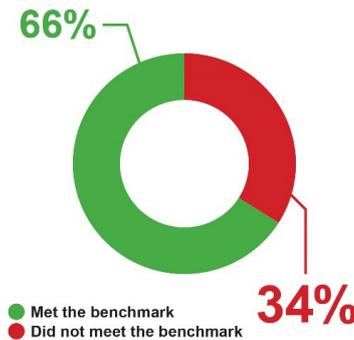
spreads to operational technology devices. As a result, in 2021-22 the entity's financial statement and controls opinion was qualified.

5. Information security framework

Entities generally performed well with 66% of entities meeting the benchmark in this category. The remaining entities need to improve their information and cyber security governance and use a structured approach to mitigate security risks and protect their sensitive information and key systems.

We assessed if entities have appropriate policies and roles, including a committee to govern information security, and communication processes with security groups. We also looked at:

- information classification procedures
- processes and controls to prevent information loss
- risk assessments for selecting cloud vendors and if regular assessments are conducted of cloud environment security.



Source: OAG

Figure 15: Percentage of entities that met/did not meet the benchmark for information security framework



Source: OAG

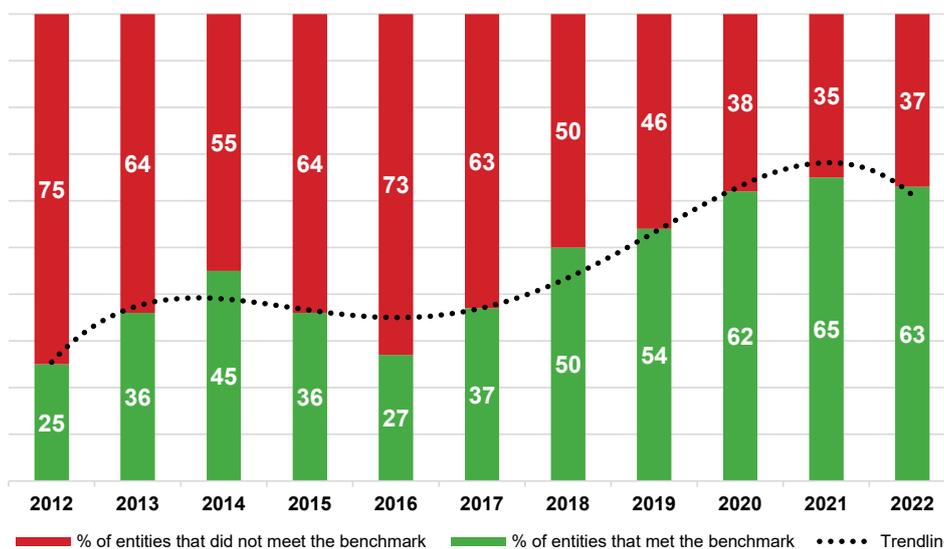
Figure 16: Information security framework controls included in our GCC audits

Common weaknesses included:

- **Information security policies were either in draft or overdue for review** – an entity's information security requirements and objectives are less likely to be achieved if their policies, standards and procedures are inadequate.
- **Lack of ongoing security assurance from service providers** – ineffective vendor management can result in outsourced IT services not meeting an entity's expectations, leaving an entity vulnerable to security, financial and reputational risks.
- **Data loss prevention controls were not adequate or not in place** – there is a risk that sensitive data leakage (through USB, cloud and email) and theft might not be detected in a timely manner to prevent or reduce data loss.

6. Business continuity

There was no material change this year with 63% of entities meeting the benchmark for business continuity. Effective business continuity processes focus on strategies, procedures and plans to ensure that an organisation can continue to operate, or quickly resume operations, when a disruption or disaster event strikes.



Source: OAG

Figure 17: Percentage of entities that met/did not meet the benchmark

We assessed if entities have business continuity, disaster recovery, backup and incident response plans and if their effectiveness is regularly tested.



Source: OAG

Figure 18: Business continuity controls included in our GCC audits

Common weaknesses included:

- **Outdated continuity plans** – entity activities and key service delivery to the public may experience prolonged downtimes during a disruption if plans do not align with current State processes. This can result in financial loss and reputational damage.
- **Lack of regular testing** – if not regularly tested, entities may not be aware of gaps in their continuity plans which may lead to data loss or extended recovery times for their key systems.

- Lack of endorsed cyber incident response plans** – without a plan, entities may be unprepared to handle a cyber incident which can lead to a delayed response and it may not be able to contain the breach adequately.

The following case studies illustrate common weaknesses in continuity planning.

Case study 8: Disaster recovery plan not tested

One entity experienced several issues when it invoked its disaster recovery plan during an outage. Because it had not tested its recovery plan, staff were unaware of their responsibilities, which led to confusion and delays in the recovery process. Allowed system outage timeframes and data recovery objectives were not achieved, disrupting the delivery of important services to the public.

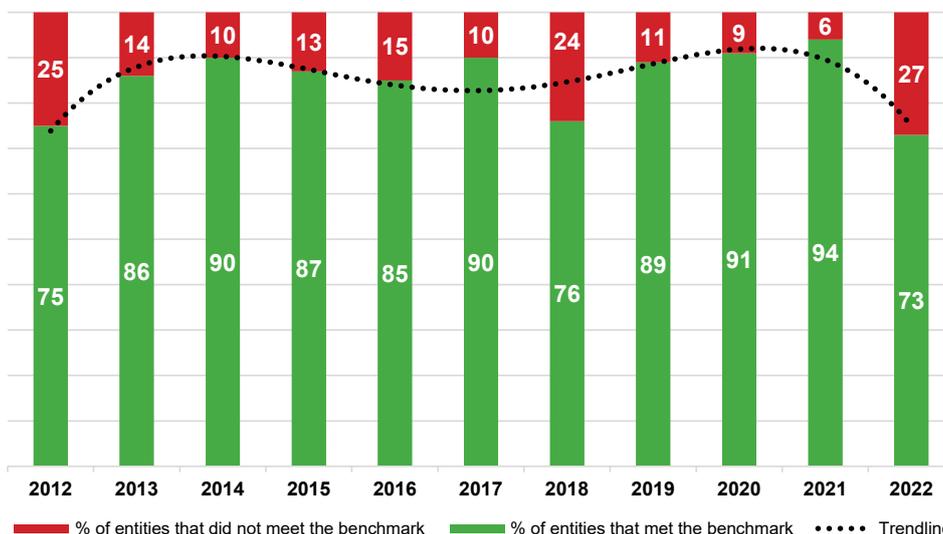
Not testing the disaster recovery plan can have serious consequences.

Case study 9: Outdated continuity plans and lack of testing

One entity did not update its continuity plans to reflect changes to its managed services providers and the shift of servers to a commercial data centre. The outdated plans do not reflect the current state of the entity's operations or infrastructure, which will make it difficult to execute the plans in an emergency.

7. Physical security

This year, 73% of entities met the benchmark for physical security compared to 94% last year, making it the lowest rating for this category in a decade. This was primarily due to poor server room access management and maintenance of facilities. It is important to maintain secure access and environmental controls in server rooms, whether on-premises or managed through a third-party vendor.



Source: OAG

Figure 19: Percentage of entities that met/did not meet the benchmark for physical security

We assessed how entities manage physical controls, access, power, fire hazards, temperature and humidity controls in server rooms. We tested assurance mechanisms for vendor controls where server rooms were managed by third-parties or entities used infrastructure as a service.



Source: OAG

Figure 20: Physical security controls included in our GCC audits

Common weaknesses included:

- **Inappropriate access management to server rooms and data centres** – if access is not controlled it can result in unauthorised or inappropriate access to key systems and damage to infrastructure.
- **Poor data centre maintenance practices** – a lack of proper and regular maintenance of environmental controls heighten the risk of unplanned downtime of services and can also pose a risk to health and safety.
- **Inappropriate temperature and humidity controls** – can cause equipment failures, system downtime and decreased performance resulting in data and financial loss.

The following case studies illustrate common weaknesses in physical security.

Case study 10: Poor server room maintenance and unprotected paper records

During our visit to an entity’s server room we found the ceiling had a hole in it which the entity did not know about and its uninterrupted power supply was also not maintained as some parts needed to be replaced.

In addition, a building’s external and internal doors were left open despite the building storing thousands of paper records containing details of staff names, invoices and expense reports. The entity immediately secured these records when we informed them of the risk.

Case study 11: Terminated employees still had access to data centres

At one entity, swipe cards to access the data centre were still being used despite known vulnerabilities and no longer being recommended by the vendor. The vulnerabilities could allow access cards to be cloned and used by unauthorised individuals.

We also found terminated employees’ access to the data centre had not been revoked due to deficiencies in the data centre access management process. Many current staff also had access that was not required or authorised.

Without appropriate access controls, there is an increased risk of unauthorised access to the server room.

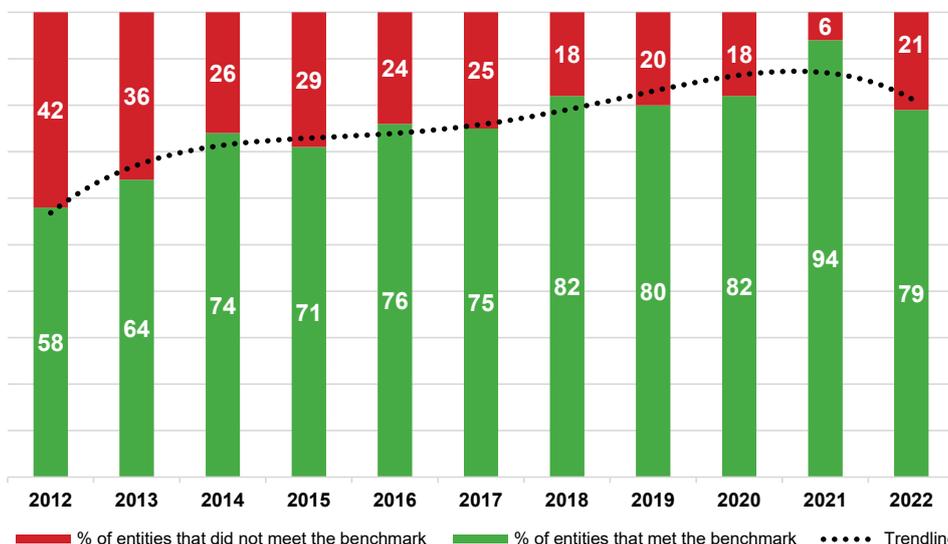
Case study 12: Inadequate assurance over managed data centre

One entity that uses a managed data centre had not regularly obtained and reviewed assurance reports from their data centre provider. Our review of the assurance reports identified the vendor did not terminate data centre access for its former staff. Assurance reports often disclose weaknesses that vendors need to remediate.

Entities should review assurance reports or undertake their own reviews to ensure they get the services they expect and controls implemented by the vendor are sufficient.

8. IT operations

This is another better performing category with 79% of entities meeting the benchmark. The decline in performance compared to last year is primarily due to some areas of IT operations moving to the access management category in our new capability maturity model.



Source: OAG

Figure 21: Percentage of entities that met/did not meet the benchmark for IT operations

We assessed if entities had formal incident management processes and managed supplier contracts and IT assets.



Source: OAG

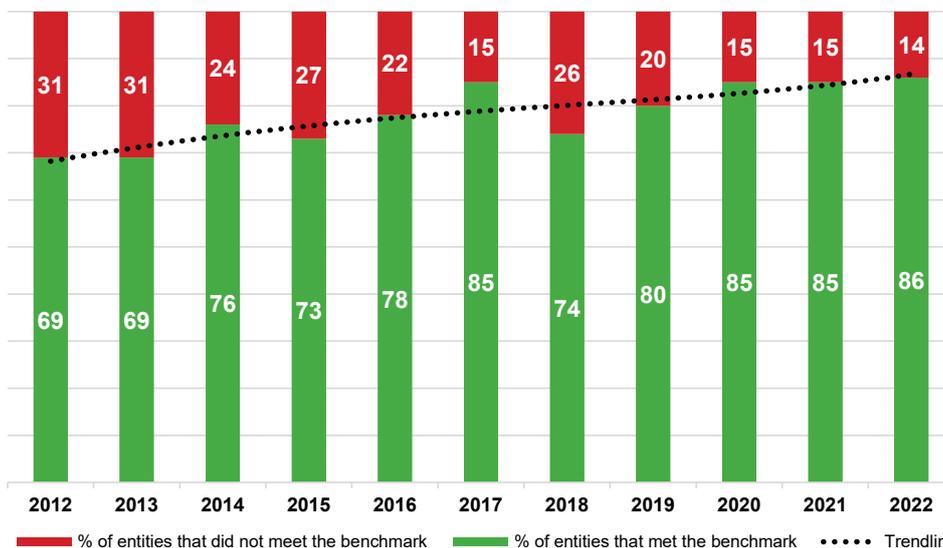
Figure 22: IT operational controls included in our GCC audits

Common weaknesses included:

- **IT asset management was not fully effective** – inadequate IT asset management processes increase the likelihood of lost or stolen IT assets, leading to potential financial loss and reputational harm.
- **Supplier performance was not monitored** – entities may not become aware when IT suppliers fail to fulfil their performance requirements and deliver substandard services. This can compromise entity systems and impact entity service delivery.
- **Lack of service level agreements** – vendors and entities may lack clarity about the expected levels of service delivery and entities may not receive the level of service they have paid for.

9. Change management

The percentage of entities that met the benchmark in change management was 86% in 2021-22, the highest since we started benchmarking this category 14 years ago and continuing an upward trend.



Source: OAG

Figure 23: Percentage of entities that met/did not meet the benchmark in change management

We assessed if entities have processes to authorise and test changes before releasing them to production systems and infrastructure. We also assessed how they manage emergency changes and if access to their production environments is segregated from test and development environments.



Source: OAG

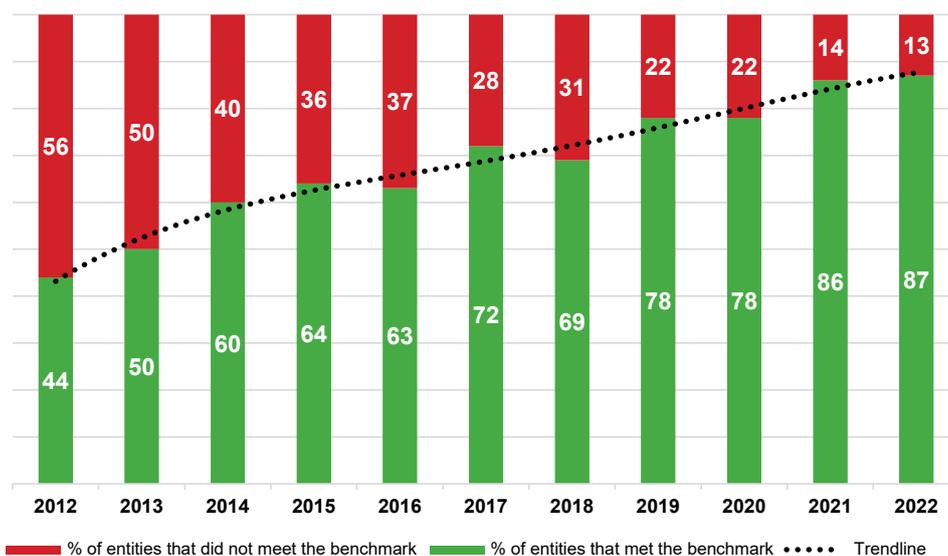
Figure 24: Change management controls included in our GCC audits

Common weaknesses included:

- **Change management procedures were not approved or up-to-date** – this increases the likelihood of errors, delays and failures in implementing changes.
- **No separation of production and non-production environments** – without separation, unauthorised changes may be made to key applications which compromise the integrity and availability of systems.

10. Risk management

In 2021-22, 87% of entities met the benchmark for this category. This category has shown a consistent positive trend over the last decade. A robust risk management process reduces the likelihood and impact of negative events and enhances overall decision-making.



Source: OAG

Figure 25: Percentage of entities that met/did not meet the benchmark for risk management

We reviewed entities' information risk management policies and processes, and if they considered key cyber risks, threats and vulnerabilities.



Source: OAG

Figure 26: Risk management control included in our GCC audits

Common weaknesses included:

- **Outdated risk management policies or frameworks** – outdated policies and processes may not mitigate emerging risks and leave an entity exposed to potential harm.
- **Failure to maintain IT risk registers** – it is essential to identify, assess and record all relevant risks, including information and cyber risks, in a risk register.

The following case study illustrates common weaknesses in IT risk management.

Case study 13: Risks posed by unmanaged mobile devices were not formally assessed

One entity had not adequately assessed the risks of unmanaged mobile devices connecting to its network. As a result, the entity had not implemented controls to:

- apply software updates
- prevent the use of unauthorised applications
- remotely wipe data if mobile devices are lost or stolen
- restrict the use of public Wi-Fi.

The entity is at increased risk of unintentional data loss and unauthorised access to their systems.

Recommendations

1. Endpoint security

Entities should:

- a. implement effective controls against malware
- b. promptly identify and address known vulnerability
- c. control installation of software on workstations
- d. prevent unapproved applications and macros from executing
- e. enforce minimum baseline controls for personal or third-party devices connecting to their systems
- f. implement controls to prevent impersonations and detect/prevent phishing emails
- g. review and harden server and workstation configurations.

2. Access management

To ensure only authorised individuals have access, entities should:

- a. implement effective access management processes
- b. regularly review active user accounts
- c. enforce strong passphrases/passwords and multi-factor authentication
- d. limit and control administrator privileges
- e. implement automated access monitoring processes to detect malicious activity.

3. Human resource security

Entities should ensure that:

- a. pre-employment screening is conducted for key positions
- b. confidentiality/non-disclosure requirements are in place and understood by employees
- c. termination procedures are in place and followed to ensure timely access cancellation and return of assets
- d. ongoing security awareness training programs are in place and completed by staff.

4. Network security

Entities should:

- a. implement secure administration processes for network devices
- b. regularly review their network security controls through penetration tests
- c. segregate their network, particularly for IT and Operational Technology systems
- d. limit unauthorised devices from connecting to their network
- e. adequately secure wireless networks.

5. Information security framework

Entities should:

- a. maintain clear information and cyber security policies and roles in line with the *WA Government Cyber Security Policy*
- b. conduct regular assessments or gain comfort through assurance reports to ensure their IT supply chain is secure
- c. classify information and implement data loss prevention controls
- d. assign responsibility to a committee to direct information and cyber security activities.

6. Business continuity

Entities should maintain up-to-date business continuity, disaster recovery and incident response plans and regularly test them.

7. Physical security

Entities should:

- a. implement effective physical and access controls to prevent authorised access
- b. maintain environmental controls to prevent fire hazards and damage to IT infrastructure
- c. gain assurance that providers manage data centres appropriately.

8. IT operations

Entities should:

- a. implement appropriate IT incident management processes
- b. regularly monitor supplier performance
- c. perform regular reviews of inventory assets
- d. have formal service level agreements with suppliers.

9. Change management

Entities should:

- a. consistently apply change control processes when making changes to their IT systems
- b. assess and test changes before implementation to minimise the occurrence of problems
- c. maintain change control documentation

10. Risk management

Entities should:

- a. understand their information assets and apply controls based on their value
- b. ensure IT, information and cyber security risks are identified, assessed and treated within appropriate timeframes. They should incorporate good risk management practices in their core business activities
- c. provide executive oversight and remain vigilant against the risks of internal and external threats
- d. implement controls to detect unauthorised changes.

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Auditor General's 2022-23 reports

Number	Title	Date tabled
16	Opinions on Ministerial Notifications – Triennial Reports for Griffin Coal and Premier Coal	22 March 2023
15	Opinion on Ministerial Notification – Stamp Duty on the Landgate Building, Midland	8 March 2023
14	Administration of the Perth Parking Levy	16 February 2023
13	Funding of Volunteer Emergency and Fire Services	22 December 2022
12	Financial Audit Results – State Government 2021-22	22 December 2022
11	Compliance with Mining Environmental Conditions	20 December 2022
10	Regulation for Commercial Fishing	7 December 2022
9	Management of Long Stay Patients in Public Hospitals	16 November 2022
8	Forensic Audit Results 2022	16 November 2022
7	Opinion on Ministerial Notification – Tom Price Hospital Redevelopment and Meekatharra Health Centre Business Cases	2 November 2022
6	Compliance Frameworks for Anti-Money Laundering and Counter-Terrorism Financing Obligations	19 October 2022
5	Financial Audit Results – Local Government 2020-21	17 August 2022
4	Payments to Subcontractors Working on State Government Construction Projects	11 August 2022
3	Public Trustee's Administration of Trusts and Deceased Estates	10 August 2022
2	Financial Audit Results – Universities and TAFEs 2021	21 July 2022
1	Opinion on Ministerial Notification – Wooroloo Bushfire Inquiry	18 July 2022

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22 March 2023

Many State government entities are not doing enough to protect State systems and citizen information from cyber attacks

The Auditor General's report [Information Systems Audit – State Government 2021-22](#) tabled in Parliament today.

It summarises the results of the 2021-22 annual cycle of information systems audits for Western Australian State government entities and is the 15th report of its type.

Auditor General Ms Caroline Spencer said 566 information system weaknesses were reported to 61 entities, compared to 526 findings to 54 entities last year.

'Concerningly, similar to last year, half of the audit findings were unresolved issues from the previous year.

'It is crucial entities prioritise addressing audit findings to safeguard their information systems against constantly evolving and increasingly sophisticated cyber threats.

'If not addressed these findings could result in data breaches, system outages and financial loss to State entities, and ultimately citizens,' Ms Spencer said.

This year entities were audited against an updated capability maturity model, with five of the 10 control categories now relating to information and cyber security controls. Our report includes more information to help entities understand and address weaknesses.

We found a significant majority of the entities failed to meet our benchmark in endpoint security, access management and human resource security. Information security control weaknesses were so pervasive in 13 entities they resulted in a record number of qualified audit opinions – a serious matter – related to various data breach risks.

The report includes a number of case studies that the public sector and community can learn from:

- A former employee accessed an entity's physical facility, logged on to the entity's network and accessed the financial system more than one month after their employment had been terminated as the entity had failed to complete exit procedures required to revoke employee's access to the network and systems.
- A network outage caused by an unauthorised device interrupted key services.
- Decades old network equipment leaves an entity, which has a significant number of connected sites, without modern security features to detect or prevent unauthorised devices and attacks – an attack would severely impact that entity's ability to deliver vitally important services to the community.
- A malicious insider reset the password of another staff member to gain access to a key business system and copied information. The entity was unaware of the malicious access and data extraction for several months as their access logging and monitoring processes were not working effectively. This inappropriate access could have been prevented or made more difficult if multi-factor authentication was enforced.



Ms Spencer said some of the issues can be easily resolved and entities need to show a focused effort on addressing our audit findings to protect the integrity and availability of the State's IT systems and information.

'It is pleasing that a number of entities have accessed funding from the State Government's \$500 million Digital Capability Fund to resolve these issues and address some of the more resource-intensive improvements required, and that the Office of Digital Government is continuing to enhance its tools, support and oversight for the sector. There remains, however, much work to be done,' Ms Spencer said.

Section 82 opinion

The Auditor General also tabled an [opinions on ministerial notifications report](#) today, finding decisions by the Minister for State Development, Jobs and Trade, the Hon Roger Cook MLA, not to provide Parliament with the most recent triennial reports produced by Griffin Coal and Premier Coal were reasonable and therefore appropriate.

Report resources

- [Information Systems Audit – State Government 2021-22](#) - PDF version
- [Triennial Reports for Griffin Coal and Premier Coal](#) – PDF version

6.2 Audit register - progress report

Responsible Officer Nicole Gibbs, Chief Executive Officer

Reporting Officer Tricia Brown, Executive Manager, Corporate Services

Attachments 1. ARC Audit Register Progress Report - May 2023 (confidential)

Voting Requirements Simple Majority

Disclosure of Interest Reporting Officer: Nil.

Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 023-22/23

Moved: Cr PD Smith

Seconded: Cr BR Cowcill

That the Audit & Risk Committee recommends to Council that Council;

1. Notes the progress recorded against each item within the audit register in confidential attachment (i);

CARRIED 6/0

IN BRIEF

- This report provides an update on the progress of actions included in the audit register.
- The audit register includes all open audit findings that have previously been accepted by the Audit and Risk Committee.
- Reporting through the audit register commenced in November 2021 and includes items from the 2020/21 interim audit, and all subsequent audits.

MATTER FOR CONSIDERATION

Receipt of the audit register progress report to June 2023.

BACKGROUND

The external audit, also known as financial audits or audit of the annual financial statements, focuses on providing an objective and independent examination of the financial statements prepared by the Shire, increasing the value and user confidence in the financial statements.

The *Local Government Amendment (Auditing) Act 2017* made legislative changes to the *Local Government Act 1995* to provide for the auditing of local governments by the Auditor General. This Act allows the Auditor General to contract out some or all of the financial audits, but all audits will be the responsibility of the Auditor General.

The changes also allow for the Auditor General to undertake performance audits that focus on the economy, efficiency and effectiveness of any aspect of local government operations. These performance audits are similar to that of an internal audit, therefore the Auditor General may undertake both external and internal audits.

The audit register lists findings from audit reports previously accepted by the Audit & Risk Committee. The register describes the progress of implementing improvements and percentage completion. Progress on the actions are monitored by management, this Committee and Council.

Reporting through the audit register commenced for the 7th December 2021 Audit and Risk Committee meeting, with the register comprised of findings from the 2020/21 interim audit report, as presented to the Audit & Risk Committee at the 14th September 2021 meeting.

The 2020/21 final audit report had no findings subsequent to those from the interim audit report.

The 2021/22 interim audit report was received on the 16th August 2022, with six (6) findings presented to the 13th September 2022 ARC meeting. Those six findings were accepted by Council at the 29th September 2022 Ordinary Council Meeting and have now been added to the Audit register progress report.

The 2021/22 (draft) annual financial report was sent to the auditor on the 25th of November 2022 with the final audit performed on-site on December 12-13. Any findings from the final management letter will form part of this report.

The 2022/23 Interim Audit was completed on the 1-3 May 2023 with the interim audit findings from the Interim Management Letter will form part of this report.

STATUTORY ENVIRONMENT

Local Government (Audit) Regulations 1996

Local Government (Financial Management) Regulations 1996

Local Government Act 1995

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council has a budget allocation of \$30,000 in the 2022/2023 Budget for the conduct of the external audit function by the Office of the Auditor General, for the audit of the 2021/22 annual financial statements. It is anticipated that a budget of a similar amount is to be adopted each year but will be the subject of an annual estimate of audit fees provided by the OAG. Officers' efforts to undertake the improvements and report on progress has not been estimated or reported.

ALIGNMENT WITH STRATEGIC PRIORITIES

5.4 Governance & Leadership: Implement systems and processes that meet legislative and audit obligations

CONSULTATION

Nil.

RISK ASSESSMENT

	Option 1
Financial	Low <i>Cost of the annual audit is included in the budget. By regularly reviewing progress against audit findings, the risks associated to misconduct and error are significantly reduced.</i>

Health	Low
Reputation	Low <i>Compliant with legislative requirements. Failure to complete the findings from audit reports would lead to increased reputational risk.</i>
Operations	Low <i>Operational impact is minimal in reporting progress on audit findings. Operational impact of not closing findings would escalate.</i>
Natural Environment	Low

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

The audit register **confidential attachment (i)** counts actions and totals by “Finding #”. Each finding may have more than one “recommendation” and associated “agreed management action”. Only when all recommendations and agreed management actions within a finding are deemed complete will the finding as a whole be totalled at 100% complete and recommended to be closed.

The process for adding and removing findings to the audit register is as follows:

1. An external audit is completed and an audit report is finalised.
2. The audit report is presented to the Audit and Risk Committee (ARC).
3. The ARC recommends to Council that it notes and accepts the audit report.
4. All findings from the audit report are **added** to the audit register.
5. Progress is reported by management with updates recorded quarterly in “officer comment / action taken”.
6. Any findings deemed as complete by management are marked as “100% complete” with the status of “closed”.
7. The audit register – progress report is submitted by management to the ARC.
8. The ARC reviews the audit register and confirms completion of any 100% and closed findings.

9. The ARC recommends to Council that it notes progress and approves the findings marked as complete to be registered as closed.

10. Closed findings are **removed** from the audit register.

A summary of the audit register, included below, will illustrate the trend of actions that have been added, progressed, and completed.

The blue row represents actions added by the ARC. New audit findings presented to the current meeting are included at the subsequent meeting, following acceptance.

The green row represents actions closed by the ARC and will always total 0 for the current meeting date. The closed actions from the current meeting will then be shown in the “closed by the Audit & Risk Committee” total in the subsequent meeting’s table summary.

Status of Actions	ARC - Meeting Date							Total
	7/12/2021	15/03/2022	7/06/2022	13/09/2022	6/12/2022	14/03/2023	13/06/2023	
New actions added by ARC	7	0	0	0	6	0	4	17
Not Commenced ≤10%	1	1	0	0	0	0	0	
Progressed >11% to 99%	2	2	2	0	4	3	3	
Completed =100%	4	0	1	2	2	1	1	
Total (0% to 100%)	7	3	3	2	6	4	4	
Closed by ARC	4	0	1	2	2			9
Total cumulative Closed by ARC	4	4	5	7	9	9	9	
Open Actions	3	3	2	0	4	3	3	

The committee is requested to recommend to Council that Council note the progress and officer comments.

Four new actions have been added to the register following the 2022-2023 Interim Audit Findings. There is one (1) finding marked as complete (100%) in the audit register to be registered as closed.

All closed items will not form part of the audit register report for future meetings. The closed items are available for external auditors and committee/council to review.

It is requested to note the audit register progress report in **confidential attachment (i)**.

ITEM 7 STANDING ITEMS – CONTROLS, SYSTEMS AND PROCEDURES**7.1 Delegation Register Review & Reporting Template****Responsible Officer** Nicole Gibbs, Chief Executive Officer**Reporting Officer** Britt Hadlow, Executive Officer

Attachments 1. Delegation Register [↓](#) 

 2. Operational guidelines - Delegations [↓](#) 

 3. Delegation Register Report Template [↓](#) 

Voting Requirements Absolute Majority**Disclosure of Interest** Reporting Officer: Nil.

Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 024-22/23

Moved: Cr PD Smith

Seconded: Cr JC Hayes

That the Audit & Risk Committee recommend to Council:

1. Endorse the review of its delegations in accordance with sections 5.18 and 5.46 of the *Local Government Act 1995*
2. BY ABSOLUTE MAJORITY and in accordance with:
 - Local Government Act 1995* sections 5.16, 5.17, 5.18, 5.46.
 - Building Act 2011* section 127
 - Bush Fires Act 1954* section 48
 - Cat Act 2011* section 44
 - Dog Act 1976* section 10AA
 - Food Act 2008* section 118(2)(b)
 - Graffiti Vandalism Act 2016* section 16 and 17
 - Planning and Development Act 2005* sections 214(2), (3) and (5)
 - Planning and Development (Local Planning Schemes) Regulations 2015* clause 82 of Schedule 2
 - Public Health Act 2016* section 21
3. Delegates the local government functions listed in the Shire's Council Delegation Register included as Attachment [1].
4. Note that the Delegations Register will be reported on at the monthly Concept Forum for Councillor information.

CARRIED BY ABSOLUTE MAJORITY 6/0

IN BRIEF

In accordance with section 5.46 of the *Local Government Act 1995*, Council must review its delegations at least once each financial year.

The last significant review was conducted on 31st March 2022.

The existing delegation register has been reviewed and amended to reflect sector best practice, based upon the WALGA model delegations.

MATTER FOR CONSIDERATION

That the Audit & Risk Committee to consider:

1. Endorsing the review of its delegations in accordance with sections 5.18 and 5.46 of the *Local Government Act 1995*
2. Endorsing BY ABSOLUTE MAJORITY and in accordance with:
 - Local Government Act 1995* sections 5.16, 5.17, 5.18, 5.46.
 - Building Act 2011* section 127
 - Bush Fires Act 1954* section 48
 - Cat Act 2011* section 44
 - Dog Act 1976* section 10AA
 - Food Act 2008* section 118(2)(b)
 - Graffiti Vandalism Act 2016* section 16 and 17
 - Planning and Development Act 2005* sections 214(2), (3) and (5)
 - Planning and Development (Local Planning Schemes) Regulations 2015* clause 82 of Schedule 2
 - Public Health Act 2016* section 21
3. Endorsing the delegates for the local government functions listed in the Shire's Council Delegation Register included as Attachment [1].
4. Noting that the Delegations Register will be reported on at the monthly Concept Forum for Councillor information.

BACKGROUND

Delegations are most commonly used in organisations where:

1. A particular person has authority to exercise a discretion to enforce a right or discharge a duty on behalf of the organisation.
2. That person or officer has either:
 - A multitude of authorities to exercise a discretion to enforce rights or discharge powers; or
 - Many circumstances in which they have authority to exercise a discretion to enforce rights or discharge duties.
3. The business of the organisation could not be efficiently carried on if that person were to personally exercise their discretion to enforce all the rights or discharge all the duties.
4. Through practical administration, that person needs to appoint other persons to exercise their discretion to exercise powers or discharge duties on behalf of the organisation.

Whilst there is a requirement for local government delegations to be authorised by statute (as is explained in section 6 of the local government delegation guidelines (the guidelines) – Attachment [2]), there is no limitation (unless expressly stated to the contrary by statute) on appointing a person to act on behalf of the local government or the CEO, if that appointment does not include the power of delegation (see section 15 of the guidelines for details).

There is a legal distinction between:

1. The delegation to a person to exercise a right or discharge a duty on behalf of an organisation; and
2. Appointing a person to act on behalf of an organisation or another employee of that organisation.

In most circumstances, where a person:

1. Is appointed only to carry out the express instructions of an employee or the governing body of an organisation; and
2. Is provided with only limited discretion in carrying out those instructions, that appointment does not constitute a delegation and does not need to be formally delegated.

When determining whether an appointment is a delegation or simply an appointment to act on behalf of another person, it is critical to consider whether the person is appointed to exercise a broad discretion to exercise a power or discharge a duty.

The provisions of the *Local Government Act 1995* which provide for delegations by a local government, or its CEO are as follows:

1. Section 5.16(1), states: 'Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.'
2. Section 5.42(1), states: 'A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.'
3. Section 5.44(1), states: 'A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.'

