2023/2024 Register of Delegations

s.5.46 (CEO/Employees) of the *Local Government Act 1995;*
s.5.18 (Committees) of the *Local Government Act 1995*

Council Resolution

This Register of Delegations was adopted by Council at an Ordinary Council Meeting held in the Shire of Toodyay Council Chambers on Wednesday 28 June 2023 as per the resolution below.

OFFICER'S RECOMMENDATION

That:

1. Council notes, by absolute majority, the summary of amendments made to the Register of Delegations, as contained in the Shire Officer's Report;
2. Council adopts, by absolute majority, the instruments of delegation contained in the following sections of the REVISED Register of Delegations, as amended:
   (a) Executive Services section;
   (b) Corporate and Community Services Section;
   (c) Development and Regulation Section;
   (d) Infrastructure and Assets; and the
   (e) External Agencies – Assignment of Power to Statutory Officeholders section.

We, the undersigned, certify that the delegations contained in this Register were formally reviewed by Council on 28 June 2023. We also confirm the application of these instruments of delegation contained within this Register of Delegations as presented herein.

Cr Rosemary Madacsi
Shire President

Date: ……..

Suzie Haslehurst
Chief Executive Officer

Date: ……..

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SECTION 1 Introduction, Process and Authorities

The Guidelines

The Department of Local Government, Sport and Cultural Industries produced a Local Government Operational Guideline (Number 17 – January 2007) titled 'Delegations' as a guideline for local governments. Section 59 of the *Interpretation Act 1984* prescribes the framework for how delegated authority must be structured in Western Australian law.

The Functions of Local Government

The function of a local government is to provide for the good government of persons in its district (the *Local Government Act 1995* s.3.1 (1)). The function of a local government includes legislative and executive functions (the *Local Government Act 1995* s.3.4).

In accordance with s.2.6(1) (Local governments to be run by elected councils) of the *Local Government Act 1995* (the Act) each Local Government is to have an elected Council as its governing body.

Section 2.7 (Role of council) of the Act prescribes the strategic leadership role of Council is as follows:

(a) To **govern** the local government's affairs;
(b) To be responsible for the **performance** of the local government's functions;
(c) To oversee the allocation of the local government's **finances** and **resources**; and
(d) To determine the local government's **policies**.

This strategic role is further clarified through the Act specifying decisions which can only be made by Council with an absolute majority or by Council Resolution.

The Shire President liaises with the CEO regarding local government affairs (Council Business) and the performance of its functions in accordance with s.2.8(1)(f) (Role of mayor or president) of the Act.

The Register of Delegations

Both the Council and the CEO are given certain functions and duties to be discharged, in accordance with s.5.42 (Delegation of some powers and duties to the CEO) of the Act. Council may delegate authority to perform some of its functions and duties to the CEO.

The CEO may then delegate to any other officer the authority to perform functions and duties that are exercisable by the CEO under specific Acts and the provisions of any subsidiary legislation that has been delegated to the CEO either by the Council or a Minister through a legislative instrument.

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This is in keeping with the governance structure whereby staff members are responsible to the CEO and the CEO is responsible to Council.

Delegations of authority provide Officers with the power to exercise duties and make determinations. These delegations must be performed in a manner that is in accordance with the relevant delegation.

The aim of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by relevant legislation. This is consistent with the Shire of Toodyay's (the Shire) commitment to our Customer Service Charter and Community Strategic Plan.

Similarly, the implementation of council decisions and instructions is conducted by the CEO, who may delegate some of this responsibility to other Officers of the Shire.

Legislation and the Head of Power

Legislation prescribes what decision-making powers and duties can be done and nominates the decision makers (Permit Authorities, Enforcement Agencies, local government, the CEO, President, Mayor, Elected Members, Environmental Health Officers, Building Surveyors, Returning Officers, Authorised Officers, Authorised Persons, Designated Employee and Prescribed Officers) who can perform those decision-making powers and duties.

Where legislation has statutorily prescribed decision-making powers and duties are to be performed by a CEO, President, Mayor, Elected Member, Environmental Health Officers, Building Surveyor, or Returning Officer a local government (Council) cannot make any further directives or make amendments to the decision-making powers and/or duties prescribed by legislation.

There are approximately 170 pieces of legislation requiring local government discretion. The Act delegation structures are as follows:

Delegation from Council to Committees

Where the head of power is the Act, s.5.16 (Delegation of some powers and duties to certain committees) of the Act and subject to s.5.17 (Limits on delegation of powers and duties to certain committees) Council may delegate* to a committee any of its powers and duties other than this power od delegation. * *Absolute majority required*

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Delegation from Council to the Audit Committee

Where the head of power is the Act, s 7.1B (Delegation of some powers and duties to audit committees) of the Act provides that the only powers and duties that may be delegated to the Audit Committee are the Audit functions set out in Part 7 of the Act.

Delegation from Council to the Chief Executive Officer

Where the head of power is the Act, s 5.42 (Delegation of some powers and duties to CEO) provides for Council to 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 s.5.43 or the *Planning and Development Act 2005* s 214(2), (3) or (5). * *Absolute majority required.*

Delegation from the Chief Executive Officer

Where the head of power is the Act, s.5.44 (CEO may delegate powers and duties to other employees) provides for the CEO to delegate to any employee of 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.

Section 9.10(2) (Appointment of authorised persons) of the Act states the "*CEO may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of 1 or more specified laws or specified provisions of 1 or more specified laws*". These laws are mentioned specifically in each relevant instrument of appointment.

Process 1 – The Power to Delegate

The local government (Council) can make delegations at any time. Delegations are to be in writing and may be general or as otherwise provided in the instrument of delegation (the Act s.5.42 (2); the Act s.5.44 (2); the Act s.5.16 (2)).

Legislation prescribes many discretionary powers which do not require Absolute Majority or specify the requirements for a Council Resolution.

All delegations made, amended, or revoked by the Council must be made by "Absolute Majority." A delegation made has effect for the period of time specified in the delegation or where no period has been specified, indefinitely and any decision to amend or revoke a delegation by an absolute majority (the Act s.5.45 (1)).

Section 53 of the *Interpretation Act 1984* (Appointments may be by name or office) states:

Where a written law confers a power or imposes a duty upon a person to appoint or designate a person to —

(a) perform any function; or

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(b) be a member of any board, tribunal, commission, committee, council, or other similar body, whether corporate or unincorporate; or

(c) be or do any other thing,

that person may make the appointment or designation either by appointing or designating a person by name or by appointing or designating the holder of an office by the term designating his or her office; and any such appointment or designation of the holder of an office shall be construed as the appointment or designation of the person from time to time holding, acting in, or lawfully performing the functions of the office.

Process 2 - The Concept of Acting Through

Where legislation contains 'mandatory' action; using words such as "shall," "must," "is to" or similar terms to these, the Legislation is compelling the decision-maker to act in a particular way. Where there is no discretion in exercising a power or duty then the matter may be dealt with by a local government by acting through the CEO or the Administration.

"In effect, exercising an Express Power or Duty that is suitable for Acting Through would result in an outcome that would not be substantially different regardless of the circumstances or who exercised the power."

Where legislation contains discretionary action; using words such as "may" or "determine" or similar terms to these, these powers and duties are not suitable for Acting Through; and may be delegated.

When Council makes a policy about particular functions it performs, there is no requirement for a delegation to an Officer as it will be the role of the organisation, chiefly the CEO, to implement those policy decisions. This is the concept of Acting Through.

A policy and a delegation can co-exist when the delegation is specifying a function where the CEO has had to use his or her discretion to make a decision within the parameters of that particular function.

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Policies that give discretion to the Chief Executive Officer

Council policies detailing the parameters of how Council wants the CEO to exercise their discretionary powers in accordance with their delegated authority are provided for in the table below.

Policy Name	Discretion
Application for Public Events	Through this policy, Council delegates authority to the CEO to vary the requirements of this policy, where it is considered that full compliance with the policy is impractical, or a variation is warranted in the circumstances of the proposed event.
Appointment of Acting CEO	Executive Managers will be appointed to the role of Acting CEO, at the discretion of the CEO, subject to officer performance, and dependent on availability, and operational requirements. Appointment to the role of Acting CEO must be made in writing by the CEO.
Attendance at Events	The CEO may make discretionary decisions regarding attendance to certain events, professional development activities in accordance with the 'Attendance at Events Policy.'
Bush Fire Brigade Operating Procedures	If Volunteer Bush Fire Brigade Office Bearers have not completed the required course, then they must endeavour to complete the next available course. In this situation, their appointment will be at the discretion of the CEO or the Chief Bush Fire Control Officer.
	Criminal History Checks (CHC's) – the procedures state that the Shire will cover the costs of obtaining CHC's, except in the instance of an existing CHC (Criminal History Checks), which will be at the discretion of the CEO, as it may be reasonably assumed that the CHC was originally obtained for other purposes.
Christmas Closure	The CEO will have discretion to vary the times of closure in accordance with this Policy.
Closed Circuit Televisions (CCTV)	The CEO may authorise minor changes to the system and to this policy, where appropriate.
Community Consultation and Engagement	The CEO has discretion as to whether late submissions may be included for consideration in accordance with this Policy.
Continuing Professional Development	Additional Conference Opportunities: The CEO has discretion to choose which Councillor will attend an event if

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Policy Name	Discretion
	the President or Deputy President are both unable to attend in accordance with this Policy. Professional Development: The CEO is authorised to approve requests from Members for professional development training and conference attendance in accordance with this Policy.
Debt Collection	The CEO may allow persons experiencing financial difficulties to make suitable arrangements for payment of sundry debtor charges in accordance with this Policy.
Loss of Driver's Licence	The CEO has a discretion to determine the level of support provided to employees in accordance with this Policy.
Managing Employee Leave Entitlements	The CEO has the discretion to make a final determination in regard to dispute resolutions in accordance with this Policy.
Related Party Disclosures	Where an impartiality issue (perceived or otherwise) exists, either the Manager Infrastructure and Assets or the Manager Planning and Development may be selected at the discretion of the CEO.
Temporary Road Closures for public events	The CEO has delegated authority to approve the temporary closure of a road in accordance with the Policy.
Vehicle Usage	The CEO has the discretion to determine and approve private use of local government vehicles in accordance with this Policy.
Volunteering	The CEO has the discretion to determine whether a volunteer takes part in any decision or activity relating to or arising from a conflict in accordance with this Policy.

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Certificates of Authority for Authorised Persons

Section 9.10(2) (Appointment of authorised persons) of the Act states the "*CEO may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of 1 or more specified laws or specified provisions of 1 or more specified laws*". These laws are mentioned specifically in each relevant instrument of appointment.

The CEO must issue each Authorised Person a Certificate of Authority (identity card) specifying each law to which the person's appointment relates in accordance with s.9.10(4) (Appointment of authorised persons) of the Act. The identity cards are to be signed by the Authorised Person and the Delegate, copies of which are to be kept on file in accordance with the Shire's Record Keeping Plan and Record Keeping Policy.

Authorised Persons are to produce their identity cards whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the Authorised Person (the Act s.9.10(5)).

A person who, without reasonable excuse, fails to return their identity card to the CEO within 14 days after their appointment ceases to have effect commits an offence (the Act s.9.10(6)).

The decision made in respect to the Appointment of Authorised Persons is made in writing through a detailed Memorandum (Appointment Certificate of Authority). The Memorandum is to be signed by the Authorised Person and the Delegate, copies of which are to be kept on file in accordance with the Shire's Record Keeping Plan and Record Keeping Policy.

The Appointment of Authorised Persons is to be recorded in the Authorised Officer register and reported in the Executive Section of the Council Information Bulletin.

A record of authorities is located in Section 1 – Authority Matrix and Review Table.

Under reg. 19 (Delegates to keep certain records (Act s.5.46(3)) of the *Local Government (Administration) Regulations 1996*, 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; and
(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.

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The identity card provided to an authorised person shall on the face of the identity commence with the wording as follows:

"This person, whose signature appears on the reverse side, is designated as an Authorised Person, in accordance with Part 2 of the Criminal Procedure Act 2004, charged with the responsibility of exercising the following powers"

This is in accordance with the *Criminal Procedure Act 2004* which states that a ***prescribed Act*** means an Act that is prescribed by the regulations made under this Act.

Regulations made under the *Criminal Procedure Act 2004* are called "*Criminal Procedure Regulations 2005*" which, under Schedule 1A – Infringement Notices: prescribed acts exist as follows:

- *Associations Incorporation Act 2015;*
- *Biodiversity Conservation Act 2016;*
- *Building Act 2011;*
- *Building Services (Complaint Resolution and Administration) Act 2011;*
- *Building Services (Registration) Act 2011;*
- *Business Names Act 1962;*
- *Charitable Collections Act 1946;*
- *Chattel Securities Act 1987;*
- *Child Care Services Act 2007;*
- *Companies (Co-operative) Act 1943 3;*
- *Co-operative and Provident Societies Act 1903 3;*
- *Credit Act 1984;*
- *Credit (Administration) Act 1984;*
- *Debt Collectors Licensing Act 1964;*
- *Electricity Act 1945;*
- *Emergency Management Act 2005;*
- *Employment Agents Act 1976;*
- *Energy Coordination Act 1994;*
- *Energy Safety Act 2006;*
- *Fair Trading Act 2010;*
- *Gas Standards Act 1972;*
- *Health (Miscellaneous Provisions) Act 1911;*
- *Health Services Act 2016;*
- *Hire Purchase Act 1959;*
- *Juries Act 1957;*
- *Land Administration Act 1997;*
- *Land Valuers Licensing Act 1978;*
- *Limited Partnerships Act 2016;*
- *Mining Rehabilitation Fund Act 2012;*
- *Public Health Act 2016;*
- *Real Estate and Business Agents Act 1978;*
- *Residential Tenancies Act 1987;*
- *Retail Trading Hours Act 1987;*
- *Settlement Agents Act 1981;*

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- *Street Collections (Regulation) Act 1940;*
- *Sunday Entertainments Act 1979;*
- *Tobacco Products Control Act 2006;*
- *Transport (Road Passenger Services) Act 2018;*
- *Water Services Act 2012; and*
- *Western Australian Meat Industry Authority Act 1976.*

Temporary Appointments of Officers

Where an Officer acts temporarily in a position with delegated power, that person will not need to complete a financial interest return unless they have acted in that position for more than three months.

Definitions

The word ***"delegation"*** means to grant authority by one party (delegator) to another (delegate) for an agreed purpose (specified in the instrument of delegation).

Terms within the Delegation Register and their definitions are provided in the table below.

Note: These terms are listed in the order in which they appear in individual delegations.

Term	Meaning
"Responsible Officer"	To whom the delegation is being made.
"Responsible Department"	The department the responsible officer is representing.
"Affected Department"	The name the department that is affected by the delegation made to the CEO.
"Affected Officer"	This infers that the responsible officer representing the department named in this "affected department" area has been sub-delegated (from the CEO) the authority to perform the functions contained in the delegation subject to conditions contained within the delegation.
"Legislation delegated directly to the CEO"	This means exactly what it says. This heading will describe what the Act in question has delegated directly to the CEO of the local government.
"Background"	Will be listed where needed to give background information about a specific delegation particularly where an external agency is the head of power and/or record keeper of the authority.
"Statement of Intent"	This will state what the CEO (and where officers are sub-delegated) are being authorised to do through the relevant delegation and the instrument that supports it.

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Term	Meaning
"Powers and Duties"	This states what powers and duties are to be performed by the delegate/s assigned to them through the instrument of delegation. It may also include what they will do or the purpose of the delegation.
"Functions"	This will specify the function the Council (Delegator) performs that the Responsible Officer (Delegate) will perform/exercise through the instrument of delegation, as assigned by the Delegator.
"Delegations made to the CEO from External Agencies"	Will be listed where needed to give information about a specific delegation particularly where an external agency is the head of power and has delegated a power directly to the CEO and/or another Officer.
"CONDITIONS"	This area will contain the legislative requirements and conditions upon which the delegation is made.
"Previous Delegation No"	This will contain, where applicable, the previous delegation number prior to a recent review of the Delegation Register.
"Previous Delegation Name"	This will contain, where applicable, the previous delegation's name prior to a recent review of the Delegation Register.
"Relevant Management Practice"	This will contain, where applicable, any reference to a resource used by the Shire that is designed for accomplishing the objectives of the Instruments of delegation (i.e. a Planning Scheme, Strategic Plans, framework, procedure, plan or other relevant document that has either been (a) provided by a Government Department, or (b) been adopted by Council or (c) been a directive from the CEO
"Relevant Local Law"	This will contain, where applicable, the reference to a local law that relates or provides information on the functions (and exercise) of the delegation.
"Relevant Policy"	This will contain, where applicable, the reference to a policy adopted by Council that relates or provides information on the functions (and exercise) of the delegation.
"Other Relevant References"	This will contain, where applicable, the legislative references used when writing the delegation. This section may be, due to the numbers of references made, expanded into several rows within various delegations to make clear from which Acts or the provisions of the subsidiary legislation the references are taken from.
"File Number"	The File Number listed within each delegation is a where documents are filed in the Shire's hardcopy and/or electronic

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Term	Meaning
	records system in accordance with Council Policy titled "Record Keeping Policy." Where there have been decisions made under delegated authority, an exercise of the power or the discharge of the duty documentation will be filed against the relevant file number for future reference.
"Record Keeping" (the Act s.5.46 (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
"Delegation made by Council to authorise the CEO and/or other employees"	Any authorisation made by Council (even to the CEO) is to be put here. ***Note**: Conditions of the authorisation made by Council to the CEO and/or other employees will be contained within the Conditions of the Delegation.*
"Sub-Delegation made by the CEO to other employees"	This will detail the title of position held by a Shire Officer to whom the CEO is able to sub-delegate the power assigned to his/her position through the instrument of delegation by Council (Delegator). If unable to delegate the functions of the delegation to other employees, a reference will be made to any legislation that restricts sub-delegation.
"Conditions" in the table at the end of each instrument of delegation	Where the CEO has sub-delegated a function to an employee legislative reference will be included, other than those mentioned in the "CONDITIONS" section of the delegation will be included here.
"Appointment of Authorised Officers / Persons"	Each piece of legislation that is a "head of power" will contain detail about to whom appoints an Authorised Officer or person. Changes in the Act have meant that the CEO has been statutorily delegated as the person responsible for appointment of Authorised Officers or persons in relation to some pieces of legislation. Other heads of power legislation may refer to the Act, whilst some pieces of legislation that pre-date the Local Government Act will have their own clauses in relation to such appointments. Some duties are able to be acted through and some are not and each delegation states whether this is possible or not.
"Adoption Date"	The date that a delegation was adopted through a Council Meeting.
"Last Review Date"	The date that a delegation was last reviewed through a Council Meeting.

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Review

Section 5.46 (Register of, and records relevant to, delegations to CEO and employees) of the Act requires that:

a. The CEO keep a register of the delegations made under this Division to the CEO and to employees;

b. At least once every financial year, delegations made under this Division are to be reviewed by the delegator; and

c. 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.

Note: Each instrument of delegation within the Delegation Register will be signed off by the authorised person(s) when a delegation is adopted, amended, or reviewed.

Record Keeping

When a person or body exercises their "delegated" authority they do so “on behalf” of the delegator and in doing so the person or body exercising delegated authority forms the relevant state of mind to make the decision “on behalf” of the delegator within legislative guidelines related to the exercise of a specific statutory power or duty.

Recordkeeping of decisions made under delegated authority will be in accordance with s.5.41 (Functions of the CEO) of the Act.

Regulation 19 (Delegates to keep certain records (Act s.5.46(3)) of the *Local Government (Administration) Regulations 1996* states that *w*here a power or duty has been delegated under the Act, written records are to be kept.

When an Authorised Person is appointed, the Register of Delegations and the Authorised Officer Register are to be updated with the following detail:

(a) Name, Position and Date of Appointment;

(b) Whom the appointment has been made by (e.g., Council or the CEO);

(c) Whether the Authorised Person holds a primary delegation necessitating the completion of a Primary/Annual Return;

(d) The details of what Acts / legislation the authorisation covers;

(e) The Record No. that will relate to the letter provided to the Authorised Officer upon appointment containing the Conditions/Limitations as specified in Delegation and/or in accordance with the provisions of the relevant Acts and the provisions of the subsidiary legislation; and Date of issue of Identity Card or Certificate of Authorisation.

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AUTHORITY – Chief Executive Officer

I, …… (print name) do hereby agree to accept responsibility for the delegations assigned to my position that are detailed below:

AUTHORITY 1	Delegations to the CHIEF EXECUTIVE OFFICER	
Delegation(s) made by Council:	ES1	*Local Government Act 1995* and the *Local Government (Miscellaneous Provisions) Act 1960*
	ES2	Execution of Documents **As per Council Resolution No. OCM083/05/22**
	ES3	*Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911*
	ES4	*Food Act 2008*
	ES5	*Building Act 2011*
	ES6	*Cat Act 2011*
	ES7	*Dog Act 1976*
	ES8	*Bush Fires Act 1954*
	ES9	*Biosecurity and Agricultural Management Act 2007*
	ES10	Expression of Interest and Tenders
	ES11	Determine Grant, Sponsorship and Donation Allocations
	ES12	Lease of Council Buildings
	ES13	Tenancy Agreements
	ES14	Contract Formalities
	ES15	Temporary Road Closures
	CS1	Payments from Municipal Fund or Trust Fund
	CS2	Investment of Surplus Funds
	CS3	Amend Rate Record
	CS4	Agreement as to payment of rates and service charges
	CS5	Issue of Writ, Summons or Other Process
	CS6	Power to Defer, Grant Discounts, Waive or Write-off Debts
	CS7	Application for Public Events
	CS8	Consumption of liquor on local government property
	CS9	Accession of Artefacts into the Museum Collection
	DAR1	Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste
	DAR2	Issue of Notice of Breach (Fencing)
	DAR3	Dealing with Clearing Matters

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AUTHORITY 1	Delegations to the CHIEF EXECUTIVE OFFICER
	DAR4 Swimming Pool Inspections DAR5 Crossing from Public Thoroughfare to Private Land or Private Thoroughfare AS1 Crossovers AS2 Private Works on, over or under public places AS3 Licence to deposit materials on or excavate adjacent to a street AS4 Dangerous excavation DAR6 Stallholder Applications DAR7 Thoroughfares and Trading in Thoroughfares and Public Places Permits DAR8 Development Application Delegations DAR9 Illegal Development DAR10 Appointment of Authorised Persons – the Shire of Toodyay *Local Planning Scheme No. 4* DAR11 Deed of Covenant for the Payment of a Developer Contribution DAR12 Caravan Park and Camping Grounds DAR13 Recommendations to the WAPC regarding Applications for Subdivision/Amalgamation or Strata Title DAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision/ Amalgamation or Strata Title Approval DAR15 Advice to the Department of Planning, Lands and Heritage (DPLH) regarding matters associated with *Land Administration Act 1997* DAR16 Advising other Regulatory Authorities
Delegation(s) made by the CEO:	Any Delegations made by the CEO will be recorded in accordance with *Local Government (Administration) Regulations (reg.19)*
Delegation(s) prescribed by legislation:	EA1 Noise Control – Serve Environmental Protection Notices [S65(1)] EA2 Noise Control – Keeping of Logbooks, Noise Control Notices, Calibration and Approval of Non-Complying Events [reg.16] EA3 Noise Control – Noise Management Plans – Construction Sites [reg.13] EA4 Delegation to the CEO in relation to the *Freedom of*

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AUTHORITY 1	Delegations to the CHIEF EXECUTIVE OFFICER	
		Information Act 1992
	EA5	Delegation to the CEO in relation to the *Public Interest Disclosure Act 2003*
	EA6	Delegation to the CEO in relation to the *Local Government Act 1995*
	EA7	Delegation to the Environmental Health Officer in relation to the *Public Health Act 2016*
	EA8	Powers of Entry in an emergency
	EA9	Development Applications made under the auspices of the *Planning and Development Act 2005*
	EA10	Delegation to the Ranger/Pound Keeper in relation to the *Biosecurity and Agricultural Management Act 2007*
	EA11	Delegation to Local Government Officers under the *Strata Titles Act 1985*

Delegator: Council

As per Council Resolution No.

……

Officer Appointed

Signature: ……

Date: ……

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AUTHORITIES - STAFF

The Authorities for the Staff are listed below. After the Council Meeting whereby Council approves the Delegation Register as per the Officer's Recommendation; Appointment Certificates, containing the authority information, will be sent to staff to sign and return for filing in the Delegation Register.

AUTHORITY 2	MANAGER INFRASTRUCTURE AND ASSETS
Delegation(s) made by Council:	ES2 Execution of Documents As **per Council Resolution No. OCM083/05/22.** Adoption of Corporate Credit Cards Policy (Res. No. 353/12/20). Adoption of Purchasing Policy. (Res. No. 97/04/21) Appointment as Local Recovery Coordinator as per Council Resolution No. 182/08/22
Delegation(s) made by CEO:	ES9 Delegation to the CEO in relation to the *Biosecurity and Agricultural Management Act 2007* ES10 Expression of Interest and Tenders ES14 Contract Formalities ES15 Temporary Road Closures CS1 Payments from Municipal Fund or Trust Fund CS7 Application for Public Events DAR3 Dealing with Clearing Matters DAR5 Crossing from Public Thoroughfare to Private land or private thoroughfare. AS1 Crossovers AS2 Private Works on, over or under public places AS3 Licence to deposit materials on or excavate adjacent to a street. AS4 Dangerous excavation DAR12 Caravan Park and Camping Grounds Designated as an Officer with the responsibility for being the Local Recovery Coordinator for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire.
Designations made to the Officer through Policy	*This Officer has the responsibility to make payments for goods and services within the limits stated in the Corporate Credit Cards Policy.* The Officer has the authorisation to approve purchase orders; contract extensions after a contract is finalised; and variations on behalf of the Council, provided such proposed purchases are contained within the Budget, are within the Officer's area of activity, and the Officer adheres to the purchasing threshold provisions in section 3 of the Purchasing Policy. This authorisation

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AUTHORITY 2	MANAGER INFRASTRUCTURE AND ASSETS
	is also subject to delegation ES1 Execution of Documents.
Delegation(s) prescribed by legislation:	EA8 Powers of Entry in an emergency

AUTHORITY 3	CESM (Community Emergency Services Manager)
Delegation(s) made by Council:	Adoption of Corporate Credit Cards Policy (Res. No. 353/12/20). Adoption of Purchasing Policy. (Res. No. 97/04/21)
Delegation(s) made by the CEO:	Not applicable
Appointment as Authorised Officer by the CEO:	*This Officer is designated as an Authorised Person in accordance with Part 2 of the Criminal Procedure Act 2004, and charged with the responsibility of exercising the following powers*: • *Bush Fires Act 1954* (s.13, s.14, s.38, s.39, s.39A and s.59 and s.59A) and Part V Bush Fire Regs.1954; and *Bush Fire (Infringement) Regs.1978* (s.59A(2)). • Enforcement of Shire of Toodyay local laws. • *Local Government Act 1995*; *Local Government (Uniform Local Provisions) Regulations 1996*; and *Local Government (Functions & General) Regulations 1996.* • Part XX of the *Local Government (Misc. Provisions) Act 1960.* • Section 14 *Road Traffic (Admin) Act 2008*; and reg. 7(2)(n) *Road Traffic (Admin) Regulations 2014* and *Road Traffic (Administration) Act 2008.*
Designations made to the Officer through Policy	*This Officer has the responsibility to make payments for goods and services (in emergencies only) within the limits stated in the Corporate Credit Cards Policy.* The Officer has the authorisation (for emergency purposes only) to approve purchase orders; contract extensions after a contract is finalised; and variations on behalf of the Council, provided such proposed purchases are contained within the Budget, are within the Officer's area of activity, and the Officer adheres to the purchasing threshold provisions in section 3 of the Purchasing Policy. This authorisation is also subject to delegation ES1 Execution of Documents.
Delegation(s) prescribed by legislation:	Not applicable.