The Act has been framed in a way that determines whether powers and duties can be delegated or not. If the term 'Council' is used, then it is the Council itself which must carry out that function. If the term 'local government' is used then it may be possible to use delegation, subject to any other express powers against delegation or the desirability in using 'acting through' where it may be a better way of carrying out the power or duty.

Section 2 of the *Local Government (Miscellaneous Provisions) Act 1960* effectively incorporates the provisions of that Act into the *Local Government Act 1995*, and therefore the delegation provisions of the *Local Government Act 1995* apply to the *Local Government (Miscellaneous Provisions) Act 1960*.

In addition to the delegation powers of the *Local Government Act 1995* which apply to the *Local Government (Miscellaneous Provisions) Act 1960*, section 374(1b) of the *Local Government (Miscellaneous Provisions) Act 1960* provides for a local government to delegate the authority to approve certain plans to its building surveyor.

Reference also needs to be made to section 23 of the *Strata Titles Act 1985* which provides for delegations to employees.

As per the *Local Government Act 1995*, the CEO is required to report to Council what delegated authority has been exercised under the different Acts. Attachment [3] is the template that will commence being used and will be tabled monthly at the Concept Forum for Councillor information.

STATUTORY ENVIRONMENT

Local Government Act 1995

Sections 5.16, 5.17, 5.18, 5.46.

Building Act 2011 section 127

Bush Fires Act 1954 section 48

Cat Act 2011 section 44

Dog Act 1976 section 10AA

Food Act 2008 section 118(2)(b)

Graffiti Vandalism Act 2016 section 16 and 17

Planning and Development Act 2005 sections 214(2), (3) and (5)

Planning and Development (Local Planning Schemes) Regulations 2015 clause 82 of Schedule 2

Public Health Act 2016 section 21

Local Government (Miscellaneous Provisions) Act 1960 section 2, section 374(1b)

Strata Titles Act 1985 section 23

POLICY IMPLICATIONS

Delegation Register

FINANCIAL IMPLICATIONS

Some staff are given financial delegations on behalf of the local government.

ALIGNMENT WITH STRATEGIC PRIORITIES

5.4 Governance & Leadership: Implement systems and processes that meet legislative and audit obligations

5.3 Governance & Leadership: Provide informed and transparent decision making that, meets our legal obligations, and the needs of our diverse community

CONSULTATION

A governance consultant confirmed that the delegation register is in line with the relevant Acts and regulations.

RISK MANAGEMENT PRIORITIES

This report addresses the following identified Strategic Risk Management Priorities:

Misconduct (non-financial) by a Shire employee results in financial, legal and/or reputational damage.

Asset Management Plan is non-compliant due to aging assets and increasing costs.

RISK ASSESSMENT

	Option 1
Financial	Low <i>Financial risk mitigated through annual review of all Delegations granted by Council.</i>
Health	Low <i>Delegated authority is given to the EHO in relation to public health and food safety.</i>
Reputation	Low <i>Council is required to review its delegations under the Local Government Act 1995 at least once every financial year and to review its delegations made under clause 82 of schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 every two years.</i> <i>Failure to complete the review would result in non-compliance with its statutory responsibilities under these legislative frameworks.</i>
Operations	Low <i>The delegation register is required to be reviewed annually. As previous reviews were conducted in house, it was deemed necessary to request an external consultant to carry out the review.</i>
Natural Environment	N/A

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

Nil.

COMMENTS AFFECTING COMMITTEE DECISION

Cr Stacey asked if reference needs to be made to banning harvesting on Sunday's:

1. 3.1.3 Prohibited Burning Times – Control Activities.
2. 3.1.4 Restricted Burning Times – Vary and Control Activities.

The CEO took this on notice. If it isn't required, officers will make a minor amendment for the June Ordinary Council meeting.



DELEGATIONS REGISTER

 @ShireofQuairading

 @QuairadingCaravanPark

 @shireofquairading



Delegation Register

Shire of Quairading

Current as at <INSERT DATE OF ADOPTION>

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Delegation Register

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Introduction

FORMAT OF REGISTER

This Register includes:

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

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

As a matter of principle throughout the Register, the CEO is the only employee authorised by the Shire of Quairading to commence (or authorise the commencement of) legal proceedings.

TERMINOLOGY AND ACRONYMS

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

Employee – refers to an employee of the Shire of Quairading. It should be noted although the CEO 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* 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 CEO 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 authorisations is subject to complying with relevant Policies of the Shire, which are cross referenced within each Instrument.

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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 CEO under s9.10 of the *Local Government Act*, in other cases via 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*.

LOCAL GOVERNMENT ACT 1995

Most 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 CEO the exercise of any of its powers or the discharge of any of its duties under the *Local Government 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,
- 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.

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In addition, there are several other matters which cannot be delegated to the CEO:

- Under r18g of the *Local Government (Administration) Regulations 1996* s7.12a, 7.12A(3)(a) and s7.12(4), which relate to meetings with auditors,
- Under r16 of the *Local Government (Financial Management) Regulations 1996* 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 Quairading) 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*,
- *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*.

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SUB DELEGATION BY THE CEO

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

Other legislation permits sub delegation by the CEO, either, as of right, or with the express authority of the Council (Dog Act).

The Bush Fires Act prohibits sub delegation by the CEO.

The *Planning and Development (Local Planning Schemes) Regulations 2015* permits sub delegation by the CEO, provided it is resolved by absolutely majority through Council for matters relating to the Local Planning Scheme No 3.

REVIEW OF DELEGATIONS

The Register of Delegations relevant to the CEO and other employees or other persons 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 Quairading 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 CEO reviewing all sub delegations, authorisations and appointments made by them.

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 1995* 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
- 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 (other than under the *Building Act 2011*), under other legislation regarding record keeping.

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PRIMARY/ANNUAL RETURNS

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 *Local Government Act 1995*,
- complete a Primary Return s5.75 *Local Government Act 1995*,
- complete Annual Returns s5.76 *Local Government Act 1995*.

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

ACTING THROUGH ANOTHER PERSON

The 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 CEO; or
- A CEO from performing any of his or her functions by acting through another person.

The key difference between a delegation and 'acting through' is that a delegate exercises the delegated decision-making function in their 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.

Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1 Local Government Act 1995 Delegations

1.1 Council to Committees of Council

1.1.1 Audit and Risk Committee

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.16 Delegation of some powers and duties to certain committees s.7.1B Delegation of some powers and duties to audit committees
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.7.12A(2), (3) & (4) Duties of Local Government with respect to audits
Delegate:	Audit and Risk Committee
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to meet with the Shire’s Auditor at least once every year on behalf of the Council [s.7.12A(2)]. 2. Authority to: <ol style="list-style-type: none"> a. Examine the report of the Auditor and determine matters that require action to be taken by the Shire; and b. Ensure that appropriate action is taken in respect of those matters [s.7.12A(3)]. 3. Authority to review and endorse the Shire’s report on any actions taken in response to an Auditor’s report, prior to it being forwarded to the Minister [s.7.12A(4)].
Council Conditions on this Delegation:	a. This delegation is not to be used where a Management Letter or Audit Report raises significant issues. In that instance the Local Government’s meeting with the Auditor must be directed to the Council.
Express Power to Sub-Delegate:	<i>Nil. Sub-delegation is prohibited by s.7.1B.</i>

Compliance Links:	Department of Local Government, Sport and Cultural Industries Operational Guideline No. 09 - The appointment, function and responsibilities of Audit Committees Audit and Risk Committee Terms of Reference
Record Keeping:	Audit Committee Minutes shall record and identify each decision made under this delegation in accordance with the requirements of Administration Regulation 19.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.2 Council to CEO

1.2.1 Performing Functions Outside the District

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.20(1) Performing functions outside district
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Determine the circumstances where it is appropriate for the Local Government’s functions to be performed outside the District and prior to implementing such a decision, obtain the consent of the landowner/s and occupier/s and any other person that has control or management of the land impacted by the performance of the function [s.3.20(1)].
Council Conditions on this Delegation:	a. A decision to undertake a function outside the District, can only be made under this delegation where there is a relevant Budget allocation, and the performance of the functions does not negatively impact service levels within the District. Where these conditions are not met, the matter must be referred for Council decision.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Economic Development Executive Manager, Works & Services Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.2.2 Compensation - Damage Incurred when Performing Executive Functions

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	Local Government Act 1995: s.3.22(1) Compensation s.3.23 Arbitration
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. In accordance with the s.3.22 procedures, assess and determine the extent of damage to private property arising directly from performance of executive functions and make payment of compensation [s.3.22(1)]. 2. Where compensation is unable to be determined and agreed between parties, give effect to arbitration in accordance with s.3.23.
Council Conditions on this Delegation:	a. Delegation is limited to settlements which do not exceed a material value of \$500.
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.2.3 Powers of Entry

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.28 When this Subdivision applies s.3.32 Notice of entry s.3.33 Entry under warrant s.3.34 Entry in an emergency s.3.36 Opening fences
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to exercise powers of enter to enter onto land to perform any of the local Government functions under this Act, other than entry under a Local Law [s.3.28]. 2. Authority to give notice of entry [s.3.32]. 3. Authority to seek and execute an entry under warrant [s.3.33]. 4. Authority to execute entry in an emergency, using such force as is reasonable [s.3.34(1) and (3)]. 5. Authority to give notice and effect entry by opening a fence [s.3.36].
Council Conditions on this Delegation:	a. Delegated authority under s.3.34(1) and (3) may only be used, where there is imminent or substantial risk to public safety or property.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. <i>Local Government Act 1995:</i> s.9.10 Appointment of authorised persons – also refer s.3.32(2)] Part 3, Division 3, Subdivision 3 – prescribes statutory processes for Powers of Entry s.3.34(2) Entry in an emergency – Refer to CEO Delegation 1.3.1
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

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1. Local Government Act 1995 Delegations

1.2.4 Declare Vehicle is Abandoned Vehicle Wreck

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.40A(4) Abandoned vehicle wreck may be taken
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Declare that an impounded vehicle is an abandoned vehicle wreck [s.3.40A(4)].
Council Conditions on this Delegation:	a. Disposal of a declared abandoned vehicle wreck to be undertaken in accordance with Delegated Authority 1.2.5 Disposing of Confiscated or Uncollected Goods or alternatively, referred for Council decision.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.5 Confiscated or Uncollected Goods

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.46 Goods May be withheld until costs paid s.3.47 Confiscated or uncollected goods, disposal of s.3.48 Impounding expenses, recovery of
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to refuse to allow goods impounded under s.3.39 or 3.40A to be collected until the costs of removing, impounding, and keeping them have been paid to the local government. [s.3.46] 2. Authority to sell or otherwise dispose of confiscated or uncollected goods or vehicles that have been ordered to be confiscated under s.3.43 [s.3.47]. 3. Authority to recover expenses incurred for removing, impounding, and disposing of confiscated or uncollected goods [s.3.48].
Council Conditions on this Delegation:	a. Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may, in accordance with Functions and General Regulation 30, be disposed of by any means considered to provide best value, provided the process is transparent and accountable.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government Act 1995 :Part 3, Division 3, Subdivision 3 s.3.58 Disposing of Property – applies to the sale of goods under s.3.47 as if they were property referred to in that section.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

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1.2.6 Disposal of Sick or Injured Animals

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.47A Sick or injured animals, disposal of s.3.48 Impounding expenses, recovery of
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine when an impounded animal is ill or injured, that treating it is not practicable, and to humanely destroy the animal and dispose of the carcass [s.3.47A(1)]. 2. Authority to recover expenses incurred for removing, impounding, and disposing of confiscated or uncollected goods [s.3.48].
Council Conditions on this Delegation:	a. Delegation only to be used where the Delegate’s reasonable efforts to identify and contact an owner have failed.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.7 Close Thoroughfares to Vehicles

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfare for repairs or maintenance s.3.51 Affected owners to be notified of certain proposals
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to close a thoroughfare (wholly or partially) to vehicles or particular classes of vehicles for a period not exceeding 4-weeks [s.3.50(1)]. 2. Authority to determine to close a thoroughfare for a period exceeding 4-weeks and before doing so, to: <ol style="list-style-type: none"> a. give; public notice, written notice to the Commissioner of Main Roads and written notice to prescribed persons and persons that own prescribed land; and b. consider submissions relevant to the road closure/s proposed [s.3.50(1a), (2) and (4)]. 3. 3. Authority to revoke an order to close a thoroughfare [s.3.50(6)]. 4. 4. Authority to partially and temporarily close a thoroughfare without public notice for repairs or maintenance, where it is unlikely to have significant adverse effect on users of the thoroughfare [s.3.50A] 5. 5. Before doing anything to which section 3.51 applies, take action to notify affected owners and give public notice that allows reasonable time for submissions to be made and consider any submissions made before determining to fix or alter the level or alignment of a thoroughfare or draining water from a thoroughfare to private land [s3.51].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. 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)]. b. Maintain access to adjoining land [s.3.52(3)]
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

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1. Local Government Act 1995 Delegations

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.8 Control Reserves and Certain Unvested Facilities

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.53(3) Control of certain unvested facilities s.3.54(1) Reserves under control of local government
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to agree the method for control and management of an unvested facility which is partially within 2 or more local government districts. [s.3.53(3)]. 2. Authority to do anything for the purpose of controlling and managing land under the control and management of the Shire that the Shire could do under s.5 of the Parks and Reserves Act 1895. [s.3.54(1)].
Council Conditions on this Delegation:	a. 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.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.9 Obstruction of Footpaths and Thoroughfares

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.5(2) Interfering with, or taking from, local government land r.6 Obstruction of public thoroughfare by things placed and left - Sch. 9.1 cl. 3(1)(a) r.7A Obstruction of public thoroughfare by fallen things – Sch.9.1 cl.3(1)(b) r.7 Encroaching on public thoroughfare – Sch.9.1. cl.3(2)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. 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: <ol style="list-style-type: none"> a. prevent damage to the footpath; or b. prevent inconvenience to the public or danger from falling materials [ULP r.5(2)]. 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)]. 3. 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)]. 4. 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]. 5. 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].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. Actions under this Delegation must comply with procedural requirements detailed in <i>the Local Government (Uniform Local Provisions) Regulations 1996</i>. 2. Permission may only be granted where, the proponent has: <ol style="list-style-type: none"> i. Where appropriate, obtained written permission from each owner of adjoining or adjacent property which may be impacted by the proposed obstruction. ii. Provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make

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1. Local Government Act 1995 Delegations

	<p>good public assets damaged by the obstruction at the completion of works.</p> <p>iii. Provided evidence of sufficient Public Liability Insurance.</p> <p>iv. Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.</p>
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p>Determination of Bond Value and Conditions - refer to CEO Delegation 1.3.2 – Public Thoroughfare Obstruction – Determine Conditions Local Government (Uniform Local Provisions) Regulations 1996</p> <p>Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995</p>
Record Keeping	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1.2.10 Gates Across Public Thoroughfares

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.9 Permission to have gate across public thoroughfare – Sch.9.1 cl.5(1)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to provide, or refuse to provide, permission to have a gate or other device across a local government thoroughfare that permits the passage of vehicle traffic and prevents livestock straying [ULP r.9(1)]. 2. Authority to require an applicant to publish a notice of the application in a manner thought fit for the purpose of informing persons who may be affected by the proposed gate or device [r.9(2)]. 3. Authority to impose conditions on granting permission [ULP r.9(4)]. 4. Authority to renew permission, or at any other time vary any condition, effective upon written notice to the person to whom permission was granted [ULP r.9(5)]. 5. Authority to cancel permission by written notice and request the person to whom permission was granted to remove the gate or device within a specified time [ULP r.9(6)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996. b. Each approval provided must be recorded in the Shire’s statutory Register of Gates in accordance with Uniform Local Provisions Regulation 8.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

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1. Local Government Act 1995 Delegations

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Uniform Local Provisions) Regulations 1996 – prescribe applicable statutory procedures. Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.11 Public Thoroughfare – Dangerous Excavations

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.11(1), (4), (6) & (8) Dangerous excavation in or near public thoroughfare – Sch.9.1 cl.6
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine if an excavation in or on land adjoining a public thoroughfare is dangerous and take action to fill it in or fence it or request the owner / occupier in writing to fill in or securely fence the excavation [ULP r.11(1)]. 2. Authority to determine to give permission or refuse to give permission to make or make and leave an excavation in a public thoroughfare or land adjoining a public thoroughfare [ULP r.11(4)] 3. Authority to impose conditions on granting permission [ULP r.11(6)]. 4. Authority to renew a permission granted or vary at any time, any condition imposed on a permission granted [ULP r.11(8)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996. b. Permission may only be granted where, the proponent has: <ol style="list-style-type: none"> 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. ii. 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. iii. Provided evidence of sufficient Public Liability Insurance. iv. Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

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1. Local Government Act 1995 Delegations

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p>Determination of Bond Value and Conditions - refer to CEO Delegation 1.3.3 – Determine and Manage Conditions on Permission for Dangerous Excavations on or on land adjoining Public Thoroughfares</p> <p>Local Government (Uniform Local Provisions) Regulations 1996 – prescribe applicable statutory procedures.</p> <p>Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995</p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1.2.12 Crossing – Construction, Repair and Removal

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.12(1) Crossing from public thoroughfare to private land or private thoroughfare – Sch.9.1 cl.7(2) r.13(1) Requirement to construct or repair crossing – Sch.9.1 cl.7(3)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to approve or refuse to approve, applications for the construction of a crossing giving access from a public thoroughfare to land or private thoroughfare serving land [ULP r,12(1)]. 2. Authority to determine the specifications for construction of crossings to the satisfaction of the Local Government [ULP r.12(1)(a)]. 3. Authority to give notice to an owner or occupier of land requiring the person to construct or repair a crossing [ULP r.13(1)]. 4. Authority to initiate works to construct a crossing where the person fails to comply with a notice requiring them to construct or repair the crossing and recover 50% of the cost of doing so as a debt due from the person [ULP r.13(2)].
Council Conditions on this Delegation:	a. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996 .
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Uniform Local Provisions) Regulations 1996 – prescribe applicable statutory procedures Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995
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1.2.13 Private Works on, over or under Public Places

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> r.17 Private works on, over, or under public places – Sch.9.1 cl.
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to 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)]. 2. Authority to impose conditions on permission including those prescribed in r.17(5) and (6) [ULP r.17(5)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996. b. Permission may only be granted where, the proponent has: <ol style="list-style-type: none"> 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 private works. ii. Provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good the public place at the completion of works. iii. Provided evidence of sufficient Public Liability Insurance. iv. Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	
Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Uniform Local Provisions) Regulations 1996 – prescribe applicable statutory procedures

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1. Local Government Act 1995 Delegations

	<p>Determination of Bond Value and Conditions - refer to CEO Delegation 1.3.4 Determine and Manage Conditions on Permission for Private Works on, over, or under Public Places</p> <p>Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995</p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.14 Give Notice to Prevent Damage to Local Government Property from Wind Erosion and Sand Drift

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) 1996:</i> r.21(1) Wind erosion and sand drifts – Sch.9.1 cl.12
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to give notice to a land owner / occupier if it is considered that clearing the owner / occupier's land may cause local government land with a common boundary, to be adversely affected by wind erosion or sand drift [ULP r.21(1)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Uniform Local Provisions) Regulations 1996 – prescribe applicable statutory procedures Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the Local Government Act 1995
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.15 Expressions of Interest for Goods and Services

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.21 Limiting who can tender, procedure for r.23 Rejecting and accepting expressions of interest to be acceptable tenderer
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> Authority to determine when to seek Expressions of Interest and to invite Expressions of Interest for the supply of goods or services [F&G r.21]. Authority to consider Expressions of Interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers [F&G r.23].
Council Conditions on this Delegation:	a. Expressions of Interest may only be called where there is an adopted budget for the proposed goods or services.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services (Functions 1 and 2) Executive Manager, Works & Services (Function 2) Executive Manager, Economic Development (Function 2)
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Functions and General) Regulations 1996 – prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit Shire of Quairading Purchasing Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.16 Tenders for Goods and Services – Call Tenders

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11(1), (2) When tenders have to be publicly invited r.13 Requirements when local government invites tenders though not required to do so r.14 Publicly inviting tenders, requirements for
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to call tenders [F&G r.11(1)]. 2. Authority to invite tenders although not required to do so [F&G r.13]. 3. Authority to determine in writing, before tenders are called, the criteria for acceptance of tenders [F&G r.14(2a)]. 4. Authority to determine the information that is to be disclosed to those interested in submitting a tender [F&G r.14(4)(a)]. 5. Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation [F&G r.14(5)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Tenders may only be called where there is an adopted budget for the proposed goods or services, with the exception being in the period immediately prior to the adoption of a new Annual Budget where: <ol style="list-style-type: none"> i. The proposed goods or services are required to fulfil a routine contract related to the day to day operations of the Local Government; or ii. A current supply contract expiry is imminent; and iii. The value of the proposed new contract has been included in the draft Annual Budget proposed for adoption, and iv. The tender specification includes a provision that the tender will only be awarded subject to the budget adoption by the Council. b. Exercise of this delegation to be reported to Council at least six monthly.

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	c. Tenders can only be invited for those goods and services identified in the Annual Budget, or separately approved by Council.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Economic Development Economic Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	a. Each sub-delegate may only use the sub-delegation in regard to contracts that are within the scope of the incumbent’s position role and responsibilities.

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Functions and General) Regulations 1996 – prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit Shire of Quairading Purchasing Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.17 Tenders for Goods and Services – Accepting and Rejecting Tenders; Varying Contracts; Exercising Contract Extension Options

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11(2)(j) Exercising contract extension options r.18(2), (4), (4a), (5), (6) and (7) Rejecting and accepting tenders r.20(1), (2), (3) Variation of requirements before entry into contract r.21A Varying a contract for the supply of goods or services
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine whether or not to reject tenders that do not comply with requirements as specified in the invitation to tender [F&G.r.18(2)]. 2. Authority to seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)]. 3. Authority to assess, by written evaluation, tenders that have not been rejected, to determine: <ol style="list-style-type: none"> a. The extent to which each tender satisfies the criteria for deciding which tender to accept; and b. To accept the tender that is most advantageous within the \$value as detailed as a condition on this Delegation [F&G r.18(4)]. 4. Authority to decline to accept any tender [F&G r.18(5)]. 5. Authority to accept the next most advantageous tender if, within 6-months of accepting a tender, a contract has not been entered into OR the local government and the successful tenderer agree to terminate the contract [F&G r.18(6) & (7)]. 6. Authority to determine whether variations in goods and services required are minor variations, and to negotiate with the successful tenderer to make minor variations before entering into a contract [F&G r.20(1) and (3)]. 7. Authority to choose the next most advantageous tender to accept, if the chosen tenderer is unable or unwilling to form a contract to supply the varied requirement OR the minor variation cannot be agreed with the successful tenderer, so that the tenderer ceases to be the chosen tenderer [F&G r.20(2)]. 8. Authority to vary a tendered contract, after it has been entered into, provided the variation/s are necessary for the goods and services to be supplied, and do not change the scope of the original contract or increase the contract value beyond 20% or to

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	<p>a maximum of \$50,000 whichever is the lesser value [F&G r.21A(a)].</p> <p>9. Authority to exercise a contract extension option that was included in the original tender specification and contract in accordance with r.11(2)(j).</p>
<p>Council Conditions on this Delegation:</p>	<p>a. Exercise of authority under F&G.r.18(2) requires consideration of whether or not the requirements as specified in the invitation to tender have been expressed as mandatory and if so, discretion may not be capable of being exercised – consider process contract implications.</p> <p>b. In accordance with s.5.43(b), tenders may only be accepted under this delegation, where:</p> <ul style="list-style-type: none"> i. The total consideration under the resulting contract is \$250,000 or less; ii. The expense is included in the adopted Annual Budget; and iii. The tenderer has complied with requirements under F&G r.18(2) and (4). <p>c. A decision to vary a tendered contract <u>before</u> entry into the contract [F&G r.20(1) and (3)] must include evidence that the variation is minor in comparison to the total goods or services that tenderers were invited to supply.</p> <p>d. A decision to vary a tendered contract <u>after</u> entry into the contract [F&G r.21A(a)] must include evidence that the variation is necessary and does not change the scope of the contract.</p> <p>e. A decision to renew or extend the contract must only occur where the original contract contained the option to renew or extend its term as per r.11(2)(j) and that the contractor’s performance has been reviewed and the review evidences the rationale for entering into the extended term.</p> <p>f. Exercise of this delegation to be reported to Council at least six monthly.</p> <p>g. Tenders can only be invited for those goods and services identified in the Annual Budget, or separately approved by Council.</p>
<p>Express Power to Sub-Delegate:</p>	<p>Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees</p>

<p>Sub-Delegate/s: <i>Appointed by CEO</i></p>	
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CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	a. Each sub-delegate may only use the sub-delegation in regard to contracts that are within the scope of the incumbent’s position role and responsibilities.
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Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Functions and General) Regulations 1996 – prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit Shire of Quairading Purchasing Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.18 Tenders for Goods and Services - Exempt Procurement

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government												
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO												
Express Power or Duty Delegated:	Local Government Act 1995: s.3.57 Tenders for providing goods or services Local Government (Functions and General) Regulations 1996: r.11(2) When tenders have to be publicly invited (<i>exemptions</i>)												
Delegate:	CEO												
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to undertake tender exempt procurement, in accordance with the Purchasing Policy requirements, where the total consideration under the resulting contract is expected to be included in the adopted Annual Budget [F&G.r.11(2)]. 2. Authority to, because of the unique nature of the goods or services or for any other reason it is unlikely that there is more than one supplier, determine to contract directly with a suitable supplier [F&G r.11(2)(f)]. 												
Council Conditions on this Delegation:	<p>a. Tender exempt procurement under F&G.r.11(2) may only be approved where the total consideration under the resulting contract is expected to be less than the maximum \$value specified for the following categories:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;">Category</th> <th style="width: 30%;">Maximum Value for individual contracts</th> </tr> </thead> <tbody> <tr> <td>WALGA Preferred Supplier Program <i>[F&G.r.11(2)(b)]</i></td> <td style="text-align: center;">\$250,000</td> </tr> <tr> <td>Goods or services obtained through the Government of the State or Commonwealth or any of its agencies, or by a local government or regional local government <i>[F&G.r.11(2)(e)]</i></td> <td style="text-align: center;">\$250,000</td> </tr> <tr> <td>Goods or services that are determined to be unique so that it is unlikely that there is more than one supplier in accordance with delegation condition (b.) specified below <i>[F&G.r.(2)(f)]</i></td> <td style="text-align: center;">\$250,000</td> </tr> <tr> <td>Supply of petrol, oil or any other liquid or gas used for internal combustion engines <i>[F&G.r.11(2)(g)]</i></td> <td style="text-align: center;">\$250,000</td> </tr> <tr> <td>Goods or services supplied by a person registered on the Aboriginal Business Directory WA <u>OR</u></td> <td style="text-align: center;"><\$250,000* <i>*as specified in F&G.r.11(2)(h)(ii)</i></td> </tr> </tbody> </table>	Category	Maximum Value for individual contracts	WALGA Preferred Supplier Program <i>[F&G.r.11(2)(b)]</i>	\$250,000	Goods or services obtained through the Government of the State or Commonwealth or any of its agencies, or by a local government or regional local government <i>[F&G.r.11(2)(e)]</i>	\$250,000	Goods or services that are determined to be unique so that it is unlikely that there is more than one supplier in accordance with delegation condition (b.) specified below <i>[F&G.r.(2)(f)]</i>	\$250,000	Supply of petrol, oil or any other liquid or gas used for internal combustion engines <i>[F&G.r.11(2)(g)]</i>	\$250,000	Goods or services supplied by a person registered on the Aboriginal Business Directory WA <u>OR</u>	<\$250,000* <i>*as specified in F&G.r.11(2)(h)(ii)</i>
Category	Maximum Value for individual contracts												
WALGA Preferred Supplier Program <i>[F&G.r.11(2)(b)]</i>	\$250,000												
Goods or services obtained through the Government of the State or Commonwealth or any of its agencies, or by a local government or regional local government <i>[F&G.r.11(2)(e)]</i>	\$250,000												
Goods or services that are determined to be unique so that it is unlikely that there is more than one supplier in accordance with delegation condition (b.) specified below <i>[F&G.r.(2)(f)]</i>	\$250,000												
Supply of petrol, oil or any other liquid or gas used for internal combustion engines <i>[F&G.r.11(2)(g)]</i>	\$250,000												
Goods or services supplied by a person registered on the Aboriginal Business Directory WA <u>OR</u>	<\$250,000* <i>*as specified in F&G.r.11(2)(h)(ii)</i>												

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	Indigenous Minority Supplier Office Limited (T/as Supply Nation) <u>AND</u> where satisfied that the contract represents value for money. <i>[F&G.r.11(2)(h)]</i>	
	Goods or services supplied by an Australian Disability Enterprise <i>[F&G.r.11(2)(i)]</i>	\$250,000
	<p>b. Tender exempt procurement under F&G r.11(2)(f) may only be approved where a record is retained that evidences:</p> <ul style="list-style-type: none"> i. A detailed specification; ii. The outcomes of market testing of the specification; iii. The reasons why market testing has not met the requirements of the specification; iv. Rationale for why the supply is unique and cannot be sourced through other suppliers; and v. The expense is included in the adopted Annual Budget. <p>c. Where the total consideration of a Tender Exempt procurement contract exceeds the \$250,000 delegated above, the decision is to be referred to Council.</p> <p>d. Exercise of this delegation to be reported to Council at least six monthly.</p> <p>e. e. Tenders can only be invited for those goods and services identified in the Annual Budget, or separately approved by Council.</p>	
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees	

Sub-Delegate/s: <i>Appointed by CEO</i>	
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	a. Each sub-delegate may only use the sub-delegation in regard to contracts that are within the scope of the incumbent’s position role and responsibilities.

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Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Functions and General) Regulations 1996 – prescribe applicable statutory procedures WALGA Subscription Service – Procurement Toolkit Shire of Quairading Purchasing Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.19 Disposing of Property

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.58(2) & (3) Disposing of Property
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to dispose of property to: <ol style="list-style-type: none"> a. The highest bidder at public auction [s.3.58(2)(a)] b. The person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tender [s.3.58(2)(b)] 2. Authority to dispose of property by private treaty only in accordance with section 3.58(3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Disposal of land or building assets is limited to matters specified in the Annual Budget and in any other case, a Council resolution is required. b. In accordance with s.5.43, disposal of property, for any single project or where not part of a project but part of a single transaction, is limited to a maximum value of \$250,000 or less. c. When determining the method of disposal: <ol style="list-style-type: none"> i. Where a public auction is determined as the method of disposal: <ul style="list-style-type: none"> o Reserve price has been set by independent valuation. o Where the reserve price is not achieved at auction, negotiation may be undertaken to achieve the sale at up to a -10% variation on the set reserve price. ii. Where a public tender is determined as the method of disposal and the tender does not achieve a reasonable price for the disposal of the property, then the CEO is to determine if better value could be achieved through another disposal method and if so, must determine not to accept any tender and use an alternative disposal method. iii. Where a private treaty is determined [s.3.58(3)] as the method of disposal, authority to:

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1. Local Government Act 1995 Delegations

	<ul style="list-style-type: none"> o Negotiate the sale of the property up to a -10% variance on the valuation; and o Consider any public submissions received and determine if to proceed with the disposal, ensuring reasons for the decision are recorded. <p>d. Where the market value of the property is determined as being less than \$20,000 (F&G r.30(3) excluded disposal) may be undertaken:</p> <ul style="list-style-type: none"> i. Without reference to Council for resolution; and ii. In any case, be undertaken to ensure that the best value return is achieved however, where the property is determined as having a nil market value then, as a minimum, the disposal must ensure environmentally responsible disposal.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Corporate Services Executive Manager, Economic Development
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government Act 1995 s.3.58 Disposal of Property Local Government (Functions and General) Regulations 1995 r.30 Dispositions of property excluded from Act s. 3.58 Shire of Quairading Disposal of Property Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.20 Payments from the Municipal or Trust Funds

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	Local Government (Financial Management) Regulations 1996: r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to make payments from the municipal or trust funds [r.12(1)(a)].
Council Conditions on this Delegation:	a. Authority to make payments is subject to annual budget limitations. b. All payments are subject to compliance with Shire of Quairading Policies and Procedures.
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services Executive Manager, Works & Services Executive Manager, Economic Development Executive Officer
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	1. Delegates must comply with the Procedures approved by the CEO in accordance with Financial Management Regulation 5. 2. Payments by Cheque and EFT transactions must be approved jointly by two Delegates, one of whom must be the Executive Manager, Corporate Services. 3. Delegates that approve the payment must not verify the liability. The verification of incurring the liability via the purchase order, invoice and evidence of goods / service received, must be undertaken independent of the payment approval.

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
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1. Local Government Act 1995 Delegations

	<p>Local Government Act 1995</p> <p>Local Government (Financial Management) Regulations 1996 - refer specifically r.13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.</p> <p>Local Government (Audit) Regulations 1996</p> <p>Department of Local Government, Sport and Cultural Industries Operational Guideline No.11 – Use of Corporate Credit Cards</p> <p>Department of Local Government, Sport and Cultural Industries: Accounting Manual</p> <p>Shire of Quairading Corporate Credit Card Policy and Purchasing Policy.</p>
Record Keeping:	<p>All exercises of delegated authority to be record managed in F: Delegation Register Template and Altus Content.</p>

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1. Local Government Act 1995 Delegations

1.2.21 Defer, Grant Discounts, Waive or Write Off Debts

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	Local Government Act 1995: s.6.12 Power to defer, grant discounts, waive or write off debts
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Waive a debt which is owed to the Shire [s.6.12(1)(b)]. 2. Grant a concession in relation to money which is owed to the Shire to a maximum value of \$1000. [s.6.12(1)(b)]. 3. Write off an amount of money which is owed to the Shire [s.6.12(1)(c)] 4. 4. Write off an amount of money to the maximum value of \$500 owed to the Shire, including fines/penalties imposed by court that are unrecoverable.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Write-off a rates or service charge debt up to \$1000 in accordance with the Financial Hardship Policy [s.6.12(1)(c) &(2)]. b. A debt may only be waived where: <ol style="list-style-type: none"> i. The debtor cannot be located ii. Uneconomical to pursue the debt iii. The Hardship circumstances of the debtor do not warrant the taking or continuation of recovery action iv. Legal proceedings through the courts have proved, or on legal advice would prove, unsuccessful v. The write-off of the debt will result in a favourable outcome to the Council c. A concession may only be granted where: <ol style="list-style-type: none"> i. Section 6.26(2)(g) of the Local Government Act provides for a rates exemption for land used exclusively for charitable purposes and is deemed applicable. d. A debt may only be written off where all necessary measures have been taken to locate / contact the debtor and where costs associated with continued action to recover the debt will outweigh the net value of the debt if recovered by the Shire. <ol style="list-style-type: none"> i. Limited to individual debts valued below \$1000 or cumulative debts of a debtor valued below \$1000. Write off of debts greater than these values must be referred for Council decision.

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1. Local Government Act 1995 Delegations

	<p>e. Delegated Functions (1), (2) and (3) excludes amounts owing in respect of rates and service charges or fees for a planning service.</p> <p>f. The CEO shall report to Council at least six monthly on the exercise of these delegations.</p>
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	<p>1. Executive Manager Corporate Services may waive fees and charges related to their operational responsibilities where such waiver is either to:</p> <ul style="list-style-type: none"> a. rectify a service failure on the part of the Shire of Quairading limited to a value less than \$250.00 per customer within a financial year; or b. assist a not for profit community group or charitable entity in fulfilling a service, social or cultural outcome within the Shire of Quairading. <p>2. Executive Manager Corporate Services may only write off debts limited to a value of less than \$250.00 per debtor within a financial year.</p>

Compliance Links:	<p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p>Collection of Rates Debts – refer Delegations:</p> <p>Recovery of Rates, Debts and Service Charges Policy:</p> <ul style="list-style-type: none"> a. Agreement as to Payment of Rates and Service Charges b. Recovery of Rates or Service Charges c. Require Lessee to Pay Rent d. Actions to Take Possession of the Land
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System. and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.22 Power to Invest and Manage Investments.

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996:</i> r.19 Investments, control procedures for
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to invest money held in the municipal fund or trust fund that is not, for the time being, required for any other purpose [s.6.14(1)]. 2. Authority to establish and document internal control procedures to be followed in the investment and management of investments [FM r.19].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. All investment activity must comply with the Financial Management Regulation 19C and Council Investment Policy. b. 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. c. 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. d. 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 within every 3 financial years. [Audit r.17]
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	<ol style="list-style-type: none"> 1. A decision to invest must be jointly confirmed by two Delegates. 2. Investment decisions are limited to a maximum of \$1,000,000 per transaction on the short-term money market and up to a value of \$1,000,000 per transactions for other markets. 3. Where exposure to a single market or investment type will exceed \$1,000,000 the decision must be referred to the CEO.

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1. Local Government Act 1995 Delegations

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Financial Management) Regulations 1996 refer r.19C Investment of money, restrictions on (Act s.6.14(2)(a)) Investments Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.23 Rate Record Amendment

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.39(2)(b) Rate record
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine any requirement to amend the rate record for the 5-years preceding the current financial year [s.6.39(2)(b)].
Council Conditions on this Delegation:	a. Delegates must comply with the requirements of s.6.40 of the Act.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government Act 1995 s.6.40 prescribes consequential actions that may be required following a decision to amend the rate record. Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.2.24 Agreement as to Payment of Rates and Service Charges

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.49 Agreement as to payment of rates and service charges
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to make an agreement with a person for the payment of rates or service charges [s.6.49].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Decisions under this delegation must comply with the Rates Collections Policy and Financial Hardship Policy b. Agreements must be in writing and, subject to the Rates Collections Policy and Financial Hardship Policy, must ensure acquittal of the rates or service charge debt before the next annual rates or service charges are levied. c. Subject to the arrangements agreed to being on the basis that the total debt outstanding will be extinguished within 2-5 years (depending on hardship circumstances) following the current financial year that the payment plan arrangement is entered into. d. All such arrangements shall be presented to Council every six months.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

Compliance Links:	<p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p>Collection of Rates Debts – refer Delegations:</p> <p>Recovery of Rates, Debts and Service Charges Policy:</p> <ul style="list-style-type: none"> a. Agreement as to Payment of Rates and Service Charges b. Recovery of Rates or Service Charges c. Require Lessee to Pay Rent d. Actions to Take Possession of the Land
Record Keeping:	<p>All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.</p>

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.2.25 Determine Due Date for Rates or Service Charges

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	Local Government Act 1995: s.6.50 Rates or service charges due and payable
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	a. Authority to determine the date on which rates or service charges become due and payable to the Shire. [s.6.50].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.2.26 Recovery of Rates or Service Charges

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.56 Rates or service charges recoverable in court s.6.64(3) Actions to be taken
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> Authority to recover rates or service charges, as well as costs of proceedings for the recovery, in a court of competent jurisdiction [s.6.56(1)]. Authority to lodge (and withdraw) a caveat to preclude dealings in respect of land where payment of rates or service charges imposed on that land is in arrears [s.6.64(3)].
Council Conditions on this Delegation:	a. Decisions under this delegation must comply with the Rates Collection Policy and Financial Hardship Policy.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i> T66t	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Recovery of Rates, Debts and Service Charges Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.2.27 Recovery of Rates Debts – Require Lessee to Pay Rent.

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.60 Local Government may require lessee to pay rent
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to give notice to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay its rent to the Shire [s.6.60(2)]. 2. Authority to recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with a notice [s.6.60(4)].
Council Conditions on this Delegation:	a. Decisions under this delegation must comply with the Rates Collection Policy and Financial Hardship Policy.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government Act 1995 sections 6.61 and 6.62 and Schedule 6.2 prescribe procedures relevant to exercise of authority under s.6.60. Rates Collection Policy Financial Hardship Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.2.28 Recovery of Rates Debts - Actions to Take Possession of the Land

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.64(1) Actions to be taken s.6.69(2) Right to pay rates, service charges and costs, and stay proceedings s.6.71 Power to transfer land to Crown or local government s.6.74 Power to have land revested in Crown if rates in arrears 3 years
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to take possession of land and hold the land against a person having an estate or interest in the land where rates or service charges have remained unpaid for at least three years [s.6.64(1)], including: <ol style="list-style-type: none"> a. lease the land, or b. sell the land; or where land is offered for sale and a contract of sale has not been entered into after 12 months: c. cause the land to be transferred to the Crown [s.6.71 and s.6.74]; or d. cause the land to be transferred to the Shire [s.6.71]. 2. Authority to agree terms and conditions with a person having estate or interest in land and to accept payment of outstanding rates, service charges and costs within 7 days of and prior to the proposed sale [s.6.69(2)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Decisions under this delegation must comply with Council Rates Collection Policy and Financial Policy. b. In accordance with s.6.68(3A), this delegation cannot be used where a decision relates to exercising a power of sale <u>without having</u>, within the previous 3-years attempted to recover the outstanding rates / changes through a court under s.6.56, as s.6.68(3A) requires that the reasons why court action has not been pursued must be recorded in Council Minutes. c. Exercise of this delegation must comply with the procedures set out in Schedule 6.3 of the <i>Local Government Act 1995</i>.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	
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Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government Act 1995 Part 6, Division 6 Subdivision 6 and Schedule.6.3 prescribe procedures relevant to exercise of authority under this delegation. Local Government (Financial Management) Regulations 1996 Regulations 72 – 78 prescribe forms and procedures relevant to exercise of authority under this delegation. Rates Collection Policy Recovery of Rates, Debts and Service Charges Policy Financial Hardship Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.2.29 Rate Record – Objections

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	Local Government Act 1995: s.6.76 Grounds of objection
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to extend the time for a person to make an objection to a rate record [s.6.76(4)]. 2. Authority to consider an objection to a rate record and either allow it or disallow it, wholly or in part, providing the decision and reasons for the decision in a notice promptly served upon the person who made the objection [s.6.76(5)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. A delegate who has participated in any matter contributing to a decision related to the rate record, which is the subject of a Rates Record Objection, must NOT be party to any determination under this Delegation. b. An extension is not to be granted for a period exceeding six weeks.
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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1. Local Government Act 1995 Delegations

1.2.30 Renewal or Extension of Contracts during a State of Emergency

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> Regulation 11 'When tenders have to be publicly invited' Tender exemption under subregulation 11(2)(ja)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority, only to be exercised when a State of Emergency declaration is in force and applies to all or part of the District, to execute a renewal or extension to the term of a contract that will expire within 3 months, for a term of not more than 12 months from the original expiry date, without calling for tenders [F&G r.11(2)(ja)]. This authority relates to: 1. Contracts not formed through a public tender, where the total value of the original term and the proposed extension or renewal exceeds \$250 000, and 2. Contracts formed through a public tender.
Council Conditions on this Delegation:	a. The authority to apply the renewal or extension option may be exercised where one or more of the following principles applies: i. It is exercised at the sole discretion of the Local Government; ii. It is in the best interests of the Local Government; iii. It is deemed necessary to facilitate the role of Local Government in relation to the State of Emergency declaration; iv. It has potential to promote local and/or regional economic benefits. b. This authority may only be exercised where the total consideration for the renewal or extension is \$500,000 or less. c. Contracts may only be renewed or extended where there is an adopted and available budget for the proposed goods and services, OR where the expenditure from an alternative available budget allocation has been authorised in advance by the President (i.e., before the expense is incurred) in accordance with LGA s.6.8(1)(c). d. The decision to extend or renew a contract must be made in accordance with the objectives of the Purchasing Policy.

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1. Local Government Act 1995 Delegations

	<p>e. This authority may only be exercised where the total consideration under the resulting contract is value which is over \$250,000 or less.</p> <p>f. The CEO cannot sub-delegate this authority.</p>
Express Power to Sub-Delegate:	<i>Nil</i>

Compliance Links:	<p>Local Government (Functions and General) Regulations 1996</p> <p>WALGA Subscription Service – Procurement Toolkit</p> <p>Shire of Quairading Purchasing Policy</p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.2.31 Procurement of Goods or Services required to address a State of Emergency

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> Regulation 11 'When tenders have to be publicly invited' Tender exemption under subregulation 11(2)(aa) Associated definition under subregulation 11(3)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Authority, only to be exercised when a State of Emergency declaration is in force and applies to all or part of the District, to: 1. Determine that particular goods or services with a purchasing value >\$250,000 are required for the purposes of addressing the impact, consequences or need arising from the hazard to which the State of Emergency declaration relates [F&G r11(3)(b)]; and 2. Undertake tender exempt purchasing activity to obtain the supply of those goods or services identified in accordance with point 1 above [F&G r.11(2)(aa)].
Council Conditions on this Delegation:	a. This authority may only be exercised where the goods or services are urgently required, and it is not possible for Council to meet within an appropriate timeframe. b. Compliance with the Purchasing Policy is required, but only to the extent that such compliance will not incur an unreasonable delay in providing the required urgent response to the State of Emergency hazard. The rationale for non-compliance with Purchasing Policy must be evidenced in accordance with the Record Keeping Plan. c. Where a relevant budget allocation is not available and a purchase is necessary in response to a State of Emergency, the expenditure from an alternative available budget allocation must be authorised in advance by the Mayor or President (i.e., before the expense is incurred) in accordance with Local Government Act s.6.8. d. The CEO is to inform Council Members after the exercise of this delegation, including details of the contract specification, scope and purchasing value and the rationale for determining that the goods or services were urgently required in response to the State of Emergency declaration. e. e. The CEO cannot sub-delegate this authority.

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1. Local Government Act 1995 Delegations

Compliance Links:	Local Government (Functions and General) Regulations 1996 WALGA Subscription Service – Procurement Toolkit Shire of Quairading Purchasing Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.3 CEO to Employees

1.3.1 Determine if an Emergency for Emergency Powers of Entry

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.34(2) Entry in emergency
Delegate/s:	Executive Manager, Works & Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine on behalf of the CEO that an emergency exists for the purposes of performing local government functions [s.3.34(2)].
CEO Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil.</i>

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.3.2 Determine and Manage Conditions on Approvals to Obstruct a Public Thoroughfare

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.6(4)(d) Obstruction of public thoroughfare by things placed and left - Sch. 9.1 cl. 3(1)(a)
Delegate/s:	Executive Manager, Works & Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	When determining to grant permission to obstruct a public footpath or thoroughfare under Delegated Authority 1.2.9: <ol style="list-style-type: none"> 1. Authority to determine the sum sufficient to cover the cost of repairing damage to the public thoroughfare resulting from the placement of a thing or a protective structure, on the basis that the local government may retain from that sum the amount required for the cost of repairs by the local government if the damage is not made good by the applicant [ULP r.6(4)(d)]. 2. Authority to determine the requirements for protective structures, during such time as it is considered necessary for public safety and convenience [ULP r.6(5)(b)]. 3. Authority to determine and require in writing, that the person granted permission to obstruct a public thoroughfare repair damage caused by things placed on the thoroughfare and authority to determine if such repairs are to the satisfaction of the local government [ULP r.6(5)(d)].
CEO Conditions on this Delegation:	<ol style="list-style-type: none"> a. Decisions under this Delegation must be exercised in alignment with Council’s Delegated Authority 1.2.9 Obstruction of Footpaths and Thoroughfares. b. Actions under this Delegation must comply with the procedural requirements detailed in <i>the Local Government (Uniform Local Provisions) Regulations 1996</i>.
Express Power to Sub-Delegate:	<i>Nil.</i>

Compliance Links:	<p>This delegated authority is effective only in alignment with Delegated Authority 1.2.9 Obstructions of Footpaths and Thoroughfares.</p> <p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p>Local Government (Uniform Local Provisions) Regulations 1996</p> <p>Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the <i>Local Government Act 1995</i></p>
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Shire of Quairading

1. Local Government Act 1995 Delegations

Record Keeping:	Decisions under this delegation must comply with Shire of Quairading Recovery of Rates, Debts and Service Charges Policy
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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.3.3 Determine and Manage Conditions on Permission for Dangerous Excavations on or on land adjoining Public Thoroughfares

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.11(6)(c) and (7)(c) Dangerous excavation in or near public thoroughfare – Sch. 9.1 cl.6
Delegate/s:	Executive Manager, Works & Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	When determining to grant permission to for a dangerous excavation under Delegated Authority 1.2.12: <ol style="list-style-type: none"> 1. Authority to determine, as a condition of granting permission, the sum sufficient to deposit to cover the cost of repairing damage to the public thoroughfare or adjoining land resulting from the excavation or a protective structure, on the basis that the local government may retain from that sum the amount required for the cost of repairs by the local government if the damage is not made good by the applicant [r.11(6)(c)]. 2. Authority to determine, as a condition of granting permission, requirements for protective structures and for the protective structures to be maintained and kept in satisfactory condition necessary for public safety and convenience [r.11(7)(c)]. 3. Authority to determine if repairs to damage resulting from excavation or protective structures have been repaired satisfactorily.
CEO Conditions on this Delegation:	<ol style="list-style-type: none"> a. Decisions under this Delegation must be exercised in alignment with Council’s Delegated Authority 1.2.12 Public Thoroughfares – Dangerous Excavations. b. Actions under this Delegation must comply with the procedural requirements detailed in <i>the Local Government (Uniform Local Provisions) Regulations 1996</i>.
Express Power to Sub-Delegate:	<i>Nil.</i>

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1. Local Government Act 1995 Delegations

Compliance Links:	<p>Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.</p> <p>This delegated authority is effective only in alignment with Delegated Authority 1.2.12 Public Thoroughfares – Dangerous Excavations.</p> <p>Local Government (Uniform Local Provisions) Regulations 1996</p> <p>Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the <i>Local Government Act 1995</i></p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

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1. Local Government Act 1995 Delegations

1.3.4 Determine and Manage Conditions on Permission for Private Works on, over, or under Public Places

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	Local Government (Uniform Local Provisions) Regulations 1996: r.17(5)(b) and r.17(6)(c) Private works on, over, or under public places — Sch. 9.1 cl. 8
Delegate/s:	Executive Manager, Works & Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine, as a condition of granting permission for Private Works in Public Places, the sum sufficient to deposit with the Local Government to cover the cost of repairing damage to the public thoroughfare or public place resulting from the crossing construction, on the basis that the Local Government may retain from that sum the amount required for the cost of repairs by the local government if the damage is not made good by the applicant [r.17(5)(b)]. 2. Authority to determine if repairs to damage resulting from excavation or protective structures have been repaired satisfactorily. [r.17(6)(c)].
CEO Conditions on this Delegation:	
Express Power to Sub-Delegate:	Nil.

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. This delegated authority is effective only in alignment with Delegated Authority 1.2.14 Private Works on, over or under Public Places
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

Shire of Quairading

1. Local Government Act 1995 Delegations

1.3.5 Appoint Persons (other than employees) to Open Tenders

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	Local Government (Functions and Genera) Regulations 1996: r.16(3) Receiving and opening tenders, procedure for
Delegate/s:	Executive Manager, Works & Services Executive Manager, Corporate Services Executive Manager, Economic Development
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to appoint one person (other than employees) to be present with an employee of the Local Government to open tenders, when two employees are unable to attend then tender opening [F&G r.16(3)].
CEO Conditions on this Delegation:	
Express Power to Sub-Delegate:	Nil.

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Shire of Quairading

1. Local Government Act 1995 Delegations

1.3.6 Electoral Enrolment Eligibility Claims and Electoral Roll

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.4.32(4), (5A) & (5) Eligibility to enrol under s.4.30, how to claim s.4.34 Accuracy of enrolment details to be maintained s.4.35 Decision that eligibility to enrol under s.4.30 has ended s.4.37 New roll for each election <i>Local Government (Elections) Regulations 1995:</i> r.11(1a) Nomination of co-owners or co-occupiers — s.4.31 r.13(2) & (4) Register - s.4.32(6)
Delegate/s:	Executive Manager, Corporate Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require the written notice for co-owners or co-occupiers to be incorporated into Form 2 [r.11(1a)]. 2. Authority to decide whether or not the claimant is eligible under s.4.30(1)(a) and (b) and accept or reject the claim accordingly [s.4.32(4)]. 3. Authority to decide to accept or reject a claim made before the close of enrolments, but less than 14-days before the close of nominations [s.3.42(5A)]. 4. Authority to make any enquiries necessary in order to make a decision on an eligibility claim [s.4.32(5)]. 5. Authority to approve the omission of an elector’s address from the Owners and Occupiers Register on the basis of a declaration from the elector that the publication of this information would place the elector’s or their family’s safety at risk [Elections r.13(2)]. 6. Authority to amend the Owners and Occupiers Register from time to time to make sure that the information recorded in it is accurate [Elections r.13(4)]. 7. Authority to ensure that the information about electors that is recorded from enrolment eligibility claims is maintained in an up to date and accurate form [s.4.34]. 8. Authority to decide that a person is no longer eligible under s.4.30 to be enrolled on the Owners and Occupiers Electoral Roll [s.4.35(1)] and to give notice [s.4.35(2)] and consider submissions [s.4.35(6)], before making such determination. 9. Authority to determine to take any action necessary to give effect to advice received from the Electoral Commissioner [s.4.35(5)]. 10. Decide, with the approval of the Electoral Commissioner, that a new electoral roll is not required for an election day which is less than 100 days since the last election day [s.4.37(3)].

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1. Local Government Act 1995 Delegations

CEO Conditions on this Delegation:	a. Decisions on enrolment eligibility are to be recorded in the Enrolment Eligibility Register in accordance with s.4.32(6) and s.4.35(7).
Express Power to Sub-Delegate:	<i>Nil.</i>

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Department of Local Government, Sport and Cultural Industries: Returning Officer Manual
Record Keeping:	Decisions under this delegation must comply with Shire of Quairading Recovery of Rates, Debts and Service Charges Policy

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1. Local Government Act 1995 Delegations

1.3.7 Destruction of Electoral Papers

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government (Elections) Regulations 1996:</i> r.82(4) Keeping election papers – s4.84(a)
Delegate/s:	Executive Manager, Corporate Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to, after a period of 4-years, destroy the parcels of election papers in the presence of at least 2 other employees [Elect. r.82(4)].
CEO Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil.</i>

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Department of Local Government, Sport and Cultural Industries: Returning Officer Manual
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.3.8 Information to be Available to the Public

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government (Administration) Regulations 1996:</i> r.29(2) &(3) Information to be available for public inspection (Acts s.5.94) r.29B Copies of certain information not to be provided (Act s.5.96) <i>Local Government Act 1995:</i> s.9.95(1)(b) & (3)(b) Limits on right to inspect local government information
Delegate/s:	Executive Manager, Corporate Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine the public right to inspect information, by determining if the information requested relates to a part of a meeting that could have been closed to members of the public but was not [Admin. r.29(2)]. 2. Authority to determine the public right to inspect information in an agenda or minutes, by determining if the information requested would be part of the meeting which is likely to be closed to members of the public [Admin. r.29(3)]. 3. Authority to determine the manner and form by which a person may request copies of rates record information [s.5.94(m)] or owners and occupiers register and electoral rolls [s5.94(s)] and to make the information available, if satisfied, by statutory declaration or otherwise, that the information will not be used for commercial purposes [Admin r.29B]. 4. Authority to determine not to provide a right to inspect information, where it is considered that in doing so would divert a substantial and unreasonable portion of the local government's resources away from its other functions [s5.95(1)(b)]. 5. Authority to determine not to provide a right to inspect information contained in notice papers, agenda, minutes, or information tabled at a meeting, where it is considered that that part of the meeting could have been closed to members of the public but was not closed [s.5.94(3)(b)].
CEO Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil.</i>

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content

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Shire of Quairading

1. Local Government Act 1995 Delegations

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1. Local Government Act 1995 Delegations

1.3.9 Financial Management Systems and Procedures

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	Local Government (Financial Management) Regulations 1996: r.5 CEO's Duties as to financial management
Delegate/s:	Executive Manager, Corporate Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to establish systems and procedures [FM r.5] that give effect to internal controls and risk mitigation for the: <ol style="list-style-type: none"> a. Collection of money owed to the Shire; b. Safe custody and security of money collected or held by the Shire; c. Maintenance and security of all financial records, including payroll, stock control and costing records; d. Proper accounting of the Municipal and Trust Funds, including revenue, expenses and assets and liabilities; e. Proper authorisation of employees for incurring liabilities, including authority for initiating Requisition Orders, Purchase Orders and use of Credit and Transaction Cards; f. Making of payments in accordance with Delegated Authority; g. Preparation of budgets, budget reviews, accounts and reports as required by legislation or operational requirements.
CEO Conditions on this Delegation:	<ol style="list-style-type: none"> a. 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. b. 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 within each 3 financial years. [Audit r.17]
Express Power to Sub-Delegate:	Nil.

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1. Local Government Act 1995 Delegations

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government Act 1995 Local Government (Financial Management) Regulations 1996 Local Government (Audit) Regulations 1996 Department of Local Government, Sport and Cultural Industries Operational Guideline No.11 – Use of Corporate Credit Cards
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.3.10 Audit – CEO Review of Systems and Procedures

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	Local Government (Audit) Regulations 1996: r.17 CEO to review certain systems and procedures
Delegate/s:	Executive Manager, Corporate Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to conduct the review of the appropriateness and effectiveness of the Shire’s systems and procedures in relation to <ul style="list-style-type: none"> a. Risk management; and b. Internal controls; and c. Legislative compliance [r.17(1)].
CEO Conditions on this Delegation:	a. Each matter is to be reviewed at least once within every three 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.
Express Power to Sub-Delegate:	Nil.

Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns. Local Government (Audit) Regulations 1996
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1. Local Government Act 1995 Delegations

1.3.11 Infringement Notices

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.9.13(6)(b) Onus of proof in vehicle offences may be shifted s.9.19 Extension of Time s.9.20 Withdrawal of Notice <i>Building Regulations 2012:</i> Regulation 70(1A), (1), (2) Approved officers and authorised officers
Delegate/s:	CEO Executive Manager, Works & Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to consider an owner of a vehicle’s submission that the vehicle that is subject of an infringement notice, had been stolen or unlawfully taken at the time of the alleged offence [s.9.13(6)(b)]. 2. Authority to extend the 28-day period within which payment of a modified penalty may be paid, whether or not the period of 28-days has elapsed [s.9.19]. 3. Authority to withdraw an infringement notice within one year after the notice was given, whether or not the modified penalty has been paid by sending a withdrawal notice (in the prescribed form) to the alleged offender and if the modified penalty has been paid, providing a refund [s.9.20].
CEO Conditions on this Delegation:	<ol style="list-style-type: none"> a. A delegate who participated in a decision to issue an infringement notice, must NOT determine any matter related to that infringement notice under this Delegation. b. Delegation for Dog Act, Cat Act and Dogs Local Law 2016 Infringement Notices is limited to the following listed positions ONLY: <ol style="list-style-type: none"> i. CEO ii. Executive Manager, Works & Services c. The following listed positions are delegated the functions under s.9.19 and s.9.20 only as a <u>precondition for appointment</u> as an “Approved Officer” in accordance with <i>Building Regulation 70(1)</i> for the purposes of the <i>Criminal Procedure Act 2004</i> section 6(a) and <i>Building Act 2011</i> Infringement Notices: <ol style="list-style-type: none"> i. CEO <p><i>NOTE: Delegates must also be appointed as an “Approved Officer” – appointment to be determined by Council resolution or by a person with delegated authority under delegation 2.1.10.</i></p>

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Shire of Quairading

1. Local Government Act 1995 Delegations

Express Power to Sub-Delegate:	Nil.
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Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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1.4 Local Law Delegations to the CEO

1.4.1 Local Laws of the Shire of Quairading

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<ol style="list-style-type: none"> 1. To administer the Shire's local laws (listed) and do all other things that are necessary or convenient to be done for, or in connection, with performing their functions under the <i>Local Government Act 1995</i>: <ol style="list-style-type: none"> a. <i>Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2016</i> b. <i>Animals, Environment and Nuisance Amendment Local Law 2019</i> c. <i>Animals, Environment and Nuisance Local Law 2017</i> d. <i>Bush Fire Brigades Local Law 2023</i> e. <i>Cemetery Local Law 2016</i> f. <i>Dogs Local Law 2017</i> g. <i>Extractive Industries Local law 2011</i> h. <i>Health Local Law 2016</i> i. <i>Joint Standing Committee on Delegated Legislation Undertakings relating to Animals, Environment and Nuisance Local Law 2017</i> j. <i>Local Government Property Local Law 2016</i> k. <i>Pest Plants Amendment Local Law 2018</i> l. <i>Pest Plants Local Law 2016</i> m. <i>Repeal Local Law 2016</i> n. <i>Repeal Local Law 2023</i>
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	To undertake all the roles, duties, and responsibilities of the Local Government under the Local Laws, subject to the limits and conditions set out below.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. Delegation excludes: <ol style="list-style-type: none"> a. Setting of fees and charges under section 6.16 of the <i>Local Government Act 1995</i>; and b. Decision-making where the local law specifies the matter be determined by Council resolution. 2. Subject to Council policy, Withdrawal or Upholding of Infringements
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Corporate Services Executive Manager, Works & Services Executive Manager, Economic Development
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

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Compliance Links:	Delegates are designated employees under s.5.74 and are required to provide Primary and Annual Returns.
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2 Building Act 2011 Delegations

2.1 Council to CEO

2.1.1 Grant a Building Permit

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.18 Further Information s.20 Grant of building permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit <i>Building Regulations 2012:</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required to determine a building permit application [s.18(1)]. 2. Authority to grant or refuse to grant a building permit [s.20(1) & (2) and s.22]. 3. Authority to impose, vary or revoke conditions on a building permit [s.27(1) and(3)]. 4. Authority to determine an application to extend time during which a building permit has effect [r.23]. <ol style="list-style-type: none"> a. Subject to being satisfied that work for which the building permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] b. Authority to impose any condition on the building permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].
Council Conditions on this Delegation:	Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with r.5 of the <i>Building Regulations 2012</i> .
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
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CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	
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Compliance Links:	<p>Building Act 2011 s.119 Building and demolition permits – application for review by SAT s.23 Time for deciding application for building or demolition permit s.17 Uncertified application to be considered by building surveyor</p> <p>Building Regulations 2012 <i>r.25 Review of decision to refuse to extend time during which permit has effect (s.32(3)) – reviewable by SAT</i></p> <p><i>Building Services (Registration Act) 2011 – Section 7</i></p> <p><i>Home Building Contracts Act 1991 – Part 3A, Division 2 – Part 7, Division 2</i></p> <p><i>Building and Construction Industry Training Levy Act 1990</i></p> <p><i>Heritage Act 2018</i></p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2.1.2 Demolition Permits

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.18 Further Information s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit <i>Building Regulations 2012</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required to determine a demolition permit application [s.18(1)]. 2. Authority to grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.20(1) & (2) and s.22]. 3. Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and (3)]. 4. Authority to determine an application to extend time during which a demolition permit has effect [r.23]. <ol style="list-style-type: none"> a. Subject to being satisfied that work for which the demolition permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] b. Authority to impose any condition on the demolition permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a demolition permit [r.26].
Council Conditions on this Delegation:	Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with r.5 of the <i>Building Regulations 2012</i> .
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation:	

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<i>Conditions on the original delegation also apply to the sub-delegations.</i>	
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Compliance Links:	<p>Building Act 2011 s.119 Building and demolition permits – application for review by SAT s.23 Time for deciding application for building or demolition permit</p> <p><i>Building Services (Complaint Resolution and Administration) Act 2011 – Part 7, Division 2</i></p> <p><i>Building and Construction Industry Training Levy Act 1990</i></p> <p><i>Heritage Act 2018</i></p>
Record Keeping:	<p>All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.</p>

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2.1.3 Occupancy Permits or Building Approval Certificates

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.55 Further information s.58 Grant of occupancy permit, building approval certificate s.62(1) and (3) Conditions imposed by permit authority s.65(4) Extension of period of duration <i>Building Regulations 2012</i> r.40 Extension of period of duration of time limited occupancy permit or building approval certificate (s.65)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required in order to determine an application [s.55]. 2. Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58]. 3. Authority to impose, add, vary or revoke conditions on an occupancy permit [s.62(1) and (3)]. 4. Authority to extend, or refuse to extend, the period in which an occupancy permit or modification or building approval certificate has effect [s.65(4) and r.40].
Council Conditions on this Delegation:	Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with r.5 of the <i>Building Regulations 2012</i> .
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

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Compliance Links:	<p>Building Act 2011 s.59 time for granting occupancy permit or building approval certificate s.60 Notice of decision not to grant occupancy permit or grant building approval certificate s.121 Occupancy permits and building approval certificates – application for review by SAT</p> <p><i>Building Services (Complaint Resolution and Administration) Act 2011 – Part 7, Division 2</i></p> <p><i>Building and Construction Industry Training Levy Act 1990</i></p> <p><i>Heritage Act 2018</i></p>
Record Keeping:	<p>All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.</p>

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2.1.4 Designate Employees as Authorised Persons

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.96(3) authorised persons s.99(3) Limitation on powers of authorised person
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to designate an employee as an authorised person [s.96(3)]. 2. Authority to revoke or vary a condition of designation as an authorised person or give written notice to an authorised person limiting powers that may be exercised by that person [s.99(3)]. <p>NOTE: An <i>authorised person</i> for the purposes of sections 96(3) and 99(3) is <u>not</u> an <i>approved officer</i> or <i>authorised officer</i> for the purposes of Building Reg. 70.</p>
Council Conditions on this Delegation:	a. Decisions under this delegated authority should be in accordance with r.5 of the <i>Building Regulations 2012</i> .
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Building Act 2011:</i> s.97 each designated authorised person must have an identity card. r.5A Authorised persons (s.3) – definition
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2.1.5 Building Orders

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.110(1) A permit authority may make a building order s.111(1) Notice of proposed building order other than building order (emergency) s.117(1) and (2) A permit authority may revoke a building order or notify that it remains in effect s.118(2) and (3) Permit authority may give effect to building order if non-compliance s.133(1) A permit authority may commence a prosecution for an offence against this Act
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to make Building Orders in relation to: <ol style="list-style-type: none"> a. Building work b. Demolition work c. An existing building or incidental structure [s.110(1)]. 2. Authority to give notice of a proposed building order and consider submissions received in response and determine actions [s.111(1)(c)]. 3. Authority to revoke a building order [s.117]. 4. If there is non-compliance with a building order, authority to cause an authorised person to: <ol style="list-style-type: none"> a. take any action specified in the order; or b. commence or complete any work specified in the order; or c. if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)]. 5. Authority to take court action to recover as a debt, reasonable costs and expense incurred in doing anything in regard to non-compliance with a building order [s.118(3)]. 6. Authority to initiate a prosecution pursuant to section 133(1) for non-compliance with a building order made pursuant to section 110 of the <i>Building Act 2011</i>.
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)
Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>

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CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	
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Compliance Links:	Building Act 2011: Section 111 Notice of proposed building order other than building order (emergency) Section 112 Content of building order Section 113 Limitation on effect of building order Section 114 Service of building order Part 9 Review - s.122 Building orders – application for review by SAT
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2.1.6 Inspection and Copies of Building Records

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.131(2) Inspection, copies of building records
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine an application from a n interested person to inspect and copy a building record [s.131(2)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Building Act 2011 s.146 Confidentiality
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2.1.7 Referrals and Issuing Certificates

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.145A Local Government functions
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to refer uncertified applications under s.17(1) to a building surveyor who is not employed by the local government [s.145A(1)]. 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)].
Council Conditions on this Delegation:	Decisions under this delegated authority should be either undertaken or informed by a person qualified in accordance with Building Regulation 5
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Building Act 2011:</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2.1.8 Private Pool Barrier – Alternative and Performance Solutions

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Regulations 2012:</i> r.51 Approvals by permit authority
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to approve requirements alternative to a fence, wall, gate or other component included in the barrier, if satisfied that the alternative requirements will restrict access by young children as effectively as if there were compliant with AS 1926.1 [r.51(2)] 2. Authority to approve a door for the purposes of compliance with AS 1926.1, where a fence or barrier would cause significant structural or other problem which is beyond the control of the owner / occupier or the pool is totally enclosed by a building or a fence or barrier between the building and pool would create a significant access problem for a person with a disability [r.51(3)] 3. Authority to approve a performance solution to a Building Code pool barrier requirement if satisfied that the performance solution complies with the relevant performance requirement [r.51(5)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Building Act 2011:</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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2.1.9 Smoke Alarms – Alternative Solutions

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Regulations 2012:</i> r.55 Terms Used (alternative building solution approval) r.61 Local Government approval of battery powered smoke alarms
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to approve alternative building solutions which meet the performance requirement of the Building Code relating to fire detection and early warning [r.55]. 2. Authority to approve or refuse to approve a battery powered smoke alarm and to determine the form of an application for such approval [r.61].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Building Act 2011</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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2.1.10 Appointment of approved officers and authorised officers

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Regulations 2012:</i> r.70 Approved officers and authorised officers
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> Authority to appoint an approved officer for the purposes of s.6(a) of the <i>Criminal Procedure Act 2004</i>, in accordance with Building Regulation 70(1) and (1A). <i>NOTE: Only employees delegated under s 5.44(1) of the Local Government Act 1995 with power under s 9.19 or 9.20 may be appointed as “approved officers”.</i> Authority to appoint an authorised officer for the purposes of s.6(b) of the <i>Criminal Procedure Act 2004</i>, in accordance with Building Regulation 70(2). <i>NOTE: Only employees appointed under s 9.10 of the Local Government Act 1995 and authorised for the purpose of performing functions under s 9.16 of that Act may be appointed as “authorised officers” for the purposes of Building Regulation 70(2).</i>
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil. Only employees can be sub delegated to under the Building Act.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Building Regulations 2012:</i> r 70(3) each authorised officer must be issued a certificate of appointment.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3 Bush Fires Act 1954 Delegations

3.1 Council to CEO, President, and Bush Fire Control Officer

3.1.1 Make Request to FES Commissioner – Control of Fire

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.13(4) Duties and powers of bush fire liaison officers
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to request on behalf of the Shire that the FES Commissioner authorise the Bush Fire Liaison Officer or another person to take control of fire operations [s.13(4)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.2 Prohibited Burning Times - Vary

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government s.17(10) Prohibited burning times may be declared by Minister (power of delegation to mayor or president and Chief Bush Fire Control Officer for ONLY powers under s.17(7) and (8))
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.17(7) Prohibited burning times may be declared by Minister <i>Bush Fire Regulations 1954:</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B Crop dusters etc., use of in restricted or prohibited burning times
Delegate:	President and Chief Bush Fire Control Officer (jointly)
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority, where seasonal conditions warrant it, to determine a variation of the prohibited burning times, after consultation with an authorised CALM Act officer [s.17(7)].
Council Conditions on this Delegation:	a. Decisions under s,17(7) must be undertaken jointly by both the President and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) and (8).
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954</i> <i>Bush Fire Regulations 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.3 Prohibited Burning Times – Control Activities

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.27(2) and (3) Prohibition on use of tractors or engines except under certain conditions s.28(4) and (5) Occupier of land to extinguish bush fire occurring on own land <i>Bush Fire Regulations 1954:</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B Crop dusters etc., use of in restricted or prohibited burning times
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine permits to burn during prohibited burning times that have previously been refused by a Bush Fire Control Officer [r.15]. 2. Authority to 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]. 3. Authority to determine, during a Prohibited Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared [r.39B(2)]. 4. Authority to 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)]. 5. Authority to 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)]. 6. Authority to recover the cost of measures taken by the Shire or Bush Fire Control Officer, to extinguish a fire burning during Prohibited 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)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

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Compliance Links:	<i>Bush Fires Act 1954:</i> <i>Bush Fire Regulations 1954:</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.
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3.1.4 Restricted Burning Times – Vary and Control Activities

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.18(5), (11) Restricted burning times may be declared by FES Commissioner s.22(6) and (7) Burning on exempt land and land adjoining exempt land s.27(2) and (3) Prohibition on use of tractors or engines except under certain conditions s.28(4) and (5) Occupier of land to extinguish bush fire occurring on own land <i>Bush Fire Regulations 1954:</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r.15C Local Government may prohibit burning on certain days r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B Crop dusters etc., use of in restricted or prohibited burning times
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority, 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)]. <ol style="list-style-type: none"> a. Authority to determine to prohibit burning on Sundays or specified days that are public holidays in the District [r.15C]. 2. Authority, 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)]. 3. Authority to determine permits to burn during restricted times that have previously been refused by a Bush Fire Control Officer [r.15]. 4. Authority to 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)]. 5. Authority to 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]. 6. Authority to determine, during a Restricted Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared [r.39B].