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AUTHORITY 4	EMERGENCY MANAGEMENT OFFICER
Delegation(s) made by Council:	Not applicable.
Delegation(s) made by CEO:	Nomination as a Prosecuting Officer in accordance with section 13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*
Appointment as Authorised Officer by the CEO:	*This Officer, employed under s.5.36 of the Local Government Act 1995, has been appointed by the CEO as an Authorised Person, and a Prescribed Officer with authority to exercise powers and perform functions of an Emergency Management Officer, and Bush Fire Control Officer.* This person is an Authorised Person, responsible for exercising powers, in accordance with Part 2 of the *Criminal Procedure Act 2004,* for the purposes of, and in accordance with Prescribed Acts, including provisions (subsidiary legislation and regulations) of those Acts specified below: • *Bush Fires Act 1954* (s.13, s.14, s.38, s.39, s.39A and s.59 and s.59A) and Part V *Bush Fire Regs.1954*; and *Bush Fire (Infringement) Regs.1978* (s.59A(2)); • Enforcement of Shire of Toodyay local laws; • *Local Government Act 1995*; *Local Government (Administration) Regulations 1996*, *Local Government (Uniform Local Provisions) Regulations 1996*; and *Local Government (Functions & General) Regulations 1996;* • Part XX of the *Local Government (Misc. Provisions) Act 1960.* This Officer has been authorised to, in the absence of the Shires Community Emergency Services Manager, exercise powers and perform functions of that role; where required.
Delegation(s) prescribed by legislation:	Not applicable

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AUTHORITY 5, 6 & 7	DEPARTMENT ASSETS & SERVICES: SUPERVISORS AND ENGINEERING TECHNICAL OFFICER
Delegation(s) made by Council:	Adoption of the Corporate Credit Cards Policy. Adoption of the Purchasing Policy.
Delegation(s) made by CEO:	Not applicable.
Designations made to the Officer through Policy	*This Officer has the authorisation to approve purchase orders; contract extensions after a contract is finalised; and variations on behalf of the Council, provided such proposed purchases are contained within the Budget, are within the Officer's area of activity, and the Officer adheres to the purchasing threshold provisions in section 3 of the Purchasing Policy. This authorisation is also subject to delegation ES1 Execution of Documents.*
Delegation(s) prescribed by legislation	Not applicable.

AUTHORITY 8	MANAGER CORPORATE & COMMUNITY SERVICES
Delegation(s) made by Council:	ES2 Execution of Documents As **per Council Resolution No. OCM083/05/22.** Adoption of the Corporate Credit Cards Policy. Adoption of the Purchasing Policy. Appointment as Deputy Local Recovery Coordinator as per Council Resolution No. 182/08/22
Delegation(s) made by the CEO:	ES10 Expression of Interest and Tenders ES12 Lease of Council Buildings ES13 Tenancy Agreements ES14 Contract Formalities ES15 Temporary Road Closures CS1 Payments from Municipal Fund or Trust Fund CS2 Investment of Surplus Funds CS3 Amend Rate Record CS4 Agreement as to payment of rates and service charges CS5 Issue of Writ, Summons or Other Process CS6 Power to Defer, Grant Discounts, Waive or Write-off Debts CS7 Application for Public Events CS8 Consumption of Liquor on local government property CS9 Accession of Artefacts into the Museum Collection
Designations made to the Officer through	*This Officer has the responsibility to make payments for goods and services within the limits stated in the Corporate Credit Cards*

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AUTHORITY 8	MANAGER CORPORATE & COMMUNITY SERVICES
Policy	*Policy.* The Officer has the authorisation to approve purchase orders; contract extensions after a contract is finalised; and variations on behalf of the Council, provided such proposed purchases are contained within the Budget, are within the Officer's area of activity, and the Officer adheres to the purchasing threshold provisions in section 3 of the Purchasing Policy. This authorisation is also subject to delegation ES1 Execution of Documents. Designated as an Officer with the responsibility for being the Deputy Local Recovery Coordinator for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire.
Delegation(s) prescribed by legislation:	EA5 Delegation to the CEO in relation to the *Public Interest Disclosure Act 2003* EA8 Powers of Entry in an emergency

AUTHORITY 9 & 10	FINANCE COORDINATOR & ACCOUNTS PAYABLE/HR OFFICER
Delegation(s) made by Council:	Not applicable
Delegation(s) made by CEO:	CS1 Payments from Municipal Fund or Trust Fund
Delegation(s) prescribed by legislation:	Not applicable

AUTHORITY 11 & 12	FREEDOM OF INFORMATION DIRECTION
Delegation(s) made by Council:	Not applicable
Delegation(s) made by CEO:	Designated as an Officer with the responsibility for making decisions in respect to applications made under the FOI (Freedom of Information) Act in accordance with s.100(1) (b) of the *Freedom of Information Act 1992.*
Delegation(s) prescribed by legislation	EA4 Delegation to the CEO - *Freedom of Information Act 1992*

AUTHORITY 13	MUSEUM CURATOR
Delegation(s) made by Council:	Not applicable
Delegation(s) made by CEO:	CS9 Accession of Artefacts into the Museum Collection

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AUTHORITY 13	MUSEUM CURATOR
Delegation(s) prescribed by legislation:	Not applicable

AUTHORITY 14	RECORDS MANAGEMENT OFFICER
Delegation(s) made by Council:	Not applicable.
Delegation(s) made by CEO:	Nomination as a Prosecuting Officer in accordance with s.13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*
Appointment as Authorised Officer by the CEO:	*This Officer, employed under s.5.36 of the Local Government Act 1995, has been appointed by the CEO as an Authorised Officer, and a Prescribed Officer with authority to exercise the powers of a Records Management Officer.* This person is an Authorised Person, responsible for exercising powers, in accordance with Part 2 of the *Criminal Procedure Act 2004,* for the purposes of, and in accordance with Prescribed Acts, including provisions (subsidiary legislation and regulations) of those Acts specified below: • *Dog Act 1976 and Dog Regulations 1976 and Dog (Restricted Breeds) Regulations No 2 (2002)* • *Cat Act 2011 and Cat Regulations 2012* • *Local Government Act 1995*; and *Local Government (Miscellaneous Provisions) Act 1960*
Delegation(s) prescribed by legislation:	Not applicable

AUTHORITY 15	MANAGER DEVELOPMENT & REGULATION
Delegation(s) made by Council:	ES2 Execution of Documents As **per Council Resolution No. OCM083/05/22.** Adoption of the Corporate Credit Cards Policy. Adoption of the Purchasing Policy. Appointment as Deputy Local Recovery Coordinator as per Council Resolution No. 182/08/22
Delegation(s) made by the CEO:	ES5 Delegation to the CEO in relation to the Building Act 2011 ES10 Expression of Interest and Tenders ES12 Lease of Council Buildings ES13 Tenancy Agreements ES14 Contract Formalities ES15 Temporary Road Closures

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AUTHORITY 15	MANAGER DEVELOPMENT & REGULATION
	CS1 Payments from Municipal Fund or Trust Fund DAR2 Issue of Notice of Breach (Fencing) DAR3 Dealing with Clearing Matters DAR4 Swimming Pool Inspections DAR5 Crossing from Public Thoroughfare to Private land or private thoroughfare. AS1 Crossovers AS2 Private Works on, over or under public places AS3 Licence to deposit materials on or excavate adjacent to a street. AS4 Dangerous excavation CS8 Application for Public Events CD2 Consumption of Liquor on local government property DAR6 Stallholder Applications DAR7 Thoroughfares and Trading in Thoroughfares and Public Places Permits DAR8 Development and Subdivision Application Delegations DAR9 Illegal Development DAR12 Caravan Park and Camping Grounds DAR13 Recommendations to the WAPC regarding Applications for Subdivision / Amalgamation or Strata Title DAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval DAR15 Advice to the Department of Planning Lands and Heritage (DPLH) Regarding Matters associated with the Land Administration Act 1997 DAR16 Advising other Regulatory Authorities Designated as an Officer with the responsibility for being the Deputy Local Recovery Coordinator for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire. Nomination as a Prosecuting Officer in accordance with s.13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*
Designations made to the Officer through Policy	*This Officer has the responsibility to make payments for goods and services within the limits stated in the Corporate Credit Cards Policy.* The Officer has the authorisation to approve purchase orders; contract extensions after a contract is finalised; and variations on behalf of the Council, provided such proposed purchases are contained within the Budget, are within the Officer's area of activity, and the Officer adheres to the purchasing threshold provisions in section 3 of the Purchasing Policy. This authorisation

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AUTHORITY 15	MANAGER DEVELOPMENT & REGULATION
	is also subject to delegation ES1 Execution of Documents.
Delegation(s) prescribed by legislation:	EA8 Powers of Entry in an Emergency EA9 Development Applications made under the auspices of the Planning and Development Act 2005

AUTHORITY 16	PLANNING AND COMPLIANCE OFFICER
Delegation(s) made by Council:	Appointment as Deputy Welfare Liaison Officer **as per Council Resolution No. 182/08/22**
Delegation(s) made by CEO:	DAR2 Issue of Notice of Breach (Fencing) DAR4 Swimming Pool Inspections DAR8 Development and Subdivision Application Delegations DAR13 Recommendations to the WAPC regarding Applications for Subdivision / Amalgamation or Strata Title DAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval DAR15 Advice to the Department of Planning Lands and Heritage (DPLH) Regarding Matters associated with the Land Administration Act 1997 DAR16 Advising other Regulatory Authorities Designated as an Officer with the responsibility for being the Deputy Welfare Liaison Officer for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire. Nomination as an Enquiry Officer in accordance with s.13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*
Appointment as Authorised Officer by the CEO:	*This certifies that this Officer, employed under s.5.36 of the Local Government Act 1995, has been appointed by the CEO as an Authorised Officer in relation to any buildings and/or incidental structures located or that are proposed to be located within the district of Toodyay, and a Prescribed Officer with authority to exercise powers of a Planning and Compliance Officer.* This person is designated as a Deputy Welfare Liaison Officer by Council; and an Authorised Person, responsible for exercising powers, in accordance with Part 2 of the *Criminal Procedure Act 2004,* for the purposes of, and in accordance with Prescribed Acts, including provisions (subsidiary legislation and regulations) of those Acts specified below: • *Building Act 2011, Building Regulations 2012*; and *Building Amendment Regulations 2021* and for the purpose of performing the functions under s.27 & s.28 of the *Building Regulations 2012,* specifically in relation to swimming pool

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AUTHORITY 16	PLANNING AND COMPLIANCE OFFICER
	inspections being undertaken. • *Dividing Fences Act 1961;* • *Planning and Development Act 2005*; and *Planning and Development Regulations 2009;* • Part III and Part IV *Caravan Parks and Camping Grounds Act 1995*. • *Food Act 2008*; and *Food Act Regulations 2009*; • Enforcement of Shire of Toodyay local laws; and • *Local Government Act 1995*; and *Local Government (Miscellaneous Provisions) Act 1960*
Delegation(s) prescribed by legislation:	Not applicable

AUTHORITY 17	ENVIRONMENTAL HEALTH OFFICER
Delegation(s) made by Council:	Not applicable
Delegation(s) made by CEO:	ES3 Delegation to the CEO – *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* ES4 Delegation to the CEO – *Food Act 2008* DAR1 Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste DAR4 Swimming Pool Inspections DAR6 Stallholder Applications DAR7 Thoroughfares and Trading in Thoroughfares and Public Places Permits Nomination as a prescribed person – s.14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Administration) Regulations 2014.* Nomination as a Prosecuting Officer in accordance with s.13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*
Appointment as Authorised Officer by the CEO:	*This certifies that this Officer, employed under s.5.36 of the Local Government Act 1995, has been appointed by the CEO as an Authorised Officer under section 24(1) of the Public Health Act 2016, with authority to exercise the powers of an Environmental Health Officer; and for the purpose of performing the functions under sections 27 and 28 of the Building Regulations 2012, specifically in relation to swimming pool inspections being undertaken.* This person is designated as an Authorised Person, responsible for exercising powers, in accordance with s. 312 of the *Public Health Act 2016* and Part 2 of the *Criminal Procedure Act 2004*, for the purposes of, and in accordance with Prescribed Acts,

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AUTHORITY 17	ENVIRONMENTAL HEALTH OFFICER
	including provisions of subsidiary legislation of Acts specified below: • *Building Act 2011;* • *Public Health Act 2016;* • *the Dog Act 1976;* • *the Tobacco Products Control Act 2006;* • *the Food Act 2008;* • *The Cat Act 2011;* • *Part 3 & 4 Caravan Parks & Camping Grounds Act 1995;* • Enforcement of Shire's local laws; • *Environmental Protection Act 1986;* • *Environmental Protection (Noise) Regulations 1997* (s 65*); and* • *Local Government Act 1995, Local Government (Uniform Local Provisions) Regulations 1996; and Local Government (Functions & General) Regulations 1996; Part XX of the Local Government (Misc. Provisions) Act 1960.* • Section 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Admin) Regulations 2014.*
Delegation(s) prescribed by legislation:	EA3 Delegation to the Environmental Health Officer in relation to the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911* EA7 Delegation to the Environmental Health Officer in relation to the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911* EA12 Delegation to Local Government Officers in relation to the *Environmental Protection Act 1986*
Delegation from Government of Western Australia	*This person has also been appointed as an Authorised Person and Inspector by the Department of Water and Environmental Regulation in respect to the Environmental Protection Act 1986.*

AUTHORITY 18	DEVELOPMENT SERVICES OFFICER
Delegation(s) made by Council:	Not applicable.
Delegation(s) made by CEO:	Nomination as a prescribed person – s. 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Administration) Regulations 2014.* Nomination as a Prosecuting Officer in accordance with s. 13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*

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AUTHORITY 18	DEVELOPMENT SERVICES OFFICER
Appointment as Authorised Officer by the CEO:	*This certifies that this Officer, employed under s.5.36 of the Local Government Act 1995, has been appointed by the CEO as an Authorised Officer in relation to any buildings and/or incidental structures located or that are proposed to be located within the district of Toodyay, and a Prescribed Officer with authority to exercise powers of a Development Services Officer.* This person is an Authorised Person, responsible for exercising powers, in accordance with Part 2 of the *Criminal Procedure Act 2004,* for the purposes of, and in accordance with Prescribed Acts, including provisions (subsidiary legislation and regulations) of those Acts specified below: • *Food Act 2008 and Food Act Regulations 2009;* • *Dog Act 1976 and Dog Regulations 1976 and Dog (Restricted Breeds) Regulations No 2 (2002);* • *Cat Act 2011 and Cat Regulations 2012;* • *Local Government Act 1995*; and *Local Government (Miscellaneous Provisions) Act 1960;* • s. 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Admin) Regulations 2014.*
Delegation(s) prescribed by legislation:	Not applicable

AUTHORITY 19	RANGERS
Delegation(s) made by Council:	Not applicable
Delegation(s) made by the CEO:	Nomination as a prescribed person – s. 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Administration) Regulations 2014.* Nomination as a Prosecuting Officer in accordance with s. 13 of *Fines, Penalties, and Infringement Notices Enforcement Act 1994.*
Appointment as Authorised Officer by the CEO:	*This certifies that this Officer, employed under s.5.36 of the Local Government Act 1995, has been appointed by the CEO as a Prescribed Officer with the authority to exercise the powers of a Ranger / Pound Keeper, Registration Officer.* Designated as an Authorised Person, in accordance with Part 2 of the Criminal Procedure Act 2004, for the purposes of, and in accordance with Prescribed Acts, including the provisions of those Acts that are specified as follows: • *Animal Welfare Act 2002* (s.65); • *Biosecurity and Agriculture Management (Identification and*

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AUTHORITY 19	RANGERS
	Movement of Stock and Apiaries) Regulations 2013; • *Bush Fires Act 1954* (s.13, s.14, s.38 and s.59A) and Part V Bush Fire Regs.1954; and *Bush Fire (Infringement) Regs.1978* (s.59A(2)); • Part IV *Caravan Parks and Camping Grounds Act 1995*. • *Cat Act 2011* (Subdivision 2) & *Cat Regs. 2012*; • Part IV *Dog Act 1976*, *Dog Regulations 2013*; and *Dog Amendment Act 2013* • Enforcement of the Shire's local laws; • *Litter Act 1979* (s.27), and *Litter Act Regs. 1981*; • *Local Government Act 1995; plus*, *Local Government (Uniform Local Provisions) Regulations 1996*; and *Local Government (Functions & General) Regulations 1996;* • Part XX of the *Local Government (Misc. Provisions) Act 1960*; and • s. 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Admin) Regulations 2014.*
Delegation(s) prescribed by legislation:	EA10 Delegation to the Ranger, Pound keeper / Authorised Person in relation to the *Biosecurity and Agricultural Management Act 2007*

AUTHORITY 20	RESERVES MANAGEMENT OFFICER
Delegation(s) made by Council:	Not applicable.
Delegation(s) made by CEO:	Nomination as a prescribed person – s. 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Administration) Regulations 2014.*
Appointment as Authorised Officer by the CEO:	*This certifies that this Officer, employed under s.5.36 of the Local Government Act 1995 as a Reserves Management Officer, has been appointed by the CEO as a Prescribed Officer with authority to exercise the powers of a Ranger, Pound Keeper, Registration Officer & Bush Fire Control Officer.* This person is an Authorised Person, responsible for exercising powers, in accordance with Part 2 of the *Criminal Procedure Act 2004,* for the purposes of, and in accordance with Prescribed Acts, including provisions (subsidiary legislation and regulations) of those Acts specified below: • *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013;* • *Bush Fires Act 1954 (s.13, s.14, s.38 and s.59A) and Part V Bush Fire Regs.1954; and Bush Fire (Infringement) Regs.1978 (s.59A(2));*

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AUTHORITY 20	RESERVES MANAGEMENT OFFICER
	• *Part IV Caravan Parks and Camping Grounds Act 1995.* • *Cat Act 2011 (Subdivision 2) & Cat Regs. 2012;* • *Part IV Dog Act 1976, Dog Regulations 2013; and Dog Amendment Act 2013* • Enforcement of the Shire's local laws; • *Litter Act 1979 (s.27), and Litter Act Regs. 1981;* • *Local Government Act 1995; plus, Local Government (Uniform Local Provisions) Regulations 1996; and Local Government (Functions & General) Regulations 1996;* • *Part XX of the Local Government (Misc. Provisions) Act 1960; and* • s. 14 *Road Traffic (Admin) Act 2008* in accordance with reg. 7(2)(n) of the *Road Traffic (Admin) Regulations 2014.*
Delegation(s) prescribed by legislation:	Not applicable

AUTHORITY 21	COMMUNITY DEVELOPMENT OFFICER
Delegation(s) made by Council:	Appointment as Deputy Welfare Liaison Officer **as per Council Resolution No. 182/08/22**
Delegation(s) made by CEO:	Designated as an Officer with the responsibility for being the Deputy Welfare Liaison Officer for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire.
Delegation(s) prescribed by legislation	Not applicable.

AUTHORITY 22	ECONOMIC DEVELOPMENT COORDINATOR
Delegation(s) made by Council:	Appointment as Welfare Liaison Officer **as per Council Resolution No. 182/08/22**
Delegation(s) made by CEO:	Designated as an Officer with the responsibility for being the Welfare Liaison Officer for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire.
Delegation(s) prescribed by legislation	Not applicable.

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AUTHORITY 23	WORKS OPERATIONS OFFICER
Delegation(s) made by Council:	Appointment as Deputy Welfare Liaison Officer **as per Council Resolution No. 182/08/22**
Delegation(s) made by CEO:	Designated as an Officer with the responsibility for being the Deputy Welfare Liaison Officer for the Shire of Toodyay who has responsibilities in accordance with the State Emergency Management Committee Guidelines and LRC Memoire.
Delegation(s) prescribed by legislation	Not applicable.

AUTHORITY 24	ENTRUSTED PERSONS – Commonwealth Legislation – Australian Business Register Partnership Program – local government
Delegation(s) made by Council:	Not applicable
Delegation(s) made by CEO:	Every Officer who receives the ABR non-public information on behalf of the CEO of the Shire of Toodyay, or in the course of their duties, whether directly form AR or from a colleague in the Shire, will become the "entrusted person" to whom the confidentiality provisions in "*A new tax system (ABN (Australian Business Number)) Act 1999* (Commonwealth)".
Delegation(s) prescribed by legislation	Not applicable

AUTHORITY 25	Nominated User Representative – Landgate Account No. 10000996
Delegation(s) made by Council:	Not applicable
Delegation(s) made by CEO:	The CEO will provide authority to request changes or make updates to an account. The CEO will add / edit user representation to the account.
Delegation(s) prescribed by legislation	Not applicable
Landgate Contact:	The CEO, Director of the Company.

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Authority Matrix Table by Department

NO.	DELEGATION DESCRIPTION	ADOPTION DATE	LAST REVIEW DATE	SUB-DELEGATIONS				
				CEO	MCCS	MRD	MIA	OTHERS
Executive Services – Delegations to the CEO								
ES1	*Local Government Act 1995* and the *Local Government (Miscellaneous Provisions) Act 1960*	15/03/2007	25/05/2022	⊙	⊙	⊙	⊙	
ES2	Execution of Documents	19/04/2007	25/05/2022	⊙				
ES3	*Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911*	22/05/2017	25/05/2022	⊙		⊙		⊙
ES4	*Food Act 2008*	15/03/2007	25/05/2022	⊙				⊙
ES5	Building Act 2011	15/03/2007	25/05/2022	⊙		⊙		
ES6	*Cat Act 2011.*	15/03/2007	25/05/2022	⊙				
ES7	*Dog Act 1976.*	15/03/2007	25/05/2022	⊙				
ES8	*Bush Fires Act 1954.*	18/04/2013	25/05/2022	⊙				
ES9	*Biosecurity and Agricultural Management Act 2007*	22/05/2017	25/05/2022	⊙			⊙	⊙
ES10	Expression of Interest and Tenders	03/04/2012	25/05/2022	⊙	⊙	⊙	⊙	
ES11	Determine Grant, Sponsorship and Donation Allocations	18/04/2013	25/05/2022	⊙				

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NO.	DELEGATION DESCRIPTION	ADOPTION DATE	LAST REVIEW DATE	SUB-DELEGATIONS				
				CEO	MCCS	MRD	MIA	OTHERS
ES12	Lease of Council Buildings	18/04/2013	25/05/2022	⊙	⊙	⊙		
ES13	Tenancy Agreements	18/04/2013	25/05/2022	⊙	⊙	⊙		
ES14	Contract Formalities	18/04/2013	25/05/2022	⊙	⊙	⊙	⊙	
ES15	Temporary Road Closures	24/11/2015	25/05/2022	⊙		⊙	⊙	
Corporate and Community Services								
CS1	Payments from Municipal Fund or Trust Fund	24/11/2005	25/05/2022	⊙	⊙	⊙	⊙	⊙
CS2	Investment of Surplus Funds	24/11/2005	25/05/2022	⊙	⊙			
CS3	Amend Rate Record	22/09/2015	25/05/2022	⊙	⊙			
CS4	Agreement as to payment of rates and service charges	18/04/2013	25/05/2022	⊙	⊙			
CS5	Issue of Writ, Summons or Other Process	24/11/2005	25/05/2022	⊙	⊙			
CS6	Power to Defer, Grant Discounts, Waive or Write-off Debts	24/11/2005	25/05/2022	⊙	⊙			
CS7	Application for Public Events	22/09/2015	25/05/2022	⊙	⊙	⊙		
CS8	Consumption of Liquor on local government property	24/11/2005	25/05/2022	⊙	⊙	⊙		
CS9	Accession of Artefacts into the Museum Collection	27/03/2014	25/05/2022	⊙	⊙			⊙

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NO.	DELEGATION DESCRIPTION	ADOPTION DATE	LAST REVIEW DATE	SUB-DELEGATIONS				
				CEO	MCCS	MRD	MIA	OTHERS
Development and Regulation								
DAR1	Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste	24/11/2005	25/05/2022	⊙				⊙
DAR2	Issue of Notice of Breach (Fencing)	27/03/2008	25/05/2022	⊙		⊙		⊙
DAR3	Dealing with Clearing Matters	27/04/2006	25/05/2022	⊙		⊙	⊙	
DAR4	Swimming Pool Inspections	18/04/2013	25/05/2022	⊙		⊙		⊙
DAR5	Crossing from Public Thoroughfare to Private land or private thoroughfare.	18/04/2013	25/05/2022	⊙		⊙	⊙	
DAR6	Stallholder Applications	24/11/2005	25/05/2022	⊙		⊙		⊙
DAR7	Thoroughfares and Trading in Thoroughfares and Public Places Permits	24/11/2005	25/05/2022	⊙	⊙	⊙		⊙
DAR8	Development Application Delegations	24/11/2015	25/05/2022	⊙		⊙		⊙
DAR9	Illegal Development	24/11/2015	25/05/2022	⊙		⊙		
DAR10	Appointment of Authorised Persons – *the Shire of Toodyay Local Planning Scheme No. 4.*	24/11/2015	25/05/2022	⊙				
DAR11	Deed of Covenant for the Payment of a Developer Contribution	19/06/2008	25/05/2022	⊙				
DAR12	Gutters for new buildings in the Central Toodyay Heritage Area	18/02/2014	25/05/2022	⊙		⊙		⊙
DAR13	Recommendations to the WAPC regarding Applications for Subdivision/Amalgamation or Strata Title	25/06/2019	25/05/2022	⊙		⊙		⊙

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NO.	DELEGATION DESCRIPTION	ADOPTION DATE	LAST REVIEW DATE	SUB-DELEGATIONS				
				CEO	MCCS	MRD	MIA	OTHERS
DAR14	Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval	25/06/2019	25/05/2022	⊙		⊙		⊙
DAR15	Advice to the Department of Planning, Lands and Heritage (DPLH) regarding matters associated with Land Administration Act 1997	25/06/2019	25/05/2022	⊙		⊙		⊙
DAR16	Advising other Regulatory Authorities	25/06/2019	25/05/2022	⊙		⊙		⊙
Infrastructure and Assets Section								
AS1	Crossovers	18/04/2013	25/05/2022	⊙		⊙	⊙	
AS2	Private Works on, over or under public places	18/04/2013	25/05/2022	⊙		⊙	⊙	
AS3	Licence to deposit materials on or excavate adjacent to a street.	18/04/2013	25/05/2022	⊙		⊙	⊙	
AS4	Dangerous excavation	18/04/2013	25/05/2022	⊙		⊙	⊙	
External Agency Statutory Delegations made direct to Officers								
EA1	Noise Control – Serve Environmental Protection Notices [S65(1)]	24/11/2005	25/05/2022	⊙				
EA2	Noise Control – Keeping of Logbooks, Noise Control Notices, Calibration and Approval of Non-Complying Events [reg.16]	24/11/2005	25/05/2022	⊙				
EA3	Noise Control – Noise Management Plans – Construction Sites [reg.13]	24/11/2005	25/05/2022	⊙				⊙
EA4	Delegation to the CEO In relation to the *Freedom of Information Act 1992*	18/04/2013	25/05/2022	⊙				

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NO.	DELEGATION DESCRIPTION	ADOPTION DATE	LAST REVIEW DATE	SUB-DELEGATIONS				
				CEO	MCCS	MRD	MIA	OTHERS
EA5	Delegation to the CEO in relation to the *Public Interest Disclosure Act 2003*	22/09/2015	25/05/2022	⊙				
EA6	Delegation to the CEO in relation to the *Local Government Act 1995.*	22/09/2015	25/05/2022	⊙				
EA7	Environmental Health Officer in relation to the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911*	28/06/2016	25/05/2022	⊙				⊙
EA8	Powers of Entry in an emergency	18/04/2013	25/05/2022	⊙	⊙	⊙	⊙	⊙
EA9	Development Applications made under auspices of the *Planning and Development Act 2005*	29/06/2016	25/05/2022	⊙		⊙		
EA10	Delegation to the Ranger, Pound keeper / Authorised Person in relation to the *Biosecurity and Agricultural Management Act 2007*	22/05/2017	25/05/2022	⊙				⊙
EA11	Delegation to Local Government Officers in relation to the Strata Titles Act 1985	22/06/2021	25/05/2022	⊙		⊙		⊙
EA12	Delegation to Local Government Officers in relation to the Environmental Protection Act 1986	08/05/2023	08/05/2023					⊙

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REVIEW TABLE

The Review Table of the Delegation Register is as follows:

Review No	Date	Review Type	Amended Delegation Numbers	Council Resolution No	REVIEW STATUS
1	24/11/2005	Amended	D.2	192/11/05	Completed
2	16/11/2006	Amended	D.4-D.7; D.9-D.15; D.17-D.18; D.20; D.22-D.25	190/11/06	Completed
3	15/11/2007	Amended	D.1-D.2; D.4-D.7; D.10-D.21; D.23-D.27	157/11/07	Completed
4	25/02/2008	Revoked	D.10	204/02/08	Completed
		Amended	D.11	205/02/08	Completed
		Revoked	D.17	206/02/08	Completed
5	8/06/2008	New Delegation	D.29	275/05/08	Completed
6	21/05/2009	Removed	185/01/08	500/05/09	Completed
		Amended	D.6		
		Amended	D.18		
		Amended	D.19		
		Amended	D.20		
		Amended	D.25		
		Amended	D.26		
7	10/12/2009	One off	590/10/09	590/10/09	Completed
8	25/02/2010	Revoked	D.9	644/12/09	Completed
		Amended	D.26	688/02/10	
9	13/05/2010	Amended	D.19; D.23; D.26;	751/05/10	Completed
10	21/06/2011	Amended	D.17	172/06/11	Completed
11	21/02/2012	Amended	D.18	37/02/12	Completed
12	21/02/2012	Amended	D.18	37/02/12	Completed