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	<p>7. Authority to 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)].</p> <p>8. Authority to 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)].</p> <p>9. 9. Authority to recover the cost of measures taken by the Shire 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)].</p>
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954</i> <i>Bush Fire Regulations 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.5 Control of Operations Likely to Create Bush Fire Danger

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.27D Requirements for carriage and deposit of incendiary material <i>Bush Fires Regulations 1954:</i> r.39C Welding and cutting apparatus, use of in open air r.39CA Bee smoker devices, use of in restricted or prohibited burning times etc. r.39D Explosives, use of r.39E Fireworks, use of
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to give directions to a Bush Fire Control Officer regarding matters necessary for the prevention of fire arising from: <ol style="list-style-type: none"> 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)] 2. Authority to 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]. <i>Note: this authority is also prescribed to a Bush Fire Control Officer, a Bush Fire Liaison Officer or an authorised CALM Act officer.</i>
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954</i> <i>Bush Fire Regulations 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.6 Burning Garden Refuse / Open Air Fires

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.24F Burning garden refuse during limited burning times s.24G Minister or local government may further restrict burning of garden refuse s.25 No fire to be lit in open air unless certain precautions taken s.25A Power of Minister to exempt from provisions of section 25 <i>Bush Fires Regulations 1954:</i> r.27(3) Permit, issue of
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to 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)]. 2. Authority to prohibit or impose restrictions on the burning of garden refuse that is otherwise permitted under s.24F [s.24G(2)]. <ol style="list-style-type: none"> a. Authority to 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) and 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]. 3. Authority to provide written approval, during prohibited times and restricted times, for fires to be lit for the purposes of: <ol style="list-style-type: none"> a. Camping or cooking [s.25(1)(a)]. b. Conversion of bush into charcoal or for the production of lime, in consultation with an authorised CALM Act officer [s.25(1)(b)]. 4. Authority to 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)]. 5. Authority to 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)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

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Compliance Links:	<i>Bush Fires Act 1954</i> <i>Bush Fire Regulations 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.7 Firebreaks

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.33 Local government may require occupier of land to plough or clear fire-breaks
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to give written notice to an owner or occupier of land or all owners or occupiers of land within the District, requiring, to the satisfaction of the Shire: <ol style="list-style-type: none"> a. Clearing of firebreaks as determined necessary and specified in the notice; and b. Act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and c. As a separate or coordinated action with any other person carry out similar actions [s.33(1)]. 2. Authority to direct a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with [s.33(4)]. <ol style="list-style-type: none"> 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)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.8 Appoint Bush Fire Control Officer/s and Fire Weather Officer

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.38 Local Government may appoint bush fire control officer
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to appoint persons to be Bush Fire Control Officers for the purposes of the <i>Bush Fires Act 1954</i>; and <ol style="list-style-type: none"> a. Of those Officers, appoint one as the Chief Bush Fire Control Officer and one as the Deputy Chief Bush Fire Control Officer; and b. Determine the respective seniority of the other Bush Fire Officers so appointed [s.38(1)]. 2. Authority to 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 [s.38(5A)] 3. Authority to 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)]. <ol style="list-style-type: none"> a. Authority to appoint deputy Fire Weather Officer/s as considered necessary and where two or more deputies are appointed, determine seniority [s.38(10)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.9 Control and Extinguishment of Bush Fires

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.46 Bush fire control officer or forest officer may postpone lighting fire
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to 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)]. <ol style="list-style-type: none"> 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)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.10 Recovery of Expenses Incurred through Contraventions of this Act

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.58 General penalty and recovery of expenses incurred
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to recover expenses incurred as a result of an offence against the Bush Fires Act, being expenses incurred through the fulfilment of a duty or doing anything for which the Act empowered or required the Shire or those on behalf of the Shire to do [s.58].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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3.1.11 Prosecution of Offences

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.48 Delegation by local government
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.59 Prosecution of offences s.59A(2) Alternative procedure – infringement notices
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59]. 2. Authority to serve an infringement notice for an offence against this Act [s.59A(2)].
Council Conditions on this Delegation:	Community Emergency Services Manager Bush Fire Control Officers
Express Power to Sub-Delegate:	<i>Nil – Sub-delegation is prohibited by s.48(3)</i>

Compliance Links:	<i>Bush Fires Act 1954:</i> s.65 Proof of certain matters s.66 Proof of ownership or occupancy
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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4 Cat Act 2011 Delegations

4.1 Council to CEO

4.1.1 Cat Registrations

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat Act 2011:</i> s.9 Registration s.10 Cancellation of registration s.11 Registration numbers, certificates and tags <i>Cat Regulations 2012</i> Schedule 3, cl.1(4) Fees Payable
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to grant, or refuse to grant, a cat registration or renewal of a cat registration [s.9(1)]. 2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.9(6)]. 3. Authority to cancel a cat registration [s.10]. 4. Authority to give the cat owner a new registration certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.11(2)]. 5. Authority to reduce or waive a registration or approval to breed fee, in respect of Shire’s District [Regs. Sch. 3 cl.1(4)].
Council Conditions on this Delegation:	a. Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the <i>Cat Act 2011</i> .
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

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Compliance Links:	<p><i>Cat Regulations 2012</i></p> <ul style="list-style-type: none"> r.11 Application for registration (s.8(2)), prescribes the Form of applications for registration. r.12 Period of registration (s.9(7)) r.11 Changes in registration r.14 Registration certificate (s.11(1)(b)) r.15 Registration tags (s.76(2)) <p>Decisions are subject to Objection and Review by the State Administration Tribunal rights – refer Part 4, Division 5 of the <i>Cat Act 2011</i>.</p>
Record Keeping:	<p>All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.</p>

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4.1.2 Cat Control Notices

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat Act 2011:</i> s.26 Cat control notice may be given to cat owner
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to give a cat control notice to a person who is the owner of a cat ordinarily kept within the Shire's District [s.26].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Cat Regulations 2012</i> r.20 Cat control notice [s.23(3)], prescribes the Form of the notice.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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4.1.3 Approval to Breed Cats

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat Act 2011:</i> s.37 Approval to Breed Cats s.38 Cancellation of approval to breed cats s.39 Certificate to be given to approved cat breeder
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to grant or refuse to grant approval or renew an approval to breed cats [s.37(1) and (2)]. 2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.37(4)]. 3. Authority to cancel an approval to breed cats [s.38]. 4. Authority to give an approved breeder a new certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.39(2)].
Council Conditions on this Delegation:	a. Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the <i>Cat Act 2011</i> .
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Cat Regulations 2012:</i> r.21 Application for approval to breed cats (s.36(2)) r.22 Other circumstances leading to refusal of approval to breed cats (s.37(2)(f)) r.23 Person who not be refused approval to breed cats (s.37(5)) r.24 Duration of approval to breed cats (s.37(6)) r.25 Certificate given to approved cat breeder (s.39(1))
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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4.1.4 Recovery of Costs – Destruction of Cats

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat Act 2011:</i> s.49(3) Authorised person may cause cat to be destroyed
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to recover the amount of the costs associated with the destruction and the disposal of a cat [s.49(3)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Cat Act 2011:</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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4.1.5 Applications to Keep Additional Cats

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat (Uniform Local Provisions) Regulations 2013:</i> r.8 Application to keep additional number of cats r.9 Grant of approval to keep additional number of cats
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require any document or additional information required to determine an application [r.8(3)] 2. Authority to refuse to consider an application if the applicant does not comply with a requirement to provide any document or information required to determine an application [r.8(4)]. 3. Authority to grant or refuse approval for additional number of cats specified in an application to be kept at the prescribed premises and to determine any condition reasonably necessary to ensure premises are suitable for the additional number of cats [r.9].
Council Conditions on this Delegation:	a. Notices of decisions must include advice as to Review rights in accordance with r.11 of the <i>Cat (Uniform Local Provisions) Regulations 2013</i> .
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Cat Act 2011</i> <i>Cat (Uniform Local Provisions) Regulations 2013</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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4.1.6 Reduce or Waiver Registration Fee

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat Regulations 2012:</i> Schedule 3 Fees clause 1(4)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to reduce or waiver a fee payable under Schedule 3 clauses (2) or (3) in respect to any individual cat.
Council Conditions on this Delegation:	a. 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 <i>Local Government Act 1995</i> .
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services Executive Manager, Corporate Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Cat Act 2011</i> <i>Cat Regulations 2012</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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4.2 Cat Act Delegations - CEO to Employees

4.2.1 Infringement Notices – Extensions and Withdrawals

Delegator: <i>Power / Duty assigned in legislation to:</i>	CEO
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government
Express Power or Duty Delegated:	<i>Cat Act 2011:</i> s.64 Extension of time s.65 Withdrawal of notice
Delegate/s:	Executive Manager, Works & Services Executive Manager, Corporate Services
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed [s.64]. 2. Authority, within one year of the infringement notice being given and whether or not the modified penalty has been paid, to withdraw an infringement notice [s.65].
CEO Conditions on this Delegation:	
Express Power to Sub-Delegate:	Nil.

Compliance Links:	<i>Cat Regulations 2012:</i> r.28 Withdrawal of infringement notice (s.65(1))
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Shire of Quairading

5. Dog Act 1974 Delegations

5 Dog Act 1974 Delegations

5.1 Dog Act Delegations Council to CEO

5.1.1 Part Payment of Sterilisation Costs / Directions to Veterinary Surgeons

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.10A Payments to veterinary surgeons towards costs of sterilisation
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine where a resident who is the owner of a registered dog, would suffer hardship in paying the whole of the cost of sterilisation and determine to pay part of such costs to a maximum value of \$200 [s.10A(1)(a) and (3)]. 2. Authority to give written directions to a veterinary surgeon to be complied with as a condition of part payment of the cost of sterilisation [s.10A(1)(b) and (2)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Dog Act 1976:</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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5. Dog Act 1974 Delegations

5.1.2 Refuse or Cancel Registration

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.15(2) and (4A) Registration periods and fees s.16(3) Registration procedure s.17A(2) If no application for registration made s.17(4) and (6) Refusal or cancellation of registration
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine to refuse a dog registration and refund the fee, if any [s.16(2)]. 2. Authority to direct the registration officer to refuse to effect or renew or to cancel the registration of a dog, and to give notice of such decisions, where: <ol style="list-style-type: none"> a. the applicant, owner or registered owner has been convicted of an offence or paid a modified penalty within the past 3-years in respect of 2 or more offences against this Act, the <i>Cat Act 2011</i> or the <i>Animal Welfare Act 2002</i>; or b. the dog is determined to be destructive, unduly mischievous or to be suffering from a contagious or infectious disease or c. the delegate is not satisfied that the dog is or will be effectively confined in or at premises where the dog is ordinarily kept d. the dog is required to be microchipped but is not microchipped; or e. the dog is a dangerous dog [s.16(3) and s.17A(2)]. 3. Authority to discount or waive a registration fee, including a concessional fee, for any individual dog or any class of dogs within the Shire's District [s15(4A)]. 4. Authority to apply to a Justice of the Peace for an order to seize a dog where, following a decision to refuse or cancel a registration and the applicant / owner has not applied to the State Administration Tribunal for the decision to be reviewed. [s.17(4)]. <ol style="list-style-type: none"> a. Authority, following seizure, to determine to cause the dog to be detained or destroyed or otherwise disposed of as though it had been found in contravention of section 31, 32 or 33A and had not been claimed [s.17(6)]
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].

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5. Dog Act 1974 Delegations

Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)
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Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Dog Act 1976</i> s.17A If no application for registration made – procedure for giving notice of decision under s.16(3) Note – Decisions under this delegation may be referred for review by the State Administration Tribunal – s.16A, s.17(4) and (6)
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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5. Dog Act 1974 Delegations

5.1.3 Kennel Establishments

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.27 Licensing of approved kennel establishments
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to grant, refuse to grant or cancel a kennel licence [s.27(4) and (6)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)]. b. Application processing and decisions under this delegation are to comply with the <<insert LG name>> Dogs Local Law.
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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5. Dog Act 1974 Delegations

5.1.4 Recovery of Moneys Due Under this Act

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.29(5) Power to seize dogs
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to recover moneys, in a court of competent jurisdiction, due in relation to a dog for which the owner is liable [s.29(5)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Includes recovery of expenses relevant to: s.30A(3) Operator of dog management facility may have dog microchipped at owner’s expense s.33M Local government expenses to be recoverable. s.47 Veterinary service expenses recoverable from local government r.31 Local government expenses as to dangerous dogs (declared)
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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5. Dog Act 1974 Delegations

5.1.5 Dispose of or Sell Dogs Liable to be Destroyed

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.29(11) Power to seize dogs
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to dispose of or sell a dog which is liable to be destroyed [s.29(11)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)]. b. Proceeds from the sale of dogs are to be directed into the Municipal Fund.
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Dog Act 1976</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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5. Dog Act 1974 Delegations

5.1.6 Declare Dangerous Dog

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.33E(1) Individual dog may be declared to be dangerous dog (declared)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to declare an individual dog to be a dangerous dog [s.33E(1)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

Shire of Quairading

5. Dog Act 1974 Delegations

5.1.7 Dangerous Dog Declared or Seized – Deal with Objections and Determine when to Revoke

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.33F(6) Owners to be notified of making of declaration s.33G(4) Seizure and destruction s.33H(1) and (2) Local government may revoke declaration or proposal to destroy
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to consider and determine to either dismiss or uphold an objection to the declaration of a dangerous dog [s.33F(6)]. 2. Authority to consider and determine to either dismiss or uphold an objection to seizure of a dangerous dog [s.33G(4)]. 3. Authority to revoke a declaration of a dangerous dog or revoke notice proposing to cause a dog to be destroyed, only where satisfied that the dog can be kept without likelihood of any contravention of this Act [s.33H(1)] <ol style="list-style-type: none"> a. Authority to, before dealing with an application to revoke a declaration or notice, require the owner of the dog to attend with the dog a course in behaviour and training or otherwise demonstrate a change in the behaviour of the dog [s.33H(2)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Nil.
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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5. Dog Act 1974 Delegations

5.1.8 Deal with Objection to Notice to Revoke Dangerous Dog Declaration or Destruction Notice

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.33H(5) Local government may revoke declaration or proposal to destroy
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to consider and determine to either dismiss or uphold an objection to a decision to revoke [s.33H(5)]: a. A notice declaring a dog to be dangerous; or b. A notice proposing to cause a dog to be destroyed.
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

Shire of Quairading

5. Dog Act 1974 Delegations

5.1.9 Determine Recoverable Expenses for Dangerous Dog Declaration

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
Express Power or Duty Delegated:	<i>Dog Act 1976:</i> s.33M(1)(a) Local Government expenses to be recoverable
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine the reasonable charge to be paid by an owner at the time of payment of the registration fee under s.15, up to the maximum amount prescribed, having regard to expenses incurred by the Local Government in making inquiries, investigations and inspections concerning the behaviour of a dog declared to be dangerous [s.33H(5)].
Council Conditions on this Delegation:	a. The CEO permitted to sub-delegate to employees [s.10AA(3)].
Express Power to Sub-Delegate:	<i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

Shire of Quairading

6. Food Act 2008 Delegations

6 Food Act 2008 Delegations

6.1 Council to CEO

6.1.1 Determine Compensation

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Food Act 2008:</i> s.56(2) Compensation to be paid in certain circumstances s.70(2) and (3) Compensation
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. 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)]. 2. Authority to 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)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time. b. Compensation under this delegation may only be determined upon documented losses up to a maximum of \$200 Compensation requests above this value are to be reported to Council.
Express Power to Sub-Delegate:	<i>Nil – Food Regulations 2009 do not provide for sub-delegation.</i>

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open)

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Delegation Register

Shire of Quairading

6. Food Act 2008 Delegations

6.1.2 Prohibition Orders

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Food Act 2008:</i> s.65(1) Prohibition orders s.66 Certificate of clearance to be given in certain circumstances s.67(4) Request for re-inspection
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to serve a prohibition order on the proprietor of a food business in accordance with s.65 of the <i>Food Act 2008</i> [s.65(1)]. 2. Authority to give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66]. 3. Authority to 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)].
Council Conditions on this Delegation:	a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express Power to Sub-Delegate:	<i>Nil – Food Regulations 2009 do not provide for sub-delegation.</i>

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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6. Food Act 2008 Delegations

6.1.3 Food Business Registrations

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Food Act 2008:</i> s.110(1) and (5) Registration of food business s.112 Variation of conditions or cancellation of registration of food businesses
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. 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)]. 2. Authority to vary the conditions or cancel the registration of a food business [s.112].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. 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: <ol style="list-style-type: none"> i. <i>Food Act 2008</i> Regulatory Guideline No.1 Introduction of Regulatory Food Safety Auditing in WA ii. Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No.1 iii. WA Priority Classification System iv. Verification of Food Safety Program Guideline
Express Power to Sub-Delegate:	<i>Nil – Food Regulations 2009 do not provide for sub-delegation.</i>

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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6. Food Act 2008 Delegations

6.1.4 Appoint Authorised Officers and Designated Officers

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Food Act 2008:</i> s.122(1) Appointment of authorised officers s.126(6), (7) and (13) Infringement Officers
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i> [s.122(2)]. 2. Authority to appoint an Authorised Officer appointed under s.122(2) of this Act or the s.24(1) of the <i>Public Health Act 2016</i>, to be a Designated Officer for the purposes of issuing Infringement Notices under the <i>Food Act 2008</i> [s.126(13)]. 3. Authority to 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)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. 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: <ol style="list-style-type: none"> i. Appointment of Authorised Officers as Meat Inspectors ii. Appointment of Authorised Officers iii. Appointment of Authorised Officers – Designated Officers only iv. Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer
Express Power to Sub-Delegate:	<i>Nil – Food Regulations 2009 do not provide for sub-delegation.</i>

Compliance Links:	s.122(3) requires an Enforcement Agency to maintain a list of appointed authorised officers s.123(1) requires an Enforcement Agency to provide each Authorised Officer with a Certificate of Authority as prescribed
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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6. Food Act 2008 Delegations

6.1.5 Debt Recovery and Prosecutions

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Food Act 2008:</i> s.54 Cost of destruction or disposal of forfeited item s.125 Institution of proceedings
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority 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)]. 2. Authority to institute proceedings for an offence under the <i>Food Act 2008</i> [s.125].
Council Conditions on this Delegation:	a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express Power to Sub-Delegate:	<i>Nil – Food Regulations 2009 do not provide for sub-delegation.</i>

Compliance Links:	<i>Food Act 2008:</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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6. Food Act 2008 Delegations

6.1.6 Food Businesses List – Public Access

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Food Act 2008:</i> r.51 Enforcement agency may make list of food
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to decide to make a list of food businesses maintained under s.115(a) or (b) publicly available [r.51].
Council Conditions on this Delegation:	a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express Power to Sub-Delegate:	<i>Nil – Food Regulations 2009 do not provide for sub-delegation.</i>

Compliance Links:	<i>Food Regulations 2009</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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7. Graffiti Vandalism Act 2016 Delegations

7 Graffiti Vandalism Act 2016 Delegations

7.1 Council to CEO

7.1.1 Give Notice Requiring Obliteration of Graffiti

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government
Express Power or Duty Delegated:	<i>Graffiti Vandalism Act 2016:</i> s.18(2) Notice requiring removal of graffiti s.19(3) & (4) Additional powers when notice is given
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> Authority to give written notice to a person who is an owner or occupier of property on which graffiti is applied, requiring the person to ensure that the graffiti is obliterated in an acceptable manner, within the time set out in the notice [s.18(2)]. Authority, where a person fails to comply with a notice, to do anything considered necessary to obliterate the graffiti in an acceptable manner [s.19(3)] and to take action to recover costs incurred as a debt due from the person who failed to comply with the notice [s.19(4)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal Shire of Quairading Graffiti & Other Vandalism Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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Delegation Register

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7. Graffiti Vandalism Act 2016 Delegations

7.1.2 Notices – Deal with Objections and Give Effect to Notices

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government
Express Power or Duty Delegated:	<i>Graffiti Vandalism Act 2016:</i> s.22(3) Objection may be lodged s.24(1)(b) & (3) Suspension of effect of notice
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to deal with an objection to a notice [s.22(3)]. 2. Authority, where an objection has been lodged, to: <ol style="list-style-type: none"> a. Determine and take action to give effect to the notice, where it is determined that there are urgent reasons or an endangerment to public safety or likely damage to property or serious nuisance, if action is not taken [s.24(1)(b)] and b. To give notice to the affected person, before taking the necessary actions [s.24(3)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Note – Decisions under this delegation may be referred for review by the State Administration Tribunal Shire of Quairading Graffiti & Other Vandalism Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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7. Graffiti Vandalism Act 2016 Delegations

7.1.3 Obliterate Graffiti on Private Property

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government
Express Power or Duty Delegated:	<i>Graffiti Vandalism Act 2016:</i> s.25(1) Local government graffiti powers on land not local government property
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine to obliterate graffiti applied without consent of the owner or occupier, even though the land on which it is done is not local government property and the local government does not have consent [s.25(1)].
Council Conditions on this Delegation:	a. Subject to exercising Powers of Entry.
Express Power to Sub-Delegate:	<i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Shire of Quairading Graffiti & Other Vandalism Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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7. Graffiti Vandalism Act 2016 Delegations

7.1.4 Powers of Entry

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government
Express Power or Duty Delegated:	<i>Graffiti Vandalism Act 2016:</i> s.28 Notice of entry s.29 Entry under warrant
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> Authority to give notice of an intended entry to the owner or occupier of land, premises or thing, specifying the purpose for which entry is required [s.28]. Authority to obtain a warrant to enable entry onto any land, premises or thing for the purposes of this Act [s.29].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Shire of Quairading Graffiti & Other Vandalism Policy
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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8. Public Health Act 2016 Delegations

8 Public Health Act 2016 Delegations

8.1 Council to CEO

8.1.1 Appoint Authorised Officer or Approved Officer (Asbestos Regs)

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Health (Asbestos) Regulations 1992:</i> r.15D(7) Infringement Notices
Express Power or Duty Delegated:	<i>Health (Asbestos) Regulations 1992:</i> r.15D(5) Infringement Notices
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to appoint a person or classes of persons as an authorised officer or approved officer for the purposes of the <i>Criminal Procedure Act 2004</i> Part 2 [r.15D(5)].
Council Conditions on this Delegation:	a. 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)].
Express Power to Sub-Delegate:	<i>Nil – the Health (Asbestos) Regulations 1992 do not provide a power to sub-delegate.</i>

Compliance Links:	<i>Criminal Procedure Act 2004 – Part 2</i> Shire of Quairading Register of Authorised Officers
Record Keeping:	All exercises of delegated authority to be record managed in F: Information Management System and Altus Content.

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Delegation Register

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8. Public Health Act 2016 Delegations

8.1.2 Enforcement Agency Reports to the Chief Health Officer

Delegator: <i>Power / Duty assigned in legislation to:</i>	Enforcement Agency (means Local Government vide s.4 definition)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express Power or Duty Delegated:	<i>Public Health Act 2016</i> s.22 Reports by and about enforcement agencies
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. 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 [s.22(1)] 2. Authority to prepare and provide to the Chief Health Officer, a report detailing any proceedings for an offence under this Act [s.22(2)].
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Nil – Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].</i>

Compliance Links:	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies.
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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8. Public Health Act 2016 Delegations

8.1.3 Designate Authorised Officers

Delegator: <i>Power / Duty assigned in legislation to:</i>	Enforcement Agency (means Local Government vide s.4 definition)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express Power or Duty Delegated:	<i>Public Health Act 2016</i> s.24(1) and (3) Designation of authorised officers
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<p>1. Authority to designate a person or class of persons as authorised officers for the purposes of:</p> <ul style="list-style-type: none"> a. The <i>Public Health Act 2016</i> or other specified Act b. Specified provisions of the <i>Public Health Act 2016</i> or other specified Act c. Provisions of the <i>Public Health Act 2016</i> or another specified Act, other than the specified provisions of that Act. <p>Including:</p> <ul style="list-style-type: none"> i. An environmental health officer or environmental health officers as a class; OR ii. A person who is not an environmental health officer or a class of persons who are not environmental health officers, OR iii. A mixture of the two. [s.24(1) and (3)].
Council Conditions on this Delegation:	<ul style="list-style-type: none"> a. Subject to each person so appointed being; <ul style="list-style-type: none"> i. Appropriately qualified and experienced [s.25(1)(a)]; and ii. Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31]. b. A Register (list) of authorised officers is to be maintained in accordance with s.27.
Express Power to Sub-Delegate:	<i>Nil – Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].</i>

Compliance Links:	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies. s.25 Certain authorised officers required to have qualifications and experience. s.26 Further provisions relating to designations s.27 Lists of authorised officers to be maintained s.28 When designation as authorised officer ceases s.29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers s.30 Certificates of authority s.31 Issuing and production of certificate of authority for purposes of other written laws
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8. Public Health Act 2016 Delegations

	<p>s.32 Certificate of authority to be returned. s.136 Authorised officer to produce evidence of authority</p> <p><i>Criminal Investigation Act 2006,</i> Parts 6 and 13 – refer s.245 of the <i>Public Health Act 2016</i></p> <p><i>The Criminal Code, Chapter XXVI</i> Refer s.252 of the <i>Public Health Act 2016</i></p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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8. Public Health Act 2016 Delegations

8.1.4 Determine Compensation for Seized Items

Delegator: <i>Power / Duty assigned in legislation to:</i>	Enforcement Agency (means Local Government vide s.4 definition)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express Power or Duty Delegated:	<i>Public Health Act 2016</i> s.264 Compensation
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority, 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].
Council Conditions on this Delegation:	a. Compensation is limited to a maximum value of \$200, with any proposal for compensation above this value to be referred for Council’s determination.
Express Power to Sub-Delegate:	<i>Nil – Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].</i>

Compliance Links:	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies. Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9 Planning and Development Act 2005 Delegations

9.1 Council to CEO

9.1.1 Illegal Development

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42(b) Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Planning and Development Act 2005:</i> Section 214(2), (3) and (5)
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Give a written direction to the owner or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements; 2. Give a written direction to the owner or any other person who undertook an unauthorised development: <ol style="list-style-type: none"> a. to remove, pull down, take up, or alter the development; and b. to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority. 3. Give a written direction to the person whose duty it is to execute work to execute that work where it appears that delay in the execution of the work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order.
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil – must be delegated to an employee.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Part 13 of the Planning and Development Act 2005
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.2 Appointment of Designated Persons

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42(b) Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Planning and Development Act 2005</i> Section 234 Designated persons, appointment of
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Appoint persons, or classes of persons as designated persons for the purposes of sections 228, 229, 230 and 231 of the <i>Planning and Development Act 2005</i> .
Council Conditions on this Delegation:	a. Person who is authorised to give infringement notices under section 228 is not eligible to be a designated person for the purposes of any of the other sections mentioned under s234(1) of the <i>Planning & Development Act 2005</i> .
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil – must be delegated to an employee.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Part 13 of the Planning and Development Act 2005 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Shire of Quairading Local Planning Scheme No 3
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.3 Application for Development Approval

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2, cl.82, 83 and 84 - Delegations by local government
Express Power or Duty Delegated:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2 Deemed provisions for Local Planning Schemes.
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Refuse to accept an application under cl.85 of Schedule 2, Part 11 if the applicant does not agree for local government to use any copyrighted material provided with the application for advertising the application or implementing a decision on an application and for zero remuneration. 2. May require a heritage assessment, in the manner and form approved by the Heritage Council of WA, to be carried out prior to approval of any development proposed in a heritage area or in respect of a place entered in the heritage list, despite any existing assessment on record. 3. Waive or vary a requirement set out in Clause 63(2), Part 8 of the Regulations in respect to information provided with a development application, c.63(2), Schedule 2, Part 8 of the Regulations. 4. Where an application relates to a place entered on a heritage list or an area designated as a heritage area under the Scheme, the information set out in c.63(3)(a)(b) and (c) may be required which relates to street elevations, schedule of finishes and comparison of proposed finishes to existing developments on immediately adjoining lots.
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> ss82, 83 and 84 Local government CEO may delegate powers

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil – must be delegated to an employee.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Part 13 of the Planning and Development Act 2005
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.4 Development Control

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Planning and Development (Local Planning Scheme) Regulations 2015</i>
Express Power or Duty Delegated:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Local Planning Scheme No. 3
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Approve development applications for a “single house”, “ancillary dwelling”, “grouped dwellings” or any associated, ancillary, or incidental development including, but not limited to (outbuildings, garages/carports, patios and the like, front boundary fences, retaining walls and swimming pools) that: <ol style="list-style-type: none"> a. Does not include more than four grouped dwellings; and b. Satisfies the provisions of Local Planning Scheme No. 3, the <i>Planning & Development Regulations 2015</i>, the Shire’s Local Planning Strategy, the objectives of the Shire’s Local Planning Policies, the Residential Design Codes Volumes 1 and State Planning Policy 7.0. <ol style="list-style-type: none"> i. Where no valid objections have been received from the affected landowners; or ii. Valid objections have been resolved to the satisfaction of the shire. 2. Approve development applications for existing and new “multiple dwellings” development including any associated, ancillary, or incidental development, including but not limited to, outbuildings, garages, carports, patio, front boundary fences, retaining walls and swimming pools that: <ol style="list-style-type: none"> a. Satisfy the provisions of Local Planning Scheme No 3, the <i>Planning & Development Regulations 2015</i>, the Shire’s Local Planning Strategy, the Objectives of the Shire’s Local Planning Policies, the Element Objectives of the Residential Design Codes Volume 2, State Planning Policy 7.0; and <ol style="list-style-type: none"> i. Where no valid objections have been received from the affected landowners; or ii. The valid objections have been resolved to the satisfaction of the Shire. 3. Approve applications for non-residential (including non-conforming use) development where: <ol style="list-style-type: none"> a. The development is considered minor; and b. No valid objections have been received from affected adjoining landowners; or

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	<ul style="list-style-type: none"> c. The valid objections have been resolved to the satisfaction of the Shire. 4. Approve applications that seek to reapprove expired development applications where no changes are made to the original approval. 5. Clear all conditions on planning approvals, except those requiring specific Council approval. 6. To waive or reduce development application fees in accordance with Council’s adopted Local Planning Policy. 7. Approve applications for “home business” where no valid objections have been received from affected adjoining landowners. 8. Approve retrospective applications in accordance with clause 65 of the deemed provisions where no valid objections have been received and/or valid objections have been resolved 9. Approve applications for change of use where: <ul style="list-style-type: none"> a. It’s a P use that varies relevant development standard/s; b. A D, A or, use not listed in the Scheme that varies relevant development standard/s, where no valid objections are received from affected parties; or c. Valid objections are resolved to the Shire’s satisfaction. 10. Refuse applications that are inconsistent with Local Planning Scheme No 3, <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, SPP 7.3 Residential Design Codes Volume 1 and 2 and State Planning Policy 7.0. 11. Approve applications that seek to amend an existing planning approval granted by Council where: <ul style="list-style-type: none"> a. Any new variations are considered minor; and b. The relevant design principles/element objectives of the residential design codes can be satisfied where applicable; and c. No valid objections received from affected parties; and/ or d. Valid objections resolved to the satisfaction of the shire. 12. Exercise discretion, determine and apply conditions to all applications for development approval made under the Shire’s Local Planning Scheme No.3.
Council Conditions on this Delegation:	<ul style="list-style-type: none"> 1. Any application is to be referred to Council for determination if one or more elected members request such referral in a written request to the CEO. 2. Any application for planning approval shall be referred to Council for determination, where requested by the applicant in writing.

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	<ol style="list-style-type: none"> 3. Any application for planning approval to be referred to Council for determination, where the Manager, Health & Building requests. 4. The CEO is to report to the Council, on a monthly basis where the exercise of powers and functions related to this delegation has been undertaken.
Express Power to Sub-Delegate:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> - s83 Local government CEO may delegate powers

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil – must be delegated to an employee.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	<p>This delegation does not extend to:</p> <ol style="list-style-type: none"> 1. Applications for development approval that propose a new non-conforming use that is proposed to replace and effect the discontinuance of an existing non-conforming use. 2. Applications for telecommunications infrastructure that have received one or more objections. 3. Applications for development approval that propose the demolition of buildings identified in the Heritage List, within a Heritage Area, or on the State Register of Heritage Places. 4. Requests from the State Administrative Tribunal for a reconsideration of a Council decision under section 31 of the <i>State Administrative Tribunal Act 2004</i> where Council determined the application. 5. Change of Use applications which are classified D and A or are uses not listed in the Scheme where after advertising, valid submissions have been received which raise objections that are not able to be rectified by way of negotiation and/or amendment(s) being made to the proposal. 6. Grouped and/or Multiple Dwelling developments involving five 7. 7. (5) or more dwellings.

Compliance Links:	Planning and Development Act 2005 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Shire of Quairading Local Planning Scheme No 3 Shire of Quairading Local Planning Scheme No 3 State Planning Policy 7.3 - Residential Design Codes - Volume 1 State Planning Policy 7.3 - Residential Design Codes - Volume 2 Shire of Quairading Local Planning Policies State Planning Policy 7.0 - Design of the Built Environment
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.5 Subdivision control

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<p><i>Local Government Act 1995</i> s.5.42 Delegation of some powers or duties to the CEO</p> <p><i>Planning and Development Act 2005</i> clause 16</p> <p>WAPC Delegation (DEL2020/01): Powers of Local Government</p>
Express Power or Duty Delegated:	Authority to exercise the relevant powers and duties in the WAPC delegation instrument DEL2020/01.
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Approve a strata plan or an amendment of a strata plan to give effect to a subdivision of land by a strata scheme. (C15). 2. Impose conditions on a strata scheme approval as if the approval were for a plan of a submission given under the <i>Planning and Development Act 2005</i>. (c.15). 3. Approve an amendment to a scheme plan that proposes to Impose, vary or revoke a restricted use condition (c.21). 4. Approve an amendment or repeal of a scheme by-law (c.22).
Council Conditions on this Delegation:	<ol style="list-style-type: none"> 1. A local government that exercises the power referred to in clause 1 and/or clause 2 of DEL2020/01 (clauses 15, 21 and 22 of the <i>Strata Titles Act 1985</i>) is to provide the WAPC with data on all applications determined under this Instrument of Delegation. This must be provided at the conclusion of each financial year in the format prescribed by the WAPC. 2. The delegation of s.15 of the <i>Strata Titles Act 1985</i>, does not apply to those applications that— <ol style="list-style-type: none"> a. Propose the creation of a vacant lot; b. Propose vacant air strata in multi-tiered strata scheme developments; c. Propose the creation or postponement of a leasehold scheme; d. Propose a type 1 (a) subdivision or a type 2 subdivision (as defined in s.3 of the <i>Strata Titles Act 1985</i>); e. 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: <ol style="list-style-type: none"> 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.
Express Power to Sub-Delegate:	<p><i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p>

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Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil – must be delegated to an employee.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Planning and Development Act 2005 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Shire of Quairading Local Planning Scheme No 3 <i>Planning and Development Act 2005 Clause 16(4)</i> DEL2020/01 - Powers of Local Government
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.6 Entering any Building or Land

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2, Clauses 82, 83 and 84
Express Power or Duty Delegated:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2, Part 10, Clause 79
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to appoint Authorised Officers for the purposes of entering any buildings or land to determine whether the provisions of Local Planning Scheme No. 3 have been or are being observed in accordance with the relevant clauses of the <i>Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Deemed Provisions – including clause 79</i>
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Part 13 of the Planning and Development Act 2005 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Shire of Quairading Local Planning Scheme No 3
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.7 Strata Titles Act

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<p><i>Planning & Development Act 2005</i></p> <p><i>Strata Titles Act 1985 s.15, 21, 22 and 24</i></p> <p>DEL 2020/01 – Powers of Local Government - On 19 March 2020, pursuant to section 16 of the Act, the Western Australian Planning Commission RESOLVED—</p> <ol style="list-style-type: none"> To delegate to local governments, and to members and officers of those local governments, its powers and functions under section 15 of the <i>Strata Titles Act 1985</i> as set out in clause 1 of Schedule, within their respective districts, subject to the conditions set out in clause 2 of Schedule 1. To declare that this instrument recording its resolution is to take effect upon the proclamation of the <i>Strata Titles Amendment Act 2018</i>.
Express Power or Duty Delegated:	Authority to exercise the relevant powers and duties delegated by the <i>Planning and Development Act 2005</i> , the <i>Strata Titles Act 1985</i> and relevant delegation instrument.
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> The local government may make a preliminary determination that the plans and specifications are of sufficient standard to be brought under the <i>Strata Titles Act 1985</i> as a building in a strata scheme (c.24). Power to determine applications for the issuing of a certificate of approval for a plan of subdivision, re-subdivision or consolidation, except those applications that: <ol style="list-style-type: none"> Propose the creation of a vacant lot; Propose vacant air stratas in multi-tiered strata scheme developments; 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: A type of development; and/or 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 (c.24). Determine applications under s. 21 and 22 of the <i>Strata Titles Act 1985</i> in accordance with DEL2020/01.
Council Conditions on this Delegation:	
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
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CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	
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Compliance Links:	<p><i>Strata Titles Act 1985</i> ss .15, 21 and 22</p> <p>DEL 2020/01 - Powers of Local Government</p> <p><i>Planning and Development Act 2005</i></p>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.8 Local Development Plans

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Planning Scheme No. 3 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2, c.82
Express Power or Duty Delegated:	Authority to exercise the relevant powers and duties under the Local Development Plans
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. To prepare Local Development Plans, where appropriate. 2. Determine the information provided with an application is satisfactory for the purposes of advertising in accordance with c.49 of the Deemed Provisions. 3. Determine that a Local Development Plan does not require advertising in accordance with c.50(3) of the Deemed Provisions. 4. Approve, modify or refuse a Local Development Plan in accordance with 5. c.52 of the Deemed Provisions where there are no valid objections, or where valid objections have been resolved to the satisfaction of the Shire. 6. To extend the period of approval for a Local Development Plan in accordance with c.57(3) of the Deemed Provisions. 7. 7. Determine that an amendment is of a minor nature and does not require advertising in accordance with c.59(4) of the Deemed Provisions.
Council Conditions on this Delegation:	a. CEO must not approve a Local Development Plan for reasons set out in c.52(1A) of the Deemed Provisions.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager, Works & Services
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Local Planning Scheme No 3
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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9.1.9 Structure Plans

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Planning Scheme No. 3 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Express Power or Duty Delegated:	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Schedule 2, Part 10, Clause 79
Delegate:	CEO
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. To prepare a Structure Plan. 2. Determine whether the information provided with an application is satisfactory for the purposes of assessment and advertising in accordance with clause 17 of the Deemed Provisions. 3. Determine whether an amendment to a Structure Plan is of a minor nature and does require advertising in accordance with c.29 of the Deemed Provisions. 4. Prepare and forward a report of the proposed Structure Plan to the WAPC in accordance with c.20 of the Deemed Provisions.
Council Conditions on this Delegation:	a. CEO must not approve a Local Development Plan for reasons set out in c.52(1A) of the Deemed Provisions.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Sub-Delegate/s: <i>Appointed by CEO</i>	<i>Nil – must be delegated to an employee.</i>
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	

Compliance Links:	Local Planning Scheme No. 3 <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
Record Keeping:	All exercises of delegated authority to be record managed in F: Delegation Register Template (Click link to open) and Altus Content.

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**10 Statutory Authorisations and Delegations to Local Government
from State Government Entities****10.1 Environmental Protection Act 1986****10.1.1 Noise Control – Environmental Protection Notices [Reg.65(1)]**Published by:
Environment**GOVERNMENT GAZETTE**
Western Australia
[Previous](#) [Close](#) [Next](#)No. 47. 19-Mar-2004
Page: 919 Pdf - 476kb**EV401****ENVIRONMENTAL PROTECTION ACT 1986****Section 20**

Delegation No. 52

Pursuant to section 20 of the *Environmental Protection Act 1986*, the Chief Executive Officer hereby delegates as follows—

Powers and duties delegated—

All the powers and duties of the Chief Executive Officer, where any noise is being or is likely to be emitted from any premises not being premises licensed under the Act, to serve an environmental protection notice under section 65(1) in respect of those premises, and where an environmental protection notice is so served in such a case, all the powers and duties of the Chief Executive Officer under Part V of the Act in respect of that environmental protection notice.

Persons to whom delegation made—

This delegation is made to any person for the time being holding or acting in the office of Chief Executive Officer under the *Local Government Act 1995*.

Pursuant to section 59(1)(e) of the *Interpretations Act 1984*, Delegation No. 32, dated 4 February 2000 is hereby revoked.

Dated this 9th day of January 2004.

Approved—

FERDINAND TROMP, A/Chief Executive Officer.

Dr JUDY EDWARDS MLA, Minister for the Environment.

Delegation Register

Shire of Quairading

10.1.2 Noise Management Plans – Keeping Log Books, Noise Control Notices, Calibration and Approval of Non-Complying Events

Published by:
Environment

GOVERNMENT GAZETTE
Western Australia
[Previous](#) [Close](#) [Next](#)

No. 232. 20-Dec-2013
Page: 6282 [Pdf](#) - 3Mb

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.

Delegation Register

Shire of Quairading

10.1.3 Noise Management Plans – Construction Sites

Published by:
Environment

GOVERNMENT GAZETTE
Western Australia
[Previous](#) [Close](#) [Next](#)

No. 71. 16-May-2014
Page: 1548 [Pdf](#) - [2Mb](#)

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.

Delegation Register

Shire of Quairading

10.2 Planning and Development Act 2005**10.2.1 Instrument of Authorisation – Local Government CEOs - Sign Development Applications for Crown Land as Owner**

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 2nd day of June 2016

HON DONALD TERRENCE REDMAN MLA
MINISTER FOR LANDS

Delegation Register

Shire of Quairading

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"> 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 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. <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 163 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 Amadiske Shire of Ardcurton Shire of Augusta-Margaret River Town of Bassendean City of Baywater City of Belmont Shire of Beverley Shire of Bodrington Shire of Boyup Brook Shire of Bridgetown-Greenbushes Shire of Brookton Shire of Broome Shire of Broomehill-Tambellup Shire of Bruce Rock City of Bunbury Shire of Busselton Town of Cambridge City of Canning Shire of Capal Shire of Carnamah Shire of Carnarvon Shire of Chapman Valley Shire of Chittering Shire of Christmas Island Town of Coleraine City of Cockburn Shire of Cocos (Keeling) Islands Shire of Collie Shire of Coolgardie Shire of Coorow Shire of Corrigin Town of Cottesloe 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 Derby/Vest 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 Emswath City of Fremantle City of Greater Geraldton</p> <p>Shire of Gingin Shire of Gnowangerup Shire of Goomalling City of Gnowalla Shire of Hall's Creek Shire of Harvey Shire of Inn Shire of Jerramungup City of Joondalup Shire of Kalamunda City of Kalbarrie-Boulder Shire of Kalbarrie Shire of Kellerberrin Shire of Kent Shire of Koorup 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 Mandurah City of Meville Shire of Menzies Shire of Merredin Shire of Mingenew Shire of Morawa Shire of Moruya Town of Moaman Park Shire of Mount Magnet Shire of Mt Marshall Shire of Mukinbin 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>

Delegation Register

Shire of Quairading

Shire of Nannup
 Shire of Narrobean
 Shire of Narmgin
 Town of Neringin
 City of Newcastle
 Shire of Ngaanyatjaraku
 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 Woodliffing
 Shire of Wyalkatchem
 Shire of Wyndham-East Kimberley
 Shire of Yalgoo
 Shire of Yalgoo
 Shire of York



HON DONALD TERRENCE REDMAN MLA
 MINISTER FOR LANDS

2nd June
 day of 2016

Delegation Register

Shire of Quairading

10.2.2 WA Planning Commission – Powers of Local Governments - s.15 of the *Strata Titles Act 1985* (DEL.2020/01)

29 January 2021

GOVERNMENT GAZETTE, WA

449

PL402

PLANNING AND DEVELOPMENT ACT 2005

INSTRUMENT OF DELEGATION

Del 2020/01 Powers of Local Governments

Delegation to local governments of certain powers and functions of the Western Australian Planning Commission relating to certain applications under 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 20 January 2021, 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 15 of the *Strata Titles Act 1985* as set out in clause 1 of Schedule 1, within their respective districts, subject to the conditions set out in clause 3 of Schedule 1;
- B. TO DELEGATE to local governments, and to members and officers of those local governments, its powers and functions under sections 21 and 22 of the *Strata Titles Act 1985* as set out in clause 2 of Schedule 1, within their respective districts, subject to the conditions set out in clause 3 of Schedule 1;
- C. TO AMEND “Del 2020/01—Powers of Local Governments” to give effect to its resolution and to publish an updated, consolidated instrument.

SAM FAGAN, Western Australian Planning Commission.

Schedule 1

1. Applications made under section 15 of the *Strata Titles Act 1985*

Power to determine applications under section 15 of the *Strata Titles Act 1985*, except those applications that—

- (a) propose the creation of a vacant lot;
- (b) propose vacant air stratas in multi-tiered strata scheme developments;
- (c) propose the creation or postponement of a leasehold scheme;
- (d) propose a type 1 (a) subdivision or a type 2 subdivision (as defined in section 3 of the *Strata Titles Act 1985*);
- (e) 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. Applications under sections 21 and 22 of the *Strata Titles Act 1985*

Power to determine applications under—

- (a) section 21 of the *Strata Titles Act 1985*;
- (b) section 22 of the *Strata Titles Act 1985* where the amendment or repeal of scheme by-laws requires the approval of the WAPC.

3. Reporting requirements

A local government that exercises the powers referred to in clause 1 and/or clause 2, is to provide the WAPC with data on all applications determined under this Instrument of Delegation. This must be provided at the conclusion of each financial year in the format prescribed by the WAPC.

Delegation Register

Shire of Quairading

10.3 Main Roads Act 1930

10.3.1 Traffic Management - Events on Roads

A list of local governments authorised for Traffic Management for Events can be found on the Main Roads WA website [here](#)

Delegation Register

Shire of Quairading

**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 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*.

Page 1 of 2

Delegation Register

Shire of Quairading

Dated:

THE COMMON SEAL OF THE)
COMMISSIONER OF MAIN ROADS)
 WAS AFFIXED BY)
)
)
COMMISSIONER OF MAIN ROADS)
)
FOR THE TIME BEING IN THE)
PRESENCE OF:)

Signature of Witness

Name of Witness (please print)

ACKNOWLEDGMENT BY AUTHORISED BODY

.....(*Insert name of Local Government*)..... agrees to unconditionally observe, perform and be bound by the above conditions.

THE COMMON SEAL of)
)
)
)
 _____)
 [*Insert name of Local Government*])
)
 Was hereunto affixed pursuant to a)
 resolution of the Council in the)
 presence of.)
)

Signature of Chief Executive Officer

Signature of Witness

Name of Witness (please print)

Delegation Register

Shire of Quairading

10.3.2 Traffic Management – Road Works

A list of Local Governments authorised for the purposes of Road Traffic Code 2000 r.297(2) are available on Main Roads WA website [here](#)

**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 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.

Delegation Register

Shire of Quairading

Dated:

THE COMMON SEAL OF THE)
 COMMISSIONER OF MAIN ROADS)
 WAS AFFIXED BY)
)
)
 COMMISSIONER OF MAIN ROADS)
 FOR THE TIME BEING IN THE PRESENCE OF:)

Signature of Witness

Name of Witness

ACKNOWLEDGMENT BY AUTHORISED BODY

..... agrees to observe, perform and be bound by the above conditions.

THE COMMON SEAL OF THE)
)
)
 WAS AFFIXED PURSUANT TO A RESOLUTION)
 OF THE COUNCIL IN THE PRESENCE OF)

Chief Executive Officer

Witness

Delegation Register

Shire of Quairading

10.4 Road Traffic (Vehicles) Act 2012

10.4.1 Approval for Certain Local Government Vehicles as Special Use Vehicles

Delegation Register

Shire of Quairading



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:

Delegation Register

Shire of Quairading



Government of **Western Australia**
Department of **Transport**
Driver and Vehicle Services

- (a) have words clearly set out on the sides of the vehicle which state the name of the local government in question together with the words "Ranger", "Ranger Services", or words to similar unambiguous effect; and
- (b) where the vehicle is a station wagon or van, have the words "Ranger", "Ranger Services", or words to similar unambiguous effect clearly set out on the back of the vehicle.

This condition 7 is not intended to prevent the use of additional words on the vehicle.

Christopher Davers
Assistant Director, Strategy and Policy
Driver and Vehicle Services
Department of Transport

Dated the 5th day of September 2017

[Approval for ranger vehicles to fit and use yellow flashing lights \(transport.wa.gov.au\)](http://transport.wa.gov.au)

Extracted on line on 15 March 2021



Government of **Western Australia**
Department of **Local Government and Communities**

Local Government Operational Guidelines

Number 17 – January 2007

Delegations

1. Introduction

This guideline has been developed in response to enquiries from local governments regarding the nature of delegations, how to go about determining whether to use delegations and other related matters.

Within the context of government administration and administrative law, this guideline:

- explains the concept of delegation;
- explains how delegations relate to or are derived from legislation;
- explains and illustrates the associated concept of 'acting through';
- provides guidance on determining which powers and duties should be delegated;
- explains the procedure for making delegations; and
- provides examples of delegations from selected powers and duties set out in the *Local Government Act 1995*.

This guideline also contains a listing of various powers and duties in the *Local Government Act 1995* and its associated regulations, and identifies powers and duties capable of delegation and to whom.

2. Definition of 'Delegate'

The [Macquarie Dictionary Second Edition](#) (1991), The Macquarie Library Pty Ltd, Macquarie University, New South Wales (Australia), p. 469, defines 'delegate' as follows:

- to send or appoint (a person) as deputy or representative;
- to commit (powers, duties, etc.) to another as agent or deputy; and
- to commit powers or duties to others.

The [Oxford Shorter English Dictionary Third Edition](#) (1978), Oxford University Press, Oxford (England), p. 511, defines 'delegate' as follows:

- a person sent or deputed to act for or represent another or others; a deputy, commissioner;
- to send or commission (a person) as a deputy
- or representative, with power to act for another; and
- to entrust or commit (authority, etc.) to another as an agent or deputy.

Justice Wills in *Huth v Clarke* (1890) 25 QBD 391, at 395 stated:

'Delegation, as the word is generally used, does not imply a parting with powers by the person who grants the delegation, but points rather to a conferring of an authority to do things which otherwise the person would have to do himself... [It] is never used by legal writers...as implying that the delegating person parts with his power in such a manner as to denude himself of his rights...[The] word 'delegate' means little more than an agent''

The definitions and judicial commentary above illustrate that:

- to delegate is to appoint another person to exercise a power or discharge a duty; and
- a delegation does not strip the person making the delegation of the right to exercise the delegated power or discharge the delegated duty.

3. The Nature of Delegation – Decision Making

Delegations are most commonly used in organisations where:

- A particular person has authority to exercise a discretion to enforce a right or discharge a duty on behalf of the organisation;
- That person or officer has either:
 - (i) a multitude of authorities to exercise a discretion to enforce rights or discharge powers; or
 - (ii) many circumstances in which they have authority to exercise a discretion to enforce rights or discharge duties;
- The business of the organisation could not be efficiently carried on if that person were to personally exercise their discretion to enforce all the rights or discharge all the duties; and
- Through practical administration, that person needs to appoint other persons to exercise their discretion to exercise powers or discharge duties on behalf of the organisation.

Whilst there is a requirement for local government delegations to be authorised by statute (as is explained in section 6 of these guidelines), there is no limitation (unless expressly stated to the contrary

by statute) on **appointing** a person to act on **behalf** of the local government or the CEO, provided that appointment does not include the power of delegation (see section 15 of these guidelines for details).

There is a legal distinction between:

- the delegation to a person to exercise a right or discharge a duty on behalf of an organisation; and
- appointing a person to act on behalf of an organisation or another employee of that organisation.

In most circumstances, where a person:

- Is appointed only to carry out the express instructions of an employee or the governing body of an organisation; and
- Is provided with only limited discretion in carrying out those instructions,

that appointment does not constitute a delegation and does not need to be formally delegated. Please see section 4 of these guidelines which explain the concept of 'acting through'. Section 3 of this guideline has illustrated that when determining whether an appointment is a delegation or simply an appointment to act on behalf of another person, it is critical to consider whether or not the person is appointed to exercise a broad discretion to exercise a power or discharge a duty.

4. The Concept of 'Acting Through'

In addition to covering delegations, the *Local Government Act 1995* introduces the concept of 'acting through'. Section 5.45 of the Act states that in relation to delegations, nothing prevents a 'local government from performing any of its functions by acting through a person other than the CEO' or 'a CEO from performing any of his or her functions by acting through another person'. The Act does not specifically define the meaning of the term 'acting through'. However, the key difference between a delegation and 'acting through' is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

For administrative purposes, a person may sign a letter in his or her name on behalf of the CEO while, with delegated powers, the person would sign a letter in his or her own name, in accordance with the delegated authority.

An appropriate method for a council of a local government to make a decision which will be implemented by its officers, is for it to make a policy about particular functions that it performs. In that case there is no need for a delegation as it will be the role of the organisation to implement those policy decisions.

It is critical in understanding the types of functions that are appropriate for 'acting through' another person in preference to delegation. This can be demonstrated through the following example. In this case, the Council gives the CEO the power to call tenders subject to certain cost parameters. If that power is delegated, the CEO could call tenders if the CEO believed the cost parameters had been satisfied (even if the Council's opinion was different to the CEO's opinion). However, under an 'acting through' arrangement, the CEO could only call tenders if the Council was satisfied about the cost parameters.

There are several advantages in using 'acting through' rather than delegation which include:

- it will better suit particular operational processes;
- it may decrease bureaucratic arrangements;
- it will reduce additional recording; and
- it will reduce reporting requirements placed on employees who are given delegated authority.

5. Legislative Powers for Delegations in Local Government

The legislation authorising the delegation of certain local government powers or duties and requiring records to be maintained in respect of such delegations, includes the:

- *Local Government Act 1995*;
- *Local Government (Miscellaneous Provisions) Act 1960*; (*Strata Titles Act 1985*);
- *Bush Fires Act 1954*; and
- *Planning and Development Act 2005*.

6. Local Government Act 1995

The provisions of the *Local Government Act 1995* which provide for delegations by a local government or its CEO are as follows:

- Section 5.16(1), states:
'Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.'
- Section 5.42(1), states:
'A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.'
- Section 5.44(1), states:
'A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.'

The Act has been framed in a way that determines whether powers and duties can be delegated or not. If the term 'council' is used then it is the council itself which must carry out that function. If the term 'local government' is used then it may be possible to use delegation, subject to any other express powers against delegation or the desirability in using 'acting through' where it may be a better way of carrying out the power or duty.

7. Local Government (Miscellaneous Provisions) Act 1960; Strata Titles Act 1995

Section 2 of the *Local Government (Miscellaneous Provisions) Act 1960* effectively incorporates the provisions of that Act into the *Local Government Act 1995*, and therefore the delegation provisions of the *Local Government Act 1995* apply to the *Local Government (Miscellaneous Provisions) Act 1960*.

Section 2 states that:

'The Local Government Act 1995 applies as if the provisions of this Act were in that Act but in construing the provisions of this Act account is to be taken of the meanings they had before the Local Government Act 1995 commenced.'

In addition to the delegation powers of the *Local Government Act 1995* which apply to the *Local Government (Miscellaneous Provisions) Act 1960*, section 374(1b) of the *Local Government (Miscellaneous Provisions) Act 1960* provides for a local government to delegate the authority to approve certain plans to its building surveyor, stating that:

'The authority to approve or refuse to approve plans and specifications submitted under [section 374] may be delegated by a local government to a person appointed to the office of building surveyor...'

Reference also needs to be made to section 23 of the *Strata Titles Act 1985* which provides for particular delegations to employees.

8. *Bush Fires Act 1954*

Section 48 of the *Bush Fires Act 1954* provides for a local government to delegate powers to its CEO, stating that:

'A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.'

9. *Planning and Development Act 2005*

The *Planning and Development Act 2005* provides for a system through the Model Scheme Text as a set of general provisions for carrying out the general objects of town planning schemes.

Item 11.3.1 of the Model Scheme Text provides for a local government to delegate powers to a committee or its CEO, stating that:

'The local government may...delegate to a committee or the CEO...the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.'

Item 11.3.2 of the Model Scheme Text provides for a local government CEO to delegate their powers and duties to another employee, stating that:

'The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.'

10. Legislative Powers to Delegate Relate Only to the Act in which they are Contained

Some local governments have mistakenly attempted to use the legislative powers of delegation contained in one Act to delegate a power or duty contained in another Act.

Unless expressly stated to the contrary, a legislative power to delegate only relates to the powers or duties under the Act in which the delegation power is located.

It is not possible to, for example, rely on section 5.42(1) of the *Local Government Act 1995* to delegate any of a local government's powers under the *Bush Fires Act 1954* to a CEO. Any delegation by a local government of its powers under the *Bush Fires Act 1954* can only be delegated by the delegation provisions of that Act.

11. The Rule Against Sub-delegation

Notwithstanding that only some of the relevant legislation expressly prohibits sub-delegation, the common law prohibits sub-delegation unless it is expressly provided for by legislation.

For the avoidance of doubt, an example of sub-delegation is where person A is delegated to exercise a power and they attempt to delegate to person B to exercise the power which was originally delegated to person A.

Another example is the *Bush Fires Act 1954*. Unlike the *Local Government Act 1995*, the *Bush Fires Act 1954* does not provide for a CEO to delegate to another employee to exercise the powers

delegated by council to the CEO under section 48 of that Act. Therefore, only the CEO may exercise the powers delegated by council to the CEO under that Act.

12. Statutory Limitations on Delegations

There are limitations on all of the above legislative provisions which provide for the delegation of powers and duties.

Many of the limitations relate to sub-delegation. Other limitations include whether the delegation must be in writing, what types of powers and duties can be delegated and what type of majority decision is required to delegate a power or duty.

Not all of the limitations can be addressed in this operational guideline, due to their number and detail. However, the majority of the limitation provisions are located close to the provisions which provide for the delegations.

As the *Local Government Act 1995* is the Act under which most delegations will be made by local government, this guideline will discuss the limitations on delegations contained within that Act.

13. Delegations to Committees

Section 5.17 of the *Local Government Act 1995* provides limitations on what powers and duties a local government can delegate to its committees. Section 5.17(1) limits the powers and duties which can be delegated to committees, according to the types of members which constitute the committees eg:

- Council members only;
- Council members and employees only;
- Council members, employees and other persons; or
- Employees and other persons only.

Section 5.17(2) prohibits absolutely the delegation of any powers or duties to committees comprised of only persons other than local government council members or employees.

14. Delegations to the CEO

Sections 5.43(a) to 5.43(h) of the *Local Government Act 1995* provide limitations on what powers and duties a local government can delegate to its CEO, stating that:

'A local government cannot delegate to a CEO any of the following powers or duties:

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;

- (g) hearing or determining an objection of a kind referred in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor; or
- (i) such other powers or duties as may be prescribed.'

Section 5.43(i) of the Act provides for regulations to prescribe further powers or duties which cannot be delegated to the CEO.

The following regulations prescribe powers and duties which cannot be delegated to a CEO:

- (a) Regulation 18G of the *Local Government (Administration) Regulations 1996* prohibits the delegation to a CEO of the powers and duties under:
 - (i) Sections 7.12A(2), 7.12A(3)(a) and 7.12A(4) of the *Local Government Act 1995* (relating to meetings with auditors); and
 - (ii) Regulations 18C and 18D (relating to the selection and appointment of CEOs and reviews of their performance).
- (b) Regulation 6 of the *Local Government (Financial Management) Regulations 1996* prohibits the delegation of the duty to conduct an internal audit to an employee (including a CEO) who has been delegated the duty of maintaining the local government's day to day accounts or financial management operations.

15. Delegations to Other Local Government Employees

Section 5.44(1) of the *Local Government Act 1995* provides for the CEO to make delegations to other employees.

The obvious main limitation of section 5.44(1) is that it expressly prohibits any sub-delegation of the power to delegate. This means that once the CEO has delegated a power or duty to an employee or employees, that power or duty cannot be on-delegated to other employees.

Just as a delegation to a CEO by a council may be done with conditions attached, when delegating to another employee a CEO may attach conditions to the delegation, provided that the CEO does not purport to delegate more powers or duties to the other employee than were delegated to the CEO.

16. Powers Under the Interpretation Act 1984

Section 59 of the *Interpretation Act 1984* explains the particular elements of the power to delegate when it appears in various Acts. It states:

'Construction of Power to Delegate

- (1) Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him under a written law –
 - (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;

- (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
 - (c) if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;
 - (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of office;
 - (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;
 - (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully acting in or performing the functions of that office.
- (2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.
- (3) Where under a written law an act or thing may or is required to be done to, by reference to or in relation to, a person and that person has under a written law delegated a relevant

function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the function has been delegated.'

It is important to be aware that under these provisions, the delegator retains the power to make decisions if need be, despite the fact that a delegation has occurred.

Also, in situations when a number of people occupy a particular office throughout either the day or week (eg ranger officers), a delegation by office enables an employee who occupies that office for the time being, to exercise the powers and duties delegated to that office.

A delegation by office will also enable an employee who temporarily occupies an office, say in an acting role whilst the normal occupier of the office is sick, to efficiently exercise the powers and duties delegated to that office, without the need to go through the delegation process again. Care needs to be taken in ensuring that the person has the appropriate qualifications where required.

When delegating by office, it is essential to ensure that the office described is a distinctly identifiable office (eg Manager, Corporate Services).

17. Records of Delegations

The major requirements to keep records of delegations to committees, CEOs and other employees are contained in sections 5.18 and 5.46 of the *Local Government Act 1995*.

In relation to delegations to committees, section 5.18 states that:

'A local government is to keep a register of the delegations made [to committees] under this Division and review the delegations at least once every financial year.'

In relation to delegations to CEOs and other employees, section 5.46 states that:

- '(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.'

The registers of delegations to committees and CEOs should include a copy of the minutes which record the delegation (and any conditions) and can be kept in an electronic or paper format. In the case of a delegation from the CEO to an officer the register should also contain a copy of the memorandum of delegation.

Obligations are imposed on the recipients of delegated powers and duties. Under section 5.46 of the *Local Government Act 1995*, regulation 19 of the *Local Government (Administration) Regulations 1996* requires delegates to keep a record

of each occasion on which they exercise the powers or discharge the duties delegated to them, stating that:

'Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of:

- (a) how the person exercised the power or discharged the duty;
- (b) when the person exercised the power or discharged the duty; and
- (c) 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.'

This provision does not necessarily require the keeping of a register and other efficient record keeping practices would be sufficient. However, it is recommended that such systems provide for accessible accountability of the performance of these tasks.

18. Delegates to Disclose Interests and Lodge Returns

Part 5 Division 6 of the *Local Government Act 1995* (disclosure of financial interests) also applies to delegates of powers and duties.

Section 5.71 states that:

'If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and:

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10,000 or imprisonment for 2 years.'

In circumstances where the employee is carrying out a delegated function and the matter relates to his or her own projects, then another officer will need to have the authority to deal with the matter. In addition to the prohibition on delegates exercising the powers or performing the duties delegated to them, sections 5.75 and 5.76 of the *Local Government Act 1995* require employees who have been delegated powers or duties to lodge primary and annual returns. Sections 5.75 and 5.76 state:

5.75 Primary Returns

- (1) A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day.
- (2) A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day.
- (3) This section does not apply to a person who:
 - (a) has lodged a return within the previous year; or
 - (b) has, within 3 months of the start day, ceased to be a relevant person.

Penalty: \$10,000 or imprisonment for 2 years.

5.76 Annual returns

- (1) Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.
- (2) Each year, a CEO must lodge with the mayor or president an annual return in the prescribed form by 31 August of that year.

Penalty applicable to subsections (1) and (2): \$10,000 or imprisonment for 2 years.'

'Relevant person' includes a 'designated employee' who has been delegated a power or duty.

Section 5.78 of the *Local Government Act 1995* prescribes the information which must be included in the primary and annual returns.

Where an officer acts temporarily in a position with delegated power, that person will need to complete a financial interest return unless they have only acted in that position for less than 3 months.

19. Determining What Should Be Delegated

A decision to delegate a power or duty should be made by local governments only after thorough consideration of whether the delegation will facilitate the effective operation of the local government. This will therefore depend on the particular circumstances of each local government.

A local government council is unable to deal with all of the numerous issues and duties concerning its local government. As far as is possible and reasonable, councils should be predominantly concerned with dealing with higher level policy matters for their local governments.

Duties and powers which are operational in nature, but exercise a discretion should be delegated to the CEO.