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Review No	Date	Review Type	Amended Delegation Numbers	Council Resolution No	REVIEW STATUS
13	29/02/2012	One-off	64/02/12	64/02/12	Completed
14	3/04/2012	New	D.30	107/04/12	Completed
15	19/06/2012	Amended	D.5, D.6, D.12, D.17, D.23	189/06/12	Completed
16	18/04/2013	Reviewed	D.2, D.3, D.4, D.5, D.8, D.11, D.12, D.16, D.18, D.21, D.23, D.27, D.28, D.29, D.30.	114/04/13	Completed
16	18/04/2013	Amended AND Adopted *(as amended)*	D.1, D.6, D.7, D.13, D.14, D.15, D.17, D.19, D.20, D.25, D.26, D.27, D.36, D.37, D.38, D.39, D.40, D.42, D.43, D.46, D.48, D.52, D.54, D.55, D.57, D.58, D.59.	114/04/13	Completed
16	18/04/2013	Adopted	D.33, D.34, D.35, D.41, D.44, D.45, D.47, D.50, D.51, D.53, D.56.	114/04/13	Completed
16	18/04/2013	Revoked	D.9.	114/04/13	Completed
17	18/04/2013	Adopted	D.61	119/04/13	Completed
18	17/05/2013	Amended	D.1, D.39	CEO Request	Completed
19	17/05/2013	Amended	D.6	CEO Request	Completed
20	31/07/2013	Amended	D.11	CEO request	Completed
21	3/12/2013	Amended	D.13/D.14/D.59	CEO request	Completed
22	18/2/2014	Adopted	D.49	43/02/14	Completed
23	27/05/2014	Adopted	D.60	120/05/14	Completed
24	28/10/2014	Amended	D.26	324/10/14	Completed
25	28/10/2014	TBA	D.62	324/10/14	Completed
26	28/10/2014	TBA	D.63	324/10/14	Completed
27	28/10/2014	TBA	D.64	324/10/14	Completed
28	28/10/2014	REVIEWED (Vn.2)	The whole doc.	324/10/14	Completed
29	11/11/2014	Presented	*All Delegations*	Council Forum	Completed

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Review No	Date	Review Type	Amended Delegation Numbers	Council Resolution No	REVIEW STATUS
30	08/09/2015	Presented	*All Delegations*	Council Forum	Completed
31	22/10/2015	Adopted	*All Delegations*	187/09/15	Completed
32	17/11/2015	Review	*DRAFT Planning Delegations*	Added section headings	Completed
33	24/11/2015	Revoke	*D.11 and D.17*	242/11/15	Completed
34	24/11/2015	Adopted	*DAR8, DAR9 & DAR10*	242/11/15	Completed
35	24/11/2015	Review	*D.28*	N/A	Completed
36	February	Review	*All Delegations*	N/A	Completed
37	23/02/2016	Adopted	*ES15*	23/02/16	Completed
38	14/06/2016	Presented	*All Delegations*	Council Forum June 2016	Completed
39	24/05/2016	Reviewed	*DAR8, DAR9, DAR10*	51/05/16	Completed
40	28/06/2016	Considered	*All Delegations*	90/06/16	Completed.
41	29/06/2016	External Agency	*EA9*	N/A	Completed.
42	22/11/2016	Amended	*CS1*	118/11/16	Completed
43	27/06/2017	Reviewed	*All Delegations*	106/06/17	Completed
44	22/05/2018	Reviewed /Amended	*All Delegations*	88/05/18	Completed
45	06/05/2019	Reviewed	*All Delegations*	Sent email to Mgrs. 6/5/19	Completed
46	25/06/2019	Amended	*All Delegations*	138/06/19	Completed
47	25/06/2019	Amended	*Authorities Section*	N/A	Completed
48	23/06/2020	Amended	*All Delegations*	209/06/20	Completed.
49	4/1/2021	Commenced review of the Delegation Register	*Delegations in the Executive Services Section were due to Local Government Act 1995 amendments to subsidiary legislation.*	N/A	Completed
50	31/05/2021	Workshopped the delegations with Council	*Some delegations were amended, and some removed (refer to the June 2021 OCM (Ordinary Council Meeting)*	N/A	Completed

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Review No	Date	Review Type	Amended Delegation Numbers	Council Resolution No	REVIEW STATUS
			Attachments)		
51	22/06/2021	Reviewed /Amended	*Refer to the June 2021 OCM Report and Amendment Schedule in the attachments to the OCM.*	131/06/21	Completed.
52	07/07/2021	Amended	*The Authority Certificates*	N/A	Completed.
53	25/05/2022	Reviewed / Amended	*Refer to the May 2022 OCM Report and Amendment Schedule*	OCM083/05/22	Completed.
54	01/06/2023	Amended	*Added in Delegation EA12*	N/A	Completed.
55	01/06/2023	Reviewed	*Governance Officer reviewing content and making changes*		

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SECTION 2 Executive Services (Delegations to the CEO)

ES1 *Local Government Act 1995* and *Local Government (Miscellaneous Provisions) Act 1960* --- --- Delegation to the CEO -

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the legislation stated below:

- *Local Government Act 1995*;
- *Local Government (Miscellaneous Provisions) Act 1960; and*
- *Planning and Development Act 2005, sections 214(2), (3) and (5);*

in accordance with s. 5.42 (Delegation of some powers and duties to CEO) of the Act.

** Absolute majority required.*

With respect to the above, the intent is that the authority will extend to any subsidiary regulations of the legislation specified above, and any Shire local laws where the head of power is the Act.

Section 2 of the *Local Government (Miscellaneous Provisions) Act 1960 states* that the Act 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 Act commenced.

POWERS AND DUTIES

This delegation authorises the CEO to:

- appoint fit and proper persons to be a keeper of Pounds, and to also appoint a Ranger or Rangers, in accordance with s. 449 of the *Local Government (Miscellaneous Provisions) Act 1960*.
- exercise the powers given to a local government in respect to Subdivision 2 – Certain provisions about land, in accordance with s. 3.24 (Authorising persons under this Subdivision) of Act.

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- make, vary, or discharge a contract in the name of or on behalf of the local government in the same manner as if that contract was made, varied, or discharged by a natural person in accordance with s. 9.49B (Contract formalities) of the Act. **Refer to Delegation ES10**.

FUNCTION

Functions specifically performed by the CEO, an Authorised Person that the CEO has been *statutorily delegated to appoint* under s.9.10 (Appointment of authorised persons), and/or an employee of local government in accordance with s.5.44 (CEO may delegate powers and duties to other employees) of the Act are as follows:

Local Government Act 1995

s. 3.18 Performing executive functions;
s. 3.20(1) Performing functions outside district;
s. 3.25 Notices requiring certain things to be done by owner or occupier of land;
s. 3.39 Power to remove and impound;
s. 3.46 Goods may be withheld until costs paid;
s. 3.47A Sick or injured animals, disposal of;
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;
s. 9.11 Persons found committing breach of Act to give name on demand;
s. 9.16 Notice, giving of to alleged offender;
s. 9.24 Prosecutions, commencing; and
s. 9.29 Representing local government in court.

Local Government (Miscellaneous Provisions) Act 1960

s. 448 Cattle grazing on streets etc. without local government's consent, status of and may be impounded;
s. 449 Pounds, establishing; pound keepers and rangers, appointing;
s. 450 Pounds, pound keepers and rangers, notice and proof of etc.;
s. 455 Pound book, information in and access to etc.;
s. 456 Fees etc. for pound, notice of; and
s. 457 Unclaimed money, how pound keeper and local government to deal with.

Sections 214(2), (3) and (5) of the *Planning and Development Act 2005*.

s. 214 Illegal development, responsible authority's powers as to.

Refer to Section 7 and DAR10.

CONDITIONS

This delegation is subject to the requirements of other legislation and regulations and the Shire's adopted local laws, schemes, codes, policies, and practices.

This delegation does not include those duties referred to in s. 5.43 (Limits on delegations to CEO) of the Act.

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Under the *Planning and Development Act 2005* a ***designated person*** in ss. 228, 229, 230 or 231 means a person appointed under s. 234 to be a designated person for the purposes of the section in which the term is used.

Section 234 (2) of the *Planning and Development Act 2005* states that a person who is authorised as a **Designated Person** to give infringement notices under s. 228 is not eligible to be a designated person for the purposes of any of the other sections.

Section 64 (4) (Appointment of Authorised Persons) of the *Animal Welfare Act 2002* states that a person cannot be both an authorised person and an inspector.

ES1	***Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 ----*** *Delegation to the CEO -*
Relevant Management Practice:	• Shire of Toodyay Planning Schemes and Strategies; • Shire of Toodyay Record Keeping Plan.
Relevant Local Law:	• Shire of Toodyay's adopted local laws.
Relevant Council Policy:	• Not applicable.
Other Relevant References: *Local Government Act 1995*	• *Local Government Act 1995* – s. 3.25 (Notices requiring certain things to be done by owner or occupier of land). • Part 3, Division 3 (Subdivision 2 – (Certain Provisions about land) s. 3.24 (Authorising persons under this subdivision); • Part 5, Division 4, s. 5.36 (Local Government Employees); and • Section 5.42 (Delegation of some Powers and Duties to CEO). • Division 2 (Enforcement and legal proceedings) (Subdivision 1 Miscellaneous provisions about enforcement) s. 9.10 Appointment of authorised persons; • Subdivision 4, Part 3 Division 3 (Executive Functions of Local Governments) s. 3.39 (Power to move and impound); • Part 9, Division 2 (Enforcement and legal proceedings) Subdivision 1 (Miscellaneous provisions about enforcement) ss. 9.11, 9.13, 9.16, 9.17, 9.18, 9.19 and 9.20.
Local Government (Miscellaneous Provisions) Act 1960	• Section 449 (Pounds, establishing; pound keepers and rangers, appointing)

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ES1	***Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 ----*** *Delegation to the CEO -*
Other Relevant References: *Local Government (Functions and General) Regulations 1996*	• Part 5 – Owner onus and infringement notices.
File Number: (not an exhaustive list)	• MAN6 – Appointments of Authorised Officers / Persons; • FIN5/RGR7/R1.26, R2.6, R3.4, R4.2/LAW1, LAW7/PAR3, PAR1/DOG 2, DOG4/LIT1
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Volunteer records are to be kept up to date in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • All decisions taken in respect to infringement notices, or the removal or impoundment of goods are to be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Notices to be given of certain decisions are to be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-delegation made by the CEO to other employees	• Not applicable in accordance with s. 5.43 (Limits on delegations to CEO) of the *Local Government Act 1995.*
Conditions	• Refer to the Conditions above.
Appointment of Authorised Officers / Authorised Persons ☑ *limited suitability for Acting Through*	• Refer to the Statement of Intent; • s. .3.39 (Power to remove and impound) of the *Local Government Act 1995* suitable for Acting Through. • Appointment of a Designated person subject to s. 234 of the *Planning and Development Act 2005.* • Refer to the Statement of Intent.
Adoption Date:	15 March 2007
Last Review Date:	25 May 2022

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ES2 Execution of Documents

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

BACKGROUND

The Shire's *Local Law (Standing Orders) 2008* sets out in clause 20.1 the procedure for the use of Council's Common Seal.

Point (2) of this clause states:

> *"The common seal may be used only on the authority of the Council, given either generally or specifically, and every document to which the seal is affixed must be signed by the President (unless otherwise authorised by the Council) and by the CEO or a senior employee authorised by the CEO."*

*W*here a discretionary power or duty is assigned in a Local Law to the Local Government, the power or duty must be delegated to convey the authority to make decisions.

Section 9.49A(5) (Execution of documents) of the Act states that a document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by this authorisation.

s.9.49 (Documents, how authenticated) of the Act states that "A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.

Council cannot delegate to the CEO the power under s. 9.49A(4) (Execution of documents) to authorise a person to sign documents on behalf of the local government (Refer to s.5.43(ha) (Limits on delegation to CEO) of the Act).

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004* to delegate to the:

- Chief Executive Officer;
- Manager Infrastructure and Assets;
- Manager Development and Regulation; and
- Manager Corporate & Community Services

the exercise of any local government (Council) powers or the discharge of any Council duties in accordance with s. 9.49A(4) of the Act.

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The intent with respect to the above is that the authority will extend to the *Local Government Standing Orders 2008 Local Law* whose head of power is the Act.

POWER AND DUTIES

This delegation authorises the CEO and other employees to sign documents on behalf of the local government that are necessary, appropriate, and directly or indirectly related to the performance of their functions under any written law in accordance with ss. 9.49A(4) (5) and (7) (Execution of Documents) of the Act and the Shire's Standing Orders Local Law 2008 (s. 20.1) subject to the conditions of this delegation.

FUNCTION

Functions specifically performed by the abovenamed Officers, in accordance with ss.9.49 (Documents, how authenticated) and s.9.49A(1) (Execution of Documents) of the Act are as follows:

- To have charge of the common seal of the Shire and be responsible for its safe custody and proper use; and
- To sign documents on behalf of the local government.

CONDITIONS

In terms of application of the Common Seal to documents Officers comply with ss. 9.49A (2) and (3) (Execution of Documents) of the Act.

Section 34 of the *Local Government (Functions and General) Regulations 1996* states that "*a person who affixes the common seal, or a replica of the common seal, of a local government to any document except as authorised by the local government commits an offence*."

ES2 EXECUTION OF DOCUMENTS	
Relevant Management Practice:	• Governance Framework and Risk Management Tables; • Shire of Toodyay Record Keeping Plan
Relevant Local Law:	• Part 20.1 – *Shire of Toodyay Standing Orders Local Law 2008*
Relevant Council Policy:	• *Execution of Documents Policy.*
Relevant References:	*Local Government Act 1995* • s. 9.49A(1) (Execution of documents) document executed by person under an authority is permitted to do so by this authorisation. • s. 9.49 (Documents, how authenticated)
File Number:	• MAN10

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ES2 EXECUTION OF DOCUMENTS	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • A Common Seal Register is to be kept in respect to the use of the Common seal; • Use of the Common Seal is to be reported in the Executive Section of the Council Information Bulletin; • Signed copies of executed documents, sealed or unsealed, are to be stored in the Shire's Record Keeping System in accordance with the Shire of Toodyay's Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees.in accordance with S.9.49A(4)	• CEO; • Manager Corporate & Community Services; • Manager Development and Regulation; and the • Manager Infrastructure and Assets
Sub-delegation made by the CEO to other employees	• Not permitted in accordance with s. 5.43 (Limitations on delegations to CEO) states a local government cannot delegate to a CEO (s.5.43(ha) (Limits on delegations to CEO) the power under s. 9.49A(4) (Execution of documents) to authorise a person to sign documents on behalf of the local government)
Conditions	• That where Managers execute documents, the CEO, or the Acting CEO, acting as Council's deputy, is to be provided with due notice and opportunity to sight the original document, prior to execution.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Not applicable.
Adoption Date:	19 April 2007
Last Review Date:	25 May 2022

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ES3 *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* -------
Delegation to the CEO –

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The *Public Health Act 2016:*

- is a Prescribed Act as defined by the *Criminal Procedures Act 2004*; and
- defines an ***enforcement agency*** and a ***public authority*** as meaning a local government.

The intent of this delegation is for Council, as a public authority and enforcement agency, to delegate to the CEO, as Council's Deputy, the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the *Prescribed Acts* stated below:

- *Health (Miscellaneous Provisions) Act 1911,* in accordance with s. 26 (Powers of local government)*; and*
- *Public Health Act 2016* in accordance with s. 21(1)(b) (Enforcement Agency may delegate) and s. 24(1) (Designation of Authorised Officers).

The intent with respect to the Prescribed Acts mentioned above is that the authority will extend to the regulations or subsidiary legislation of those prescribed acts and the Shire's local laws where the head of power is either the Act, the *Public Health Act 2016* or the *Health (Miscellaneous Provisions) Act 1911.*

POWERS AND DUTIES

This delegation authorises the CEO to:

- exercise the powers given to a local government and perform the functions of local government in relation to the administration of the *Public Health Act 2016* in accordance with s. 16 (Functions of local government).
- appoint one or more persons as Environmental Health Officers in accordance with s. 17 (Appointment of environmental health officers) and s. 312 (Environmental health officers to be authorised officers for certain purposes) of the *Public Health Act 2016*.
- exercise the powers that are conferred or imposed on the enforcement agency and perform the functions of the agency in relation to the administration of the *Public Health Act 2016* in accordance with s. 19 (Functions of enforcement agencies).

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- designate a person or class of persons as Authorised Officers for the purposes of the *Public Health Act 2016* in accordance with s. 24(1) (Designation of authorised officers).
- exercise and discharge all or any of the powers and functions of the local government in accordance with s. 26 (Powers of local government) of the *Health (Miscellaneous Provisions) Act 1911.*
- exercise the powers given to a local government in respect to Division 2 — Criminal liability in accordance with s. 280 (Commencing proceedings) of the *Public Health Act 2016*.

FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the public authority and enforcement agency as follows:

Public Health Act 2016

s.16 Functions of the local government (Division 2);
s.17 Appointment of environmental health officers;
s.19 Functions of enforcement agencies;
s. 24 Designation of Authorised Officers;
s. 240 Powers of Authorised Officers;
s. 280 Commencing proceedings; and
s. 312 Environmental Health Officers to be Authorised Officers for certain purposes.

Health (Miscellaneous Provisions) Act 1911

s. 26 Powers of local government; and
s. 353 Power to take possession of and lease land or premises on which expenses are due.

Refer to Section 7.

CONDITIONS

The appointment of an Environmental Health Officer must be in accordance with ss. 17(1) (Appointment of environmental health officers) and 25(1) (Certain authorised officers required to have qualifications and experience) of the *Public Health Act 2016*.

The delegate (CEO) will issue to each person who is an authorised person a Certificate of Authority in accordance with ss. 30 (Certificates of authority) and 31 (Issuing and production of certificate of authority for purposes of other written laws) of the *Public Health Act 2016*.

Section 38 (Local governments to report annually) of the *Health (Miscellaneous Provisions) Act 1911* implies that every local government shall, in the prescribed form, during the

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month of February in every year, and at such other times as the Executive Director, Public Health may direct, report to the Executive Director, Public Health concerning the sanitary conditions of its district, and all works executed, and proceedings taken by the local government.

ES3 ***Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911*** ----- Delegation to the CEO	
Relevant Management Practice:	• Public Health Plans.
Relevant Local Law:	• Shire of Toodyay Health Local Law
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• Delegation DAR1
File Number:	• Property Files and Health Files
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Record of decisions, file notes and memorandums are to be recorded and kept in the appropriate file and/or register in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Environmental Health Officer
Conditions	• Subject to s. 17(3) (Appointment of environmental health officers) of the *Public Health Act 2016.*
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	22 May 2018
Last Review Date:	25 May 2022

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ES4 *Food Act 2008* - Delegation to the CEO

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties as an enforcement agency in respect to s.122(1) (Appointment of authorised officers) the *Food Act 2008.*

The intent with respect to the above is that the authority will extend to any subsidiary legislation of the legislation specified above, and any Shire local laws where the head of power is either the Act, the *Public Health Act 2016,* or the *Health (Miscellaneous Provisions) Act 1911.*

POWERS AND DUTIES

This delegation authorises the CEO to:

- exercise the powers that are conferred or imposed on the enforcement agency and perform the functions of the agency in relation to the Division 2 – Functions of Enforcement Agencies and the enforcement of the *Food Act 2008* in accordance with s. 118(2)(b) (Functions of enforcement agencies and delegation).
- exercise the powers that are conferred or imposed on the enforcement agency and perform the functions of the agency in relation to the Division 3 – Appointments of Authorised Officers and the enforcement of the *Food Act 2008* in accordance with Part 9 (Registration of food businesses) and Part 11 (Procedural and evidentiary provisions).
- designate a person or class of persons as Authorised Officers for the purposes of the *Food Act 2008* in accordance with s. 24(1) (Designation of authorised officers) of the *Public Health Act 2016*.
- Appoint designated Officers for the purposes of the *Food Act 2008* in accordance with s. 126(13) (Infringement notices) of the *Food Act 2008.*

FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the public authority and enforcement agency within the *Food Act 2008* and any subsidiary legislation.

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CONDITIONS

To comply with s. 123(1) (Certificates of Authority) of the *Food Act 2008* and with any condition or limitation imposed under ss. 119 (Conditions on performance of functions by enforcement agencies) or 120 (Performance of functions by enforcement agencies and authorised officers) of the *Food Act 2008.*

The CEO is to provide each Authorised Officer appointed with a Certificate of Authority as an Authorised Officer. The CEO is responsible for preparation and maintenance of a list of Authorised Officers appointed.

Section 123(2) (Certificates of authority) of the *Food Act 2008* describes what the Certificate of Authority must look like; whilst s. 123(3) states that Authorised Officers or designated persons are required to produce their certificate of authority if asked to do so.

This delegation is subject to the requirements of the *Food Act 2008* and the *Food Act Regulations 2009* as well as the Department of Health's compliance and enforcement of food legislation in WA (Western Australia).

Authorised Officers and designated persons are also required to perform their delegated duties in accordance with the Shire's adopted local laws, schemes, codes, policies, and practices.

Section 126(13) (Infringement notices) of the *Food Act 2008* states that a person who is a designated officer for the purposes of giving infringement notices is not eligible to be a designated officer for the purposes of any of the other subsections of the *Food Act 2008.*

ES4 *Food Act 2008* ---- Delegation to the CEO-	
Relevant Management Practice:	• Department of Health Publications and Fact Sheets https://ww2.health.wa.gov.au/Articles/F_I/Food-Act-
Relevant Local Law:	• Shire of Toodyay Health local laws; and • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law
Relevant Council Policy:	• Not applicable.

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ES4 *Food Act 2008* ---- Delegation to the CEO-	
Other Relevant References: *Food Act 2008*	• s. 65 (Prohibition Orders) • s. 66 (Certificate of clearance to be given in certain circumstances) • s. 67 (Request for reinspection) • s. 70 (Compensation) • s. 110 (Registration of Food business) • s. 112 (Variation of conditions or cancellation of registration of food businesses) • s. 122(1) (Appointment of Authorised Officers) • s. 125 (Institution of proceedings) • s. 126(13) (Infringement Notices)
File Number:	• HLT3 / HLT4 / HLT25 / HLT5 / EVT16 / HLT11 / Property File.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Record of decisions, file notes and memorandums are to be recorded and kept in the appropriate file and/or register in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Environmental Health Officer
Conditions	• Subject to s. 117(2) of the *Food Act 2008.*
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	15 March 2007
Last Review Date:	25 May 2022

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ES5 *Building Act 2011* - Delegation to CEO.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The *Building Act 2011*:

- is a Prescribed Act as defined by the *Criminal Procedures Act 2004*; and
- defines ***permit authority*** as meaning a local government in whose district the building or incidental structure that is the subject of an application or notice is, or is proposed to be, located.

The *Building Services (Registration) Act 2011*:

- defines ***public authority*** as meaning a local government.

The intent of this delegation is for Council, as a ***public permit authority***, to designate the CEO to be an authorised person who will exercise any local government (Council) powers or the discharge of any Council duties in respect to the *Building Act 2011*, in accordance with s. 96(3) (Authorised persons) of the *Building Act 2011.*

The intent with respect to the Prescribed Act mentioned above is that the authority will extend to the regulations or subsidiary legislation of the prescribed act and the Shire's local laws where the head of power is either the Act or the *Building Act 2011.*

POWERS AND DUTIES

This delegation authorises the CEO to:

- exercise any powers or duties given to a local government as a public permit authority and perform the functions of a public permit authority in relation to buildings and incidental structures located or proposed to be located in the district of the local government in accordance with s. 127(1) (Delegation: special permit authorities and local governments) of the *Building Act 2011*.
- delegate to any other local government employee a power or duty of the local government that has been delegated to the CEO for the purposes of undertaking the responsibilities of an Authorised Officer in relation to the exercise of the powers that are conferred or imposed on the permit authority in accordance with s. 127(6A) (Delegation: special permit authorities and local governments) of the *Building Act 2011*.
- exercise the powers that are conferred or imposed on the permit authority and perform the functions of the public authority in accordance with ss. 133 (Prosecutions), 145A (Local government functions) and 191 (Notices to stop unlawful work) of the *Building Act 2011.*

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FUNCTION

The CEO, as an Approved Officer in accordance with s. 70 (Buildings incidental to infrastructure) of the *Building Act 2011*, for the purposes of the *Criminal Procedure Act 2004,* is authorised to undertake or delegate any responsibilities that are conferred or imposed on the public permit authority and to exercise responsibilities of an Authorised Officer contained within sections of the prescribed act and its subsidiary legislation below.

Building Act 2011

s. 18 Further Information;
s. 19 Certificate of design compliance;
s. 20 Grant of building permit;
s. 21 Grant of demolition permit;
s. 22 Further grounds for not granting an application;
s. 24 Notice of decision not to grant building or demolition permit;
s. 27(1) & (3)Conditions imposed by permit authority;
s. 32 Duration of building or demolition permit (consider application to extend time);
s. 55 Further information;
s. 56 Certificate of construction compliance;
s. 57 Certificate of building compliance;
s. 58 Grant of occupancy permit, building approval certificate;
s. 60 Notice of decision not to grant occupancy permit or to grant building approval certificate;
s. 62(1) & (3) Conditions imposed by permit authority;
s. 65 Extension of period of duration;
s. 88(3) Finishes of walls close to boundaries;
s. 100 Entry powers;
s. 101 Powers after entry for compliance purposes;
s. 102 Obtaining information and documents;
s. 103 User of force and assistance;
s. 104 Directions generally;
s. 106 Entry warrant to enter place.
s. 110 Building Orders;
s. 111(1) Notice of proposed building order other than a building order (emergency);
s. 117 Revocation of building order;
s. 118 Permit authority may give effect to building order if non-compliance;
s. 133 Prosecutions.
s. 140 Proof of permits, certificates, building orders, declarations, obtained records, approved forms;
s. 191 Notices to stop unlawful work;

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Building Regulations 2012

reg. 36 Certificate of building compliance (s. 57);
reg. 53 Inspection of barrier to private swimming pool;
reg. 70 Approved Person and Authorised Officers;
reg. 27 Required inspection and tests: Class 2 to Class 9 buildings (s. 36(2)(a));
reg. 28 Required inspection: barrier to private swimming pool (s. 36(2)(a)).

CONDITIONS

This delegation may be subject to any limitations imposed on the powers of an Authorised Person in accordance with s. 99(2)(b) (Limitation on powers of authorised person) of the *Building Act 2011.*

The statutory power to sub-delegate is limited to the CEO in accordance with s.127(6A) (Delegation: special permit authorities and local governments) of the *Building Act 2011.*

The CEO must be satisfied that an Authorised person is suitably qualified in accordance with s. 5.36(3) (Local government employees) of the Act. An Officer must have the prescribed qualifications to be delegated authority to exercise the functions of this delegation.

An Officer to whom this authority is delegated cannot, in accordance with the provisions of the *Building Act 2011*, approve plans in which he/she has an interest.

An Officer to whom this authority is delegated must comply with s. 131 (Inspection, copies of building records) of the *Building Act 2011*.

In relation to the application of s. 88(3) (Finishes of walls close to boundaries) of the *Building Act 2011,* the discretion of an Officer is limited to what is specified within Council Policy. Anything that falls outside this Policy shall come to Council for a decision.

ES5 *Building Act 2011* – Delegation to the CEO	
Relevant Management Practice:	• Shire of Toodyay Record Keeping Plan.
Relevant Local Law:	• Shire of Toodyay Property Local Law; • Shire of Toodyay Health Local Law.
Relevant Council Policy:	• Shire of Toodyay Record Keeping Policy.