Powers and duties can be delegated to CEOs with comprehensive conditions attached. The conditions limit the exercise of powers or discharge of duties to circumstances prescribed by the council. For example, a permit application which does not satisfy the conditions attached to a delegation, must be referred to the council for determination.

The Local Laws Manual (2005), Local Laws WA, Western Australian Local Government Association, Western Australia (Australia) at Section 2, page 10, provides a useful example of a recommendation to council for the delegation of certain powers with conditions attached, as follows:

'That the administration of this Local Law including any enforcement action and collection of the annual licence fee be delegated to the CEO, but that the exercise of the following powers be reserved to the Council:

- (a) issue or refusal of a licence under clause...;
- (b) determination of a licence period under clause...;
- (c) cancellation of a licence under clause...;
- (d) renewal or refusal to renew a licence under clause...; and
- (e) determination of any security under clause...'

Delegations with conditions are also frequently made in relation to employees other than the CEO for acquiring assets on behalf of a local government. An example is where the CEO delegates an employee with the power to purchase goods and services to a value of \$10,000 - any proposed purchases which would exceed this limit would need to be referred to the CEO for approval.

Many local laws provide for the appointment of employees as 'authorised persons' for the purpose of the relevant local law. Once an employee is appointed as an 'authorised person', it is not necessary for the CEO or council to delegate any powers to that employee in order for that employee to, say, enforce the relevant local law.

It is important to again note the difference between a delegation of a power or duty and the implementation of a council or CEO decision – see section 4 of this guideline in relation to 'acting through'.

An example of carrying out a council decision (compared to exercising a delegated power or duty) is where a council approves an annual budget which includes the expenditure of \$40,000 for particular road maintenance to be carried out by employees. Employees do not need to be delegated the power to carry out their operational functions.

In the example above, if the relevant employees believe it is necessary to spend more funds than approved in the budget, they must refer that matter to the council for its approval – the adoption of an annual budget can only be done by an absolute majority of council, which under section 5.43(a) of the *Local Government Act 1995* cannot be delegated to the CEO or any other employee.

The principal consideration for a local government when deciding if it should delegate a power or duty, is whether the delegation will improve the efficiency of the local government's operations whilst ensuring that its policies are consistently implemented. See the attached schedule which lists those items where acting through would be a suitable mechanism for achieving that efficiency. Local governments also need to consider the content of their local laws and whether delegation may be necessary, in some circumstances. However, 'authorised persons' can normally carry out the 'policing' powers in local laws.

20. Procedure for Delegations by Council

Section 19 of this guideline considers how a local government can determine whether it should delegate particular powers and duties. This part considers the procedure for council to make a delegation.

When CEOs identify a duty or power of the local government which can be delegated and they believe that if it is delegated it will provide better efficiency, they should put the proposed delegation to their council, for approval.

As the earlier example from the Local Laws Manual (in section 19) demonstrates, a recommendation to council for a delegation is relatively straightforward. The essential elements of a delegation recommendation are:

- (a) correct and accurate identification of the power or duty to be delegated;
- (b) correct and accurate identification of the person or office to whom or which the power or duty is to be delegated;
- (c) correct and accurate definition of the circumstances (if any) in which the power or duty can be exercised or discharged; and
- (d) conditions on the exercise of the power or discharge of the duty.

It is important to note again that all delegations by council require an absolute majority decision.

Once a delegation has been made by council, the delegation must be recorded in the delegation register.

Under regulation 19 of the *Local Government (Administration) Regulations 1996*, the delegate must keep written records of when and how they exercise the delegated power or discharge the delegated duty, and the persons or classes of persons affected by the exercise of the power or discharge of the duty.

21. Procedure for Delegations by CEO

Similarly to delegations by councils, delegations by CEOs must accurately and correctly identify all elements of the delegation.

Employee proposals for delegations (for themselves or for other employees) should be provided to the CEO. The recommendations should be in a format similar to the recommendations for delegations by councils.

As with delegations by council, written records of delegations by the CEO must be kept in the delegations register and delegates must keep records of their exercise of delegated powers or discharge of delegated duties.

22. Schedule of Powers and Duties

The attached schedule lists the powers and duties under the *Local Government Act 1995* (with associated regulations) which cannot be delegated, those that can be delegated, and to whom the powers and duties can be delegated. It also lists those matters where 'acting through' may be the most practical way of carrying out those functions.

It is not suggested that all of the powers and duties which can be delegated should be delegated – the schedule is provided only as an indication of what can be delegated if it is appropriate for a particular local government.

Examples of Delegations

23. Issuing Notices to Owners or Occupiers of Land

Section 3.25(1) of the *Local Government Act 1995* provides for a local government to provide notice to a person requiring that person to do certain things in relation to land, stating that:

'A local government may give a person who is the owner ... of land a notice in writing relating to the land requiring the person to do anything specified in the notice that:

- (a) is prescribed in Schedule 3.1, Division 1; or
- (b) is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.'

If a council determines that the efficiency of its local government operations will be improved if its CEO is delegated to exercise the powers under section 3.25(1), the council may so delegate to the CEO either with or without any conditions.

The following is an example of a recommendation for such a delegation:

'That, under section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer be delegated to exercise the powers under section 3.25(1) of the *Local Government Act 1995*.'

As with all delegations by council:

- (a) any delegation to a CEO to exercise the powers under section 3.25 must be:
 - (i) by way of absolute majority decision;
 - (ii) recorded in the delegations register;
 and
- (b) the CEO must keep records of the exercise of the delegated power or discharge of the delegated duty.

For reasons of policy and/or to maintain uniformity, it may be inappropriate for a CEO to delegate to other employees to exercise any section 3.25(1) powers which have been delegated to the CEO. However, other employees can be appointed to carry out a CEO's exercise of powers delegated to the CEO, without those other employees needing to be delegated.

By way of example, in times when a cyclone is approaching a district, if the CEO is delegated to exercise section 3.25(1) powers, the CEO may decide that certain items must be tied down to prevent them from causing a hazard when the cyclone hits the district, and that section 3.25(1) notices must be issued in relation to those items. Once the CEO has decided this, the CEO may then appoint any number of employees to survey the district and, when they identify items which the CEO has decided must be tied down, complete the section 3.25(1) notices and issue them to the relevant person, on behalf of the CEO.

24. Calling for and Accepting Tenders

Section 3.57(1) of the *Local Government Act 1995* states that:

'A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.'

Section 5.43 of that Act states that:

'A local government cannot delegate to a CEO any of the following powers or duties:

- (a) ...
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph.'

Part 4 of the *Local Government (Functions and General) Regulations 1996* regulates and provides the procedures for local government tenders for providing goods or services.

A council may delegate to its CEO to invite tenders under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*, without the necessity of setting a maximum limit on the tenders which the CEO may invite.

However, the effect of section 5.43(b) is that if a council wishes to delegate to its CEO to accept tenders under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*, it may attach a condition to the delegation that specifies the maximum limit of the tenders which the CEO may accept.

Following is an example of a recommendation to council to delegate to its CEO to invite any tenders (in accordance with council's selection criteria) and accept tenders up to a limit of \$200,000 under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*:

'That, under section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer be delegated to:

- (a) Invite any tenders; and
- (b) Accept tenders up to an amount of \$200,000 in total value, under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*.'

Local Government Act 1995

Relevant Exercisable Powers and Dischargeable Duties of a Local Government

(Refer to each section of the Act or Regulations for the full details of each power or duty to be exercised by the local government)

- This table sets out the Powers and Duties relevant to delegation and also identifies when 'acting through' the staff of the organisation may be appropriate.
- The table also indicates where delegation is not permitted and the Council is to perform that power or duty.
- See a ✓ where applicable.
- The decision to delegate will be a policy matter for each local government.
- The column headed 'Suitable for Acting Through' covers the situations where either the council has made a policy about the matter and the staff of the organisation implement that particular function or where the organisation may carry out the function administratively.

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation		
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte
2.11(2)	A local government may change the method of filling the office of mayor or president		✓			To the CEO
2.12A(1)(b)	Council, by motion passed by it, proposes to change method of filling office of mayor or president		✓			
2.12A(1)(c)	Local government to give public notice (of proposal to change method of filling office of mayor or president)	✓				
2.17(3)	A council with 15 councillors may retain those 15 even if a decision is made to elect the mayor/president by the electors		✓			
2.25(1)	A council may by resolution grant leave of absence to a member		✓			

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.5	A local government may make local laws to perform any of its functions under the Act		✓				
3.6(1)	With the Governor’s approval, a local government can apply a local law to an area that is not in a district		✓				
3.12(3)	Local government must give Statewide public notice (in relation to proposed local laws)	✓					
3.12(4)	Local government may adopt a local law		✓				
3.12(5)	Local government must publish (adopted local law in the Government Gazette)	✓					
3.12(6)	Local government must give local public notice (that a local law has been adopted)	✓					
3.15	A local government must ensure that people of its district are informed (of the purpose and effect of all its local laws)	✓					
3.16(1)	Within 8 years from the day a local law commences, a local government must review the operation of each local law following the process set out in section 3.16	✓					
3.16(2)	Local government must give Statewide public notice (in relation to the review of its local laws)	✓					
3.16(3)	After the last day for submissions in relation to the review of its local laws, a local government must consider submissions and cause a report to be submitted to council	✓					
3.16(4)	Local government may determine whether or not it considers that any of its local laws should be repealed or amended		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.21	In performing its executive function, the local government must ensure that the obligations set out in section 3.21 are complied with	✓					
3.22(1)	A local government that causes damage through the performance of its function must pay compensation to the owner or occupier						✓
3.25(1)	A local government may give an occupier a notice requiring them to do something to the land if it is specified in Schedule 3.1. The local government must also inform the owner if the occupier is not the owner						✓
3.26(2)	In order to make a person comply with a notice, a local government may do anything it considers necessary to achieve the purpose for which the notice was given	✓					✓
3.26(3)	A local government may continue to undertake works that are not carried out by the owner or occupier and recover the costs as a debt	✓					✓
3.27(1)	A local government may go onto private land in the circumstances prescribed in Schedule 3.2 and carry out works, even if it does not have the consent of the owner	✓					✓
3.31(2)	After a local government has given notice, it may authorise a person to enter land, premises or thing without consent, unless the owner or occupier has objected to the entry	✓					✓
3.34(1)	A local government may enter land in an emergency without notice or consent	✓					✓
3.34(5)	A local government must give notice (to the owner or occupier of an intended entry in an emergency whenever it is practical)	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.36(3)	A local government may make an opening in a fence to do works on property subject to providing the owner or occupier with 3 days written notice	✓					✓
3.39	Local government may authorise an employee to remove and impound any goods	✓					✓
3.40(2)	If a local government impounds a vehicle to remove and impound goods, it must allow the offender to resume control of the vehicle as soon as practicable after the goods have been removed	✓					
3.40(3)	If the person entitled to resume control of the vehicle is not present, the local government must give notice (to the holder of a licence in respect of the vehicle, stating from where and when the vehicle may be collected)	✓					
3.40A(1)	Local government may authorise a person to remove and impound an abandoned vehicle wreck	✓					✓
3.40A(2)	Local government to provide notice (to the owner of a removed abandoned vehicle wreck, advising that the vehicle may be collected	✓					
3.40A(4)	Local government may declare that a vehicle is an abandoned vehicle wreck	✓					✓
3.42(1)	If a local government impounds non-perishable goods, it must either begin a prosecution against the offender or give them a notice stating from where and when the goods may be collected	✓					
3.44	Where non-perishable goods have been removed and impounded and a prosecution instituted, if the offender is not convicted or is convicted but it is not ordered that the goods be confiscated, the local government must give the alleged offender notice stating from where and when the goods may be collected	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.46(1)	A local government may refuse to allow goods impounded under sections 3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid	✓					
3.46(2)	A local government may refuse to allow goods removed under sections 3.40 or 3.40A to be collected until the costs of removing and keeping them have been paid	✓					
3.47(1)	The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43	✓					✓
3.47(2)	The local government may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3) or 7 days of a declaration being made that a vehicle is an abandoned vehicle wreck	✓					✓
3.47(2a)	The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in section 3.47(2b) of the date a notice is given under sections 3.42(1) (b) or 3.44	✓					✓
3.47A(1)	If an impounded animal is ill or injured to such an extent that treating it is not practicable, the local government may humanely destroy the animal and dispose of the carcass	✓					✓
3.48	If goods are removed or impounded under section 3.39 and the offender is convicted, the local government may recover any expenses incurred in removing and impounding the goods	✓					✓
3.50(1)	A local government may close a thoroughfare to vehicles, wholly or partially, for a period not exceeding 4 weeks	✓					✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.50(1a) and 3.50(4)	A local government may, after providing public notice of its intention and reasons, inviting submissions and then considering submissions, order a thoroughfare to be wholly or partially closed to vehicles for a period exceeding 4 weeks						✓
3.50(6)	An order to close a thoroughfare may be revoked by the local government	✓					✓
3.50(8)	If a thoroughfare is closed without local public notice, the local government must give such notice as soon as practicable after its closure	✓					
3.50A	A local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure is for the purpose of carrying out repairs or maintenance and is unlikely to have a significant adverse effect on users of the thoroughfare	✓					✓
Functions & General Reg 6(3)	A local government may, by local public notice, revoke an order under regulation 6(1) that closed a thoroughfare or alter it to make it less restrictive	✓					✓
3.51 (3)	Before fixing, altering or realigning a public thoroughfare or draining water onto adjoining land, the local government must give notice of its proposal, invite submissions and consider those submissions	✓					✓
3.52(2)	Except if they are closed or have restricted use, local governments are to ensure that public thoroughfares are kept open for public use	✓					
3.52(3)	When fixing, altering or realigning a public thoroughfare, the local government must ensure vehicle access to adjoining land is provided	✓					
3.53(3)	If an unvested facility lies within 2 or more districts, the local governments concerned can agree on its control and management			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.54(1)	A local government may do anything it could do under the <i>Parks and Reserves Act 1895</i> if it were a Board appointed under that Act, to control and manage any land reserved under the <i>Land Act 1933</i> and vested in or placed under the control and management of the local government	✓		✓	✓	✓	✓
3.57(1)	A local government must invite tenders before it enters into a contract for goods or services with a value of \$100,000 or more (Functions and General Reg 11)			✓ Limited	✓ Limited	✓ Limited	✓ Limited
Functions & General Reg 14(2a)	Where a local government is inviting tenders, the local government must determine in writing the criteria for accepted tenders			✓	✓		✓
Functions & General Reg 11(2)(d)	Tenders do not have to be publicly invited if the contract is to be entered into by auction after being expressly authorised by a resolution of the council		✓				
Functions & General Reg 14(4)(a)	Such information as a local government decides should be disclosed to those interested in submitting a tender		✓				
Functions & General Reg 18(4) & (5)	A local government must consider any tender that has not been rejected and decide which one to accept. It may decline to accept any tender			✓ Limited	✓ Limited	✓ Limited	✓ Limited
Functions & General Reg 19	The local government must give each tenderer written notice stating the successful tender or advising that no tender was accepted	✓					
Functions & General Reg 20	A local government may, with the approval of the tenderer, make a minor variation in a contract for goods or services before it enters the contract with the successful tenderer	✓	Limited	✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
Functions & General Reg 20 (2)	If the successful tenderer does not want to accept the contract with the variation or the local government and the tenderer cannot reach agreement, the local government can select the next most appropriate tenderer			✓ Limited	✓ Limited		✓ Limited
Functions & General Reg 21 (1)	A local government may seek expressions of interest before entering the tender process			✓ Limited	✓ Limited		✓ Limited
Functions & General Reg 21(3)	A local government must give statewide public notice (that it seeks expressions of interest before entering the tender process)	✓					
Functions & General Reg 23(3)	A local government must consider any submissions of interest that have not been rejected and decide which ones could satisfactorily supply the goods or services			✓ Limited	✓ Limited		✓ Limited
Functions & General Reg 24	A local government must give each person who submitted an expression of interest written notice (of the outcome of its decision)	✓					
Functions & General Reg 24E(1)	Where local government intends to give a regional price preference the local government is to prepare a regional price preference policy	✓		✓	✓		✓
Functions & General Reg 24(E)(4)	A local government cannot adopt a regional price policy until the local government has considered submissions received	✓		✓	✓		✓
3.58(2)	A local government can only dispose of property to the highest bidder at public auction or the most suitable public tender			✓ Limited	✓ Limited		✓ Limited

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
3.58(3)	A local government can dispose of property by private treaty but must follow the process set out in section 3.58(3)			✓ Limited	✓ Limited		✓ Limited
Functions & Gen Reg 30(2)(a)(ii)	A disposition of land is an exempt of disposition of the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee	✓					✓
3.59(2)	A local government must prepare a business plan before it enters into a major trading undertaking, a major land transaction or a land transaction that is preparatory to a major land transaction	✓					
3.59(4)	A local government must give Statewide public notice (stating its proposal to enter into a major trading undertaking, a major land transaction or a land transaction that is preparatory to a major land transaction, where the plan may be inspected or obtained, and call for submissions on the plan within 6 weeks)	✓					
3.59(5)	The local government must consider submissions and then decide whether to proceed with the major trading undertaking, major land transaction or land transaction that is preparatory to a major land transaction		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation		
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte
	Part 4 – Elections and Other Polls					
4.9(1)	If the mayor or president has not already done so, the council must fix the day on which a poll is held for an extraordinary election		✓			To the CEO
4.16(4)	The council may decide, with the Electoral Commissioner's approval, that the election day for a vacancy that has occurred under section 2.32 before the first Saturday in August in the year prior to an ordinary election but after the first Saturday in February in an ordinary election year, is to be on the ordinary election day for that year		✓			
4.17(2)	The council may decide, with the Electoral Commissioner's approval, that a vacancy may remain unfilled if it occurred under section 2.32 before the first Saturday in August in the year prior to the election year in which the term would have ended under the Table to section 2.28, but after the first Saturday in February in that election year		✓			
4.20(2)	A local government may, with the approval of the person concerned and the Electoral Commissioner, appoint a person as the returning officer instead of the CEO		✓			
4.20(4)	A local government may, with the Electoral Commissioner's agreement, declare the Electoral Commission to be responsible for the conduct of an election		✓			
4.57(3)	A local government may appoint an eligible person (who is willing to accept the appointment) to any unfilled office if, at the close of nominations for an extraordinary election, under section 4.57(1) or (2), the number of candidates is less than the number of offices		✓			

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
4.61(2)	Local government may decide to use postal voting for an election		✓				
Elections Reg 9(1)	The fees to be paid to an electoral officer for conducting an election are those agreed between the local government and the electoral officer	✓					
Elections Reg 28(1b) (b)	If a candidate's deposit has not been refunded within 28 days after notice is given of the result of the election, the local government is to credit that amount to a fund of the local government	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
5.2	The council of a local government must ensure there is an appropriate structure for administering the local government		✓				
5.3(1)	The council must hold ordinary meetings and may hold special meetings		✓				
5.4	The council may decide to hold an ordinary or special meeting		✓				
5.8	A local government may establish committees of 3 or more people to assist the council in exercising its powers and duties		✓				
5.15	A local government may reduce the quorum for a committee meeting		✓				
5.16(1)	A local government may delegate to a committee, under and subject to section 5.17, any of its powers and duties other than this power of delegation		✓				
5.18	A local government must keep a register of all delegations made to a committee (at least once each financial year)	✓					
5.18	A local government must review all delegations made to a committee	✓		✓	✓		✓
Admin Reg 12(1)	At least once every year a local government must give local public notice (of the date, time and place of all its ordinary council meetings and any committee meetings that must or are proposed to be open to the public, that are to be held in the next 12 months)	✓					
Admin Reg 12(2)	A local government must give local public notice (if any of the dates, times or places in the notice under regulation 12(1) change)	✓					
Admin Reg 12(3)	A local government must give local public notice (of the date, time and place of a special meetings of council that must be open to the public)	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
Admin Reg 14(1)	A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents tabled at the meeting or which have been produced for presentation at the meeting are made available to the public at the same time as they are available to council and committee members	✓					
Admin Reg 14A(1)(c)	A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if the council has approved of the arrangement by absolute majority		✓				
5.27(2)	General meeting of electors to be held on a day selected by a local government but not more than 56 days after the local government accepts the annual report for the previous financial year	✓					✓
5.36(1)	A local government must employ a CEO		✓				
5.36(4)	If the position of CEO becomes vacant, a local government must advertise the position in the manner and containing such information as prescribed	✓					
5.37(1)	A local government may designate any employee to be a senior employee			✓	✓		✓
5.37(2)	The council may reject or accept a recommendation by the CEO to employ or dismiss a senior employee. If it rejects a recommendation it must provide the CEO with its reasons		✓				
5.37(3)	If the position of a senior employee becomes vacant, a local government must advertise the position in the manner and containing such information as prescribed	✓					✓
5.38	The performance of each employee employed more than 1 year, needs to be reviewed	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
Admin Reg 18C	A local government is to approve a process for selection and appointment of the CEO			✓	✓		
Admin Reg 18D	A local government is to consider, accept or reject a review of the CEO's performance			✓	✓		
5.42(1) & 5.43	A local government may delegate to the CEO any of its powers and duties under this Act except those in section 5.43 and this power of delegation		✓				
5.50(1)	A local government must prepare a policy for employees whose employment is finishing, setting out the circumstances in which the local government would pay a gratuity and how that gratuity would be assessed, and give local public notice of the policy			✓	✓		✓
5.50(2)	A local government may make a payment to an employee whose employment is finishing, that is in addition to the amount set out in its policy, provided that local public notice of the payment is given			✓	✓		✓
5.53(1)	A local government must prepare an annual report for each financial year	✓					
5.54(1)	A local government must accept the annual report by 31 August after that financial year		✓				
5.56	A local government is to prepare a Plan for the Future	✓		✓	✓		✓
Admin Reg 19C(4)	A local government is to review its current plan for the future every 2 years			✓	✓		
Admin Reg 19C(7)	A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future and when preparing any modifications of a plan	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
Admin Reg 19D(1)	After a plan for the future, or modifications to a plan, are adopted a local government is to give local public notice	✓					
Admin Reg 19D(5)	A Council is to adopt the plan for the future		✓				
Admin Reg 29A(2)	Information prescribed as confidential but that, under 5.95(7), may be available for inspection if a local government so resolves			✓	✓		✓
5.98(1)(b)	A local government may set a fee, within the prescribed range, to be paid to a council member who attends a council or committee meeting		✓				
5.98(2)(b)	A local government may approve expenses which are to be reimbursed to its councillors, provided that the expenses are of the kind prescribed as those which the local government can approve for reimbursement [subject to section 5.98(3)]			✓	✓		✓
5.98(4)	A local government may approve the reimbursement to a council member of an approved expense, either generally or in a particular case			✓	✓		✓
5.98A	A local government may decide to pay its deputy mayor or deputy president an allowance of up to the prescribed percentage of the annual local government allowance to which the mayor or president is entitled under section 5.98(5)		✓				
5.99	The local government may decide to pay council members attending council and committee meetings an annual meeting fee instead of an individual meeting fee		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 5 – Administration							
5.99A	A local government may decide that instead of reimbursing council members, under section 5.98(2), for all of a particular type of expense, it will instead pay all council members an allowance for that type of expense		✓					
5.100(2)	A local government may decide to reimburse expenses to committee members who are not council members or employees			✓			✓	
5.101(2)	A local government may reimburse an employee for an expense that was incurred in relation to a matter affecting the local government			✓			✓	
5.102	A local government may make a cash advance to a person for an expense which can be reimbursed			✓			✓	
5.103(1)	A local government must prepare or adopt a code of conduct to be observed by council members, committee members and employees			✓			✓	
5.103(2)	A local government must review its code of conduct within 12 months of every ordinary elections day			✓			✓	

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
Financial M'gnt Reg 8(1)	A local government must maintain separate accounts for monies required to be held in the municipal fund, the trust fund, the reserve accounts, or monies relating to major land or major trading undertakings that will or are expected to span more than 2 financial years	✓					
Financial M'gnt Reg 11(1)	A local government must develop procedures for cheques, credit cards, computer encryption devices and passwords, purchasing cards and petty cash systems	✓					
Financial M'gnt Reg 11(2)	A local government must develop procedures for the approval of accounts	✓					
Financial M'gnt Reg 13(2)	A list of accounts for approval to be paid must be prepared for each month, including the date of the meeting of council to which the list is to be presented	✓					
Financial M'gnt Reg 19(1)	A local government must establish and document internal control procedures to ensure control over investments	✓		✓	✓		✓
6.2(1)	A local government must prepare by 31 August in each financial year, an annual budget for its municipal fund for the next financial year	✓					
6.2(1)	A local government must adopt the budget prepared		✓				
6.3	A local government must prepare a budget if a general valuation or a rate or service charge is quashed by a court or the State Administrative Tribunal, or if it intends to impose supplementary general rate or specified area rate for the remainder of a financial year	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
6.3	Part 6 – Financial Management A local government must adopt the budget prepared (Budget for other circumstances)		✓				
6.4(1)	A local government must prepare an annual financial report for the preceding financial year and such other reports as are required	✓					
6.4(3)	By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor the accounts of the local government and the annual financial report	✓					
Financial M'gnt Reg 33A(3)	A council is to consider a budget review submitted to it and is to determine by absolute majority whether or not to adopt the review, any parts of the review on any recommendations made in the review		✓				
Financial M'gnt Reg 34(2)(c)	Each statement of financial activity is to be accompanied by documents containing such other supporting information as is considered relevant by the local government	✓					
Financial M'gnt Reg 34(1)	A local government must prepare monthly financial reports	✓					
6.9(3)	A local government must pay or deliver to the person entitled to it any money and its interest and any property	✓					
6.9(4)	A local government may transfer money held in trust for 10 years to its municipal fund, but must repay it to a person who establishes a right to the repayment, together with any interest earned on the investment	✓					✓
6.11(1)	A local government must establish and maintain a reserve account for each purpose for which it wishes to set aside money	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation			
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte
	Part 6 – Financial Management			To a 5.9(2) (c) - (e) Ctte	To the CEO
6.11(2)	A local government may change the purpose of a reserve account or use money held in a reserve account for another purpose	✓			
6.11(2)	A local government must give one month local public notice of a proposal to change the purpose of a reserve account or use money held in a reserve account for another purpose	✓			
6.12(1)(a)	A local government may, when adopting the annual budget, grant a discount or incentive for early payment of any money [subject to section 6.12(2)]	✓			
6.12(1)(b)	A local government may waive or grant concessions in relation to any amount of money or write off any amount of money that is owed to the local government [subject to section 6.12(2)]			✓	✓
6.12(3)	The local government may determine what conditions apply to the granting of a concession			✓	✓
6.13(1)	A local government may resolve to apply interest to any money that it has been owed [subject to section 6.13(6)], other than for rates and service charges	✓			
6.14(1)	A local government may invest money in its municipal or trust funds that is not being used, in accordance with Part III of the <i>Trustees Act 1962</i>			✓	✓
6.16(1)	A local government may impose a fee or charge for any goods or services it provides, except for a service for which a service charge has been imposed	✓			
6.16(3)	As well as imposing fees and charges when adopting the annual budget, a local government may impose fees and charges during the year or amend, from time to time, fees and charges throughout the year	✓			

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.19	If a local government wishes to impose a fee or charge under Part 6 Division 5 Subdivision 2 after the annual budget has been adopted, it must provide local public notice of its intention to do so and the date from which the amended fees or charges will be imposed	✓					
6.20(1)	A local government may borrow or re-borrow money, obtain credit or extend its financial accommodation in other ways		✓				
6.20(2)	If a local government proposes to exercise its power to borrow but it is not budgeted for, unless the proposal is of a prescribed kind, it must give one month public notice of the proposal	✓					
6.20(2)	If a local government proposes to exercise its power to borrow but it is not budgeted for, it must make the resolution to do so by absolute majority		✓				
6.20(3)(a)	If a local government exercises its power to borrow and then decides not to proceed with the proposal or it does not use all of the money, credit or financial accommodation, after giving one month local public notice it may resolve to use it for another purpose		✓				
6.20(3)(b)	If a local government exercises its power to borrow and then decides not to proceed with the proposal or it does not use all of the money, credit or financial accommodation, it may resolve to use it for another purpose		✓				
6.20(3)	One months public 'notice' must be given	✓					
6.26(3)	If Co-operative Bulk Handling Ltd and a local government cannot reach an agreement, under section 6.26(2)(i), the local government may refer the matter to the Minister for determination			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.29(2)	A local government must impose a rate on the basis of unimproved value to any tenement, licence or permit that is located in a district for which only rates on the basis of gross rental value apply		✓				
6.32(1)	When adopting the annual budget, a local government may, in order to make up a budget deficiency, impose a general rate on rateable land within its district, and may impose a specified area rate or a minimum payment on rateable land within its district, and may impose a service charge on land within its district		✓				
6.32(3)	A local government may, in an emergency after rates in a financial year have been imposed, impose a supplementary general rate or specified area rate for the unexpired portion of the current financial year, and is to impose a new general rate, specified area rate or services charge if a court or the State Administrative Tribunal quashes a general valuation, rate or service charge		✓				
6.33(1)	Local government may impose differential general rates		✓				
6.35(1)	Local government may impose on any rateable land in its district a minimum payment		✓				
6.36(1)	A local government must give local public notice (of its intention to impose any differential general rates or minimum payment applying to a differential rate category under section 6.35(6)(c))	✓					
6.37(1)	Local government may impose a specified area rate on rateable land		✓				
6.38(1) Financial M'gnt Reg 54	A local government may impose a service charge on owners or occupiers to meet the cost of providing television and radio rebroadcasting, volunteer bush fire brigades, underground electricity etc		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.39(1)	As soon as practicable after a local government resolves to impose rates, it must compile a record of all rateable land in the district and all land which has a service charge imposed	✓					
6.39(2)	A local government must, from time to time, amend the current rate record to ensure it is accurate and correct and may amend the rate record for the 5 years preceding the current financial year	✓					
6.40(1)	If the rateable value, rateability or the rate imposed on any land is amended in the rate record, under section 6.39(2), the local government must reassess the rates payable and give notice to the owner of the land of any change in the amount of rates payable	✓					
6.40(2)	If a service charge on any land is amended in the rate record, under section 6.39(2), the local government must reassess the service charge and give notice to the owner of the land of any change of the amount of service charge payable	✓					
6.40(3)	If rates are reduced, under section 6.40(1), a local government must refund the owner of the land on request or credit the amount for rates or service charges	✓					
6.40(4)	If a service charge is reduced, under section 6.40(2), and the service charge had already been paid by the owner, the owner may request and then the local government must pay the overpaid amount to the owner or, alternatively, the overpaid portion is credited against any future amounts payable. If the service charge was paid by the occupier, the local government must pay the overcharged portion to the person who paid it	✓					
6.41(1)	A local government must give a rate notice to the owner of rateable land and the owner or occupier (as the case requires) of land on which a service charge is imposed, containing the particulars required	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.45(1) Financial M'gmt Reg 64(2)	When adopting its annual budget, a local government must determine the due date for payment of instalments after the first instalment		✓				
6.45(3) & Financial M'gmt Reg 67	A local government may impose an additional charge (including by way of interest) where payment of a rate or service is by instalments and that additional charge is taken to be a rate or service charge		✓				
6.46	A local government may, when imposing a rate or service charge, resolve to grant a discount or incentive for its early payment		✓				
6.47	A local government may, at the time of imposing rates and service charges, resolve to waive a rate or service charge or grant a concession	✓					
6.49	A local government may make an agreement with a person to pay their rates and service charges	✓					✓
Financial M'gmt Reg 66(2)	If an instalment remains unpaid after the day on which the next instalment becomes due the local government may revoke the ratepayer's right to pay by instalments	✓					
Financial M'gmt Reg 66(3)(b)	The local government must in writing immediately notify the ratepayer of the revocation	✓					
6.50(1) and 6.50(2)	A local government may determine the due date that rates and charges become due, but which date cannot be sooner than 35 days after the date noted on the rate notice	✓					✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.51(1) & Financial M'gmt Reg 70	A local government may resolve to impose interest (not to exceed 13%) on a rate, service charge and any costs of recovery that remains unpaid		✓				
6.56(1)	A local government may recover an unpaid rate or service charge and the cost of proceedings in court of competent jurisdiction	✓					✓
6.60(2)	A local government may give notice (to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay its rent to the local government in satisfaction of the rate or service charge)	✓					✓
6.60(3)	If a local government gives notice to a lessee, under section 6.60(2), the local government must give a copy of the notice to the lessor	✓					✓
6.60(4)	If a local government gives notice to a lessee, under section 6.60(2), and the lessee fails to pay rent to the local government, the local government may recover the rate or service charge as a debt from the lessee	✓					✓
6.61(1)	A local government may request an occupier, an agent or the person who receives the rent of a property, to give the name and address of the owner to the local government	✓					
6.64(1)	If any rates or service charges have remained unpaid for at least 3 years, a local government may take possession of the land and hold the land against a person having an estate or interest in the land, and may lease or sell the land or transfer it to the Crown or itself			✓	✓		✓ subject to 5.43(d)
6.64(2)	A local government that takes possession of land, under section 6.64(1), must give the owner such notice as prescribed and then affix the notice to a conspicuous part of the land in the form prescribed	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.64(3)	A local government may lodge a caveat in respect of any land for which rates and service charges are outstanding	✓					✓
6.69(2)	A local government may accept payment of any outstanding rates or service charges on such terms and conditions as are agreed between the parties, up to the time of actual sale of the relevant land but not more than 7 days prior to same	✓					
6.69(3)	If a local government accepts payment of outstanding rates or service charges, under sections 6.69(1) or 6.69(2), the local government is required to make such notifications and take such measures as are prescribed to cancel the proposed sale	✓					✓
6.71(1)	If a local government is unable to sell land under Part 6 Division 6 Subdivision 6 within 12 months, it may transfer the land to the Crown or itself			✓	✓		✓ subject to 5.43(d)
6.71(3)	If a local government transfers land to itself, under section 6.71(1) (b), it must pay any sum owed under a mortgage, lease, tenancy, encumbrance or charge in favour of the Crown in right of the State or a department, agency or instrumentality of the Crown	✓					
6.74(1)	A local government may apply in the prescribed form to the Minister to have land revested in the Crown if it is rateable vacant land and rates or service charges in respect of it have remained unpaid for at least 3 years			✓	✓		✓
Financial M'gment Reg 77(1)	Before applying to have land revested under section 6.74, a local government must give notice to the owner of the land and any other interested persons and publish the notice in the Gazette	✓					
Financial M'gment Reg 77(3)	A local government must consider any objections it receives in relation to a revestment under regulation 77			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 6 – Financial Management							
6.76(4)	A local government may extend the time for a person to make an objection in relation to the rate record	✓		✓	✓			✓
6.76(5)	The local government must consider any objections to the rates record and may disallow or allow the objection either wholly or in part			✓	✓			✓
6.76(6)	The local government is to provide the person with notice of its decision	✓						