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ES5 *Building Act 2011* – Delegation to the CEO	
Relevant References: ***Building Act 2011***	• s.6 Permit (Authority for a building or incidental structure) • s.96 (Authorised persons) • s.127 (Delegation: special permit authorities and local governments; • s.133 (Prosecutions) • s.145A (Local Government Functions) • s.140 (Proof of permits, certificates, building orders, declarations, obtained records, approved forms) • s. 191 (Notices to stop unlawful work) • s. 99 (Limitation on powers of authorised person) • s. 100 (Entry Powers) • s. 102 (Obtaining information and documents) • s. 103 (Use of force and assistance) • s. 106 (Entry warrant to enter place) • s. 133 (Prosecutions)
Other Relevant References:	**Building Services (Registration) Act 2011** • reg. 374AAA (Local governments not to issue building licences in certain circumstances) **Building Regulations 2012** • reg. 5A (Authorised persons (s.3)) • reg. 36 (Certificate of building compliance (s. 57); • reg. 53 (Inspection of barrier to private swimming pool); • reg. 70 (Approved officers and Authorised Officers); • reg. 27 (Required inspection and tests: Class 2 to Class 9 buildings (s. 36(2)(a)); • reg. 28 (Required inspection: barrier to private swimming pool (s. 36(2)(a))
File Number:	• LAW1/BLD1/BLD2/BLD6
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • All decisions are to be made in writing and kept on file, in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy; • All decisions are to be recorded in the Building Register and reported in the Development and Regulation section of the Council Information Bulletin. • the Appointment of Authorised Persons is to be recorded in the Authorised Officer Register and reported in the Executive Services Section of the

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ES5 *Building Act 2011* – Delegation to the CEO	
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-delegation made by the CEO to other employees	• Manager Development and Regulation
Conditions	• As per the Instrument of Delegation and the Prescribed Act and subsidiary legislation of the Prescribed Act.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• As per the Instrument of Delegation and the Prescribed Act and subsidiary legislation of the Prescribed Act.
Adoption Date:	23 June 2020
Last Review Date:	25 May 2022

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ES6 *Cat Act 2011* --- Delegation to the CEO

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties as an enforcement agency in respect to the *Cat Act 2011* in accordance with s.44 (Delegation by local government) of the *Cat Act 2011. * Absolute majority required.*

The intent with respect to the above is that the authority will extend to any subsidiary legislation of the legislation specified above, and any Shire local laws where the head of power is either the Act, the *Local Government (Miscellaneous Provisions) Act 1960, Public Health Act 2016,* or the *Health (Miscellaneous Provisions) Act 1911.*

POWERS AND DUTIES

This delegation authorises the CEO to:

- administer the Shire's local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions in accordance with s. 42 (Administration by local governments) of the *Cat Act 2011*.
- exercise any of the local government's powers or the discharge of any of its duties and performance of any of its functions under the *Cat Act 2011* as follows:
  - s. 9 (Registration)
  - s.10 (Cancellation of registration)
  - s. 11 (Registration numbers, certificates, and tags)
  - s. 12 (Register of cats)
  - s. 13 (Notice to be given of certain decisions made under Subdivision 2)
  - s. 26 (Cat control notice may be given to cat owner)
  - s. 37 (Approval to breed cats)
  - s. 38. (Cancellation of approval to breed cats)
  - s. 39 (Certificate to be given to approved cat breeder)
  - s. 40 (Notice to be given of certain decisions made under this Subdivision)
  - Schedule 3, cl.1(4) Fees Payable (reg.11 and 21).

FUNCTION

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The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the prescribed public authority and enforcement agency and in accordance with s. 68 (When this Division applies) of the *Cat Act 2011*, the specific functions delegated to the CEO are as follows:

1. authority to grant, or refuse to grant or renew the registration of a cat under s. 9 (Registration);
2. cancel the registration of a cat under s.10 (Cancellation of registration);
3. refuse to approve or renew the approval of a person to breed cats under s. 37 (Approval to breed cats); or
4. cancel the approval of a person to breed cats under s. 38 (Cancellation of approval to breed cats).

The delegation gives authority to the CEO to action or delegate the action (to an authorised person) of the following:

5. give the cat owner a new registration certificate or tag, if satisfied that the original has been stolen, lost, damaged, or destroyed under s.11 (Registration numbers, certificates, and tags).
6. seize cats under s. 27 (Cats may be seized).
7. dispose of cats under s. 28 (Disposing of seized cats).
8. reduce or waive a fee payable in respect of any individual cat or any class of cats within the Shire under:
    i. subclause (2) Fee for application for grant or renewal of the registration of a cat for 3 years; or
    ii. subclause (3) Fee for application for grant or renewal of the registration of a cat for life.

Note: The powers that an authorised person (authorised by the CEO in accordance with s. 9.10(2) (Appointment of authorised persons) of the Act are detailed in Subdivision 2 of the *Cat Act 2011.*

CONDITIONS

Any objections to the decision that the CEO makes on behalf of Council is to be dealt with by Council in accordance with s. 70(1) (Dealing with objection) of the *Cat Act 2011*.

Any approval given to a person to breed cats will be by way of a certificate in the prescribed form under s. 39 (Certificate to be given to approved cat breeder).

This delegation is also subject to the requirements of other Acts and the provisions of any subsidiary legislation, and the Shire's adopted local laws, schemes, codes, policies, and practices.

ES6 ***Cat Act 2011*** *– Delegation to the CEO*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• *Cat Local Law 2018*
Relevant Council Policy:	• Shire of Toodyay's adopted policies.

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ES6 *Cat Act 2011 – Delegation to the CEO*	
Relevant References:	***Cat Act 2011*** • s. 13 (Notice to be given of certain decisions) • s. 27 (Cats may be seized) • s. 37 (Approval to breed cats) • s. 38 (Cancellation of approval to breed cats) • s. 39 (Certificate to be given to approved cat breeder) • s. 40 (Notice to be given of certain decisions made under subdivision) • s. 42 (Administration by local government) • s. 44 (Delegation by local government) • s. 45 (Delegation by CEO of local government) • s. 46 (Other matters relevant to delegations under this division) • s. 47 (Register, and review of, delegations) • s. 49 (Authorised person may cause a cat to be destroyed) • s. 50 (Persons found committing breach of Act to give name on demand) • s. 52 (General powers of authorised person) • s. 62 (Giving an infringement notice) • s. 73 (Prosecutions) • s. 79 (Local Laws)
File Number:	• RGR7
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Approvals and decisions related thereto (including cancellations), or notices are to be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees in accordance with s. 45(1) and subject to ss. 45(3) and (6) of the *Cat Act 2011.*	• Not applicable.
Conditions	• Not applicable.

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ES6 *Cat Act 2011* – *Delegation to the CEO*	
Appointment of Authorised Officers / Authorised Persons ☒ *Suitable for Acting Through*	• Refer to the Statement of Intent; • Suitable for Acting through in accordance with s. 46(2) (Other matters relevant to delegations under this Division) of the *Cat Act 2011.*
Adoption Date:	15 March 2007
Last Review Date:	25 May 2022

This document is not controlled once it has been printed.

ES7 *Dog Act 1976* --- Delegation to the CEO

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties as an enforcement agency in respect to the provisions of the *Dog Act 1976, in accordance with s.10AA (Delegation of local government powers and duties) of the Dog Act 1976*.

** Absolute majority required as defined in s. 1.4 of the Local Government Act 1995*

The intent with respect to the above is that the authority will extend to any subsidiary legislation of the legislation specified above, and any Shire local laws where the head of power is either the Act, the *Local Government (Miscellaneous Provisions) Act 1960, Public Health Act 2016,* or the *Health (Miscellaneous Provisions) Act 1911.*

POWERS AND DUTIES

This delegation authorises the CEO to:

- administer the Shire's local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions in accordance with s.48 (Regulations to operate as local laws) and s.11(1) (Staff and services) of the *Dog Act 1976*, in respect to the maintenance of one or more dog management facilities and otherwise to carry out the objects of the *Dog Act 1976*.
- to exercise the local government duty of s.9 (Administrative responsibility) in respect to the Administration and enforcement of the provisions of the *Dog Act 1976.*
- decide on the keeping of more than 2 dogs, in accordance with the Shire's *Dog Local Law*, and the keeping of up to 6 dogs, in accordance with s. 26(2) and (3) (Limitation as to numbers) of the *Dog Act 1976.* Council may limit the extent of the delegation through policy.

FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the public authority and enforcement agency within the *Dog Act 1976* and any subsidiary legislation.

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Note: The powers that an authorised person (appointed to be an authorised person by the CEO in accordance with s. 11A (Authorised persons) of the *Dog Act 1976* are contained in the following sections (refer to Division 2, s.61) of the *Dog Act 1976 as follows:*

s. 12A (Entry of premises)

s. 2. (Power to seize dogs)

s. 33E (Individual dog may be declared to be dangerous dog (declared))

s. 33G (Seizure and destruction)

s. 38 (Nuisance dogs)

s. 39 (Dogs causing injury or damage may be destroyed)

CONDITIONS

Section 11(3) (Staff and Services) of the *Dog Act 1976* states that a person who is authorised to exercise any power under this Act shall be furnished with a certificate in the prescribed form evidencing their appointment and shall produce that certificate on being required so to do by a person in respect of whom he exercises, has exercised, or is about to exercise any such power.

This condition is subject to s. 31 (Issuing and production of certificate of authority for purposes of other written laws) of the *Public Health Act 2016*.

Section 10AB (Register of, and review of, delegations) states that the CEO is to keep a register of delegations made under s. 10AA (1) (Delegation of local government powers and duties); and further delegations made under the authority of a delegation made under s. 10AA (1) (Delegation of local government powers and duties) of the *Dog Act 1976.*

Section 10AB (Register of, and review of, delegations) of the *Dog Act 1976* also states that the delegation register is to be reviewed once every financial year.

ES7 ***Dog Act 1976*** *– Delegation to the CEO*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Shire of Toodyay Dog Local Law.
Relevant Council Policy:	• Dogs.

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ES7	***Dog Act 1976*** *– Delegation to the CEO*
Other Relevant References:	***Dog Act 1976 -*** • s.10AA (Delegation of local government powers and duties) • s.10A (Payments to veterinary surgeons towards cost of sterilisation) • s.10AB (Register of, and review of, delegations) • s.11 (Staff and Services) • s.11A (Authorised Persons) • s.14 (Register of Dogs) • s.15 (Registration periods and fees) • s.16 (Registration Procedure) • s.17A (If no application for registration made) • s.26 (Limitation as to numbers) • s29 (Power to Seize Dogs) • s.31 (Control of dogs in certain public places) • s.33E (Individual dog may be declared to be dangerous dog (declared)) • s.33F (Owner to be notified of making of declaration) • s.33H (Local government may revoke declaration or proposal to destroy) • s.39 (Dogs causing injury or damage may be destroyed) • s.44 (Enforcement proceedings) • s.49 (Local Laws) • s.61 (Authorised Persons) ***Dog (Restricted Breeds) Regulations No. 2 (2002);*** and ***Dog Regulations 1976.***
File Number:	• LAW4
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Record of decisions made in respect to the keeping of three to six dogs is to be in writing and kept in the relevant file in accordance with the Shire of Toodyay's Record Keeping Plan and Record Keeping Policy. • Decisions are reported in the Executive Section of the Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.

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ES7 *Dog Act 1976* – *Delegation to the CEO*	
Sub-Delegation made by the CEO to other employees subject to s. 10AA (3) of the *Dog Act 1976.*	• Not applicable.
Conditions	**Dog Act 1976** • s. 11 (3) (Staff and Services) • s. 10AB (Register of, and review of, delegations)
Appointment of Authorised Officers / Authorised Persons ☒ *Suitable for Acting Through*	• Refer to the Statement of Intent; • Suitable for Acting through in accordance with s. 10AA (5) (Delegation of local government powers and duties) of the *Dog Act 1976.*
Adoption Date:	15 March 2007
Last Review Date:	25 May 2022

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ES8 Bush Fires Act 1954 --- Delegation to the CEO

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in accordance with sections of the *Bush Fires Act 1954* named below:

- s. 38 (Local government may appoint bush fire control officer) Division 1 – Local Governments - Part IV Control and Extinguishment of bush fires.
- s. 41 (Bush Fire Brigades) Division 2 – Bush Fire Brigades - Part IV Control and Extinguishment of bush fires.
- s. 50 (Records to be maintained by local governments).
- s. 59(3) (Prosecution of Offences) Part V Miscellaneous.
- s. 59(A) (Alternative procedure — infringement notices) Part V Miscellaneous of the *Bush Fires Act 1954*

POWERS AND DUTIES

The exercise of any local government (Council) powers or the discharge of any Council duties in respect to the *Bush Fires Act 1954* in accordance with s. 48 (Delegation by local governments) of the *Bush Fires Act 1954.*

* *Simple majority.*

FUNCTION

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to the performance of any of its functions under the *Bush Fires Act 1954 and* the provisions of any subsidiary legislation.

This delegation will also authorise the CEO to appoint persons or classes of persons to be authorised for the purposes of performing particular functions under the *Bush Fires Act 1954* and the provisions of any subsidiary legislation including:

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(a) considering allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry-on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district, and may pay out of its funds any costs and expenses incurred in or about the proceedings; and

(b) Issuing of Infringement Notices (i.e., to institute and carry-on proceedings against a person for an offence alleged to be committed against this Act). This delegation will include fire break notices. The term used in the Act is a "Prosecutor".

CONDITIONS

Refer to Section 7 of this Delegation Register.

Section 48(3) (Delegation by local governments) of the *Bush Fires Act 1954* states in relation to the delegation made under this section that "it does not include the power to sub-delegate".

Section 38(2A) (Local government may appoint bush fire control officer) of the *Bush Fires Act 1954* requires a notice of appointment made under the provisions of 38(1) to be published at least once in a newspaper circulating in its district.

Section 38(2E) (Local government may appoint bush fire control officer) of the *Bush Fires Act 1954* requires that the bush fire control officer be issued with a certificate of appointment stating that the person is a bush fire control officer for the purposes of this Act.

Section 41 (Bush Fire Brigades, local government to keep register of) requires that the CEO shall keep a register of bush fire brigades established by it in the form of Form 12 in the Appendix contained in the *Bush Fire Regulations 1954.*

This delegation should be read in conjunction with Delegation ES1 and is subject to other Acts and the provisions of any subsidiary legislation, and the Shire's adopted local laws, schemes, codes, policies, and practices.

ES8 ***Bush Fires Act 1954*** – *Delegation to the CEO*	
Relevant Management Practice:	• Code of Conduct for Council Members, Committee Members and Candidates; • Code of Conduct for Employees; • Shire of Toodyay Record Keeping Plan

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ES8 ***Bush Fires Act 1954*** – *Delegation to the CEO*	
Relevant Local Law:	• *not applicable.*
Relevant Council Policy:	• Bush Fire Brigades Operations (Administration) Standard Operating Procedures.
Other Relevant References*:* *Bush Fire Act 1954*	• s. 48 (Delegation by local governments) • s. 38 (Local government may appoint bush fire control officers) • s. 59(3) & (5) (Prosecution of Offences) Part V Miscellaneous
Other Relevant References*:* *Bush Fire Act Regulations 1954*	• reg. 16 (Term used: authorised officer) Part IV — Burning during restricted times and prohibited times • reg. 24 (Term used: authorised officer) Part V — Permit to burn proclaimed or declared plants during prohibited burning times • s. 41 (Bush Fire Brigades) Division 2 – Bush Fire Brigades - Part IV Control and Extinguishment of bush fires
Other Relevant References*:*	• *Bush Fires (Infringement) Regulations 1978;* • *Local Government Act 1995.*
File Number:	• FIR29/COC3/FIR3

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ES8 ***Bush Fires Act 1954*** – *Delegation to the CEO*	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Any decisions made when performing functions in respect to this delegation are to be made in writing and kept in the relevant subject file in accordance with the Shire of Toodyay's Record Keeping Plan; • Relevant Form 12's is to be completed and kept in the relevant file in accordance with the Shire of Toodyay's Record Keeping Plan and Record Keeping Policy; • All decisions in respect to Appointment of Authorised Persons, Fire Control Officers, or Bush Fire Control Officers are to be made in writing and kept on file, in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy; • Certificates of Authority are to be signed by the Authorised Person and the Delegate, copies of which are to be kept on file in accordance with the Shire of Toodyay Record Keeping Plan; and • The Appointment of Authorised Persons is to be recorded in the Authorised Officer register and reported in the Executive Section of the Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Not applicable in accordance with s. 48(3) (Delegation by local governments) of the *Bush Fires Act 1954.*
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	25 May 2022

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ES9 Biosecurity and Agricultural Management Act 2007 --- Delegation to the CEO

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate its power as a local government (Council), being both the "public authority" and the "operator" of a non-farming property at which animals are kept, to the CEO.

POWERS AND DUTIES

The exercise of any local government (Council) powers or the discharge of any Council duties in respect to s. 41 (Public authority may assist owner or occupier to control declared pest) of the *Biosecurity and Agricultural Management Act 2007* and the provisions of any subsidiary legislation, in respect to the operation of a non-farming property at which animals are kept.

** Simple majority.*

FUNCTION

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to the performance of any of its functions under s. 41 (Public authority may assist owner or occupier to control declared pest) of the *Biosecurity and Agricultural Management Act 2007* and its responsibilities as an operator of a non-farming property / pound in accordance with the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013.*

Refer to Section 7 - Delegation EA10 for Authorised Person responsibilities.

CONDITIONS

To comply with s. 184 Information Sharing of the *Biosecurity and Agriculture Management Act 2007*; and *Biosecurity and Agricultural Management (Identification and Movement of Stock and Apiaries) Regulations 2013.*

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This delegation should be read in conjunction with Delegation ES1 and is subject to other Acts (s. 4 (Relationship with other Acts) of the *Biosecurity and Agricultural Management Act 2007*); and the Shire's adopted local laws, schemes, codes, policies, and practices.

ES9	***Biosecurity and Agricultural Management Act 2007*** *---- Delegation to CEO*
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Shire of Toodyay Health Local Law; and • Shire of Toodyay Pest Plants Local Law
Relevant Council Policy:	• Not applicable
Relevant References: Biosecurity and Agricultural Management Act 2007	• s.41 (Public authority may assist owner or occupier to control declared pest) • s.184 (Information Sharing)
Other Relevant References: Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013	• reg. 7 (Owners and purchasers of stock to be registered) • reg. 10 (Non farming property operators to be registered) • reg. 133 (Dead stray sheep and goats) • reg. 134 (Responsibilities of carriers) • reg. 137 (Responsibilities of property operator if animal dies on or while being moved to property) • reg. 138 (Responsibilities of pound operator if no NLIS device applied to animal) • reg. 139 (Responsibilities of pound operator if animal born at or while being moved to pound) • reg. 140 (Responsibilities of pound operator if NLIS device applied to animal) • reg. 141 (Responsibilities of pound operator if animal moved from pound) • reg. 189 (When waybill is required)
Other Relevant References: *Local Government (Miscellaneous Provisions) Act 1960*	• s.449 (Pounds, establishing; pound keepers and rangers, appointing)
File Number:	• AGR1, AGR2, AGR3, AGR4
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Signed copies of executed documents are to be recorded and stored in the Shire's Record Keeping System in accordance with the Shire of Toodyay's Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.

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ES9	***Biosecurity and Agricultural Management Act 2007*** *---- Delegation to CEO*
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure and Assets
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	22 May 2018
Last Review Date:	22 June 2021

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ES10 Expression of Interest and Tenders

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO and other employees to:

- call tenders for the disposal of impounded goods on behalf of the local government in accordance with s.3.47 (Confiscated or uncollected goods, disposal of) of the Act; and
- call tenders on behalf of the local government in accordance with s.3.57 (Tenders for providing goods or services) of the Act.

POWER AND DUTIES

This delegation authorises the CEO to exercise any of the local government (Council) powers or the discharge of any Council duties in respect to inviting Expressions of Interest and Tenders in accordance with ss. 3.47 (Confiscated or uncollected goods, disposal of) and 3.57 (Tenders for providing goods or services) of the Act and *Local Government (Functions and General) Regulations 1996* (F&G) specified below:

(a) Regulation 11A (Purchasing Policies for local governments) Part 4 – Provision of goods and services - Division 1 Purchasing Policies; and

(b) Regulations 11 to 24 (Division 2 – Tenders for providing goods or services).

FUNCTION

To exercise any of the local government's powers or the discharge of any of its duties in relation to inviting Expressions of Interest and Tenders in accordance with s.3.47 (Confiscated or uncollected goods, disposal of) and s.3.57 (Tenders for providing goods or services) of the Act and regs. 11 to 24 of the *Local Government (Functions and General) Regulations 1996* as follows:

- call tenders (s. 3.57 of the Act and reg. 11 of F&G).
- call tenders for the disposal of impounded goods (s. 3.47 of the Act).
- invite tenders though not required to do so (F&G reg. 13).
- determine the criteria for accepted tenders (F&G reg. 14(2a)).

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- determine whether or not to reject tenders that do not comply with requirements as specified in the invitation to tender.
- vary tender information after public notice of invitation to tender and before the close of tenders (F&G reg. 14(5)).
- seek clarification from tenderers in relation to information contained in their tender submission (F&G reg. 18(4a)).
- assess, by written evaluation, tenders that have not been rejected, to determine:
  - The extent to which each tender satisfies the criteria for deciding which tender to accept; and
  - accept the tender that is most advantageous.
- decline to accept any tender.
- 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.
- make minor variations before entering into a contract (F&G reg. 20 subject to F&G
  reg. 21A).
- use his or her discretion in respect to when to seek expressions of Interest to supply goods or services (F&G reg. 21).
- 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 reg. 23).
- sell, by calling for expressions of interest, holding of a surplus goods sale at Council's Depot, or any other fair means, items of surplus equipment, materials, tools, et cetera which are no longer required, or are outmoded, or are no longer serviceable. The delegation applies only to items not included on Council's Asset Register.

CONDITIONS

Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than $20,000 may, in accordance reg. 30(3) (Dispositions of property excluded from Act s. 3.58) of the *Local Government (Functions and General) Regulations 1996* be disposed of by any means considered to provide best value, provided the process is transparent and accountable.

ES10 EXPRESSION OF INTEREST AND TENDERS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Purchasing; • Disposal of Property.

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ES10 EXPRESSION OF INTEREST AND TENDERS	
Relevant References:	***Local Government Act 1995*** • s. 3.40A (Abandoned vehicle wreck may be taken) • s. 3.43 (Impounded non-perishable goods, court may confiscate) • s. 3.45 (Notice to include warning) • s. 5.94 (u)(i) (Public can inspect certain local government information) • s. 6.8 (Expenditure from municipal fund not included in annual budget)
	Local Government (Functions and General) Regulations 1996 • Part 4 – Provision of Goods and Services (Division 1 (Purchasing Policies), reg. 11A (Purchasing Policies for local governments).
	Local Government (Administration) Regulations 1996 • reg. 29 (e) (Information to be available for public inspection) (Act s. 5.94) (Part 7 - Access to information)
File Number:	• TEN (Prefix) (multiple files)

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ES10 EXPRESSION OF INTEREST AND TENDERS	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Tender Register to be kept in accordance with reg. 17 (Tenders Register) of the *Local Government (Functions and General) Regulations 1996*. • Tender files for each tender are to be created, containing written evidence of decisions made in respect to Points 1 to 9 of the power / duty to be performed by the Delegate in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Any decision to call for expressions of interest in relation to Point 10 of the power/duty to be performed by the delegate(s) shall be made in writing and kept on a relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy; • When calling for Expressions of Interest in relation to Point 10 records in respect to the holding of a surplus goods sale are to be made and kept on a relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services; • Manager Development and Regulation; and • Manager Infrastructure and Assets .
Conditions	***Local Government (Functions and General) Regulations 1996*** • reg. 21A. (Varying a contract for the supply of goods or services) • *reg. 14(2a) (Publicly inviting tenders, requirements for)* • *reg. 18(4) and reg.18(5) (Rejecting and accepting tenders)* • *Limited delegation of power – reg.20 (variation of requirements before entry into contract).* ***Local Government Act 1995*** • s. 5.43 (a) and (b) (Limits on delegations to CEO) (i.e., acceptance of tender); • s. 9.49B (Contract formalities).

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ES10 EXPRESSION OF INTEREST AND TENDERS	
Appointment of Authorised Officers / Authorised Persons ☑ *Limited suitability for Acting Through*	• *regs. 19, 21(3), 24, 24E (1) and 24E (4) of the Local Government (Functions and General) Regulations 1996 suitable for Acting Through.* • *Refer to Statement of Intent.*
Adoption Date:	3 April 2012
Last Review Date:	22 June 2021

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ES11 Determine Grant, Sponsorship and Donation Allocations

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO to make donations of up to $500 within budget limitations to a maximum of $5,000 per annum provided the request is of a local nature.

POWER AND DUTIES

The exercise of any local government (Council) powers or the discharge of any Council duties in respect to s. 6.10 (Financial management regulations) of the Act *and* reg. 11 (Payments, procedures for making) from the *Local Government (Financial Management) Regulations 1996.*

FUNCTION

This delegation authorises the CEO to make payments from the municipal fund in accordance with the *Local Government (Financial Management) Regulations 1996.*

This delegation will allow for payments to be made from the municipal fund referred to in s. 6.10 (Financial management regulations) of the Act.

CONDITIONS

To comply with the requirements of Delegation CS1.

This delegation is to be exercised only for requests for donations of a local nature that will be of benefit to the community. It may be exercised also where the Shire will act as a host for an event.

Local Nature means a person, community group, business or organisation that lives or operates within the Shire. This term may also extend to a person, community group, business or organisation that, although they are not part of the Toodyay District, as long as what they are providing via an event that will promote the heritage and culture of the district and be of benefit to the community consideration, at the discretion of the CEO, may be given.

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All other donation requests in excess of this amount and the budget allocation for donations and/or sponsorship are to be brought back to Council for consideration.

ES11 DETERMINE GRANT, SPONSORSHIP AND DONATION ALLOCATIONS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Purchasing.
Other Relevant References:	• Refer to Delegation CS1.
File Number:	• DON1
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Include in List of Accounts and/or Financial Statements to be presented at Meetings of Council through its Agenda process.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Not applicable in accordance with s. 5.43 of the *Local Government Act 1995.*
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021 Reviewed and amended 2/3/2022

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ES12 Local government property agreements.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

Refer to the background of Delegation CS8.

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*; to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to subdivision 6 – various executive functions of the Act.

The intent with respect to the above is that the authority will extend to the *Local Government Property Local Law* whose head of power is the Act.

POWER AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to the hiring out of local government buildings and/or property in accordance with the provisions of the Shire's *Local Government Property Local Law.*

The Shire's *Local Government Property Local Law* defines:

Local government property as meaning anything except a thoroughfare –

(a) which belongs to the local government;

(b) of which the local government is the management body under the *Land Administration Act 1997*; or

(c) which is an 'otherwise unvested facility' within s. 3.53 (Control of certain unvested facilities) of the Act;

Building as meaning any building which is local government property and includes a –

(a) Hall or room;

(b) Corridor, stairway or annexe of any hall or room; and

(c) Jetty.

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FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s. 5.44 (CEO may delegate powers and duties to other employees) of the Act and/or an employee of local government that the CEO has been *statutorily delegated to appoint* under s. 9.10 (Appointment of authorised persons) are as follows:

- approving applications for the hire of local government property.
- Issuing permits for the hiring of local government property.
- Use their discretion in relation to:
  - Whether or not the hire is for the exclusive use of the local government property.
  - Ensuring the indemnification of the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of local government property.
  - Ensuring the indemnification of the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of local government property.
  - Charging any person for entry to local government property, unless the charge is for entry to land, or a building hired by a voluntary non-profit organisation.
  - waiving or reducing fees contained in the Shire's *Schedule of Fees and Charges* to be imposed upon applicants.
  - Setting limits for the duration of the hire.

This delegation authorises the CEO to exercise discretion in relation to arrangements for the use of and hire of local government buildings and/or property and the fees imposed in respect to arrangements made, subject to the provisions of the Shire's *Local Government Property Local Law* and the Shire's *Schedule of Fees and Charges.*

CONDITIONS

All hire of Council Buildings, reserves and other local government property will be arranged through the Shire's booking procedure.

Long-term bookings of Council owned buildings will require the preparation of user agreements between the Shire (Principal) and the Hirer in accordance with s. 3.18 of the Act.

ES12 LOCAL GOVERNMENT PROPERTY AGREEMENTS	
Relevant Management Practice:	• Not applicable.

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ES12 LOCAL GOVERNMENT PROPERTY AGREEMENTS	
Relevant Local Law:	• *Shire of Toodyay - Local Government Property Local Law*
Relevant Council Policy:	• Not applicable.
Other Relevant References: *Local Government Act 1995*	• s. 3.18 (Performing Executive Functions)
File Number:	• LEG (Prefix) (multiple files)
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • The hire or lease of Council Buildings is done through the bookings system of the Shire of Toodyay and includes User Agreements for Shire facilities; • Signed copies of executed documents are to be stored in the Shire's Record Keeping System in accordance with the Shire of Toodyay's Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services; and • Manager Development and Regulation
Conditions	• In accordance with the conditions listed in this delegation; and • Subject to s. 5.43(d) (Limits on delegations to CEO) of the *Local Government Act 1995.*
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

This document is not controlled once it has been printed.

ES13 Tenancy Agreements

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

Refer to the background of Delegation CS8.

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purpose of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*; to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to s. 3.58 (Disposing of Property) of the Act subject to the conditions of this delegation.

Although s. 3.58(1) (Disposing of Property) states that "dispose" includes to sell, lease, or otherwise dispose of, whether absolutely or not the intent with respect to this delegation is that the authority will only be to lease local government property and arrange tenancy agreements for such leases in accordance with the *Local Government Property Local Law* whose head of power is the Act.

POWER AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to the leasing out of local government property in accordance with s. 6.60 (Local government may require lessee to pay rent) of the Act and the provisions of the Shire's *Local Government Property Local Law.*

The Shire's *Local Government Property Local Law* defines:

Local government property as meaning anything except a thoroughfare –

(d) which belongs to the local government;

(e) of which the local government is the management body under the Land Administration Act 1997; or

(f) which is an 'otherwise unvested facility' within s. 3.53 (Control of certain unvested facilities) of the Act;

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FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s. 5.44 (CEO may delegate powers and duties to other employees) of the Act and/or an employee of local government that the CEO has been *statutorily delegated to appoint* under s.9.10 (Appointment of authorised persons) are as follows:

- approving applications for the lease of local government property.
- Preparing an agreement for the leasing of local government property between the Shire (Lessor) and a Lessee occupying local government premises owned by the Shire.
- Use their discretion in relation to:
  - Whether or not the lease is for the exclusive use of the local government property.
  - Ensuring the indemnification of the local government in respect of any injury to any person or any damage to any property which may occur in connection with the lease of local government property.
  - Ensuring the indemnification of the local government in respect of any injury to any person or any damage to any property which may occur in connection with the lease of local government property.
  - Setting limits for the duration of the lease.

This delegation authorises the CEO to exercise discretion in relation to arrangements for the lease of local government property and the fees imposed on the lease in respect to arrangements made, subject to the provisions of the Shire's *Local Government Property Local Law* and the Shire's *Schedule of Fees and Charges.*

CONDITIONS

To comply with the entire section of Part IV — Residential tenancy agreements of the *Residential Tenancies Act 1987.*

To comply with s. 18 (Crown land transactions that need Minister's approval) of the *Land Administration Act 1997.*

To comply with s. 6.62 (Application of money paid for rates and service charges) of the Act

ES13 TENANCY AGREEMENTS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• *Shire of Toodyay - Local Government Property Local Law*

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ES13 TENANCY AGREEMENTS	
Relevant Council Policy:	• Purchasing Policy; • Disposal of Property.
Other Relevant References: *Local Government Act 1995*	• s. 3.58 (Disposing of property) • s. 3.18 (Performing Executive Functions)
Other Relevant References	• *Land Administration Act 1997.* • https://www.commerce.wa.gov.au/publications/renting-out-your-property-lessors-guide • https://www.commerce.wa.gov.au/consumer-protection/commercial-tenancy-agreements • https://www.commerce.wa.gov.au/consumer-protection/rental-forms-and-notices • https://www.commerce.wa.gov.au/publications/rent-agreement-form-1aa
File Number:	• LEG (Prefix) (multiple files).
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Evidence of Determinations to be filed on Agreement's file; and • Agreements Register to be updated; • Executed documents are to be stored in the Shire's Record Keeping System in accordance with the Shire of Toodyay's Record Keeping Plan.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure & Assets; and • Manager Corporate & Community Services.
Conditions	• In accordance with the conditions listed in this delegation and subject to s. 5.43(d) (Limits on delegations to CEO) of the *Local Government Act 1995.*
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	18 April 2013

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ES13 TENANCY AGREEMENTS	
Last Review Date:	22 June 2021

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ES14 Contract Formalities

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO and other employees to administer contracts or a contract matter including where the contract is of an operational nature on behalf of the local government in accordance with s. 9.49B (Contract Formalities) of the Act.

POWER AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in accordance with the *Local Government (Functions and General) Regulations 1996* pertaining to:

- Exercising contract extension options;
- Variation of requirements before entry into a contract; and
- Varying a contract for the supply of goods or services.

FUNCTIONS

Functions specifically performed by the CEO as an Authorised Person in accordance with s.5.44 of the Act and/or an employee of local government that the CEO has been *statutorily delegated to appoint* under s. 9.10 (Appointment of authorised persons) are as follows:

- Authority to determine whether variations in goods and services required are minor variations, and to negotiate with the successful tenderer to administer variations to a contract by making minor variations before entering into a contract;
- 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;
- Authority to approve the exercise of a contract extension option that was included in the original tender specification and existing contract; and
- Authority to assign operational contract management responsibilities via position descriptions or documented procedures.

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CONDITIONS

A decision to vary a tendered contract before entry into the contract (F&G reg. 20(1) and (3) (Variation of requirements before entry into contract) must include evidence that the variation is minor in comparison to the total goods or services that tenderers were invited to supply.

A decision to vary a tendered contract after entry into the contract (F&G reg.21A(a) (Limiting who can tender, procedure for) must comply with Delegation ES10 (Expression of Interest and Tenders) and must include evidence that the variation is necessary and does not change the scope of the contract.

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 reg. 11(2)(j) (When tenders must be publicly invited) **and** that the contractor's performance has been reviewed and the review evidences the rationale for entering into the extended term.

Refer to ES10 Expression of Interest and Tenders delegation.

ES14 CONTRACT FORMALITIEIS	
Relevant Management Practice:	• ES10 Expression of Interest and Tenders delegation.
Relevant Local Law:	• Shire of Toodyay Standing Orders 2008
Relevant Council Policy:	• Purchasing Policy • CCTV • Asset Management • Risk Management
Other Relevant References: *Local Government Act 1995*	• s. 3.18 (Performing Executive Functions) • s. 9.49B (Contract formalities)
Application of s. 9.49B	• Section.9.49B (Contract formalities) applies to contracts generally and requires that any person making decisions to make, vary or discharge a contract, must do so under the authority of the Local Government. Meaning there must either be; an express Council resolution enabling the CEO to administer the contract OR a contract matter determined under delegation OR the contract is operational in nature and may be administered by the CEO (or officers by Acting Through).

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ES14 CONTRACT FORMALITIEIS	
File Number:	• LEG (Prefix) (multiple files) • DIS2 (Plant and Equipment) • BLD6 (Building Asset Management)
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Contracts relating to Tenders to be kept on relevant Tender files containing written evidence of determinations, extensions, variations, and other relevant evidence of decisions made in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Contracts not relating to Tenders to be kept on relevant Agreement files in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services; • Manager Development and Regulation; and • Manager Infrastructure and Assets .
Conditions	• Delegation of power regarding reg. 20 (Variation of requirements before entry into contract) of the *Local Government (Functions and General) Regulations 1996* limited. • 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. • The CEO has discretion to determine any conditions applicable to the use of sub-delegated powers and duties.
Appointment of Authorised Officers / Authorised Persons ☑ Suitable for Acting Through	• Refer to Statement of Intent.
Adoption Date:	18 April 2013

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ES14 CONTRACT FORMALITIEIS	
Last Review Date:	22 June 2021

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ES15 Temporary Road Closures

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

BACKGROUND

The State Traffic Intelligence, Planning and Coordination Unit (STIPCU), along with other agencies is designated the task of vetting and assessing applications regarding approval and district/regional coordination of the following applications from the public, sporting, and social groups:

- Order for Road Closure – s. 81 A to F (Part VA – Events on roads) of the *Road Traffic Act 1974;*
- Temporary Suspension of the Road Traffic Act/Regulations- Racing Events under s. 139 (Temporary suspension of road law) of the *Road Traffic (Administration) Act 2008; and*
- Permit to hold a Public Meeting and/or Procession – s. 7 (Permits) of the *Public Order in Streets Act 1984.*

Information in relation to the above is available via https://www.police.wa.gov.au/Traffic/Events-on-Roads/Events-and-road-closures

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO to respond to a road closure application within the parameters set out in the Temporary Road Closures Policy, or otherwise refer the matter to Council.

Sections 3.50 (Closing certain thoroughfares to vehicles), 3.51 (Affected owners to be notified of certain proposals) and 3.52 (Public access to be maintained and plans kept) of the Act are an executive function of Council already delegated to the CEO by Council through Council's Temporary Road Closures Policy which does not provide for sub-delegation to other Officers.

POWERS AND DUTIES

This delegation will facilitate the timely processing of road closure applications in accordance with the *Road Traffic Act 1974*; and the *Road Traffic (Events on Roads)*

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Regulations 1991 and to provide prompt written responses to the Western Australian Police Force in respect to temporary road closure permits.

Under s. 81 A to F (Part VA – Events on roads) of the *Road Traffic Act 1974, an applicant must lodge an application with the local authority and obtain permission before proceeding to other agencies such as Main Roads WA.*

FUNCTION

The Shire, as a local authority, is one of the agencies responsible for providing approval for a road closure application prior to it being lodged with the Western Australian Police.

CONDITIONS

The CEO and, in the absence of the CEO, Authorised Officers in accordance with the above delegation are required to:

(a) record decisions to undertake a road closure;

(b) record advice to owners/occupiers;

(c) Record agreements for maintenance of private structures in public thoroughfares /places; and

(d) Ensure that evidentiary documents that meet the requirements of *Local Government (Administration) Regulations 1996* reg.19 Delegates to keep certain records (Act s. 5.46(3)), are retained in the Shire's record keeping system.

Refer to Delegation CS7 and ES1 for further information.

ES15 TEMPORARY ROAD CLOSURES	
Relevant Management Practice:	• The Shire of Toodyay Code of Conduct.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Temporary Road Closures.
Other Relevant References: *Local Government Act 1995*	• Part 3 – Division 3 – Sections s. 3.50 (Closing certain thoroughfares to vehicles); s. 3.50A (Partial closure of thoroughfares for repairs or maintenance); s. 3.51 (Affected owners to be notified of certain proposals) and s. 3.52 (Public access to be maintained and plans kept).

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ES15 TEMPORARY ROAD CLOSURES	
File Number:	• EVT (Prefix) (numerous Event files); • TEC1 (Technical Services); • TEC3 (Road Construction); • TEC5 (Road Safety); • Relevant Road Files.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Road closures are to be reported in the Council Information Bulletin; and • Record decisions to undertake a road closure. Record advice to owners/occupiers. Record agreements for maintenance of private structures in public thoroughfares / places. Ensure that evidentiary documents that meet the requirements of *Local Government (Administration) Regulations 1996* reg.19 (Delegates to keep certain records Act s5.46(3)), are retained in the record keeping system in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; • Manager Corporate & Community Services; and • Manager Infrastructure & Assets..
Conditions	• In accordance with the conditions listed in this delegation; and • Subject to s. 5.43 (Limits on delegations to CEO) of the *Local Government Act 1995.*
Appointment of Authorised Officers / Authorised Persons ☑ *limited suitability for Acting Through*	• s. 3.50(8) (Closing certain thoroughfares to vehicles) of the *Local Government Act 1995* suitable for Acting Through.
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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SECTION 3 Corporate & Community Services
(Delegations to the CEO)

CS1 Payments from Municipal Fund or Trust Fund

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***public authority*** under the *Financial Management Act 2006*, to delegate to the CEO the exercise of its power to authorise and make payments from the municipal or trust fund (referred to in s. 6.10 (Financial management regulations) of the Act in accordance with reg. 12 (Payments from municipal fund or trust fund, restrictions on making) from the *Local Government (Financial Management) Regulations 1996*.

POWER AND DUTIES

This delegation authorises the CEO to:

- Develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so in accordance with reg. 11 (Payments, procedures for making etc.) of the *Local Government (Financial Management) Regulations 1996.*
- Authorise payments from the municipal fund or trust fund in accordance with reg. 12 (Payments from municipal fund or trust fund, restrictions on making) of the *Local Government (Financial Management) Regulations*.

FUNCTION

The CEO, as an Authorised Officer, will exercise the above powers and perform executive functions in accordance with Part 6 – Financial Management of the *Act* and will comply with the relevant sections of the Act as specified below:

- s. 2.7(2)(a) and (b) (Role of council)
- s. 6.5 (Accounts and records)
- s. 6.7 (Municipal fund)
- s. 6.9 (Trust fund)

Note: Payments from the Trust Fund will include, but not be limited to, the release of cash bonds held against Assets and Technical Services.

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CONDITIONS

Regulation 12 (Payments from municipal fund or trust fund, restrictions on making) of the *Local Government (Financial Management) Regulations 1996* state the restrictions on making payments from these funds.

All payments are to be made in accordance with the relevant Council Policies.

Section 6.8 (Expenditure from municipal fund not included in annual budget) from the Act states the conditions to be met by the CEO in relation to this delegation.

Regulation 13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.) from the *Local Government (Financial Management) Regulations 1996* states the conditions to be met by the CEO in relation to this delegation. One of those requirements is that a list of accounts paid by the CEO is to be prepared each month.

CS1 PAYMENTS FROM MUNICIPAL FUND OR TRUST FUND	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Authorised Signatories; • Purchasing; and • Corporate Credit Cards.
Other Relevant References: *Local Government Act 1995*	• s. 2.7(2) (a) and (b) (Role of council) • s. 6.5 (Accounts and Records) • s. 6.7 (Municipal fund) • s. 6.8 (Expenditure from municipal fund not included in annual budget) • s. 6.10 (Financial management regulations)
Other Relevant References: *Local Government (Financial Management) Regulations 1996*	• reg. 8 (Separate bank etc. Accounts required for some money) • reg. 11 (Payments, procedures for making) • reg. 12 (Payments from municipal fund or trust fund, restrictions on making) • reg. 13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.)
File Number:	• FIN2/FIN3/FIN6

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CS1 PAYMENTS FROM MUNICIPAL FUND OR TRUST FUND	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Include in List of Accounts and/or Financial Statements to be presented at Meetings of Council through its Agenda process.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services; • Manager Development and Regulation; • Manager Infrastructure & Assets; • Finance Coordinator; and • Finance Officer.
Conditions	• Delegates must comply with the conditions listed in this delegation and with any written procedures approved by the CEO in accordance with Financial Management Regulation 5. • Payments by Cheque and EFT (Electronic Funds Transfers) transactions must be approved jointly by two Delegates, one of whom must be the CEO, the Manager Corporate and Community Services or the Manager Infrastructure & Assets. • 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.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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CS2 Investment of Surplus Funds

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***public authority*** under the *Financial Management Act 2006*, to delegate to the CEO the exercise of its power to authorise and make payments from the municipal or trust fund (referred to in s. 6.14 (Power to Invest) of the Act in accordance with reg. 19C (Investment of money, restrictions on) from the *Local Government (Financial Management) Regulations 1996*.

POWER AND DUTIES

This delegation authorises the CEO to:

- Establish and document internal control procedures to be followed by employees to ensure control over investments in accordance with reg. 19 (Investments, control procedures for) of the *Local Government (Financial Management) Regulations 1996.*
- Invest surplus funds to maximise Council's interest earning capability (referred to in s. 6.14 (Power to Invest) of the Act in accordance with reg. 12 (Payments from municipal fund or trust fund, restrictions on making) from the *Local Government (Financial Management) Regulations 1996*.

FUNCTION

The CEO, as an Authorised Officer, will exercise the above powers and perform executive functions in accordance with Part 6 – Financial Management of the Act and will comply with reg. 19C (Investment of money, restrictions) (Act s. 6.14(2)(a)) when investing money referred to in subsection 6.14 (Power to invest) of the Act.

CONDITIONS

Refer to Delegation CS1.

All investments are to be made in accordance with Council's Investment of Surplus Funds Policy.

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Clause 8(3) (Separate bank etc. accounts required for some money) from the *Local Government (Financial Management) Regulations 1996* which states that money from different accounts may be placed in a common investment authorised by the Act.

Regulation 13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.) from the *Local Government (Financial Management) Regulations 1996* requires a list of accounts paid by the CEO is to be prepared each month.

CS2 INVESTMENT OF SURPLUS FUNDS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Internal Control • Investment of Surplus Funds • Authorised Signatures
Other Relevant References: *Local Government Act 1995*	• Subsection 6.14 (Power to invest) (1)
Other Relevant References: *Local Government (Financial Management) Regulations 1996*	• reg. 8 (Separate bank etc. Accounts required for some money) • reg. 12 (Payments from municipal fund or trust fund, restrictions on making); • reg. 13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.) • cl. 19 (Investments, control procedures for); and • cl. (19C Investment of money, restrictions on) (Act s. 6.14(2)(a)
File Number:	• BNK2/BNK4
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Include in List of Accounts and/or Financial Statements to be presented at Meetings of Council through its Agenda process.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services.
Conditions	• In accordance with the conditions listed in this delegation.

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CS2 INVESTMENT OF SURPLUS FUNDS	
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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CS3 Amend Rate Record

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***public authority*** under the *Financial Management Act 2006*, to delegate to the CEO the exercise of its power or the discharge of any of its duties in relation to Part 6, Division 6 (Rates and Services Charges) to amend a rate record (referred to in Subdivision 3 (Imposition of rates and service charges) of the Act in accordance with reg. 55 (Rate record, form of etc.) (Act s. 6.39(1)) from the *Local Government (Financial Management) Regulations 1996*.

POWERS AND DUTIES

This delegation authorises the CEO to:

- amend a rate record for the current financial year to ensure that the information contained in the record is current and correct and that the record is in accordance with (referred to in Subdivision 3 (Imposition of rates and service charges) of the Act in accordance with reg. 55 (Rate record, form of etc.) (Act s. 6.39(2)) from the *Local Government (Financial Management) Regulations 1996*.
- prepare a document describing the objects of, and reasons for, each proposed rate and minimum payment and to publish the document on the local government's official website in accordance with s. 6.36(3A) (Local government to give notice of certain rates) of the Act and reg. 56 (Rate notice, content of etc.) (Act s. 6.41) of the *Local Government (Financial Management) Regulations 1996.*

FUNCTION

The CEO, as an Authorised Officer, will exercise the above powers and perform executive functions in accordance with Part 6 – Financial Management of the Act and will comply with the relevant sections of the Act as specified below:

- s. 6.33 (Differential general rates)
- s. 6.35 (Minimum payment)
- s. 6.37 (Specified area rates)
- s. 6.38 (Service charges)
- s. 6.3 (2) (Rates Record)
- s. 6.40 (Effect of amendment of rate record of the Act)

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CONDITIONS

Refer to Delegation CS1.

Service of a rate notice is to be in accordance with Part 6, Division 6, s. 6.41 (Service of rate notice) of the Act and Council's Debt Collection Policy.

CS3 AMEND RATE RECORD	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Debt Collection
Other Relevant References: *Local Government (Financial Management) Regulations 1996:*	• Part 5 Rates and Service Charges
Other Relevant References: *Local Government Act 1995*	• Part 6, Division 6, Sub-division 3 Imposition of rates and service charges.
File Number:	• RAT1 (General) • Relevant Property file
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees): • Amendments of rate record(s) to be made in writing and decisions related thereto to be in writing and kept in the relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services.
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*

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CS3 AMEND RATE RECORD	
Adoption Date:	22 September 2015
Last Review Date:	22 June 2021

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CS4 Approval of Payment Arrangement for Payment of Rates and Service Charges

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Departments:	Corporate Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***public authority*** under the *Financial Management Act 2006*, to delegate to the CEO the exercise of its power or the discharge of any of its duties in relation to Part 6, Division 6 (Rates and Services Charges) to make an agreement with a person for the payment of rates or service charges (referred to in Subdivision 4 (Payment of rates and service charges) of the Act in accordance with Part 2 - General financial management - s. 6.10 of the *Local Government (Financial Management) Regulations 1996*.

POWER AND DUTIES

This delegation authorises the CEO to accept a payment of a rate of service charge due and payable by a person in accordance with an agreement made with a person for the payment of rates or service charges (referred to in Subdivision 4 (Payment of rates and service charges) of the Act in accordance with s. 6.49 (Agreement as to payment of rates and service charges) of the Act.

FUNCTION

The CEO, as an Authorised Officer, will exercise the above powers and perform executive functions in accordance with Part 6 (Financial Management) of the Act and will comply with the relevant sections of the Act as specified below:

- s. 6.45 (Options for payment of rates or service charges)
- s. 6.49 (Agreement as to payment of rates and service charges)
- s. 6.56 (Rates or service charges recoverable in court)

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CONDITIONS

All necessary measures are to be taken to recover the debt, and all decisions are to be in accordance with Council's Debt Collection Policy.

Refer to Delegation CS1, CS3 and Section 7.

To comply with the regulations when accepting payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person referred to in Part 6, Division 6, s. 6.49 (Agreement as to payment of rates and service charges) of the Act.

CS4	APPROVAL OF PAYMENT ARRANGEMENT FOR PAYMENT OF RATES AND SERVICE CHARGES
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Debt Collection.
Other Relevant References:	• Part 6, Division 6, Subdivision 4 Payment of rates and service charges s. 6.49 (Agreement as to payment of rates and service charges) of the *Local Government Act 1995;* • Part 5 Rates and Service Charges of the *Local Government (Financial Management) Regulations 1996.*
File Number:	• RAT1 (General); • Relevant Property file.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995* • Decisions and matters related thereto are to be made in writing and kept in the relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services.
Conditions	• In accordance with the conditions listed in this delegation.

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CS4	APPROVAL OF PAYMENT ARRANGEMENT FOR PAYMENT OF RATES AND SERVICE CHARGES
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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CS5 Issue of Writ, Summons or Other Process

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO to:

- Take possession of land and hold the land as against a person having an estate or interest in the land where any rates or service charges in respect of the rateable land have been unpaid for at least three years in accordance with s. 6.64(1) (Actions to be taken) of the Act.
- 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 in accordance with s. 6.64(3) (Actions to be taken) of the Act.

POWERS AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to the recovery of overdue unpaid rates as well as the costs of proceedings, if any, for that recovery, incurred in a court of competent jurisdiction. As part of the legal recovery of rates and charges in court, documents such as summonses and warrants are required to be duly authorised.

FUNCTION

To issue summonses without continual reference back to Council in accordance with s. 6.56 (Rates or service charges recoverable in court) of the Act.

To comply with s. 6.64(1) and (3) (Actions to be taken) of the Act and Council's Debt Collection Policy.

CONDITIONS

Regulation 12 (Payments from municipal fund or trust fund, restrictions on making) from the *Local Government (Financial Management) Regulations* 1996 states that a payment may only be made from the municipal fund or the trust fund if the local government has delegated to the CEO the exercise of its power to make payments from those funds by the CEO.

Regulation 13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.) from the *Local Government (Financial Management) Regulations 1996* requires a

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list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared.

Refer to CS1, CS3 and CS4.

CS6 ISSUE OF WRIT, SUMMONS OR OTHER PROCESS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Debt Collection; and • Authorised Signatures.
Other Relevant References:	• *Local Government Act 1995* - Part 6, Division 6, Sub-division 4 - Payment of rates and service charges; and • *Local Government (Financial Management) Regulations 1996:* Part 5 - Rates and Service Charges.
File Number:	• RAT9
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Issues of writ, summons or other processes performed are to be in writing and kept on the relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services
Conditions	• In accordance with the conditions of this delegation; and • Subject to s. 5.43 (Limits on delegations to CEO) of the *Local Government Act 1995.*
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	24 November 2005

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CS6 ISSUE OF WRIT, SUMMONS OR OTHER PROCESS	
Last Review Date:	22 June 2021

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CS6 Power to Defer, Grant Discounts, Waive or Write-off Debts

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Departments:	Corporate Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***public authority*** under the *Financial Management Act 2006*, to delegate to the CEO the exercise of its power to defer, grant discounts, waive or write off debts referred to in Part 6, Division 4, s. 6.12 (Power to defer, grant discounts, waive or write off debts) of the Act.

POWER AND DUTIES

This delegation authorises the CEO to defer, grant discounts, waive, or write off debts referred to in Part 6, Division 4, s. 6.12 (Power to defer, grant discounts, waive or write off debts) of the Act.

FUNCTION

This delegation provides authority to the CEO to:

1. Waive a debt or grant a concession in relation to any amount of money owed to the Shire; and

2. Write off any amount of money which is owed to the Shire; and

3. Determine conditions to be applied to waive, grant a concession or write-off money owed to the Shire.

4. consider and use discretion in relation to applications received, requesting that fees in the Shire's *Schedule of Fees and Charges* be waived and/or that discounts be granted.

CONDITIONS

The CEO may write off amounts of up to $2,000.00

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CS6 POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE-OFF DEBTS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Debt Collection; and • COVID-19 Financial Hardship.
Other Relevant References:	• Part 6, Division 4, s. 6.12 (Power to defer, grant discounts, waive or write off debts) of the *Local Government Act 1995.* • Annual Budget Part 3, reg. 26 (Discounts for early payment etc., information about required) of the *Local Government (Financial Management) Regulations 1996.* • Financial Reports Part 4, reg. 42 (Discounts for early payment etc., information about in annual financial report) of the *Local Government (Financial Management) Regulations 1996.*
File Number:	• RAT5 (Debt Collection); and • RAT6 (Write-Offs).
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Details of decisions to be recorded in appropriate file or financial record in accordance with the Shire of Toodyay Record Keeping Policy and Record Keeping Plan.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services.
Conditions	• In accordance with the conditions of this delegation and subject to s. 5.43(ha) (Limits on delegates to CEO) of the *Local Government Act*
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	24 November 2005

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CS6	POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE-OFF DEBTS
Last Review Date:	22 June 2021

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CS7 Application for Public Events

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Community Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO to:

- approve applications and issue permits for events on behalf of the local government in accordance with s. 5.41 (Functions of CEO) of the Act; and
- vary the requirements of Council Applications for Public Events Policy where it is considered that full compliance with the policy is impractical, or a variation is warranted in the circumstances of the proposed event so long as variations to the policy do not contravene the requirements set through regulatory legislation.

POWERS AND DUTIES

To exercise any of the local government's powers or the discharge of any of its duties in relation to managing the day-to-day operations of the local government in accordance with s. 5.41 (Functions of CEO) of the Act subject to the requirements of legislation and regulations and the Shire's adopted local laws, schemes, codes, policies, and practices.

FUNCTION

To comply with the *Local Government (Uniform Local Provisions) Regulations 1996.*

CONDITIONS

All decisions relating to applications for a Public Event are to be made subject to and in accordance with the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law' and 'Local Government Property Local Law' together with relevant Council policies as determined by Council in accordance with s. 2.7(2)(b) (Role of council) of the Act.

Local government plays a key role for all public events and is an integral part of the risk management process. Local government has a responsibility to ensure that events cause the minimum inconvenience and harm to the community. They must also consult with the Western Australia Police Force and other authorities to ensure that any policing issues are addressed.

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CS7 APPLICATION FOR PUBLIC EVENTS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law • Local Government Property Local Law.
Relevant Council Policy:	• Applications for Public Events. • Temporary Road Closures Policy. • Trading in Thoroughfares and Public Places. • Directional Signage & Signage within Thoroughfares • Alfresco Dining
Other Relevant References:	• Not applicable.
File Number:	• EVT (Prefix) multiple files
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Applications and matters related thereto to be made in writing and kept on relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure & Assets. • Manager Development and Regulation. • Manager Corporate & Community Services.
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	22 September 2015
Last Review Date:	22 June 2021

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CS8 Consumption of Liquor on local government property

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate and Community Services
Responsible Officer:	Manager Corporate & Community Services

BACKGROUND

The Shire's *Local Government Property Local Law* was gazetted on 25/10/2001 in accordance with s. 3.5 (Legislative Powers of Local Governments) and s. 3.12 (Procedure for making Local Laws) of the Act.

The Shire's *Local Government Property Local Law* states that the Head of Power in relation to this delegation is the *Liquor Control Act 1988* (formerly named the Liquor Licensing Act 1988).

Section 37 (Pre-requisites for grants of licences etc.; conditions on licences) of the *Liquor Control Act 1988* states that the local government is a (Public Body), and as such local governments have the power under the *Liquor Control Act 1988* to properly control the consumption of liquor on local government property.

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*; to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to s. 37 (Pre-requisites for grants of licences etc.; conditions on licences) from the *Liquor Control Act 1988*.

The intent with respect to the above is that the authority will extend to the *Local Government Property Local Law* whose head of power is the Act.