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 7 – Audit						
7.1A(1) & 7.1A(2)	Local government to establish an audit committee, appoint members to the committee with a minimum of 3 members and a majority of which are council members		✓				
7.1B	Despite section 5.16, a local government can delegate to an audit committee only those powers and duties contained in Part 7		✓				
7.3(1) & (2)	A local government must appoint one or more persons, on the recommendation of the audit committee, to be its auditor		✓				
7.6(2)(f)	A local government may terminate the appointment of an auditor by written notice			✓ Audit Ctte			
Audit Reg 8(1)	Where a local government has terminated an agreement with its auditor, it must give notice and reasons for the termination to the Executive Director within 30 days	✓					
7.6(3)	If the auditor's registration as a company auditor is suspended or the auditor is unable or unwilling to carry out their duties, a local government must appoint a person to conduct or complete its audit		✓				
7.12A(2)	A local government must meet with its auditor at least once a year			✓ Audit Ctte			
7.12A(3)	A local government is to examine the auditor's report, under section 7.9(1) and any report under section 7.9(3), and must determine if any matters raised by the report require action and ensure that appropriate action is taken			✓ Audit Ctte			

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 7 – Audit						
7.12A(4)	A local government must prepare a report on any action taken in response to an auditor's or section 7.9(3) report, and provide it to the Minister			✓ Audit Ctte			
Audit Reg 14(1)	A local government must carry out a compliance audit for the period 1 January to 31 December in each year	✓					
Audit Reg 14(3)	A compliance audit return must be presented to the council at a meeting of the council, adopted by the council and recorded in the minutes of the meeting at which it is adopted		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
8.2(2)	Part 8 – Scrutiny of the Affairs of Local Governments Upon receiving a request from the Minister for information, a local government must provide the information to the Minister within the specified time of the notice	✓					✓
8.14(3)	A local government must give the Minister advice of what things it has done or will do to comply with an enquiry report from the Minister or a person authorised by the Minister, within 35 days of receiving the report			✓	✓		✓
8.23(4)	A local government must give the Minister advice of what things it has done, or will do, to comply with an Inquiry Panel's report within 35 days of receiving the report, or give its comment on a recommendation to dismiss the council			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation				
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	
	Part 9 – Miscellaneous Provisions				To a 5.9(2) (c) - (e) Ctte	To the CEO
9.6(1)	An objection under Part 9 is to be dealt with by the council or a committee authorised by council to deal with it		✓			
9.6(5)	The local government must give the person who made the objection notice of how it was disposed of and reasons why	✓				✓
9.9(3)	As soon as a decision under section 9.9(1)(b) is made, the local government must give the affected person written notice stating the reasons for the decision	✓				✓
9.10(1) & (2)	The local government may appoint persons or classes of persons to be authorised to perform certain functions and must issue them with a certificate stating they are authorised	✓		✓	✓	✓
9.60(4)	A local government is to administer any regulation made under section 9.60 as if it were a local law	✓				
9.63(1)	If a dispute has arisen between 2 or more local governments, a local government may refer the matter to the Minister to resolve			✓	✓	✓
9.68(5)	A local government may recover accruing rates from a principal or agent who has failed to give a notice to the local government in accordance with section 9.68	✓				✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation			
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte
11(2)	<p>Schedule 2.1 – Provisions about Creating, Changing the Boundaries of, and Abolishing Districts</p> <p>Any local governments affected by an order made under clause 2.1 are to negotiate any adjustment or transfer between them of property, rights and liabilities</p>			✓	✓
				To a 5.9(2) (c) - (e) Ctte	To the CEO

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
4(1)	A local government must consider any submissions made under clause 3			✓	✓		✓
4(2)	If a council believes that a submission is of a minor nature or one which would not require public submissions, it may either propose to the Advisory Board that a submission be rejected or itself deal with it under clause 5(b)		✓				
4(3)	If it is a council's opinion that a submission is substantially similar to a submission in respect of which the local government made a decision in the last 2 years, or the majority of affected electors who made the submission no longer support it, the local government may reject the submission		✓				
4(4)	Unless a local government decides to deal with a submission under clause 5(b) or rejects it or proposes to reject it under clauses 4(1) or 4(2), the local government must carry out a review as to whether or not the order sought should, in the council's opinion, be made		✓				
5	Whether or not it has received a submission, a local government may carry out a review as to whether or not an order under clauses 2.2, 2.3(3) or 2.18, should, in the council's opinion, be made, or propose to the Advisory Board the making of an order under clauses 2.2(1), 2.3(3) or 2.18(3), if, in the opinion of the council, the proposal is of a minor nature or one which would not require public submissions, or propose to the Minister the making of an order changing the name of a district		✓				
6	A local government must carry out a review of its ward boundaries and the number of councillors per ward every 8 years or as directed by the Advisory Board	✓		✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation			
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte
7	Schedule 2.2 – Provisions about Wards and Representation A local government is to provide local public notice (advising that it is about to review its wards and inviting submissions)	✓			To a 5.9(2) (c) - (e) Ctte
8	The council must have regard to community of interests, physical and topographical features, demographic trends, economic factors and the ratio of councillors to electors in respect of considerations about wards			✓	To the CEO
9	When a ward review is complete, the local government must prepare a report for the Advisory Board and may propose the making of an order under clauses 2.2(1), 2.3(3) or 2.18(3)			✓	

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
1(1)	Schedule 6.1 – Provisions Relating to the Phasing-In of Valuation When imposing general rates, a local government may resolve that a general valuation, which results in an increase, can be phased in over 3 years		✓				
1(5)	If a local government makes a resolution, under clause 1(1), it must request the Valuer General, at the same time as the Valuer General determines an interim valuation that will come into force in the district during the first 2 years of the phasing in period, to determine a valuation under subclause (6). The local government must give the Valuer General immediate written notice when the valuation is no longer required	✓					
2(1)	When imposing general rates, a local government may resolve that gross rental valuations can be phased in over 3 years		✓				
2(5)	If a local government makes a resolution under clause 2(1), it must request the Valuer General, at the same time as the Valuer General determines an interim valuation that will come into force in the district during the first 2 years of the phasing in period, to determine a valuation under subclause (6). The local government must give the Valuer General immediate written notice when the valuation is no longer required	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation			
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte
1(1)	<p>Schedule 6.2 – Provisions Relating to Lease of Land where Rates or Service Charges Unpaid</p> <p>A local government may lease the land with any conditions for a term that does not exceed 7 years</p>	✓		✓	✓
				To a 5.9(2) (c) - (e) Ctte	To the CEO
					subject to 5.43(d)

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
1(1)	Schedule 6.3 – Provisions Relating to the Sale or Transfer of Land where Rates or Service Charges Unpaid Before exercising its power of sale, a local government must give the owner, or any other person who has a recorded interest in the land, opportunity to pay the rates or service charges. It must send them notice by certified mail and place a notice [with the contents prescribed in clause 1(2)] on its notice board for a minimum of 35 days	✓					
1(3)	A local government must give local public notice (if the owner or other interested parties do not have a recorded address)	✓					
1(4)	The local government must appoint a time at which the land may be offered for sale by public auction, not less than 3 months and not more than 12 months from the service of the notice under clauses 1(1) or 1(2)			✓	✓		✓
2(1)	The local government must give (Statewide public notice of the sale)	✓					
2(3)	The local government must give the Registrar of Titles or the Registrar of Deeds a memorial of the Statewide notice	✓					
4(1)	A local government may transfer or convey to the purchaser of the land an indefeasible estate in fee simple			✓	✓		✓ subject to 5.43(d)
7(2)	If the land has not been sold within 12 months, the local government may begin the process again in accordance with this Schedule	✓					

These guidelines are also available on the Department's website at www.dlgc.wa.gov.au



About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

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7.2 Disposal of Property Policy

Responsible Officer Nicole Gibbs, Chief Executive Officer

Reporting Officer Britt Hadlow, Executive Officer

Attachments 1. Disposal of Property Policy [↓](#) 

Voting Requirements Simple Majority

Disclosure of Interest Reporting Officer: Nil.

Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 025-22/23

Moved: Cr TJ Stacey

Seconded: Cr E Cheang

That the Audit & Risk Committee recommend to Council, to endorse the Disposal of Property Policy.

CARRIED 6/0

IN BRIEF

The Shire of Quairading hired a governance consultant, Ms Belinda Knight, to assist with the review of the Delegation Register. As part of the review, Ms Knight recommended the development of certain Policies that directly relate to the Register's administered delegations.

Attachment [1] is the Disposal of Property Policy.

MATTER FOR CONSIDERATION

That the Audit & Risk Committee consider recommending to Council to endorse the Disposal of Property Policy.

BACKGROUND

This year, Council's Delegation Register required to be updated as per the *Local Government Act 1995*. To ensure compliance, the CEO outsourced the development of the Delegation Register to a governance consultant, Ms Belinda Knight.

Ms Knight scrutinised and amended the Register. The Register was cross referenced with relevant legislation and current Council policies and procedures. There are policies that Council do not have that directly relate to the Register and are required for compliance purposes.

The purpose of this policy is to ensure any property (which encompasses plant/machinery/vehicles, furniture, equipment, building materials, livestock and land/buildings) is disposed of in accordance with the *Local Government Act 1995* which is very specific in the way of which particular items can be disposed of by Council.

In the past, office staff have been asked by members of the public if Shire owned items can be purchased (e.g. items from the tip, plant/machinery that isn't in use, materials at the top yard). This policy provides a clear process for staff to follow to ensure the Act is appropriately followed.

Attachment [1] is the Disposal of Property Policy which is being table for Council consideration.

STATUTORY ENVIRONMENT

Local Government Act 1995

POLICY IMPLICATIONS

Asset Management Policy

FINANCIAL IMPLICATIONS

There is no financial impact to the Shire with the creation of this Policy, however, the Policy clearly outlines to staff (and residents who may want to purchase an item from the Shire) the process to follow to ensure the Shire remains compliant with the selling/disposal of any Council property.

ALIGNMENT WITH STRATEGIC PRIORITIES

5.4 Governance & Leadership: Implement systems and processes that meet legislative and audit obligations

CONSULTATION

Ms Belinda Knight was used as a consultant for the Delegations Register and provided the advice to develop this policy.

RISK MANAGEMENT PRIORITIES

This report addresses the following identified Strategic Risk Management Priorities:

Asset Management Plan is non-compliant due to aging assets and increasing costs.

Non-compliance with work health and safety legislation increases the risk and potential liability to the public, staff and Councillors.

RISK ASSESSMENT

	Option 1
Financial	Low <i>There was no cost to the Shire in the development of this Policy, however, it ensures due diligence if Council would like to sell any Council property for financial gain.</i>
Health	N/A
Reputation	Low <i>This Policy ensures compliance with the Local Government Act 1995.</i>
Operations	Low <i>This Policy is an interpretation of the Local Government Act 1995 which makes it easier for staff to refer to, rather than searching the Act.</i> <i>This Policy requires reviewed on a biennial basis.</i>
Natural Environment	N/A

	Consequence				
Likelihood	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

Nil.

DISPOSAL OF PROPERTY POLICY

PURPOSE

This policy is intended to provide guidelines for the disposal of Shire of Quairading owned property deemed surplus to the Shire's requirements.

OBJECTIVE

The Shires Disposal of Property Policy intent is to ensure full compliance with applicable legislative obligations and principles of transparency:

- a. Assets disposal decisions, including reasons for such action are to be recorded in the Shires assets registers and associated accounting records;
- b. Under no circumstances are items to be donated to staff.

DEFINITIONS

For the purpose of clarity, the term "Property" and "Asset" are interchangeable to ensure alignment with the *Local Government Act 1995*.

Disposal

Includes to sell, lease, or otherwise dispose of, whether absolutely or not.

Property

Includes the whole or any part of the interest of a local government in property but does not include money. The term "Property" encompasses:

- a. Plant and vehicles trade-ins.
- b. Machinery.
- c. Furniture.
- d. Equipment.
- e. Miscellaneous items.
- f. Abandoned vehicles.
- g. Building/construction materials.
- h. Livestock and;
- i. Land or buildings.

POLICY

1. Statutory provisions of property disposal

Under Section 3.58 of the *Local Government Act 1995*, a local government can only dispose of property to:

- a. The highest bidder at public action; or
- b. The person at public tender who, called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

DISPOSAL OF PROPERTY POLICY



The Shire can dispose of property other than above if, before agreeing to dispose of the property, it:

- a. Gives local public notice of the proposed disposition, describing the property concerned and giving details of the proposed disposition:
 - i. Describing the property concerned; and
 - ii. The names of all other parties concerned; and
 - iii. The consideration to be received by the local government for the disposition; and
 - iv. The market value of the disposition.
- b. Invites submissions to be made to the Shire before a date not less than 2 weeks after the first notice is given, and;
- c. Considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

This does not apply to:

- a. A disposition of an interest in land under the *Land Administration Act 1997* Section 189 or 190; or
- b. A disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
- c. Anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
- d. Any other disposition that is excluded by regulations from the application of this section.

2. Authority to Dispose of Property

- a. Decisions on the disposal of property (assets) may only be made in accordance with Delegated Authority detailed in the Shire's Delegated Authority Register or by resolution of Council.
- b. For major project work where disposal of property (assets) is likely to exceed the delegated authority limit, a Council resolution is required that details full financial and asset management implications associated with the disposal(s).
- c. In instances where major projects requiring Council approval and include as part of the works disposal of existing assets, there is an obligation to disclose the written down value under financial implications of the Council report.

3. Plant, Machinery, Furniture, Equipment and Miscellaneous Items

The disposal of property (other than land or buildings) with a market value of less than \$20,000 is an exempt disposition under Regulation 30 of the *Local Government Functions and General Regulations 1996*. Accordingly, the following methods of disposal may be used by the Shire:

- a. Sale by public or private auction, including an online bidding system or portal system.
- b. Trade-in for other property.
- c. Donation or gifting of the property to local schools and community groups or not for profit organisations by Council Resolution.

DISPOSAL OF PROPERTY POLICY



The disposal of property (other than land) is an exempt disposition under Regulation 30 of the Local Government Functions and General Regulations 1996 if the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75 000.

At all times, the Shire will aim to maximise the value of any asset being disposed of.

Disposal of existing plant and equipment is based on the following considerations:

- a. A condition rating applied to each asset;
- b. An assumed economic life applied to each asset group;
- c. A replacement date for each asset;
- d. Asset replacement cost.

It is the responsibility of the Executive Manager of Works & Services to ensure the monitoring of all plant, machinery, equipment, and miscellaneous items to ensure that they are being utilised to provide maximum benefit to the Council. Any changes or usage that may have a detrimental effect to the Shire must be brought to the attention of Council.

4. Unsaleable Property (other than land or buildings) – Including Damaged and/or Contaminated Property

When all efforts fail to dispose of the property in accordance with the above guidelines, the Shire may resort to sale by private treaty if any unsolicited offers are received or the Shire may choose (by Council Resolution) to offer the property to a local community group or member at no cost or authorise its disposal by recycling or scrapping.

5. Livestock and Other Animals

When the Shire is in a position to dispose of livestock or any other animals, the below methods of disposal may be used:

- a. In the first instance, the shire must attempt to surrender the livestock or animal to an appropriate rescue organisation.
- b. If this is unsuccessful, sale by public or private auction.

If neither of the above two options are successful, the Shire may choose to dispose of the property by private treaty if any unsolicited offers are received or the Shire may choose to offer the property to a local community group or member at no cost. If the above methods of disposal fail, the Shire may resort to the humane destruction of said livestock or animal.

At all times, the disposal of all livestock and other animals will be in accordance with the relevant acts, namely; *Dog Act 1976*, *Cat Act 2011* and *Local Government Miscellaneous Provisions Act 1960*.

6. Sale of Land

The direction provided by this policy applies to any sale of land or buildings owned by Council and does not apply to sale of land for the recovery of unpaid rates.

The Council will approve the sale of Council land or buildings by:

- a. Offering the property for sale by tender; or
- b. Appointment of a real estate agent to market the sale of the property by private treaty; or
- c. Appointment of a real estate agent to conduct a public auction; or

DISPOSAL OF PROPERTY POLICY



- d. A combination of the above.

Prior to the disposal of the property, a reserve figure or disposal price for the property to be offered for sale shall be determined in consultation with the appointed agent (where appropriate).

The reserve price shall be no less than a sworn valuation obtained from a Licensed Valuer, obtained not more than 6 months prior to the proposed disposition.

The deposit required to be paid if the property is sold by public auction or private treaty is \$10,000, on the fall of the hammer at auction or on the date of the acceptance of an offer to purchase, with the balance payable at settlement.

7. Public Auction

Where a property is offered for sale by public auction and fails to sell at the set reserve figure, the agent may be appointed to continue to market the property for a period of 90 days following the date of auction, to achieve a sale, providing that:

- a. Any offer to purchase is in a form which may be accepted;
- b. The agent's commission is to be calculated on the sale price achieved or as otherwise agreed to;
- c. The offer is for the amount equal to or higher than the reserve price set for the auction, unless otherwise agreed to by the CEO; and
- d. The provisions of section 3.58 of the *Local Government Act 1995* have been satisfied.

8. Public Tender

If a property is to be sold by public tender the provisions of Section 3.58 (2)(b) of the *Local Government Act 1995* apply. If the tender fails to secure an acceptable offer, the land may be sold by private treaty.

9. Private Treaty

Where a property is to be sold by private treaty without being first offered at public auction or public tender, the following provisions relating to giving public notification of the proposed disposition to Section 3.58 (3) of the *Local Government Act 1995* (Public Notice) will apply:

- a. The offer to purchase must be in a form which may be accepted;
- b. An offer may not be accepted if less than the agreed disposal price as set in accordance with this policy, or is a price acceptable to Council and has been advertised in accordance with Section 3.58; and
- c. An amount of \$10,000 deposit is to be paid by the prospective purchaser upon acceptance of the offer to purchase made with the balance payable on the settlement date. This provision does not apply if the property is purchased for less than \$10,000.

10. Unsolicited Offers

If Council receives an unsolicited offer for a Council Property, the CEO will determine based on Council's adopted strategies on land and buildings whether or not an offer should be considered.

If yes, a sworn valuation will be obtained from an independent licensed Valuer. The CEO may make such other inquiries as they consider appropriate to ascertain the market value.

If the valuation is higher than the proposed offer, the intending purchaser will be given the opportunity to increase the offer to meet the valuation.



DISPOSAL OF PROPERTY POLICY

The proposed disposition will then be put to Council for consideration where Council may:

- a. Reject the offer;
- b. Accept the offer subject to the provisions of Section 3.58, and advertise for public submissions;
- c. Make a counteroffer, which would also be subject to Section 3.58, if accepted; or
- d. Seek to dispose of the property by Auction of Public Tender and invite the proponent to participate.

11. Dealing with Stakeholders

Council properties may have other affected stakeholders or other persons who have an interest in the land. This may include:

- a. Current tenants;
- b. Potential future tenants where some substantive discussions have occurred; or
- c. Adjacent landowners.

Any discussions with stakeholder/s should be documented, and where appropriate confirmed in writing. If stakeholder/s indicate a genuine interest in purchasing the property, they should be encouraged to make a submission to that effect or participate in a public process as the case may be.

STATUTORY ENVIRONMENT

Where assets have been identified as being surplus to the Shires requirements, due for replacement or is deemed appropriate for disposal through the relevant act, the following procedures will apply to the disposal of that asset.

- a. Section 3.58 of the *Local Government Act 1995* requires Council to dispose (sell, lease or otherwise dispose) of property assets either by public auction or public tender in accordance with the legislated requirements. Section 3.58 5(d) allows for certain dispositions to be exempted from these requirements through regulation.
- b. The disposition of which shall be an exempt disposition pursuant to Regulation 30(2) and (3) of the *Local Government (Functions and General) Regulations 1996*.

Record of Policy Review					
Version	Author	Council Adoption	Resolution	Reason for Review	Review Date
01	Britt Hadlow	xx	xx	New Policy	xx

7.3 Recovery of Rates, Debts & Service Charges Policy

Responsible Officer Nicole Gibbs, Chief Executive Officer

Reporting Officer Britt Hadlow, Executive Officer

Attachments 1. Recovery of Rates, Debts & Service Charges Policy [↓](#) 

Voting Requirements Simple Majority

Disclosure of Interest Reporting Officer: Nil.

Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 026-22/23

Moved: Cr PD Smith

Seconded: Cr BR Cowcill

That the Audit & Risk Committee recommend to Council, to endorse the Recovery of Rates, Debts and Service Charges Policy.

CARRIED 6/0

IN BRIEF

The Shire of Quairading hired a governance consultant, Ms Belinda Knight, to assist with the review of the Delegation Register. As part of the review, Ms Knight recommended the development of certain Policies that directly relate to the Register's administered delegations.

Attachment [1] is the Recovery of Rates, Debts and Service Charges Policy.

MATTER FOR CONSIDERATION

That the Audit & Risk Committee consider recommending to Council, to endorse the Recovery of Rates, Debts and Service Charges Policy.

BACKGROUND

This year, Council's Delegation Register required to be updated as per the *Local Government Act 1995*. To ensure compliance, the CEO outsourced the development of the Delegation Register to a governance consultant, Ms Belinda Knight.

Ms Knight scrutinised and amended the Register. The Register was cross referenced with relevant legislation and current Council policies and procedures. There are policies that Council do not have that directly relate to the Register and are required for compliance purposes.

The purpose of this policy is to provide guidance to both staff and residents on the recovery of rates, debts, and service charges in arrears. Having this Policy in place ensures that the process that is followed is consistent and transparent. The Policy includes a variety of different scenarios including:

1. Recovery of rates in arrears.
2. Actions to take possession of land.
3. Local government requiring a lessee to pay rent.
4. Legal costs.

5. Recovery of debts resulting from construction of fire clearances (Under the *Bush Fire Action 1954*).
6. Recovery of sundry debtors
7. Financial hardship
8. Payment arrangements

This Policy closely ties in with the Financial Hardship Policy (also up for endorsement at the June 2023 Ordinary Council meeting).

Attachment [1] is the Recovery of Rates, Debts & Service Charges Policy which is being table for Council consideration.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Bush Fires Act 1954

Rates and Charges (Rebates and Deferments) Act 1992

POLICY IMPLICATIONS

Rates Collection Policy

Schedule of Fees & Charges

Financial Hardship Policy (Proposed)

FINANCIAL IMPLICATIONS

There is no financial impact to the Shire with the creation of this Policy, however, the Policy directly relates to the recovery of debts for Council.

ALIGNMENT WITH STRATEGIC PRIORITIES

- 5.4 Governance & Leadership:** Implement systems and processes that meet legislative and audit obligations

CONSULTATION

Ms Belinda Knight was used as a consultant for the Delegations Register and provided the advice to develop this policy.

RISK MANAGEMENT PRIORITIES

This report addresses the following identified Strategic Risk Management Priorities:

New local government compliance requirements and low rate-base affects rate payers' service delivery expectations (e.g. not being met/expectations verses reality).

RISK ASSESSMENT

	Option 1
Financial	Low <i>There was no cost to the Shire in the development of this Policy, however, this Policy directly relates to the recovery of debts on behalf of Council.</i>
Health	N/A
Reputation	Low <i>This Policy ensures compliance in the debt recovery process with the Local Government Act 1995 and other relevant legislation.</i>
Operations	Low <i>This Policy is an interpretation of the Local Government Act 1995 which makes it easier for staff to refer to, rather than searching the Act.</i> <i>This Policy requires reviewed on a biennial basis.</i>
Natural Environment	N/A

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

Nil.



RECOVERY OF RATES, DEBTS AND SERVICE CHARGES POLICY

PURPOSE

The purpose of this policy is to provide a clear, accountable, and transparent process for the Shire's rates and service charges debt management and collection practices and ensure consistency for all debt recovery.

OBJECTIVE

The Shire of Quairading aims to ensure that all payments due to the Shire are received by the due date for payment and, through close monitoring of aged accounts, to reduce the likelihood of debts for outstanding rates and service charges becoming unrecoverable. However, sometimes rates and service charges due to the Shire remain outstanding after the due date for payment. This Policy is to guide staff on the process to recover rates and service charges that are in arrears.

DEFINITIONS

Financial hardship

Financial hardship occurs where a person is unable to pay rates and service charges without affecting their ability to meet their basic living needs, or the basic living needs of their dependants.

Firebreak debtor

Means an individual who has failed to construct a firebreak and the Shire has on charged the costs incurred for construction of a firebreak on the ratepayer's property.

Payment Arrangement

Means an arrangement whereby a debtor and the Shire enter into an agreement for an amount to be paid over a set period to pay a total amount outstanding.

Rates debt

Means amounts due and payable to the Shire for rates and service charges levied by the Shire pursuant to the provisions of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996*.

Rates debtor

Means an individual, organisation or other party that has outstanding monies owed to the Shire for a rates debt.



RECOVERY OF RATES AND SERVICE CHARGES POLICY

POLICY

The Shire will exercise its debt recovery powers as per Part 6 of the *Local Government Act 1995*, guided by the following principles:

- a. Equity – Implementing rate collection procedures fairly and equitably, ensuring consistent treatment of ratepayers in similar circumstances;
- b. Simplicity – Making the processes used to recover outstanding rates clear, simple to administer and cost effective;
- c. Transparency – Making clear the processes used by the Shire to ensure ratepayers meet their financial obligations;
- d. Flexibility – Responding where necessary to changes in the local economy and to meet local, State or National crises and other unforeseen events where they are applicable;
- e. Compliance – Ensuring the Shire’s rate collection procedures are compliant with all regulatory obligations.

1. Recovery of Rate Arrears

Rates are due for payment not less than 35 days from date of issue of the Rates Notice, in accordance with section 6.50(2) of the *Local Government Act 1995*. Rates debts not received by the due date shall be recovered in accordance with this Policy and any relevant legislation.

a. Interest

The Shire will charge interest against rates debts that remain outstanding more than 35 days from the date of the issue of the rates notice, as follows:

- i. Where payment of rates is made by instalments pursuant to section 6.45(3) of the *Local Government Act 1995*, interest will be charged at the rate adopted by Council as part of the annual budget, up to the maximum prescribed by regulation 68 of the *Local Government (Financial Management) Regulations 1996*; and
- ii. Where rates remain unpaid after the due date for payment pursuant to section 6.51 of the *Local Government Act 1995*, interest will be charged at the rate adopted by Council as part of the annual budget, up to the maximum prescribed by regulation 70 of the *Local Government (Financial Management) Regulations 1996*.

b. Rates outstanding after the due date shown on the rate notice

Where the Shire has not entered into a payment agreement with the rates debtor, the Shire will adopt the following process to recover outstanding rates debts due:

- i. Issue a Final Notice to the rates debtor requiring payment within 14 days.



RECOVERY OF RATES AND SERVICE CHARGES POLICY

- ii. Final Notices are not to be issued to eligible persons registered to receive a pensioner or senior rebate under the *Rates and Charges (Rebates and Deferments) Act 1992*; as such persons have until 30 June of the current financial year to make payment, without incurring any penalty interest. The Shire may, however, issue a Final Notice to registered pensioners or seniors for any unpaid charges not subject to a rebate or deferment (for example, waste collection charges);
- iii. If payment has not been received by the due date shown on the Final Notice, attempt to contact the debtor by other means, including telephone and email, regarding payment of the debt;
- iv. Where contact was not possible or did not result in payment of the debt or the Shire entering into a payment agreement with the debtor, issue a "Notice of Intention to Claim" demanding immediate payment; and
- v. The Shire may lodge a Minor Case Claim (where the debt is less than \$10,000) or a General Procedure Claim (where the debt is \$10,000 or more) with the Magistrates Court.
- vi. Should the debtor not respond within the timeframes established by the Court, default judgment may be requested. Where a General Procedure Claim has been lodged and default judgement requested and granted, a Property Seizure and Sale Order (PSSO) may be lodged. The PSSO authorises the Bailiff to seize and sell as much of the debtor's real or personal property as necessary to satisfy the debt wholly.

The Shire may engage a debt collection agency and/or legal representative to act on its behalf in taking debt recovery action.

c. Recovery of rates debt from lessee

The Shire may seek to recover an outstanding rates debt from the lessee of a leased property, pursuant to section 6.60 of the *Local Government Act 1995*.

2. Actions to take possession of land policy.

The Shire may seek to recover an outstanding rates debt that has remained unpaid for at least three years by taking possession of the land in accordance with subdivision 6, Division 6, Part 6 of the *Local Government Act 1995*.

This may include:

- a. Leasing the land;
- b. Selling the land;
- c. Causing the land to be transferred to the crown; or
- d. Causing the land to be transferred to the Shire.

3. Local government may require lessee to pay rent

A lease includes an agreement whether made orally or in writing for the leasing or subleasing of land and includes a licence or arrangement for the use of land; lessor and lessee mean the parties to a lease and their respective successors in title.



RECOVERY OF RATES AND SERVICE CHARGES POLICY

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

4. Legal costs and other expenses

Legal costs and expenses incurred by the Shire in recovering rates debts will be charged against the land in accordance with the section 6.43 of the *Local Government Act 1995*.

5. Recovery of debts resulting from construction of fire clearances

Under the *Bushfires Act 1954*, the Shire may charge property owners for the construction of a firebreak where the owner has failed to do so.

The Shire will issue an invoice to the property owner for any costs incurred by the Shire.

Where that amount remains outstanding after the due date for payment, the property owner becomes a firebreak debtor, and the debt may be recovered in accordance with this Policy.

If the account remains unpaid for a period exceeding 120 days, or if the property is listed for sale within that period, the debt may be transferred against the ratepayer's property and collected in accordance with Recovery of Rate Arrears in Section (1) of this Policy.

6. Sundry Debtors

The debt collection of sundry debtors' process to be followed is:

- a. Issue invoice (or rates notice).
- b. Issue Statement at EOM
- c. Issue reminder letter if the payment is not received 14 days after the Statement Issue due date.
- d. Issue a Notice of Demand if payment is not received within 14 days after the reminder letter.
- e. Refer the debt to the Council's debt collection agency; and
- f. Unrecoverable debts referred to Council to be written off.

Debts that may be considered reasonable to be written off will be at the discretion of Council.

The above will be administered in a reasonable time.

7. Financial Hardship

Where a rates debtor is experiencing financial hardship and is unable to enter into a payment agreement to pay outstanding rates within 12 months, application can be made for a payment arrangement under the Financial Hardship Policy.



RECOVERY OF RATES AND SERVICE CHARGES POLICY

8. Payment Arrangement

Payment arrangements facilitated in accordance with the Shire of Quairading Financial Hardship Policy and Section 6.49 of the *Local Government Act 1995* are to be of an agreed frequency and amount. These arrangements will consider the following:

- a. That a ratepayer has made a genuine effort to meet rate and service charge obligations in the past;
- b. The payment arrangement will establish a known end date that is realistic and achievable; and
- c. The ratepayer will be responsible for informing the Shire of any change in circumstance that jeopardises the agreed payment schedule.

The Shire reserves the right to consider waiving additional charges or interest (excluding the late payment interest applicable to the Emergency Services Levy).

The Shire will suspend its debt recovery processes whilst negotiating a suitable SPA with a debtor. Where a debtor is unable to make payments in accordance with the agreed payment plan, the debtor advises the Shire and makes an alternative plan before defaulting on the 3rd due payment, then the Shire will continue to suspend debt recovery processes. A special payment arrangement may be negotiated and entered into between the parties.

Special Payment Arrangement

A 'Special Payment Arrangement' is a non-legal (but binding) arrangement between the debtor/ratepayer and the Shire, whereby the debt/outstanding money is progressively paid in agreed instalments over a period of time, by amounts that are mutually agreed between the two parties. Where reasonable, the arrangement should be made so the debt is paid off before the end of the financial year of when the application is made.

- a. Applicants are required to complete an application form for a SPA [Appendix A], giving relevant information regarding their financial position and provide any additional documentation, verifying the financial position of the applicant to substantiate the information supplied.
- b. The application will be sent to the Executive Manager of Corporate Services for assessment which will result in approval, denial, or further negotiation to reach an agreement where both parties are satisfied.
- c. In the event of an applicant being dissatisfied with the decision of the Executive Manager of Corporate Services, they will have access rights for a review to the Chief Executive Officer, and/or Council.

Where a ratepayer has not reasonably adhered to the SPA by 01 July of the current financial year of which the SPA was entered into, the Shire will offer the ratepayer one further opportunity of adhering to the SPA. This offer will be to clear the total of the rates and service charge debts that remain outstanding by a reasonable time at the discretion of the Executive Manager of Corporate Services.

Rates and service charge debts that remain outstanding during the financial year and thereafter, will then be subject to the rates debt recovery procedures prescribed in the *Local Government Act 1995*.



RECOVERY OF RATES AND SERVICE CHARGES POLICY

GUIDELINES

- Shire of Quairading Schedule of Fees & Charges
- Shire of Quairading Financial Hardship Policy.
- Shire of Quairading Rates Collection Policy.

STATUTORY ENVIRONMENT

- Local Government Act 1995 - Part 6*
- Local Government (Financial Management) Regulations 1996*
- Rates and Charges (Rebates and Deferments) Act 1992*
- Bushfires Act 1954*

Record of Policy Review					
Version	Author	Council Adoption	Resolution	Reason for Review	Review Date
01	xx	xx	xx	New Policy	xx

7.4 Financial Hardship Policy

Responsible Officer Nicole Gibbs, Chief Executive Officer

Reporting Officer Britt Hadlow, Executive Officer

Attachments 1. Financial Hardship Policy [↓](#) 

Voting Requirements Simple Majority

Disclosure of Interest Reporting Officer: Nil.

Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 027-22/23

Moved: Cr JC Hayes

Seconded: Cr TJ Stacey

That the Audit & Risk Committee recommend to Council, to endorse the Financial Hardship Policy.

CARRIED 6/0

IN BRIEF

The Shire of Quairading hired a governance consultant, Ms Belinda Knight, to assist with the review of the Delegation Register. As part of the review, Ms Knight recommended the development of certain Policies that directly relate to the Register's administered delegations.