POWERS AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to advising, approving, and properly controlling the consumption of liquor on local government property, subject to the applicants being advised of restrictions contained in the *Liquor Control Act 1988* and relevant Council Policies.

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FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s. 5.44 (CEO may delegate powers and duties to other employees) of the Act and clauses 3.15 (Permit required for possession and consumption of liquor) and s. 3.16 (Responsibilities of permit holder) of the *Local Government Property Local Law 2021* are as follows:

- approving applications for the consumption of liquor on local government property.
- Issuing permits for possession and consumption of liquor on local government property.
- Use their discretion in relation to whether to waive or reduce fees contained in the Shire's *Schedule of Fees and Charges* to be imposed upon applicants.
- preventing the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose.

CONDITIONS

All decisions relating to granting a permit are subject to and in accordance with the Shire's *Local Government Property Local Law* and relevant Council policies as determined by Council in accordance with s. 2.7(2)(b) (Role of council) of the Act.

CS9 CONSUMPTION OF LIQUOR ON LOCAL GOVERNMENT PROPERTY	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• *Local Government Property Local Law 2021*
Relevant Council Policy:	• *Applications for Public Events.* • *Trading in thoroughfares and public places.*
Other Relevant References:	• s. 37 (Pre-requisites for grants of licences etc.) conditions on licences from the *Liquor Control Act 1988* • s. 122 (Regulated premises offences as to juveniles) of the *Liquor Control Act 1988*

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CS9 CONSUMPTION OF LIQUOR ON LOCAL GOVERNMENT PROPERTY	
Other Relevant References *- continued*	• Policy titled 'Exemptions to the Liquor Control Act 1988' (Effective: 18 July 2011 and last amended 2 July 2019) by the Department of Local Government, Sport and Cultural Industries whose responsibility it is to provide guidance on the specific circumstances whereby the sale, supply and consumption of liquor is exempt from the application of the Act under the *Liquor Control Regulations 1989* and in accordance with the *Liquor Control Act 1988.*
File Number:	• MEM1.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Applications and matters related thereto are to be made in writing and kept on a relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Report in the Community Development Officer's Section of the quarterly Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation. • Manager Corporate & Community Services.
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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CS9 Accession of Artefacts into Museum Collection

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate and Community Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO to approve the acquisition of and deaccession of objects to and from the Museum Collection.

POWER AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to carrying out the recommendations made by Council who have considered the Museum Advisory Committee recommendation(s) in accordance with the provisions of Council's Consideration of Committee Recommendations Policy.

FUNCTION

To comply with the provisions of Council's Museum Collection and Conservation Management Policy.

CONDITIONS

There are no other conditions other than mentioned above.

CS9 ACCESSION OF ARTEFACTS INTO MUSEUM COLLECTION	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Museum Collection and Conservation Management; and • Consideration of Committee Recommendations.
Relevant References:	***Local Government Act 1995*** • s. 3.18 (Performing Executive Functions)

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CS9 ACCESSION OF ARTEFACTS INTO MUSEUM COLLECTION	
File Number:	• HER10.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Minutes of Museum Advisory Committee Meetings are to be where the consideration of items into and out of the Museum Collection are recorded. • Decisions made by the Delegators will require the creation of an electronic record in the Museum Collection database that would have its own unique identifiable number in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • The Museum Curator would find a place for items to be stored and make a record of that place on the above electronic record.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Museum Curator
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• Refer to Statement of Intent.
Adoption Date:	27 May 2014 *(Council Resolution 120/05/14)*
Last Review Date:	22 June 2021

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SECTION 4 Development and Regulation (Delegations to CEO)

DAR1 Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as an ***enforcement agency*** and a ***public authority*** under the *Public Health Act 2016*, having delegated to the CEO as Council's Deputy, the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the *Prescribed Acts* stated below:

- *Health (Miscellaneous Provisions) Act 1911,* in accordance with s. 26 (Powers of local government); and
- *Public Health Act 2016* in accordance with s.21(1)(b) (Enforcement Agency may delegate) and s.24(1) (Designation of authorised officers).

The intent with respect to the Prescribed Acts mentioned above is that the authority will extend to the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.*

POWERS AND DUTIES

This delegation authorises the CEO to:

- exercise of any local government (Council) powers or the discharge of any Council duties in respect to s.24 (Designation of authorised officers) of the *Public Health Act 2016* including the provisions of any subsidiary legislation.
- approve applications for septic tanks and other alternate effluent disposal treatment systems that are compliant with the *Health (Miscellaneous Provisions) Act 1911* and relevant provisions of any subsidiary regulations.
- appoint persons or classes of persons as a designated officer for the purpose of fulfilling prescribed functions within the *Public Health Act 2016* and the provisions of any subsidiary legislation.
- instigate appropriate action in a timely and efficient manner relating to breaches of the Shire's *Local Planning Scheme No. 4*.

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FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the public authority and enforcement agency as follows:

Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974

- reg. 4(3)(a) (Approval of construction or installation of apparatus by local government)
- reg. 4(3)(b) (Approval of construction or installation of apparatus by local government)
- reg. 10(2) (Permit to use apparatus)
- reg. 10(4)(b) (Permit to use apparatus)
- reg. 22(2)(a) (Review of decision of local government)
- reg. 22(2)(b) (Review of decision of local government)

CONDITIONS

Refer to Delegation ES3. The *Health (Miscellaneous Provisions) Act 1911* is the Head of Power of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.*

To comply with s. 25 (Certain Authorised Officers required to have qualifications and experience) of the *Public Health Act 2016.*

Section 38 (Local government to report annually) of the *Health (Miscellaneous Provisions) Act 1911* states that every local government shall, in the prescribed form, during the month of February in every year, and at such other times as the Chief Health Officer may direct, report to the Chief Health Officer concerning the sanitary conditions of its district, and all works executed and proceedings taken by the local government.

Refer to Delegation EA7.

DAR1 APPLICATIONS FOR TREATMENT OF SEWAGE AND DISPOSAL OF EFFLUENT AND LIQUID WASTE	
Relevant Management Practice:	• Local Planning Scheme No 4.
Relevant Local Law:	• *Health Local Law 2017.*

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DAR1 APPLICATIONS FOR TREATMENT OF SEWAGE AND DISPOSAL OF EFFLUENT AND LIQUID WASTE	
Relevant Council Policy:	Local Planning Policies: • Amendments to the Shire's local planning scheme • Temporary on-site accommodation during construction of a dwelling • Transported and Relocated dwellings • Extracts Industrial Area Policy • Glencoe Estate Design Guidelines • Dams.
Other Relevant References:	• *Health (Miscellaneous Provisions) Act 1911* • *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* • Twelfth Report of Joint Standing Committee on delegated legislation in relation to *The Treatment of sewage and Disposal of Effluent and Liquid Waste Amendment Regulations (No 2) 1993* • *Application to construct or install an apparatus for treatment of sewage.*
File Number:	• HLT17
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Approvals for applications for septic tanks and other alternate effluent disposal treatment systems (and matters related thereto) are to be kept in a relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy • Reported in the quarterly Council Information Bulletin • All decisions in respect to Appointment of Authorised Persons are to be made in writing and kept on file, in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Environmental Health Officer.
Conditions	• In accordance with the conditions listed in this delegation.

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DAR1 APPLICATIONS FOR TREATMENT OF SEWAGE AND DISPOSAL OF EFFLUENT AND LIQUID WASTE	
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Not applicable.
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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DAR2 Issue of Notice of Breach (Fencing)

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The *Land Administration Act 1997:*

- is a Prescribed Act as defined by the *Criminal Procedures Act 2004*; and
- defines a ***public authority*** as meaning a local government.

The intent of this delegation is for Council, as a public authority to delegate to the CEO as Council's Deputy, the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the enforcement of the Shire's local laws relating to *Fences Act 1961*, written in accordance with s. 24 (Local government may be required to prescribe sufficient fence) of the *Dividing Fences Act 1961*.

POWERS AND DUTIES

This delegation authorises the CEO to issue and serve a 'notice of breach' for non-conformance within the requirements of the Shire's *Local Laws relating to Fencing* (1999).

FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the public authority within the requirements of the Shire's *Local Laws relating to Fencing* (1999).

CONDITIONS

To comply with the Shire's *Local Laws relating to Fencing* (1999).

This delegation is subject to the express provisions of the Act, and the Shire's adopted schemes, codes, policies, and practices.

DAR2 ISSUE OF NOTICE OF BREACH (FENCING)	
Relevant Management Practice:	• Local Planning Scheme No 4.
Relevant Local Law:	• Local Government Property Local Law. • Local Laws Relating to Fencing.

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DAR2 ISSUE OF NOTICE OF BREACH (FENCING)	
Relevant Council Policy:	Local Planning Policies: • Foggarthorpe Design Guidelines. • Subdivision Development Guidelines. • Glencoe Estate Design Guidelines. • Central Toodyay Heritage Area. • Landscaping Plans. • Signage Outside the Central Toodyay Heritage Area.
Other Relevant References:	• *Local Government Act 1995* – s. 5.42 (Delegation of some Powers and Duties to CEO). • *Dividing Fences Act 1961.* • *Building Services (Registration) Regulations 2011.* • *Local Government (Building Surveyor) Regulations 2008.* • *Land Administration Act 1997.* • *Vermin Act 1918.* • *Bush Fires Act 1954.*
File Number:	• LAW6
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Details of notices recorded on the appropriate file or register in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Reported in Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; and • Planning and Compliance Officer
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• Refer to Statement of Intent; and • s. 3.26(2) (Additional powers when notices given) of the *Local Government Act 1995* is suitable for Acting Through.

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DAR2 ISSUE OF NOTICE OF BREACH (FENCING)	
Adoption Date:	• 27 March 2008
Last Review Date:	• 22 June 2021

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DAR3 Dealing with Clearing Matters

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

BACKGROUND

The Department of Water and Environmental Regulation (DEWR) is responsible for administering the native vegetation clearing provisions. The Department of Mines and Petroleum has delegated authority under s. 20 (Delegation by CEO) of the *Environmental Protection Act 1986* to administer the clearing provisions for mining and petroleum activities regulated under the *Mining Act 1978*, various petroleum laws and activities under State agreements.

A local government is a public authority who, under the authority of a written law administers or carries on for the benefit of the State, or any district or other part thereof, a social service or public utility.

The *Environmental Protection Act 1986* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004 (Regulations)* provides details on the clearing provisions as well as information on clearing processes under the assessment bilateral agreement under the Commonwealth of Australia's *Environment Protection and Biodiversity Conservation Act 1999*.

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate power to the CEO to provide written comment for clearing applications under the Shire's *Local Planning Scheme No 4* and to provide written advice to the Department of Environment and Conservation on applications for clearing permits, based on the following criteria:

1. Support of applications to clear land will be granted in the following circumstances:
   (a) Clearing of trees or vegetation that are dangerous i.e., constituting a threat to life or property;
   (b) Clearing of trees or vegetation that are not native to the region or have been commercially grown;
   (c) Clearing of land within two metres of infrastructure, such as power lines, sewer, water mains, stormwater drains etc. where the vegetation is likely to damage or disrupt this infrastructure;

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(d) Clearing of land that is occurring as part of a native tree replanting programme or other rehabilitation project approved by Council;
(e) An area up to two metres in width for a fence line that is being established as a new property boundary or to support legitimate farming practices;
(f) Clearing of land for a building site, either to the maximum size of an approved building envelope shown on a development plan or plan or subdivision or to the extent required for the proposed buildings;
(g) Clearing of land to provide access to a building site, where the access track has a maximum width of six metres;
(h) Clearing of land for pasture, grazing or other farming activities in the Rural or Rural Living zones of *Local Planning Scheme No 4* where such clearing complies with all provisions of Council's Local Planning Scheme, the Local Planning Strategy, and any other adopted policy;
(i) The clearing of land to collect firewood, to obtain fencing or farming materials, for woodwork or the clearing of isolated trees where the requirements of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* for these activities are achieved; and/or
(j) The total area of clearing for all activities does not exceed more than 5ha in any financial year.

2. Applications to clear land will not be supported in the following circumstances:
(a) Where the proposed area to be cleared is situated within fifty metres of any major watercourse and/or within the designated flood way and flood fringe for the Avon River;
(b) The clearing of land for a building site greater than the extent required for the proposed buildings or outside of a defined building envelope; and/or
(c) Where the clearing of land will likely have a significant negative impact upon the environment and/or landscape of an area.

3. Applications to clear land in the following circumstances will be referred to Council for determination:
(a) Any proposal which does not meet the criteria detailed in Parts (1) or (2);
(b) Applications to clear land in areas where the topography of the land raises concerns regarding the potential negative impacts of the proposed clearing activities.

POWERS AND DUTIES

This delegation will facilitate the timely processing of applications to clear land under the Shire's *Local Planning Scheme No 4* and to provide prompt written responses to the DWER on applications for clearing permits.

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FUNCTION

Under s. 51B(4) (Declaration of environmentally sensitive areas by regulation) of the *Environmental Protection Act 1986*, DWER will consult with any public authority which has an interest in a matter. In relation to clearing permits this includes the local government.

The CEO is to provide input when the proposed clearing falls within the Statement of Intent parameters or otherwise refer the matter to Council.

CONDITIONS

Section 72 (Local government may prepare or adopt scheme) of the *Planning and Development Act 2005* refers to a local government's ability to prepare and adopt a local planning scheme.

Section 4 (Terms used) of the *Planning and Development Act 2005* states that the local government is a responsible authority, except as provided in regulations made under s. 171A(2)(a) (Prescribed development actions, DAP (Development Assessment Panel) to determine and regulations for). In essence it means, in relation to a local planning scheme or local interim development order, that the local government is responsible for the enforcement of the observance of the scheme or order, or the execution of any works which under the scheme or order, or this Act, are to be executed by a local government.

DAR3 DEALING WITH CLEARING MATTERS	
Relevant Management Practice:	• Local Planning Scheme No 4.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	Local Planning Policy • Subdivision Development Guidelines.
Other Relevant References:	• *Environmental Protection Act 1986* • *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* • *Planning and Development Act 2005.*
File Number:	• TEC32.

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DAR3 DEALING WITH CLEARING MATTERS	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Determinations in respect to application (and correspondence relating to any matters thereto) are to be in writing and kept on the relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Council to be notified, in respect to determinations made, through the Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; and • Manager Infrastructure and Assets .
Conditions	• In accordance with the conditions of this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Not applicable.
Adoption Date:	27 April 2006
Last Review Date:	22 June 2021

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DAR4 Swimming Pools and Inspections

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004,* and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*, to note that it has authorised the CEO to exercise of any local government (Council) powers or the discharge of any Council duties in accordance with reg. 70 Approved Officers and Authorised Officers of the *Building Regulations 2012.*

The rules state that Local government, as the ***permit authority***, is responsible for granting building permits for swimming and spa pools and their associated barriers. The approval process ensures that the building and barrier standards are satisfied. Pools are registered with the local government so that periodic inspections of the installed barrier can occur. These inspections should occur at least once every four years.

POWERS AND DUTIES

This delegation authorises the CEO to appoint a person to be an Authorised Officer for the purpose of performing the functions under sections 27 (Required inspection and tests: Class 2 to Class 9 buildings (s. 36(2)(a)) and 28 (Required inspection: barrier to private swimming pool (s. 36(2)(a)) of the *Building Regulations 2012*, specifically in relation to swimming pool inspections being undertaken.

Note: The rules for pools and spas are regulated by the Department of Mines, Industry Regulation and Safety, Building and Energy.

FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the prescribed public (permit) authority and enforcement agency as follows:

Building Regulations 2012

reg. 27 (Required inspection and tests: Class 2 to Class 9 buildings (s. 36(2)(a))

reg. 28 (Required inspection: barrier to private swimming pool (s. 36(2)(a))

reg. 51(Approvals by permit authority)

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reg. 53 (Inspection of barrier to private swimming pool)

reg. 69 (Prescribed offences and modified penalties)

Authorised Officers will be responsible for monitoring compliance with the requirements that apply to a swimming or spa pool barrier by:

- acting on behalf of the permit authority by receiving and processing building permit applications for swimming and spa pools and their associated barriers;
- arranging and conducting inspections of barriers at least once every four years;
- Issuing infringement notices or commencing legal proceedings if a barrier is found to be non-compliant; and
- Issue swimming pool infringement notices.

CONDITIONS

Refer to Delegation ES5.

DAR4 SWIMMING POOL INSPECTIONS	
Relevant Management Practice:	• Local Planning Scheme No 4.
Relevant Local Law:	• Health Local Law 2017
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• *Building Services (Registration) Regulations 2011* • s. 31C (Applicable building standards for private swimming pools) of the *Building Regulations 2012* (ss. 3, 19(3) and 37(1) of the *Building Act 2011*) • s.36 of the Local Government Act 1995 – former provision 245A - Local Government (Miscellaneous Provisions) Act 1960. • Provisions of the *Australian Standard 1926.*1-2012 (Safety Barriers for Swimming Pools – Western Australia).
File Number:	• SWM2
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Details of inspections recorded on the appropriate file or register in accordance with Shire of Toodyay Record Keeping Plan and Record Keeping Policy; and • Reported in quarterly Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.

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DAR4 SWIMMING POOL INSPECTIONS	
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation • Planning and Compliance Officer • Environmental Health Officer
Conditions	• Same conditions as Delegation ES5.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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DAR5 Crossing from Public Thoroughfare to Private land or Private thoroughfare.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The Local Government (Uniform Local Provisions) Regulations 1996 defines that **local government** in relation to land, a public thoroughfare, a public place, or local government property, means the local government in whose district the land, thoroughfare, place, or property is located. It also *states that a* ***lawful authority*** *in relation to the doing of a thing means:*

(a) the authority under a provision of a written law to do the thing; or

(b) an authorisation, approval, licence, permit or other right, granted by the local government or any other person, under another written law, to do the thing; or

(c) if neither paragraph (a) nor (b) applies, the written permission of the local government to do the thing;

The intent of this delegation is for Council to delegate power to the CEO to approve the construction of a crossing giving access from a public thoroughfare to the land or a private thoroughfare serving the land in accordance with *Local Government (Uniform Local Provisions) Regulations 1996.*

POWERS AND DUTIES

This delegation authorises the CEO to approve the construction of a crossing giving access from a public thoroughfare to the land or a private thoroughfare serving the land in accordance with s. 12(1) (Crossing from public thoroughfare to private land or private thoroughfare – Sch. 9.1 cl. 7(2)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

FUNCTION

To check either a Building or Planning application against any relevant policies (engineering) and the requirements or restrictions contained within the Residential Design Codes and the Building Act & Building Regulations. If an application does not comply within all these areas and relevant approvals are not in place the Shire must not

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issue a Building Permit hence their mention of the Building Act, Building Regulations & s.12 (Crossing from public thoroughfare to private land or private thoroughfare – Sch. 9.1 cl. 7(2)) of the *Local Government (Uniform Local Provisions) Regulations 1996.* In summary, this delegation gives the Shire's Development and Regulation the ability to consider a Crossover application and either refuse or approve the placement of a crossover.

CONDITIONS

Refer to Delegation ES1 and ES5.

This delegation is subject to the express provisions of the *Building Act 2011* and the *Building Regulations 2012*, as well as s. 12(2) (Crossing from public thoroughfare to private land or private thoroughfare – Sch. 9.1 cl. 7(2)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

DAR5 CROSSING FROM PUBLIC THOROUGHFARE TO PRIVATE LAND OR PRIVATE THOROUGHFARE	
Relevant Management Practice:	• *Nil.*
Relevant Local Law:	• *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*
Relevant Council Policy:	• Trading in thoroughfares and public places; • Directional Signage & Signage within Thoroughfares.
Other Relevant References:	• reg. 12(1) (Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)) of the *Local Government (Uniform Local Provisions) Regulations 1996* • *Building Regulations 2012.*
File Number:	• LAW11
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Determinations in respect to application (and correspondence in respect to matters related thereto) are to be kept in writing on the relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.

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DAR5 CROSSING FROM PUBLIC THOROUGHFARE TO PRIVATE LAND OR PRIVATE THOROUGHFARE	
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; and • Manager Infrastructure and Assets .
Conditions	• Subject to ss. 127(3) and 127(6A) (Delegation: special permit authorities and local governments) of the *Building Act 2011.*
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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DAR6 Stallholder Applications

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

BACKGROUND

The Shire's '*Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*' was gazetted on 25/10/2001 in accordance with s. 3.5 (Legislative power of local governments) and s. 3.12 (Procedure for making local laws) of the Act.

The Shire's '*Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*' states that the Head of Power in relation to this delegation is the Act.

Any decision which has the effect of granting, renewing, varying, or cancelling a permission or authorisation under a Local Law is a decision that is subject to Part 9 (Miscellaneous provisions) Division 1 (Objections and review) of the Act (s 9.1 (When this Division applies)) and can be referred to the State Administration Tribunal.

Such decisions are deemed 'quasi-judicial' and imply substantial scope for decision outcomes to differ on each occasion that a decision is made.

Therefore, as with other legislation, where a discretionary power or duty is assigned in a Local Law to the Local Government, the power or duty must be delegated to convey the authority to make decisions.

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*; to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the determination of applications for stallholders pursuant to consideration of the Local Planning Scheme in accordance with the *Planning and Development Act 2005* subject to relevant Council Policies and the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* whose head of power is the Act.

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POWERS AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to approving, refusing, applying a condition, varying an approval or condition, or cancelling a permit for a stallholder subject to relevant Council Policies and the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s. 5.44 (CEO may delegate powers and duties to other employees) of the Act and/or an employee of local government that the CEO has been *statutorily delegated to appoint* under s. 9.10 (Appointment of authorised persons) are as follows:

- Consider and determine applications for stallholders including conditions to be imposed upon stallholders in relation to local planning scheme requirements and the provisions of the local law;
- Use discretion and make determinations in relation to stallholder applications in relation to the exemption provisions in the local law relating to stallholder permits and whether stallholders fees contained in the Shire's *Schedule of Fees and Charges* may be waived or reduced;
- issue a stallholder permit on behalf of the local government subject to advising the stallholder of conduct requirements within the local law;
- approve and issue a permit to trading applications on behalf of the local government subject to advising the trader of conduct requirements within the local law.

CONDITIONS

The purpose of this delegation is to comply with:

(a) *Local Government (Uniform Local Provisions) Regulations 1996* which came into operation on 1 July 1996. Under s. 9.60 (Regulations that operate as local laws) of the Act, these regulations apply as if they were local laws made by each local government; and

(b) The Shire's Local Planning Scheme No 4 made in accordance with the *Planning and Development Act 2005* which came into operation on 17 December 2007.

In relation to Food Stall Holder Applications decisions made are subject to s. 115 (Register of food businesses to be maintained) of the *Food Act 2008,* which requires the local government as an enforcement agency, to be responsible for preparing and maintaining a list of:

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(a) food businesses notified to the agency in respect of any premises under s. 107 (Notification of conduct of food businesses); and

(b) Food businesses registered by the agency in respect of any premises under s. 110 (Registration of food businesses).

Waiving of fees is subject to the requirements of legislation and regulations and the Shire's adopted local laws, schemes, codes, policies, and practices.

DAR6 STALLHOLDER APPLICATIONS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Trading in Thoroughfares and Public Places • Directional Signage & Signage within Thoroughfares • Alfresco Dining A. 14 – Trading in Thoroughfares and Public Places
Other Relevant References:	• *Local Government (Uniform Local Provisions) Regulations 1996* • Regulation 115 - *Food Act 2008* • Shire of Toodyay *Local Planning Scheme No 4* and • *Planning and Development Act 2005* • *https://www.coag.gov.au/about-coag/agreements/competition-principles-agreement*
File Number:	• EVT1
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Report in Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; and • Environmental Health Officer.

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DAR6 STALLHOLDER APPLICATIONS	
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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DAR7 Thoroughfares and Trading in Thoroughfares and Public Places Permits

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

BACKGROUND

Refer to Delegation DAR6.

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*; to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the determination of applications for traders pursuant to consideration of the Local Planning Scheme in accordance with the *Planning and Development Act 2005* subject to relevant Council Policies and the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* whose head of power is the Act.

The intent of this delegation is for Council to delegate power to the CEO to make determinations in relation to applications for a permit including whether to waive or reduce fees to be imposed on applicants that are contained in the Shire's *Schedule of Fees and Charges*.

POWERS AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in relation to approving, refusing, applying a condition, varying an approval or condition, or cancelling a permit for a Trader subject to relevant Council Policies and the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s.5.44 (CEO may delegate powers ad duties to other employee) of the Act and/or an employee of local government that the CEO has been *statutorily delegated to appoint* under s.9.10 (Appointment of authorised persons) are as follows:

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- approve and issue a permit to trading applications on behalf of the local government subject to advising the trader of conduct requirements within the local law.

CONDITIONS

Determination of applications is pursuant to consideration of the Local Planning Scheme in accordance with the *Planning and Development Act 2005*, subject to and in accordance with clause 7.2 of the Shire's '*Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*' and relevant Council Policies as determined by Council in accordance with s. 2.7(2)(b) (Role of council) of the Act.

DAR7 THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES PERMITS	
Relevant Management Practice:	• Not applicable.
Relevant Council Policy:	• Applications for Public Events • Trading in Thoroughfares and Public Places • Directional Signage & Signage within Thoroughfares • Alfresco Dining • Trading in Thoroughfares and Public Places
Other Relevant References:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. Date: 25/10/2001 • *Local Government (Uniform Local Provisions) Regulations 1996* • Weights and Measures Act 1915 (repealed by the *Trade Measurement Administration Act 2006* (No. 12 of 2006) s. 36(1) as of 1 Jun 2007 (see s. 2 and Gazette 29 May 2007 p. 2485) • s. 115 (Register of food businesses to be maintained) *Food Act 2008* • Shire of Toodyay *Local Planning Scheme No 4* • *Planning and Development Act 2005.*
File Number:	• MEM1.

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DAR7 THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES PERMITS	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Report in Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation • Environmental Health Officer
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	24 November 2005
Last Review Date:	22 June 2021

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DAR8 Development Application Delegations

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate to the CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties as a responsible authority in relation to land that is subject to a local planning scheme under the *Planning and Development Act 2005* within the Shire in accordance with s. 82 (Delegations by local government) of Schedule 2, Part 10 of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

** Absolute majority required.*

POWERS AND DUTIES

Section 83 (Local government CEO may delegate powers) of the *Planning and Development (Local Planning Schemes) Regulations 2015* state that the local government 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 functions under this Scheme other than this power of delegation.

FUNCTION

1. DEVELOPMENT APPROVAL - GENERAL

Authority to approve or refuse applications for development approval, with or without conditions, subject to consistency with Shire's *Local Planning Scheme No. 4*, including giving due regard to relevant Local Planning Policies, and / or WAPC / State Planning Policies, and the exclusions / conditions set out below.

CONDITIONS

General Exclusions

Applications for development approval for development:

(i) exceeding $2M in value; and / or
(ii) a net increase of in excess of 10 dwellings; and / or
(iii) a net increase of over 500m^2 in building floor area; and/or
(iv) located in the Roman Catholic Church Precinct

may not be determined under delegated authority.

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Specific Exclusions and Exceptions for Minor Works, etc.

a) Subject to (f) below, with respect to applications for development approval for development other than advertising signage, domestic outbuildings, sea containers and/or other similar storage containers, fencing, residential additions/alterations and setback variations, any delegated decision must be consistent with, rather than giving due regard to, relevant Local Planning Policies.

b) Subject to (f) below, applications for development approval for development of land within a Local Reserve may only be approved under delegated authority where it is consistent with the purpose of the Reserve.

c) Subject to (f) below, applications for development approval for the types of land-use or development listed below may only be refused under delegated authority:

(i) Abattoir;

(ii) Animal Establishment in other than the 'Rural' Zone;

(iii) Animal Husbandry – Intensive;

(iv) Hotel;

(v) Industry - Extractive;

(vi) Motel;

(vii) Night Club;

(viii) Restricted Premises;

(ix) Small Bar;

(x) Tavern;

(xi) Telecommunication Infrastructure; and

(xii) Any other development associated with racing, gaming, or the sale of liquor, other than where development is of a temporary nature (no more than 48 hours duration).

Note: Should the CEO feel that the application may warrant approval, the application shall be reported to Council for consideration.

d) Subject to (f) below, unless specifically provided for in a Local Planning Policy or Policies, applications for development approval that must be assessed under the provisions of clause 3.4.2 of the Scheme (interpretation of the Zoning Table provisions) may only be refused under delegated authority.

Note: Should the CEO feel that the application may warrant approval, the application shall be reported to Council for consideration

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e) Subject to (f) below, applications for development approval that must be assessed under the provisions of Part 4, clauses 3.8 up to and including 3.12 of the Scheme (non-conforming uses provisions) may only be refused under delegated authority.