Attachment [1] is the Financial Hardship Policy.

MATTER FOR CONSIDERATION

That the Audit & Risk Committee consider recommending to Council, to endorse the Financial Hardship Policy.

BACKGROUND

This year, Council's Delegation Register required to be updated as per the *Local Government Act 1995*. To ensure compliance, the CEO outsourced the development of the Delegation Register to a governance consultant, Ms Belinda Knight.

Ms Knight scrutinised and amended the Register. The Register was cross referenced with relevant legislation and current Council policies and procedures. There are policies that Council do not have that directly relate to the Register and are required for compliance purposes.

The purpose of this policy is to provide guidance to staff who may be approached by a Quairading resident who is experiencing financial hardship, and my need to enter a payment arrangement with the Shire to be able to pay debts, while still being able to afford to support themselves, and any dependants.

The Policy ensures not only that applications received are legitimate, but also that all applications received are done so in a fair, transparent, and respectful manner following a robust process to ensure the best outcome for both the resident and the Shire.

This Policy closely ties in with the Recovery of Rates, Debts & Service Charges Policy (also up for endorsement at the June 2023 Ordinary Council meeting).

Attachment [1] is the Financial Hardship Policy which is being table for Council consideration.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

Rates Collection Policy

Schedule of Fees & Charges

Recovery of Rates, Debts & Service Charges Policy (Proposed)

FINANCIAL IMPLICATIONS

There is no financial impact to the Shire with the creation of this Policy, however, the Policy directly relates to the recovery of debts for Council.

ALIGNMENT WITH STRATEGIC PRIORITIES

5.4 Governance & Leadership: Implement systems and processes that meet legislative and audit obligations

CONSULTATION

Ms Belinda Knight was used as a consultant for the Delegations Register and provided the advice to develop this policy.

RISK MANAGEMENT PRIORITIES

This report addresses the following identified Strategic Risk Management Priorities:

New local government compliance requirements and low rate-base affects rate payers' service delivery expectations (e.g. not being met/expectations verses reality).

RISK ASSESSMENT

	Option 1
Financial	Low <i>There was no cost to the Shire in the development of this Policy, however, this Policy directly relates to the recovery of debts on behalf of Council.</i>
Health	N/A
Reputation	Low <i>This Policy ensures compliance in the debt recovery process with the Local Government Act 1995 and other relevant legislation.</i>
Operations	Low <i>This Policy is an interpretation of the Local Government Act 1995 which makes it easier for staff to refer to, rather than searching the Act.</i>

	<i>This Policy requires reviewed on a biennial basis.</i>
Natural Environment	N/A

	Consequence				
Likelihood	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

Nil.



FINANCIAL HARDSHIP POLICY

PURPOSE

The purpose of this Policy is to provide guidance to:

1. Staff on how to effectively and fairly manage a customer who is experiencing financial hardship and the debt recovery process and;
2. To residents of Quairading who may be experiencing financial hardship on how the Shire of Quairading can reasonably assist.

OBJECTIVE

The objective of this Policy is to:

1. To support the community. The Shire of Quairading recognises that the still-relevant effects of COVID-19 and/or other external factors may result in financial hardship for some ratepayers.
2. To ensure that the Shire offer fair, equitable, consistent, and dignified support to persons suffering financial hardship, while treating all members of the community with respect and understanding during difficult times.
3. To outline clear and appropriate debt recovery procedures which will be undertaken by the Shire of Quairading and to ensure effective control over all invoiced debts owed to the Shire whilst being sympathetic to those ratepayers and debtors suffering genuine financial hardship.

POLICY

It is a reasonable community expectation, that those with the capacity to pay rates will continue to do so.

For this reason, the Policy is not intended to provide rate relief to ratepayers who are not able to provide evidence of financial hardship and the statutory provision of the *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* will apply.

1. Payment difficulties, hardship, and vulnerability

Payment difficulties, or short-term financial hardship, occur where a change in a person's circumstances result in an inability to pay a debt, rates, or service charge debt.

Financial hardship occurs where a person is unable to pay rates and service charges without affecting their ability to meet their basic living needs, or the basic living needs of their dependants.

2. Financial Hardship Criteria

While evidence of hardship will be required, the Shire recognises that not all circumstances are alike. The Shire will take a flexible approach to a range of individual circumstances including, but not limited to, the following situations:

FINANCIAL HARDSHIP POLICY



- a. Recent unemployment or under-employment.
- b. Sickness or recovery from sickness.
- c. Low income or loss of income, and
- d. Unanticipated circumstances, (for example, such as caring for and supporting extended family).

Ratepayers are encouraged to provide any information about their individual circumstances that may be relevant for assessment. This may include demonstrating a capacity to make some payments where possible or entering into a payment plan.

The Shire will consider all circumstances, applying the principles of fairness, integrity and confidentiality, whilst complying the Shire's statutory responsibilities.

3. Debt Management and Recovery Principles

The management and recovery of outstanding debts is an important aspect to the Shire's financial management function. The Shire has responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management.

The Shire will:

- a. Recover all outstanding debts, rates, and service charges, utilising the relevant legislation and legal processes, in accordance with the Local Government Act 1995 and any other applicable legislation.
- b. Have regard to an individual's hardship relating to outstanding debts, rates and service charges, when administering this Policy.
- c. Consider all written requests from person's experiencing difficulties with making payments for debt or rates and service charges. Such persons will be required to make a written application to the Shire to enter into a Special Payment Arrangement (SPA), to warrant the Shire's consideration of leniency.
- d. The debt collection of sundry debtors' process to be followed is:
 - i. Issue invoice (or rates notice).
 - ii. Issue Statement at EOM
 - iii. Issue reminder letter if the payment is not received 14 days after the Statement Issue due date.
 - iv. Issue a Notice of Demand if payment is not received within 14 days after the reminder letter.
 - v. Refer the debt to the Council's debt collection agency; and
 - vi. Unrecoverable debts referred to Council to be written off.

Debts that may be considered reasonable to be written off will be at the discretion of Council.

The above will be administered in a reasonable time.



4. Payment Arrangements

Payment arrangements facilitated in accordance with Section 6.49 of the *Local Government Act 1995* are to be of an agreed frequency and amount. These arrangements will consider the following:

- a. That a ratepayer has made a genuine effort to meet rate and service charge obligations in the past;
- b. The payment arrangement will establish a known end date that is realistic and achievable; and
- c. The ratepayer will be responsible for informing the Shire of any change in circumstance that jeopardises the agreed payment schedule.

The Shire reserves the right to consider waiving additional charges or interest (excluding the late payment interest applicable to the Emergency Services Levy).

The Shire will suspend its debt recovery processes whilst negotiating a suitable SPA with a debtor. Where a debtor is unable to make payments in accordance with the agreed payment plan, the debtor advises the Shire and makes an alternative plan before defaulting on the 3rd due payment, then the Shire will continue to suspend debt recovery processes. A special payment arrangement may be negotiated and entered into between the parties.

Special Payment Arrangement

A 'Special Payment Arrangement' is a non-legal (but binding) arrangement between the debtor/ratepayer and the Shire, whereby the debt/outstanding money is progressively paid in agreed instalments over a period of time, by amounts that are mutually agreed between the two parties. Where reasonable, the arrangement should be made so the debt is paid off before the end of the financial year of when the application is made.

- a. Applicants are required to complete an application form for a SPA [Appendix A], giving relevant information regarding their financial position and provide any additional documentation, verifying the financial position of the applicant to substantiate the information supplied.
- b. The application will be sent to the Executive Manager of Corporate Services for assessment which will result in approval, denial, or further negotiation to reach an agreement where both parties are satisfied.
- c. In the event of an applicant being dissatisfied with the decision of the Executive Manager of Corporate Services, they will have access rights for a review to the Chief Executive Officer, and/or Council.

Where a ratepayer has not reasonably adhered to the SPA by 01 July of the current financial year of which the SPA was entered into, the Shire will offer the ratepayer one further opportunity of adhering to the SPA. This offer will be to clear the total of the rates and service charge debts that remain outstanding by a reasonable time at the discretion of the Executive Manager of Corporate Services.

Rates and service charge debts that remain outstanding during the financial year and thereafter, will then be subject to the rates debt recovery procedures prescribed in the *Local Government Act 1995*.

FINANCIAL HARDSHIP POLICY



Interest Charges

A ratepayer who meets the financial hardship criteria specified in this policy and enters into a SPA may request a suspension or waiver of interest charges. Applications will be assessed on a case-by-case basis.

5. Deferment of Rates

Deferment of rates may apply for ratepayers who have Pensioner Card, State Concession Card or Seniors Card and Commonwealth Seniors Health Care Card registered on their property.

The deferred rates balance:

- a. Remains as a debt on the property until paid;
- b. Becomes payable in full upon the passing of the pensioner or if the property is sold or if the pensioner ceases to reside in the property;
- c. May be paid at any time, but the concession will not apply when the rates debt is subsequently paid (deferral forfeits the right to any concession entitlement); and
- d. Does not incur penalty interest charges.

6. Review Rights

Any person who is aggrieved by a decision will have the right of a review. The Review will be assessed by the Chief Executive Officer, within a reasonable period of time.

7. Communication and Confidentiality

The Shire will maintain confidential communications at all times and will undertake to communicate with a nominated support person or other third party, if requested.

The Shire will advise ratepayers of this Policy and its application, when communicating in any format (i.e. verbal or written) with a ratepayer that has an outstanding debt, rate, or service charge debt.

The Shire recognises that applicants for hardship consideration are experiencing additional stressors and may have complex needs. The Shire will provide additional time to respond to communication and will communicate in alternative formats where appropriate. The Shire will ensure all communication with applicants is clear and respectful.

8. Delegation

The Chief Executive Officer is authorised to administer this Policy in accordance with the Council Delegated Authority Register.

GUIDELINES

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

FINANCIAL HARDSHIP POLICY



Record of Policy Review						
Version	Author	Council Adoption	Resolution	Reason for Review	Review Date	CEO Signature
01	Nicole Gibbs Tricia Brown			New Policy required in line with Delegation Register	xx	

FINANCIAL HARDSHIP POLICY



APPENDIX [1]

Shire of Quairading Payment Arrangement Application

Name of Owner/s: _____

Assessment Number: A _____

Property Address: _____

Payment Arrangement Terms and Conditions

- Interest will continue to accrue at the rate of 7%pa on overdue amounts until debt is paid in full.
You can make additional voluntary payments or pay off the debt at any time.
If you are unable to make a payment please contact Council's Rates Officer on 08 9645 2400 to discuss your circumstances.
If you do not adhere to the payment arrangement as stated in the agreement Council will proceed with debt recovery action.
Any expenses incurred from debt recovery action or legal proceedings will be added to your assessment for payment.
Once legal proceedings are commenced, this may have an adverse effect on your credit rating and implications for seeking future finance.
As per Council's Schedule of Fees and Charges, a \$25.00 administration fee applies for all accepted payment arrangements.

Balance Outstanding as at (DD/MM/YYYY) is \$ <Value>

Minimum repayment required is \$<Value> per fortnight.

(These amounts do not include the administration fee and any accrued interest charges)

I agree to make payments Fortnightly on the specified dates starting _____ and agreed amount of \$ _____ per week/fortnight in accordance with the terms and conditions.

I am aware of the consequences that will be bought against me if the agreement is not adhered to. Payment amounts must clear rates debts including interest prior to 30th June of the current rating year.

Signature of Owner/s

Date

Signature of Authorising Officer

Date

PAYMENTS

Westpac Bank
Shire of Quairading Municipal Account
BSB: 036-172
Account Number: 000 001
Reference - Assessment Number & Surname eg A3569 Blogs

Given rate amounts change each year this agreement will expire on 30 June 2023, a new payment arrangement agreement must be entered into with the Shire of Quairading for future rating periods.

ITEM 8 STANDING ITEMS – RISK MANAGEMENT REPORTS AND ISSUES

8.1 Report on excess annual leave and long service leave entitlements

Responsible Officer	Nicole Gibbs, Chief Executive Officer
Reporting Officer	Tricia Brown, Executive Manager, Corporate Services
Attachments	Nil
Voting Requirements	Simple Majority
Disclosure of Interest	Reporting Officer: Nil. Responsible Officer: Nil.

COMMITTEE RESOLUTION: ARC 028-22/23

Moved: Cr BR Cowcill

Seconded: Cr E Cheang

That the Audit & Risk Committee recommends to Council that; Council receive the report on the Shire's leave liabilities.

CARRIED 6/0

IN BRIEF

- Since 2017, Council has requested that excess annual leave and long service leave be reported to the Audit and Risk Committee.
- Not taking a reasonable amount of annual leave or long service leave may pose a threat to the health and safety of employees and represent a significant financial liability for the Shire, therefore there are steps in place to ensure that leave balances are monitored and are at appropriate levels.
- Employee entitlement movements during the year are due to many reasons, such as, leave taken during the period, increased accrued leave balances, increases in remuneration rates and changes in the underlying staff with leave balances transferred to and from the Shire.

MATTER FOR CONSIDERATION

Receipt of the report on excess annual leave and long service leave entitlements and leave liabilities.

BACKGROUND

Since 2017, Council has requested that excess annual leave and long service leave be reported to the Audit and Risk Committee.

The current Leave Management Policy defines "excess leave" as when the employee has accrued more than eight weeks paid annual leave and provides management with direction to effectively management the annual and long service leave entitlements of employees.

The Shire encourages employees to take leave by reinforcing the positive benefits of taking leave when it becomes due. Sometimes there are circumstances that prevent leave being able to be taken, such as staff shortages, outside influences (COVID-19 travel restrictions), and work demands.

There will be movements in employee entitlements throughout the year. Balances will increase naturally as employees accrue leave entitlements and when leave balances are transferred from other Shires. Balances will decrease when employees take leave accrued and when leave balances are transferred to other Shires. This natural fluctuation is monitored by management and through this report to ensure any excess is managed appropriately.

STATUTORY ENVIRONMENT

Fair Work Act 2009

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Work Health & Safety Act 2020

POLICY IMPLICATIONS

Leave Management Policy

FINANCIAL IMPLICATIONS

The Employee Entitlements (Annual and Long Service Leave) reserve fund cash balance as of 31 May 2023 is \$170,454.00

The annual budget treats current leave as accruals.

The annual and long service leave reserve funds any prior year leave entitlements taken by staff or paid out.

The current liability for both types of leave (if all claimed on 31 May 2023) is calculated at \$105,796.41.

There is currently surplus in the reserve account in comparison to the liability accrued of \$64,57.59 This will be reviewed through the finalisation of the 22/23 annual financial report, with a recommendation to keep the funds in surplus in this reserve for future leave liabilities as some employees' long service leave entitlements will start to accrue as they meet the legislative threshold.

ALIGNMENT WITH STRATEGIC PRIORITIES

5.3 Governance & Leadership: Provide informed and transparent decision making that, meets our legal obligations, and the needs of our diverse community

5.4 Governance & Leadership: Implement systems and processes that meet legislative and audit obligations

CONSULTATION

Nil.

RISK MANAGEMENT PRIORITIES

This report addresses the following identified Strategic Risk Management Priorities:

Non-compliance with work health and safety legislation increases the risk and potential liability to the public, staff and Councillors.

Work health and safety legislation increases liability of Councillors and Executive (personal wealth and assets) in the management of Bushfire and Volunteer Fire and Rescue Services Brigades.

Low employee retention increases recruitment costs, decreases employee morale and decreases Shire reputation.

RISK ASSESSMENT

Option 1	
Financial	<p>Low</p> <p><i>Financial exposure and therefore risk escalation occurs if Leave accruals are not monitored and managed. Adequate reserve balances reduce the risk of financial exposure.</i></p>
Health	Low
Reputation	Low
Operations	<p>Low</p> <p><i>Impact to operations where employees with excess leave are requested to take leave. This can be mitigated by agreement of mutually acceptable timeframes for taking leave that are not during heavy workload times.</i></p>
Natural Environment	Low

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Critical
Rare	LOW Accept the risk Routine management	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Unlikely	LOW Accept the risk Routine management	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review
Possible	LOW Accept the risk Routine management	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review
Likely	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	HIGH Quarterly senior management review	EXTREME Monthly senior management review
Almost certain	MEDIUM Specific responsibility and treatment	MEDIUM Specific responsibility and treatment	HIGH Quarterly senior management review	EXTREME Monthly senior management review	EXTREME Monthly senior management review

COMMENT

This report has been prepared to inform the Audit and Risk Committee of the current leave liabilities and of any employees who have excess leave and the steps taken to reduce these liabilities.

As of 31 May 2023, there has been moderate change overall to both the annual leave and long service leave liabilities, reflective of several employee movements (separations and additions) since the previous report 14 March 2023.

Four employees with annual leave balances have separated during this time, being paid out their accrued entitlements upon termination. There have been three new employees onboarded who have started to accrue leave entitlements.

Annual Leave: Four employees who had annual leave accruals have separated, removing their annual leave entitlement on termination. Two employee's had a moderate amount paid out in annual leave, however due to an increase in staff employment, the change in annual leave liability has slightly increased. Since the last report three employee's entitlement balances have reduced since March 2023.

There is currently one employee with excess annual leave. This is the same employee who was in excess as of the 28 August 2022 report, who then reduced their accrual for the 20 November 2022 report. This employee has again been encouraged to reduce their balance to an acceptable level and their manager advised.

There has been an increase of 1.73%(dollar value) in the annual leave liability since February 2023.

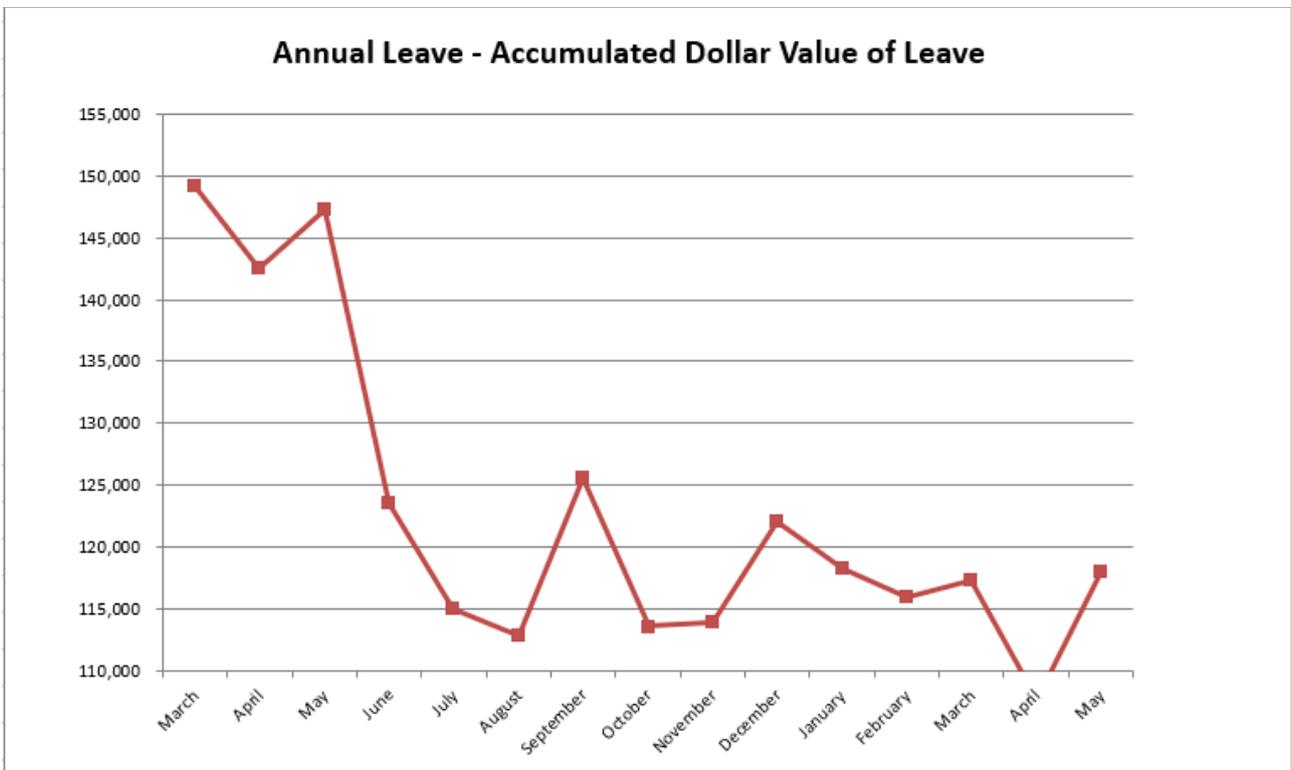
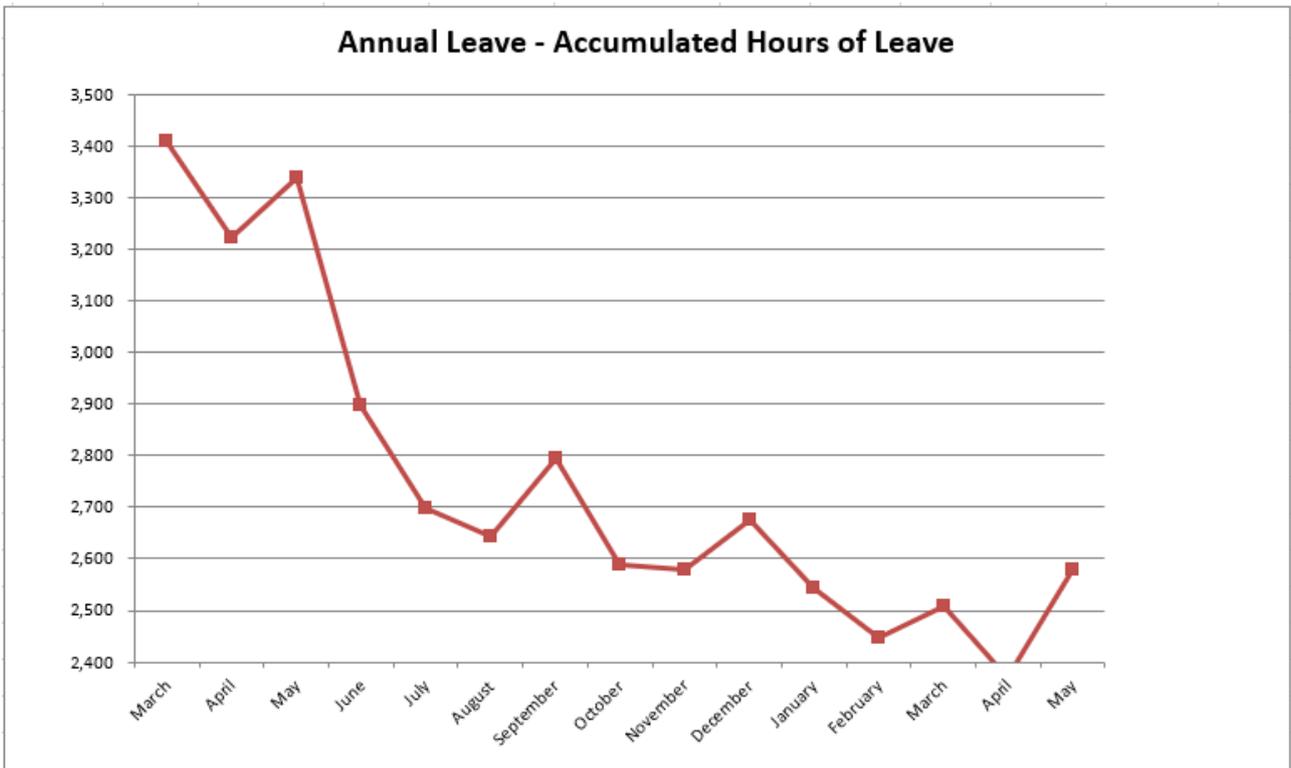
Long Service Leave: There has been one separation that affected long service leave as the employee had a large amount accrued.

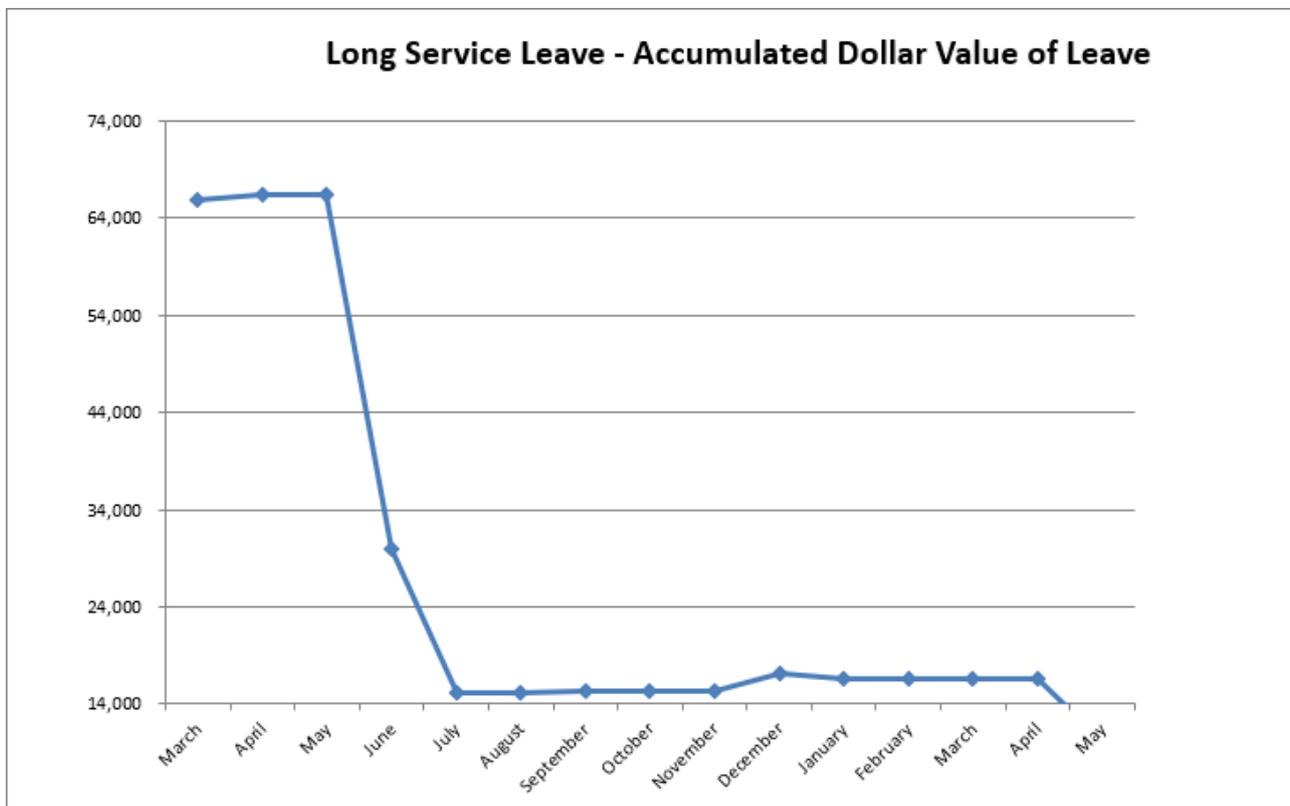
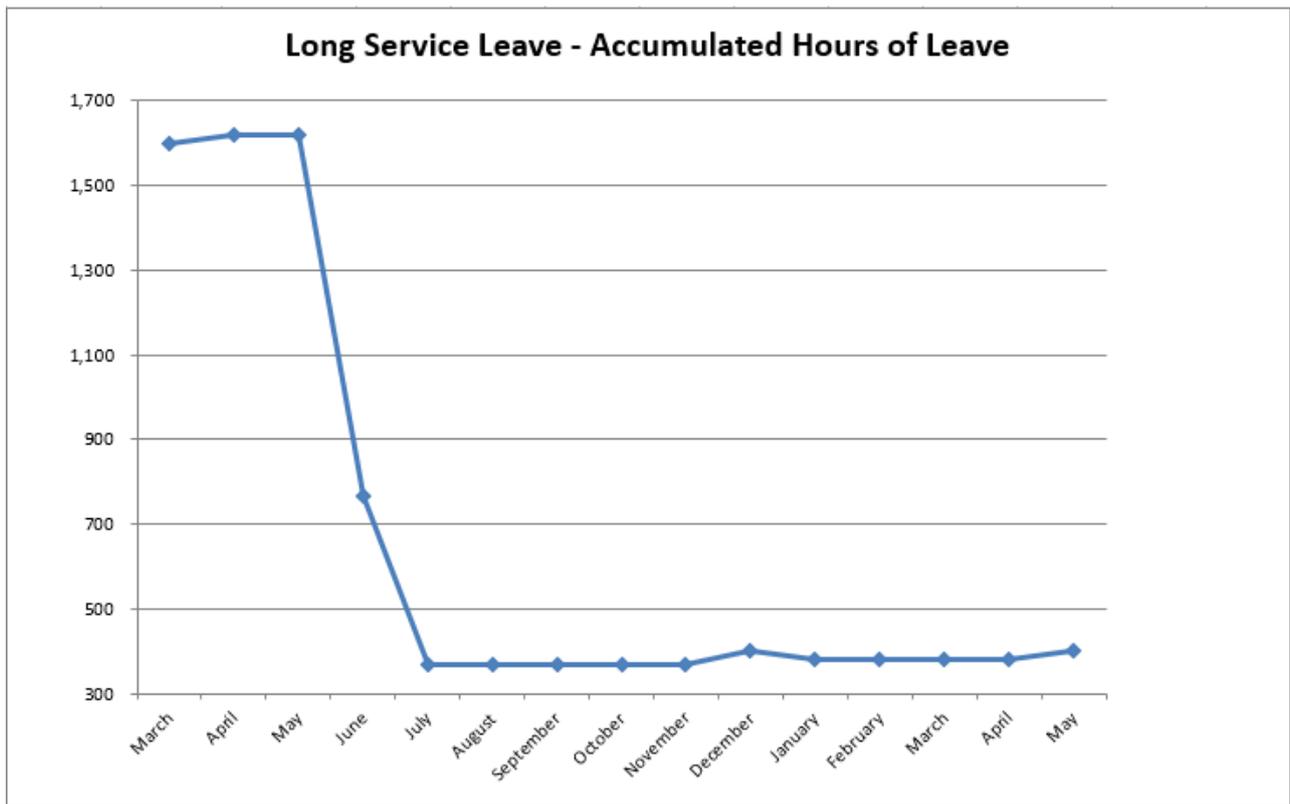
No employees long service leave accrual amount (hours entitled) has increased.

There has been a decrease of 83% (dollar value) in the long service leave liability since January 2022.

The following table and graphs show the fluctuations in the accrued hours and dollar values of both annual leave and long service leave over the period of January 2022 to 31 May 2023.

Month	LSL Hours	LSL \$	A/L Hours	A/L \$
January 22	1,552	58,708	3,282	135,728
February 22	1,552	58,708	3,213	132,665
March 22	1,600	65,929	3,412	149,101
April 22	1,619	66,465	3,223	142,510
May 22	1,619	66,465	3,340	147,293
June 22	765	29,969	2,899	123,503
July 22	370	15,095	2,700	114,979
August 22	370	15,095	2,643	112,809
September 22	370	15,355	2,796	125,527
October 22	370	15,355	2,589	113,594
November 22	370	15,355	2,580	113,941
December 22	399	17,129	2,677	122,011
January 23	380	16,568	2,545	118,286
February 23	380	16,568	2,448	116,018
March 23	380	16,568	2,508	117,305
April 23	380	16,568	2,371	107,734
May 23	399	10,158	2,579	118,058





ITEM 9 STANDING ITEMS – OTHER

9.1 Update 2023-2024 Budget

Responsible Officer	Nicole Gibbs, Chief Executive Officer
Reporting Officer	Tricia Brown, Executive Manager, Corporate Services
Attachments	Nil
Voting Requirements	Simple Majority
Disclosure of Interest	Reporting Officer: Nil. Responsible Officer: Nil.

Following discussions between the Executive Manager Corporate Services and Chief Executive Officer it has been determined that in order to produce the 2023/2024 Annual Budget in an accurate and informed manner the timeframe for adoption be moved to the August OCM, Thursday 31 August 2023.

Consideration for this has been given to the recent appointment of the Executive Manager Corporate Services, the end of month processing, the end of year processing, staff training, recent lack of staff capabilities, Altus payroll roll out and further operational requirements including compiling Long Term Financial Planning information all within a very tight timeframe.

Council will be notified of another time to conduct the 2nd Budget Workshop in July.

COMMITTEE DISCUSSION

Cr Stacey asked if postponing the endorsement of the budget will affect timing of the rates.

Ms Brown said it will affect rates as they can't be sent out without the budget being adopted.

ITEM 10 EMERGING ISSUES/LATE ITEMS**Cr Smith - CEO Performance Appraisal**

Cr Smith said the CEO will be due for a performance appraisal, something that the Audit & Risk Committee are responsible for facilitating under the Terms of Reference.

Cr Smith said:

1. Whatever Council does must be in consultation with the CEO.
2. Do the KPI's require to be reviewed.
3. There are changes to the review process in the reforms (late 2023) including:
 - a. Publication of results of the review.
 - b. Changes to the CEO Standards for Recruitment, Performance & Termination.
4. As the CEO is further into her tenure and due to changes coming in the reforms, should Council consider using an external consultant.

The CEO said she was not perturbed about whether Council uses a consultant or not, but whichever way Council chooses to go, the Policy must be followed, which includes a signed off report stating that both parties were happy with the process.

The benefit of a consultant is that there is independence in the process.

Cr Stacey said a consultant may be required because:

1. It may be beneficial for new Councillors
2. The CEO review will require to be published, so a consultant will ensure the correct process is followed.

The CEO will take a report to the June Ordinary Council meeting.

The CEO will send the Policy out to Councillors.

Reforms

Cr Smith did some training through WALGA. He went through some of the reform changes that would be enacted by the 2023 elections.

ITEM 11 NEXT MEETING DATE

The next Audit & Risk Committee Meeting is scheduled to take place on Tuesday 12 September 2023 commencing at 5.00pm in the Council Chambers, 10 Jennaberring Road, Quairading, WA.

ITEM 12 CLOSURE

There being no further business, the Chairperson closed the Meeting at 5.59 pm.

I certify the minutes of the Audit & Risk Committee meeting held on 13 June 2023 were confirmed 12 September 2023 as recorded on Resolution No. ARC 001 - 23/24.

Confirmed.......... 12.09.2023