Note: Should the Chief Executive Officer feel that the application may warrant approval, the application shall be reported to Council for consideration

f) Subject to (g) below, the provisions of (a) to (e) above do not apply to applications that involve:

- amending the approval so as to extend the period within which the approval must be substantially commenced; and
- alterations and/or expansions affecting a maximum area of 10% of the existing development or 200m^2 (in terms of floor space or land area in use, as appropriate), whichever is the lesser, and which are associated with existing, lawful land-uses, wherein the application may be refused or approved, with or without conditions, under delegated authority.

g) Where an application to extend the period within which the approved development must be substantially commenced is issued pursuant to f) above, the term of any extension shall not exceed 12 months, however, an unlimited number of extensions may be granted under delegated authority.

2. DEVELOPMENT APPROVAL - AMENDED PLANS

Notwithstanding (a) and (b) above, amended plans relating to applications determined by Council, may be determined under delegated authority where -

a) the amended plan, if submitted as a new application, could have been determined under delegated authority; and/or

b) the amended plans do not differ from the determined plans in any respect which generates a need to undertake consultation pursuant to clause 64 of the *deemed provisions for local planning schemes* (advertising applications) and/or Part 4 (Consultation) of the R-Codes; and/or

c) the amended plans do not differ from the determined plans in respect of the number of residential units or an increase in floor space of more than 10% or 200m^2 (in terms of floor space or land area in use, as appropriate), whichever is the lesser.

3. DEVELOPMENT APPROVAL - CONDITIONS RELATED TO CONSULTATION

Applications for development approval that have been advertised for consultation purposes in accordance with the provisions of clause 64 (advertising applications) of the *deemed provisions for local planning schemes* and/or Part 4 of the R-Codes (consultation), may only be approved under delegated authority if-

a) No submissions were received, or only supportive submissions that do not request any change to the development were received; or

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b) Submissions that raise concerns with the proposed development were received, and those concerns are, in the opinion of the CEO, clearly not material planning considerations;

c) Submissions that raise concerns with the proposed development were received, and those concerns are material planning considerations, but;

i) through liaison with the party or parties that lodged the submissions and/or amendments to the application and/or the application of conditions, the matters raised in the submissions can be resolved to the satisfaction of the CEO, the applicant, and the party or parties that lodged the submissions (the Chief Executive Officer must also ensure that the interests of fourth parties are protected and undertake further consultation if considered necessary), and

ii) prior to approval of the application, the applicant and/or party or parties who lodged the submissions have provided written (including via email) confirmation of their acceptance of the terms of the proposed delegated decision.

Note: Should (a), (b) or (c) above not apply, or the CEO feel that the application should be refused, the application shall be reported to Council for consideration

DAR8 DEVELOPMENT OF SUBDIVISION APPLICATION DELEGATIONS	
Relevant Management Practice:	• *Local Planning Scheme No 4 (referencing 11.3.1 and 11.3.2).*
Relevant Local Law:	• Shire of Toodyay's adopted local laws.
Relevant Council Policy:	• Shire of Toodyay's adopted local planning policies.
Other Relevant References:	• *Planning and Development Act 2005* • *Local Government Act 1995* – s. 5.42 (Delegation of some Powers and Duties to CEO) • **deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015***
File Number:	• PLS2.

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DAR8 DEVELOPMENT OF SUBDIVISION APPLICATION DELEGATIONS	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg. 19 (Delegates to keep certain records (Act s. 5.46(3)) of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation • Planning and Compliance Officer *(excluding subdivision clearances).*
Conditions	In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	22 June 2021

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DAR9Illegal Development

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties as a responsible authority in relation to land that is subject to a local planning scheme under ss. 214(2), (3) and (5) (Illegal development, responsible authority's powers as to) of the *Planning and Development Act 2005* and reg. 82 (Delegations by local government) of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

** Absolute majority required.*

POWERS AND DUTIES

The deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* are to be read in conjunction with the *Local Planning Scheme No. 4*.

This delegation will enable appropriate action to be instigated in a timely and efficient manner relating to breaches of the Shire's *Local Planning Scheme No. 4.*

Regulation 83 (Local government CEO may delegate powers) of the *Planning and Development (Local Planning Schemes) Regulations 2015* state *"the local government 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 functions under this Scheme other than this power of delegation".*

FUNCTION

This delegation will enable the CEO to appoint an Authorised Officer for the purposes of entering any building or land to determine whether the provisions of this Scheme have been or are being observed:

(a) 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;

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(b) Give a written direction to the owner or any other person who undertook an unauthorised development subject to the provisions of reg. 65 (Review of local planning scheme) of the *Planning and Development (Local Planning Schemes) Regulations 2015:*

i) to remove, pull down, take up, or alter the development; and

ii) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.

(c) 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.

CONDITIONS

Section 4 (terms used) of the *Planning and Development Act 2005* states that the local government is a responsible authority, except as provided in regulations made under s. 171A(2)(a) (Prescribed development actions, DAP to determine and regulations for). In essence it means, in relation to a local planning scheme or local interim development order, that the local government is responsible for the enforcement of the observance of the scheme or order, or the execution of any works which under the scheme or order, or this Act, are to be executed by a local government.

This delegation is also subject to the requirements of legislation and regulations and the Shire's adopted local laws, schemes, codes, policies, and practices.

DAR9 ILLEGAL DEVELOPMENT	
Relevant Management Practice:	• Local Planning Scheme No 4 (referencing 11.1.2, 11.3.1 and 11.3.2).
Relevant Local Law:	• Shire of Toodyay's adopted local laws.
Relevant Council Policy:	• Shire of Toodyay's adopted local planning policies.
Other Relevant References:	• *Local Government Act 1995* – s. 5.42 (Delegation of some Powers and Duties to CEO) • *Planning and Development Act 2005* s. 214 (Illegal development, responsible authority's powers as to) ss. (2), (3) or (5) • Part 13 (Enforcement and legal proceedings) of the *Planning and Development Act 2005* • deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*

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DAR9 ILLEGAL DEVELOPMENT	
File Number:	• PLS2.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg. 19 (Delegates to keep certain records (Act s. 5.46(3)) of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	22 June 2021

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DAR10 Appointment of Authorised Persons – the Shire of Toodyay *Local Planning Scheme No. 4*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The purpose of this delegation is to satisfy the provisions of reg. 82 (Delegations of local government) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* that state a local government may, by resolution, delegate to the CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under the Shire's *Local Planning Scheme No. 4*

* *Absolute majority required.*

POWERS AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties in accordance with ss. 214(2), (3) and (5) (Illegal development, responsible authority's powers to remove etc) of the *Planning and Development Act 2005.*

FUNCTION

This delegation will enable the CEO to appoint Authorised Officers for the purposes of entering any building or land to determine whether the provisions of the local planning scheme have been met or are being observed.

CONDITIONS

There are no conditions. **Refer to ES1** for information related to the *Planning and Development Act 2005.*

DAR10 APPOINTMENT OF AUTHORISED PERSONS – THE SHIRE OF TOODYAY LOCAL PLANNING SCHEME NO 4	
Relevant Management Practice:	• Shire of Toodyay's adopted Planning Schemes and Strategies.
Relevant Local Law:	• Shire of Toodyay's adopted local laws.
Relevant Council Policy:	• Shire of Toodyay's adopted policies.

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DAR10 APPOINTMENT OF AUTHORISED PERSONS – THE SHIRE OF TOODYAY LOCAL PLANNING SCHEME NO 4	
References - *Planning and Development Act 2005*	• Part 13, Division 3, s. 234 (Designated persons, appointment of) • Deemed provisions for local planning schemes in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*
File Number:	• PLS2.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg. 19 (Delegates to keep certain records (Act s. 5.46(3)) of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Appointment of a Designated person subject to s. 234 (Designated persons, appointment of) of the *Planning and Development Act 2005;* • Refer to the Statement of Intent.
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	22 June 2021

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DAR11 Deed of Covenant for the Payment of a Developer Contribution.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

The purpose of this delegation is to satisfy the provisions of clause 2.2 of the Shire's *Local Planning Scheme No. 4* in respect to Council authorising the CEO to exercise any of its powers or the discharge of any of its duties as a responsible authority in relation to land that is subject to a local planning scheme under the *Planning and Development Act 2005.*

** Absolute majority required.*

POWERS AND DUTIES

This delegation authorises the CEO to exercise any of the local government's powers or the discharge of any of its duties the *Planning and Development Act 2005, Part 10 – Subdivision and Development Control.*

FUNCTION

This delegation of authority will enable the Shire President and the CEO to enter into a Deed of Covenant for the Payment of a Development Contribution with prospective developer(s) proposing to rezone land under Local Planning Scheme No 4 to enable further subdivision subject to the proposed rezoning being supported under the provisions of the Local Planning Strategy.

CONDITIONS

Subject to the proposed rezoning being supported under the provisions of the Local Planning Strategy.

Refer to ES1 for information related to *Planning and Development Act 2005.*

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DAR11 DEED OF COVENANT FOR THE PAYMENT OF A DEVELOPER CONTRIBUTION	
Relevant Management Practice:	• Shire of Toodyay's adopted Planning Schemes and Strategies.
Relevant Local Law:	• Shire of Toodyay's adopted local laws.
Relevant Council Policy:	• Subdivision Contributions for Road and Footpath Upgrading; and • Sub-divisional Development Guidelines.
References - *Planning and Development Act 2005*	• Part 13, Division 3, s. 234 (Designated persons, appointment of) • deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*
File Number:	• PLA1
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Detail of deeds to be recorded in appropriate register and upon the common seal being affixed, reported in the Council Information Bulletin.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	18 June 2008
Last Review Date:	22 June 2021

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DAR12 Caravan Park and Camping Grounds Act 1995

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to note Delegation ES1 and the delegation by Council to the CEO of the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the *Caravan Parks and Camping Grounds Act 1995* in accordance with s.5(1) (Terms used) of the *Caravan Parks and Camping Grounds Act 1995.*

The intent with respect to the above is that the authority will extend to any subsidiary legislation of the legislation specified above, and any Shire local laws where the head of power is either the Act, the *Public Health Act 2016* or the *Health (Miscellaneous Provisions) Act 1911.*

The Shire's *Local Government Property Local Law* refers to "facility" as having the same meaning as is given to it in s. 5(2) (Terms used) of the *Caravan Parks and Camping Grounds Act 1995.* The Local Law also states that the functions performed under this local law can be performed by an "authorised person" authorised under s. 9.10 (Appointment of authorised persons) of the Act to perform any of the functions of an authorised person under this local law. **Refer to Delegation ES1.**

POWERS AND DUTIES

This delegation authorises the CEO to:

- exercise the powers that are conferred or imposed on the local government and perform the functions of the agency in relation to the Caravan *Parks and Camping Grounds Act 1995*.
- appoint one or more persons for the purpose of performing the functions of an authorised person in accordance with s. 23(1) (Infringement notices) of the Caravan *Parks and Camping Grounds Act 1995*.

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FUNCTION

The CEO, as Council's Deputy, will administer the functions that are conferred or imposed on the public authority as follows:

Caravan Parks and Camping Grounds Act 1995

s. 7 (Application for grant or renewal of licence)
s. 10 (Prohibition notice)
s. 14 (Register)
s. 15 (Local government may operate facility in its district without licence)
s. 21 (Inspections and works specification notices)
s. 18 (Powers of entry)
s. 20 (Entry of occupied caravan or camp)
s. 22 (Legal proceedings to be taken by authorised person)
s. 23 (Infringement notices)

CONDITIONS

Refer to Delegation ES1.

To comply with the requirements of the *Caravan Park and Camping Grounds Act 1995* and reg. 6 (Performance of local government functions by authorised persons) of the *Caravan Parks and Camping Grounds Regulations 1997.*

In the absence of the CEO the sub-delegated Officers may carry out the provisions of the *Caravan Park and Camping Grounds Act 1995* and the provisions of any subsidiary regulations.

Section 17(2) (Appointment of authorised person) of the *Caravan Parks and Camping Grounds Act 1995* states that an authorised person is to produce the identity card referred to in subsection (1)(b) whenever required to do so by any person in respect of whom the authorised person has exercised, or is about to exercise, any of the powers of an authorised person under this Act.

This delegation is subject to express provisions of the Act, and the Shire's adopted local laws, schemes, codes, policies, and practices.

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DAR12 CARAVAN PARK AND CAMPING GROUNDS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Shire of Toodyay's Parking and Parking Facilities local law • Shire of Toodyay Local Government Property Local Law
Relevant Council Policy:	• Caravan and Camping Grounds • Temporary Onsite Accommodation during construction of a dwelling • Extracts Industrial Area Policy
Other Relevant References:	• *Caravan Park and Camping Grounds Act 1995* • reg. 6 (Performance of local government functions by authorised persons) of the *Caravan Parks and Camping Grounds Regulations 1997.*
File Number:	• CAM1.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Records pertaining to this delegation to be kept on appropriate file.
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation • Manager Infrastructure & Assets.
Conditions	• In accordance with the conditions of this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to ES1; and • Not applicable.
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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DAR13 Recommendations to the WAPC Regarding Applications for Subdivision / Amalgamation or Strata Title

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate, by resolution, to the CEO the exercise of any of its powers or the discharge of any of its duties as a responsible authority in relation to making recommendations to the Western Australian Planning Commission (WAPC) with regards to applications referred to Council pursuant to Part 10 (Subdivision and development control) of the *Planning and Development Act 2005.*

** Absolute majority required.*

POWERS AND DUTIES

Section 5.42 (Delegation of some powers and duties to CEO) of the Act establishes that a local government may delegate to the CEO* the exercise of any of its powers or the discharge of any of its duties under the Act other than those referred to in s. 5.43 (Limits on delegation to CEO) or ss. 214(2), (3) or (5) (Illegal development, responsible authority's powers as to) of the *Planning and Development Act 2005.*

FUNCTION

The WAPC grants subdivision approvals for residential subdivisions (excluding built strata with 5 or less units, which require Local Government Approval).

Subdivision applications submitted to the WAPC are referred to the Shire (as well as other agencies) for comment. This delegation will facilitate timely responses to the WAPC regarding subdivision, amalgamation, and strata title referrals.

CONDITIONS

Subject to consistency with the Scheme, relevant Local Planning Policies, and/or WAPC/State Planning Policies, applications that were they approved by the WAPC, might result in a net increase of more than 10 lots, a recommendation to the WAPC may only be made under delegated authority if-

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a) The application is consistent with a structure plan approved by the WAPC, a local development plan approved by Council, or other plan endorsed by Council, or which forms part of the Scheme and/or a Local Planning Policy; and/or

b) The application is for amended plans for an application that has been considered by Council within the last two years and the amendments are, in the opinion of the delegated officer, of a minor nature.

DAR13 RECOMMENDATIONS TO THE WAPC REGARDING APPLICATIONS FOR SUBDIVISION / AMALGAMATION OR STRATA TITLE	
Relevant Management Practice:	• Shire of Toodyay Local Planning Scheme No 4
Relevant Local Law:	• Not Applicable
Relevant Council Policy:	• Local Planning Policy - Subdivision Contributions for Road and Footpath Upgrading
Other Relevant References:	• *Planning and Development Act 2005* • Schedule 2, Part 4 – Structure Plans of the *Planning and Development (Local Planning Schemes) Regulations 2015* • *Local Government Act 1995* – s. 5.42 (Delegation of some Powers and Duties to CEO).
File Number:	• PLS2.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg.19 of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation • Planning and Compliance Officer

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DAR13 RECOMMENDATIONS TO THE WAPC REGARDING APPLICATIONS FOR SUBDIVISION / AMALGAMATION OR STRATA TITLE	
Conditions	In accordance with the conditions listed in this delegation; and that the application for subdivision is not located in the Roman Catholic Precinct. Consideration of Delegation EA11 required prior to any decision.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	25 June 2019
Last Review Date:	22 June 2021

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DAR14 Clearance of Conditions of Development Approval, or Conditions of Subdivision / Amalgamation or Strata Title Approval

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties in relation to clearance of conditions of development approval issued under Council's Local Planning Scheme No.4 (the Scheme), including clearance of conditions to advise the Western Australian Planning Commission (WAPC) with regards to the clearance of conditions for which Council is nominated as a clearance agency.

POWERS AND DUTIES

Clearance of Conditions of Development Approval

Regulation 82 (Delegations by local government) of the *Planning and Development (Local Planning Schemes) Regulations 2015)* states the local government may, by resolution, delegate to a committee or to the local government CEO* the exercise of any of the local government's powers or the discharge of any of the local government's duties under the Scheme.

Clearance of Conditions of Subdivision

Section 5.42 (Delegation of some powers and duties to CEO) of the Act establishes that a local government may delegate to the CEO* the exercise of any of its powers or the discharge of any of its duties under the Act other than those referred to in s. 5.43 (Limits on delegations to CEO) or the *Planning and Development Act 2005* ss. 214(2), (3) or (5) (Illegal development, responsible authority's powers as to).

**Absolute Majority required*

FUNCTION

This delegation will facilitate good and proper planning practices, including timely responses to clearance of conditions of development approval issued under the Scheme, and clearance of conditions set pursuant to Part 10 (Subdivision and development control) of the *Planning and Development Act 2005* and for which Council is nominated as a clearance agency.

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CONDITIONS

Authority to: -

- clear conditions of development approval issued under Council's Local Planning Scheme No.4 pursuant to clause 82 of the *deemed provisions for local planning schemes:* and
- Advise the WAPC with regards to the clearance of conditions set pursuant to Part 10 (Subdivision and development control) of the *Planning and Development Act 2005* and for which Council is nominated as a clearance agency, subject to consistency with the Scheme and Local Planning Policies.

Specific Exclusions

- Applications to clear conditions of development approval in the Roman Catholic Church Precinct may not be determined under delegated authority.
- Advice to the WAPC with regards to the clearance of conditions for which Council is nominated as a clearance agency in the Roman Catholic Church Precinct may not be determined under delegated authority.

DAR14 CLEARANCE OF CONDITIONS OF DEVELOPMENT APPROVAL, OR CONDITIONS OF SUBDIVISION / AMALGAMATION OR STRATA TITLE APPROVAL	
Relevant Management Practice:	• Shire of Toodyay Local Planning Scheme No 4.
Relevant Local Law:	• Not Applicable
Relevant Council Policy:	• Local Planning Policy - Subdivision Contributions for Road and Footpath Upgrading
Other Relevant References:	• Planning and Development Act 2005 • *Local Government Act 1995* – s. 5.42 (Delegation of some Powers and Duties to CEO) • *Deemed provisions for local planning schemes* of the *Planning and Development (Local Planning Schemes) Regulations 2015*
File Number:	• PLS2.

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DAR14 CLEARANCE OF CONDITIONS OF DEVELOPMENT APPROVAL, OR CONDITIONS OF SUBDIVISION / AMALGAMATION OR STRATA TITLE APPROVAL	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg. 19 (Delegates to keep certain records (Act s. 5.46(3)) of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; • Planning and Compliance Officer
Conditions	In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons Not suitable for Acting Through	• Refer to the Statement of Intent.
Adoption Date:	25 June 2019
Last Review Date:	22 June 2021

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DAR15 Advice to the Department of Planning Lands and Heritage (DPLH) regarding matters associated with the *Land Administration Act 1997*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties as a responsible authority in relation to proposed changes of tenure, changed / new management orders, and / or granting or renewing of leases and / or licences relating to Crown Land.

POWERS AND DUTIES

Section 5.42 (Delegation of some powers and duties to CEO) of the Act establishes that a local government may delegate to the CEO* the exercise of any of its powers or the discharge of any of its duties under the Act other than those referred to in s. 5.43 (Limits on delegations to CEO) or the *Planning and Development Act 2005* ss. 214(2), (3) or (5).

**Absolute Majority required*

FUNCTION

This delegation will facilitate good and proper planning practices, including timely responses to the Department of Planning Lands and Heritage (DPLH) for matters referred to Council under the *Land Administration Act 1997*.

CONDITIONS

Authority to advise the DPLH is extended to the CEO with respect to proposed changes of tenure, changed / new management orders, and / or granting or renewing of leases and / or licences relating to Crown Land.

DAR15 ADVICE TO THE DEPARTMENT OF PLANNING LANDS AND HERITAGE (DPLH) REGARDING MATTERS ASSOCIATED WITH THE *LAND ADMINISTRATION ACT 1997*	
Relevant Management Practice:	• *Shire of Toodyay Local Planning Scheme No 4.*
Relevant Local Law:	• Not Applicable

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DAR15 ADVICE TO THE DEPARTMENT OF PLANNING LANDS AND HERITAGE (DPLH) REGARDING MATTERS ASSOCIATED WITH THE *LAND ADMINISTRATION ACT 1997*	
Relevant Council Policy:	• Not Applicable
Other Relevant References:	• Planning and Development Act 2005 • *Local Government Act 1995* – Section 5.42 (Delegation of some Powers and Duties to CEO) • *Deemed provisions for local planning schemes* of the *Planning and Development (Local Planning Schemes) Regulations 2015*
File Number:	• PLS2.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg. 19 (Delegates to keep certain records (Act s. 5.46(3)) of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; • Planning and Compliance Officer
Conditions	In accordance with the conditions listed in this delegation.

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DAR15 ADVICE TO THE DEPARTMENT OF PLANNING LANDS AND HERITAGE (DPLH) REGARDING MATTERS ASSOCIATED WITH THE *LAND ADMINISTRATION ACT 1997*	
Appointment of Authorised Officers / Authorised Persons Not suitable for Acting Through	• Refer to the Statement of Intent.
Adoption Date:	25 June 2019
Last Review Date:	22 June 2021

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DAR16 Advising other Regulatory Authorities.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties as a responsible authority to advise regulatory authorities other than the Western Australian Planning Commission (WAPC) with respect to matters where planning-related advice is required.

POWERS AND DUTIES

Section 5.42 (Delegation of some powers and duties to CEO) of the Act establishes that a local government may delegate to the CEO* the exercise of any of its powers or the discharge of any of its duties under the Act other than those referred to in s. 5.43 (Limits on delegations to CEO) or the *Planning and Development Act 2005* ss. 214(2), (3) or (5).

**Absolute Majority required*

FUNCTION

This delegation will facilitate good and proper planning practices, including timely responses to regulatory authorities other than the WAPC with respect to matters where planning-related advice is required.

CONDITIONS

Authority to advise other regulatory authorities (other than the WAPC with respect to applications for subdivision) with respect to matters where planning-related advice is required, is extended to the CEO, subject to consistency with existing planning or other local government approvals, as appropriate, and the Scheme, relevant Local Planning Policies and/or WAPC/State Planning Policies.

Specific Exclusions

- Planning related advice to other regulatory authorities with respect to the Roman Catholic Church Precinct shall be reported to Council for consideration.

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DAR16 ADVISING OTHER REGULATORY AUTHORITIES	
Relevant Management Practice:	• Shire of Toodyay Local Planning Scheme No 4.
Relevant Local Law:	• Not Applicable
Relevant Council Policy:	• Not Applicable
Other Relevant References:	• *Planning and Development Act 2005* • *Local Government Act 1995* – s. 5.42 (Delegation of some Powers and Duties to CEO) • Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*
File Number:	• PLS2.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* Obligation under reg. 19 (Delegates to keep certain records (Act s. 5.46(3)) of the *Local Government (Administration) Regulations 1996,* to keep a record of: (a) how the power was exercised, or the duty was discharged; (b) When the power was exercised or duty discharges; 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. In the Shire of Toodyay Record Keeping System, in a relevant property file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation; • Planning and Compliance Officer
Conditions	In accordance with the conditions listed in this delegation.

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DAR16 ADVISING OTHER REGULATORY AUTHORITIES	
Appointment of Authorised Officers / Authorised Persons Not suitable for Acting Through	• Refer to the Statement of Intent.
Adoption Date:	25 June 2019
Last Review Date:	22 June 2021

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SECTION 5 Infrastructure and Assets (Delegations to CEO)

AS1 Crossovers

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Infrastructure and Assets
Responsible Officer:	Manager Infrastructure and Assets

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the *Local Government (Uniform Local Provisions) Regulations 1996.*

The intent with respect to the above is that the authority will extend to the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* whose head of power is the Act.

POWERS AND DUTIES

This delegation authorises the CEO to:

- exercise the powers given to a local government as a public authority in respect to Schedule 9.1 (Certain matters for which Governor may make regulations) of the Act.
- Designate an employee to exercise powers or duties that have been delegated to the CEO in accordance with s. 5.44 of the *Local Government Act 1995.*
- Issue a notice to a person who is carrying out plastering, painting, or decorating operations over or near a footpath on land that is local government property in accordance with reg. 5(2) (Interfering with or taking from local government land) of the *Local Government (Uniform Local Provisions) Regulations 1996.*
- approve the construction of a vehicular crossover and payment of subsidies relating to the construction of a vehicular crossover as prescribed in s. 2(A(a) Schedule 3.1 Division 2 (Provisions contraventions of which may lead to a notice requiring things to be done) of the Act and in accordance with reg. 12 (Crossing from public thoroughfare to private land or private thoroughfare – Sch. 9.1 cl. 7(2)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*
- issue a notice to a person who is the owner or occupier of private land requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land in accordance with reg. 13 (Requirement to

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construct or repair crossing — Sch. 9.1 cl. 7(3)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

- where a notice given under s. 3.25(1)(b) (Notices requiring certain things to be done by owner or occupier of land) of the Act is not complied with, the CEO may under s. 3.26 (Additional powers when notices given), authorise for the local government to do what the notice required and recover the cost from the offender in accordance with reg. 12 (Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s. 5.44 (CEO may delegate powers and duties to other employees) of the Act and/or an employee of local government that the CEO has been statutorily delegated to appoint under s. 9.10 (Appointment of authorised persons) are as follows:

Local Government (Uniform Local Provisions) Regulations 1996

reg. 6 Obstruction of public thoroughfare by things placed and left — Sch. 9.1 cl. 3(1)(a)
reg. 7A. Obstruction of public thoroughfare by fallen things — Sch. 9.1 cl. 3(1)(b)
reg. 7 Encroaching on public thoroughfare — Sch. 9.1 cl. 3(2)
reg. 8 Separating land from public thoroughfare — Sch. 9.1 cl. 4.
reg. 9 Permission to have gate across public thoroughfare — Sch. 9.1 cl. 5(1)
reg. 11 Dangerous excavation in or near public thoroughfare — Sch. 9.1 cl. 6
reg. 12 Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)
reg. 13 Requirement to construct or repair crossing — Sch. 9.1 cl. 7(3)
reg. 15. Contribution to cost of crossing — Sch. 9.1 cl. 7(4).
reg. 17 Private works on, over, or under public places — Sch. 9.1 cl. 8
reg. 21 Wind erosion and sand drifts — Sch. 9.1 cl. 12

CONDITIONS

Refer to Delegations ES1, ES10 and DAR5.

AS1 CROSSOVERS	
Relevant Management Practice:	• Local Planning Scheme No 4.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Standards and Specifications - Vehicle Crossovers.

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AS1 CROSSOVERS	
Relevant References:	• *Local Government Act 1995*, Schedule 9.1, cl. 7 (3) • *ss.* 12, 13, 14, 15 and 16 of the *Local Government (Uniform Local Provisions) Regulation 1996* • s. 21A - *Environmental Protection (Clearing of Native Vegetation) Regulations 2004.*
File Number:	• Relevant Property Files.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Notices and matters related thereto are to be in writing and kept on relevant files in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure & Assets. • Manager Development and Regulation
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2007
Last Review Date:	22 June 2021

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AS2 Private Works on, over or under public places

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Infrastructure and Assets
Responsible Officer:	Manager Infrastructure and Assets

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under reg. 17 (Private works on, over, or under public places) — Sch. 9.1 cl. 8 of the *Local Government (Uniform Local Provisions) Regulations 1996.*

POWERS AND DUTIES

The CEO, or an Authorised Officer may grant permission to construct anything on, over or under a public thoroughfare or other public place that is local government property.

FUNCTION

To authorise the construction of anything on, over or under a public thoroughfare or other public place that is local government property in accordance with reg. 17 (Private works on, over, or under public places – Sch. 9.1 cl. 8) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

CONDITIONS

Refer to Delegations ES1, ES5, DAR5, AS1, DAR7 and DAR12.

This delegation is also subject to the express provisions of the Act, *and* the Shire's adopted local laws, schemes, codes, policies, and practices.

AS2 PRIVATE WORKS ON, OVER OR UNDER PUBLIC PLACES	
Relevant Management Practice:	• Local Planning Scheme No 4.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

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AS2 PRIVATE WORKS ON, OVER OR UNDER PUBLIC PLACES	
Relevant Council Policy:	• Local Planning Policy– Signage outside the Central Toodyay Heritage Area • Local Planning Policy– Central Toodyay Heritage Area • Local Planning Policy– Directional Signage and signage within thoroughfares • Local Planning Policy– Subdivision Development Guidelines.
Other Relevant References:	• reg. 17 (Private works on, over, or under public places) — Sch. 9.1 cl. 8 of the *Local Government (Uniform Local Provisions) Regulations 1996.*
File Number:	• TEC8
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Determinations and correspondence related thereto to be recorded on appropriate file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure and Assets ; and • Manager Development and Regulation
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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AS3 Licence to deposit materials on or excavate adjacent to a street.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Infrastructure and Assets; and Development and Regulation
Responsible Officer:	Manager Infrastructure and Assets; and Manager Development and Regulation

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to reg. 6 (Obstruction of public thoroughfare by things placed and left - Sch. 9.1 cl. 3(1)(a)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

POWERS AND DUTIES

This delegation authorises the CEO to issue licences to deposit materials on a street, way or other public place and to excavate on land either abutting or adjoining a street, way or other public place in accordance with reg. 6 (Obstruction of public thoroughfare by things placed and left - Sch. 9.1 cl. 3(1)(a)) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

This delegation is pursuant to s. 25 (Transitional and savings provisions) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

FUNCTION

To comply with provisions of:

(a) Regulation 36 (Rights, powers, and privileges under easements (Act s. 167(2)) of the *Planning and Development Regulations 2009*;
(b) *The Building Act 2011*; and
(c) The Local Government (Uniform Local Provisions) Regulations 1996.

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CONDITIONS

(a) The CEO obtaining confirmation in writing from the Manager Infrastructure and Assets that the proposed activity will not create undue interference with the operations of the street, the way or public place.

(b) Licences are to be issued subject to the condition detailed in s. 25 (Transitional and savings provisions) of the *Local Government (Uniform Local Provisions) Regulations 1996* and such other conditions as considered relevant by the CEO.

Refer to Delegation ES1 and ES5.

AS3 LICENCE TO DEPOSIT MATERIALS ON OR EXCAVATE ADJACENT TO A STREET	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Local Planning Policy – Landscaping Plans • Local Planning Policy – Subdivision Development Guidelines.
Other Relevant References:	• reg. 6 (Obstruction of public thoroughfare by things placed and left) — Sch. 9.1 cl. 3(1)(a) • s. 25 (Transitional and savings provisions) of the *Local Government (Uniform Local Provisions) Regulations 1996* • *Building Act 2011* • s. 36 (Rights, powers, and privileges under easements (Act s. 167(2)) *Planning and Development Regulations 2009.*
File Number:	• CPS2.

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AS3	LICENCE TO DEPOSIT MATERIALS ON OR EXCAVATE ADJACENT TO A STREET
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • License and correspondence related thereto to be recorded in relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure and Assets ; • Manager Development and Regulation
Conditions	• Subject to ss. 127(3) and 127(6A) (Delegation: special permit authorities and local governments) of the *Building Act 2011.*
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2013.
Last Review Date:	22 June 2021

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AS4 Dangerous excavation

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Infrastructure and Assets
Responsible Officer:	Manager Infrastructure and Assets

STATEMENT OF INTENT

If there is, in a public thoroughfare or land adjoining a public thoroughfare, an excavation that the local government considers to be dangerous it may fill in or fence the excavation or request the owner or occupier to fill or securely fence the excavation in accordance with reg. 11(1) (Dangerous excavation in or near public thoroughfare – Sch. 9.1 cl. 6) of the *Local Government (Uniform Local Provisions) Regulations 1996*.

The intent of this delegation is for Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of ss. 6(a) and 6(b) of the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under reg. 11(1) (Dangerous excavation in or near public thoroughfare – Sch. 9.1 cl. 6) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

Refer to Delegations ES1, DAR7 and AS3.

POWERS AND DUTIES

This delegation authorises the CEO to:

- Use their discretion in respect to whether an excavation is dangerous, in a public thoroughfare or land adjoining a public thoroughfare;
- request the owner or occupier to fill or securely fence the excavation; and/or
- authorise a suitably qualified officer to fill in or fence the excavation or request the owner or occupier to fill or securely fence the excavation.

FUNCTION

As Council's Deputy, the CEO will exercise the functions of the local government in accordance with Schedule 3.1, Division 2 cl. 2 (Provisions contraventions of which may lead to a notice requiring things to be done) of the Act, and any provisions contained in reg. 11 (Dangerous excavation in or near public thoroughfare – Sch. 9.1 cl. 6) of the *Local Government (Uniform Local Provisions) Regulations 1996.*

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CONDITIONS

To comply with Part 9 – Miscellaneous Provisions (s. 9.1) where:

authorisation means a licence, permit, approval, or other means of authorising a person to do anything, other than one that has been excluded by regulations from being an authorisation for the purposes of this definition;

decision means a decision or notice that, in accordance with s. 9.1, causes this Division to apply.

AS4 DANGEROUS EXCAVATION	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Local Planning Policy – Landscaping Plans; and • Local Planning Policy – Subdivision Development Guidelines.
Other Relevant References:	• Part 9 (Miscellaneous Provisions) Division 1 (Objections and Review) s. 9.1 When this division applies whenever a local government gives a person a notice under s. 3.25, and for the purposes of this Division the giving of a notice under that section is to be regarded as the making of a decision; • s. 25 (Transitional and savings provisions) of the *Local Government (Uniform Local Provisions) Regulations 1996;* • *Building Act 2011*; and • s. 36 (Rights, powers, and privileges under easements (Act s. 167(2)) *Planning and Development Regulations 2009.*
File Number:	• CPS2
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Records to be kept on an appropriate file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy. • Any instances where this delegation has been enacted, are to be communicated to the Council.

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AS4 DANGEROUS EXCAVATION	
Delegation made by Council to authorise the CEO and/or other employees	• CEO.
Sub-Delegation made by the CEO to other employees	• Manager Infrastructure and Assets ; • Manager Development and Regulation
Conditions	• Subject to ss. 127 (3) and 127(6A) (Delegation: special permit authorities and local governments) of the *Building Act 2011*.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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SECTION 6 External Agency Delegations
(Delegations to CEO / Local Government Employees)

As previously noted in the Introduction: where the legislation has statutorily prescribed decision-making powers and duties are to be performed, exercised, (or delegated to) by a CEO, President, Mayor, Elected Member, Environmental Health Officers, Building Surveyor, or Returning Officer a local government (Council) cannot make any further directives or make amendments to the decision-making powers and/or duties prescribed by legislation to these officeholders.

The table below details statutory officer appointments.

Head of Power	Detail	Conditions
Local Government Act 1995	*In respect to the appointment of authorised persons in relation to the following laws or specified provisions of 1 of more specified laws:* **law** *means any of the following —* *(a) this Act;* *(b) the Caravan Parks and Camping Grounds Act 1995;* *(c) the Cat Act 2011;* *(d) the Cemeteries Act 1986;* *(e) the Control of Vehicles (Off-road Areas) Act 1978;* *(f) the Dog Act 1976;* *(g) subsidiary legislation made under an Act referred to in any of paragraphs (a) to (f);* *(h) a written law prescribed for the purposes of this section;* **specified** *means specified in the instrument of appointment.*	
Planning and Development Act 2005	In relation to s. 234 (Designated persons, appointment of) the CEO of a responsible authority may, in writing, appoint persons or classes of persons to be designated persons for the purposes of ss. 228 (Giving an infringement notice), 229 (Content of infringement notice), 230 (Extending time to pay modified penalty) and 231 (Withdrawal of infringement	In relation to s. 228 (Giving of infringement notice) states a person who is authorised to give infringement notices is not eligible to be a designated person for the purposes of any of the other sections in accordance with s. 234 (Designated persons, appointment of).

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Head of Power	Detail	Conditions
	notice)	
Animal Welfare Act 2002	In relation to s. 64 (Appointment of authorised persons) the CEO of the local government is an authorised person only in respect of infringement notices given by the local government.	s. 64(4) (Appointment of authorised persons) states that a person cannot be both an authorised person and an inspector.
Litter Act 1979	In relation to s. 26(1) (Authorised officers, appointment, and jurisdiction of etc.) the CEO of the local government is an authorised person.	
The *Bush Fires (Infringement) Regulations 1978*	In relation to s. 4 (Prescribed officers) the CEO and the Shire President are Prescribed Officers for the purposes of s. 59A(5) (Withdrawal of infringement notices) of the Act.	
The *Caravan Parks and Caravans Act 1995*	In relation to s. 17(1) (Appointment of authorised person) the CEO of the local government: (a) may appoint such persons to be authorised persons for the purposes of this Act as the CEO or the local government considers necessary; and (b) must issue each person appointed under paragraph (a) with an identity card, in the prescribed form, certifying that the person is an authorised person under this Act.	s. 17(2) (Appointment of authorised person) states that an authorised person is to produce the identity card referred to in subsection (1)(b) whenever required to do so by any person in respect of whom the authorised person has exercised, or is about to exercise, any of the powers of an authorised person under this Act.
The *Local Government Act 1995*	In relation to s. 5.5. (Convening council meetings): (1) The CEO is to convene an ordinary meeting by giving each council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting. (2) The CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time, place, and purpose of the meeting.	
The *Local Government Act 1995*	In relation to s. 3.34 (Entry in emergency) an emergency exists where the local government or its CEO is of the opinion	s.3.35 (Purpose of entry to be given on request) of the Act states a person who enters or who has entered any

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Head of Power	Detail	Conditions
	that the circumstances are such that compliance with the requirements for obtaining entry other than under this section would be impractical or unreasonable because of, or because of the imminent risk of — (a) injury or illness to any person; or (b) a natural or other disaster or emergency; or (c) such other occurrence as is prescribed for the purposes of this section.	land, premises, or thing on behalf of a local government is to give particulars of the power by virtue of which the local government claims a right of entry on being requested to do so.
The *Local Government Act 1995*	In relation to s.4.31.(1B) (Rateable property: ownership and occupation): If an enrolment eligibility claim is made in respect of rateable property situated partly in one ward and partly in another ward or wards, it is to be regarded for the purposes of that claim as being in — (a) the ward nominated by the owner or occupier making the claim; or (b) if no nomination is made, the ward determined by the CEO.	
The *Local Government Act 1995*	In relation to s. 5.29. (Convening electors' meetings): (1) The CEO is to convene an electors' meeting by giving — (a) at least 14 days' local public notice; and (b) each council member at least 14 days' notice, of the date, time, place, and purpose of the meeting.	Suitable for Acting through: s. 5.27(2) (Elector's general meeting) is 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. s. 5.53(1) (Annual reports) states a local government must prepare an annual report for each financial year
The *Local Government Act 1995*	In relation to s. 5.32. (Minutes of electors' meetings) The CEO is to — (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and (b) ensure that copies of the minutes are made available for inspection	

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Head of Power	Detail	Conditions
	by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.	
The *Local Government Act 1995*	In relation to s. 5.55. (Notice of annual reports): The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.	
The *Local Government Act 1995*	In relation to s. 5.55A. (Publication of annual reports): The CEO is to publish the annual report on the local government's official website within 14 days after the report has been accepted by the local government.	
The *Local Government Act 1995*	In relation to s. 5.88(1) (Register of financial interests): A CEO is to keep a register of financial interests.	s. 5.88 (sub sections (2) to (4) stipulate how the register is to be maintained
The *Local Government Act 1995*	In relation to s. 5.89A (Register of gifts): A CEO is to keep a register of gifts	s. 5.89A (sub sections (1) to (7) stipulate how the register is to be maintained
The *Local Government Act 1995*	In relation to s. 5.95. (Limits on right to inspect local government information) states: A person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection — Sub sections (a) to (u) identifies the information that can be accessed.	s. 5.95(1) (Limits on right to inspect local government information) states: A person's right to inspect information referred to in s. 5.94 does not extend to the inspection of information — (a) which is not current at the time of inspection; and (b) which, in the CEO's opinion, would divert a substantial and unreasonable portion of the local government's resources away from its other functions.
The *Local Government Act 1995*	In relation to s. 5.118 (Carrying out orders): (1) The CEO of the local government concerned is required to arrange the publication of any censure ordered under s. 5.110(6) by a standards panel and is to refer to	s. 5.110 (Dealing with complaint of minor breach) refers to the actions taken by the standards panel in relation to minor breaches s. 5.113 (Punishment for recurrent breach) refers to allegations made under s. 5.112 (Allegation of recurrent

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Head of Power	Detail	Conditions
	the State Administrative Tribunal any failure to comply with any other order made under that subsection. (2) The Departmental CEO is required to arrange the publication of any censure ordered under section 5.113 or 5.117(1) by the State Administrative Tribunal and is to refer to the State Administrative Tribunal any failure to comply with any other order made under either of those sections. (3) Without limiting subsections (1) and (2), the CEO of the local government concerned must publish on the local government's official website any censure ordered under section 5.110(6), 5.113 or 5.117(1) in respect of a person who is a council member.	breach) and that actions the State Administration Tribunal can take. s. 5.117 (Punishment for serious breach) relates to allegations made under s. 5.116(2) (Allegation by Departmental CEO of serious breach)
The *Local Government Act 1995*	In relation to s. 5.120 (Complaint's officer): (1) The CEO may designate an employee of the local government to be its complaints, Officer. (2) If an employee is not designated under subsection (1), the CEO is the local government's complaints Officer.	
The *Local Government Act 1995*	In relation to s. 6.5 (Accounts and records): The CEO has a duty — (a) to ensure that there are kept, in accordance with regulations, proper accounts and records of the transactions and affairs of the local government; and (b) to keep the accounts and records up to date and ready for inspection at any time by persons authorised to do so under this Act or another written law.	

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Head of Power	Detail	Conditions
The *Local Government Act 1995*	In relation to s. 7.12AH (4) (Reporting on a supplementary audit): The CEO must publish a copy of the report on the local government's official website within 14 days after receiving a request under subsection (3)(b).	
The *Local Government Act 1995*	In relation to s. 9.19 (Extension of time): The CEO of a local government may, in a particular case, 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.	
The *Local Government Act 1995*	In relation to s. 9.20(1) (Withdrawal of notice): Within one year after the notice was given the CEO of the local government may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.	
The *Local Government Act 1995*	In relation to s. 9.29(2) (Representing local government in court): In proceedings a person who is — (a) the CEO; or (b) an employee of the local government appointed in writing signed by the CEO to represent the local government generally or in a particular case, may represent the local government in all respects as though the person were the local government.	s. 9.29(1) defines proceedings s. 9.29(3) refers to the person representing local government and their entitlement to be reimbursed "for any money paid" as a result of representing the local government
Bush Fire Regulations 1954	<u>Granting of Permits</u> reg. 16 (Term used: authorised officer) state that for the purposes of this Part, the term ***authorised officer*** means the chief executive officer of the local government, or an officer duly appointed by the local government to grant a permit	

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Head of Power	Detail	Conditions
	to burn clover; and reg. 24 (Term used: authorised officer) state that for the purposes of this Part, the term ***authorised officer*** means the chief executive officer of the local government, or an officer duly appointed by the local government to grant permits for the purpose of this part (Part V – Permit to burn proclaimed or declared plants during prohibited burning times)	
Bush Fires (Infringement) Regulations 1978	reg. 4 (Prescribed officers) of the *Bush Fires (Infringement) Regulations 1978* states: For the purposes of s. 59A (5) of the *Act* a prescribed officer is — (a) in the case of an infringement notice issued by a local government, or at the request of a local government, or by a person acting pursuant to a delegation made by a local government pursuant to s. 59(3) of the Act —the chief executive officer, mayor, or president of the local government; Only a Prescribed Officer can withdraw an infringement notice.	s. 59A (Alternative procedure – infringement notices) of the *Bush Fires Act 1954* identifies the **prosecutor** as a person or local government authorised by and under s. 59 to institute and carry out proceedings for an offence; and the process relating to the serving of infringement notices (ss. (1) to (8)
Local Government (Functions and General) Regulations 1996	reg. 16 (Receiving and opening tenders, procedure for)	18. Rejecting and accepting tenders
Local Government (Functions and General) Regulations 1996	reg. 24 (People who submitted expression of interest to be notified of outcome)	Nil
Local Government (Financial Management) Regulations 1996	reg. 5 (CEO's duties as to financial management) states that *'Efficient systems and procedures are to be established by the CEO of a local government' (a) to (g).*	(2) The CEO is to — (a) ensure that the resources of the local government are effectively and efficiently managed; and (b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less

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Head of Power	Detail	Conditions
		than once in every 3 financial years) and report to the local government the results of those reviews.
Local Government (Audit) Regulations 1996	reg. 17 (CEO to review certain systems and procedures) (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to — (a) risk management; and (b) internal control; and (c) Legislative compliance.	(2) The review may relate to any or all of the matters referred to in sub regulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years. (3) The CEO is to report to the audit committee the results of that review.
Local Government Act (Miscellaneous Provisions) Act 1960 • *s.478. Dying etc. impounded cattle, destruction of etc.*	This section gives the power directly to the mayor, president, or CEO of the local government.	As per s.478
Section 45(1) of the Cat Act 2011	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 another provision of this Act.	This delegation is subject to the provisions of ss. 45(3) and (6). The powers that an Authorised Person has are detailed in Subdivision 2 of the *Cat Act 2011*.
Section 286 of the Public Health Act 2016.	A CEO of the local government, prescribed by the regulations in respect of the enforcement agency, is responsible for providing documentary evidence of certain matters as a "Relevant Officer."	
Section 23 Burning during prohibited burning times of the Bush Fires Act 1954	The burning of bush under this section is subject to the owner or occupier of land obtaining a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land is situated, or from the CEO of the local government if a bush fire control officer is not available.	
Section 102 of the Conservation and Land Management Act 1984	Public authority is the local government.	Local Government may make local laws.
Section 45 of the CAT Act 2011	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 another	(3) A person who is not an employee of a local government cannot be appointed to be an authorised person for the purposes of

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Head of Power	Detail	Conditions
	provision of this Act.	this section.
Cemeteries Act 1986	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 for the purposes of s. 63 on the terms and conditions that were applicable to the person's authorisation under s. 64(1) immediately before the day referred to in subclause (1).	Subclause 1 was the operation of the *Local Government Legislation Amendment Act 2019* (s. 97)
Section 38 Control of Vehicles (Off Road Areas) Act 1978	The CEO can appoint authorised persons for the purposes of the Act either in respect of the whole of a district or any part of a district specified in the appointment.	
Section 10AB of the Dog Act 1976	The CEO is to keep a register of delegations made under s. 10AA(1)	
Section 11A of the Dog Act 1976	The CEO must, under the *Local Government Act 1995* s. 9.10(2), appoint persons to be authorised persons for the purposes of this Act.	

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EA1 Noise Control – Serve Environmental Protection Notices [S65(1)]

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the following instrument: -

Published in Government Gazette No.47, 19 March 2004

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.

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POWERS AND DUTIES

This delegation is a Statutory Delegation to the CEO holding office under the Act.

FUNCTION

Powers and duties stated above in the gazettal notice.

This Delegation made under s.20 of the *Environmental Protection Act 1986* relates to s.65 Environmental protection notices, issue and effect of.

The link is here: https://www.dereg.wa.gov.au/our-work/programs/379-authorised-officer-program there are manuals and assessments included.

CONDITIONS

Conditions stated above in the gazettal notice.

The DWER CEO authorises LGA (Local Government Authority) officers under ss. 87 and 88 of the *Environmental Protection Act 1986*. The Local Government Authority CEO certifies that the LGA (employing authority) supports the applicant's authorisation. See Application for Appointment form.

EA1 NOISE CONTROL – SERVE ENVIRONMENTAL PROTECTION NOTICES	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Trading in thoroughfares and Public Places.
Other Relevant References:	• *Environmental Protection Act 1986*, s. 20, Delegation No 52; • In accordance with s. 65 of the *Environmental Protection (Noise) 1997 Regulations.*
File Number:	• HLT18.

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EA1 NOISE CONTROL – SERVE ENVIRONMENTAL PROTECTION NOTICES	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Environmental protection notices issued are to be kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	When DR Reviewed (Correspondence ICR27296)
Review Date(s):	22 June 2021

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EA2 Noise Control – Keeping of Logbooks, Noise Control Notices, Calibration and Approval of Non-Complying Events [reg.16]

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the following instrument:-

Published in Government Gazette No.232, 20 December 2013

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—

(h) 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.

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Dated the 12th day of December 2013.
JASON BANKS, Acting Chief Executive Officer.

Approved by—
JOHN DAY, Acting Minister for Environment; Heritage.

POWERS AND DUTIES

This delegation is a Statutory Delegation to the CEO holding office under the Act.

FUNCTION

Powers and duties stated above in the gazettal notice.

CONDITIONS

Conditions stated above in the gazettal notice.

EA2 NOISE CONTROL – KEEPING OF LOGBOOKS, NOISE CONTROL NOTICES; CALIBRATION AND APPROVAL OF NON-COMPLYING EVENTS	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Trading in Thoroughfares and Public Places.
Other Relevant References:	• *Environmental Protection Act 1986*; • In accordance with the *Environmental Protection (Noise) Regulations 1997*.
File Number:	• EVT1

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EA2 NOISE CONTROL – KEEPING OF LOGBOOKS, NOISE CONTROL NOTICES; CALIBRATION AND APPROVAL OF NON-COMPLYING EVENTS	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* The following written records are to be kept in a relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy: • Noise Management Plans relating to specified works. • A log recording bellringing or amplified calls to worship • Noise Control Notices in respect of community noise under regulation 16; • Noise Management Plans in relation to motor sport venues under Part 2 Division 3; • Noise Management Plans in relation to shooting venues under Part 2 Division 4; • details of calibration results undertaken and obtained under Schedule 4; and • Approval of events or venues for sporting, cultural and entertainment purposes.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent.
Adoption Date:	When DR Reviewed (Correspondence ICR27296)
Review Date(s):	22 June 2021

This document is not controlled once it has been printed.

EA3 Noise Control – Noise Management Plans – Construction Sites [reg.13]

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Environmental Health Officers

STATEMENT OF INTENT

This delegation was from an External Agency through the following instrument: -

Published in Government Gazette No.71 – 16 May 2014

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.
Approved by—
Hon ALBERT JACOBS JP MLA, Minister for Environment: Heritage

POWERS AND DUTIES

This delegation is a Statutory Delegation to the CEO holding office under the Act and to any employee of the local government under the Act who is appointed as an Authorised Person under section 87 of the Act.

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FUNCTION

Powers and duties stated above in the gazettal notice.

CONDITIONS

Conditions stated above in the gazettal notice.

EA3 NOISE CONTROL – NOISE MANAGEMENT PLANS – CONSTRUCTION SITES	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Trading in Thoroughfares and Public Places.
Other Relevant References:	• *Environmental Protection Act 1986*, s. 20, Delegation No 52.
File Number:	• EVT1.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Noise Management Plans are to be kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• Suitable for Acting through an Authorised Person as stated in the Statement of Intent.
Adoption Date:	24 November 2005
Review Date(s):	22 June 2021

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EA4 Delegation to the CEO In relation to the *Freedom of Information Act 1992*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the *Freedom of Information Act 1992* [Glossary, clause 1 – Terms used] which defines:

(a) an ***agency*** as being a public body or office and a ***public body*** as meaning a local government; and

(b) a ***principal officer*** of an agency "(c) in relation to a local government – the Chief Executive Officer (CEO) of the local government."

POWER AND DUTIES

This delegation is a Statutory Delegation to the Principal Officer of the Agency, holding office under the Act.

FUNCTION

This delegation enables the CEO to make decisions on behalf of the Agency or direct an officer of the agency to make a decision either generally or in a particular case in respect to an FOI Application in accordance with s. 100 (Who in Agency makes decisions) of the *Freedom of Information Act 1992.*

The *Freedom of Information Act 1992* [Part 5 Publication of Information about agencies] s. 94 (Terms used: information statement) stipulates that the information statement is required to contain information regarding the designation of the officer or officers to whom initial inquiries as to access to documents can be made.

CONDITIONS

Decisions made under the *Freedom of Information Act 1992* by an agency are to be made by the principal officer of the agency, or an officer of the agency directed by the principal officer for that purpose, either generally or in a particular case. This is in accordance with s. 100 (Who in Agency makes its decisions) of the *Freedom of Information Act 1992*.

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Staff are given authority by the CEO to make decisions in regard to applications submitted to the Shire under Division 2 - Procedure for dealing with access applications of the *Freedom of Information Act 1992.*

Only the CEO will make determinations regarding applications for an Internal Review made under Division 5 — Internal review of decisions as to access (ss. 39 to 44) of the *Freedom of Information Act 1992.*

Section 5.94 (Public can inspect certain local government information) of the Act states that a person can attend the office of a local government during office hours and, unless it would be contrary to s. 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection.

Section 5.95 (Limits on right to inspect local government information) of the Act defines the restrictions in place where a person's right to inspect information referred to in s. 5.94 does not extend to the inspection of information in certain circumstances.

Regulation 29A (Limits on right to inspect local government information) of the *Local Government (Administration) Regulations 1996* defines the nature under which information is prescribed as being of a private or confidential nature that may or may not be available for inspection if a local government so resolves. In cases where access to information would fall into this category, the CEO will bring the matter to Council for consideration.

EA4 DELEGATION TO THE CEO IN RELATION TO THE *FREEDOM OF INFORMATION ACT 1992*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Other Relevant References: *Freedom of Information Act 1992* [Part 5 Publication of Information about agencies]	• s. 94 (Terms used: information statement) • s. 95 (Term used: internal manual) • s. 96 (Information statement, each agency to publish annually) • s. 97 (Information statement and internal manual, each agency to make available etc.)
Other Relevant References: *Local Government Act 1995*	• s. 5.94 (Public can inspect certain local government information) • s. 5.95 (Limits on right to inspect local government information) • s. 5.96 (Copies of information to be available)

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EA4 DELEGATION TO THE CEO IN RELATION TO THE *FREEDOM OF INFORMATION ACT 1992*	
Other Relevant References: *Local Government (Administration) Regulations 1996*	• Regulation 29 (Information to be available for public inspection) (Part 7 – Access to Information) • Regulation 29A (Limits on right to inspect local government information) • Regulation 29B (Copies of certain information not to be provided)
File Number:	• FOI/FOI1
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Any applications or response to those applications via written means related to FOI requests are to be retained in the records system on an FOI file.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• Suitable for Acting through an Authorised Person as stated above.
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

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EA5 Delegation to the CEO In relation to the *Public Interest Disclosure Act 2003*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate and Community Services
Responsible Officer:	Manager Corporate & Community Services

STATEMENT OF INTENT

This delegation was from an External Agency through the *Public Interest Disclosure Act 2003* which defines a *public authority* as meaning a local government or a regional local government.

POWERS AND DUTIES

This delegation is a Statutory Delegation to the Principal Executive Officer of the Public Authority, holding office under the Act.

FUNCTION

Powers and duties of a Principal Executive Officer are in accordance with s. 23 (Principal executive officer of public authority, duties of) of the *Public Interest Disclosure Act 2003*.

The CEO, as the principal executive officer of a public authority has the power to designate the occupant of a specified position with the authority as the person responsible for receiving disclosures of public interest information in accordance with s. 23 (Principal executive officer of public authority, duties of)of the *Public Interest Disclosure Act 2003*.

CONDITIONS

Conditions are in accordance with s. 23 (Principal executive officer of public authority, duties of) of the *Public Interest Disclosure Act 2003*.

EA5 DELEGATION TO THE CEO IN RELATION TO THE *PUBLIC INTEREST DISCLOSURE ACT 2003*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.

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EA5 DELEGATION TO THE CEO IN RELATION TO THE *PUBLIC INTEREST DISCLOSURE ACT 2003*	
Public Interest Disclosure Act 2003	• s. 23 (Principal executive officer of public authority, duties of)
File Number:	• MAN8.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Internal procedures prepared under subsection (1)(e) must be consistent with guidelines prepared by the Commissioner under s. 21; • prepare and publish internal procedures relating to the authority's obligations under this Act; and • Ensure a Register is kept of any disclosures made and correspondence is registered between the Shire of Toodyay and the Commissioner's Office.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable.
Conditions	• Not applicable.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• Suitable for Acting through a Designated Person as stated above.
Adoption Date:	22 September 2015
Last Review Date:	22 June 2021

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EA6 Delegation to the CEO In relation to the *Local Government Act 1995* – Elections and other polls

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the Act which defines through Part 4 Elections and other polls [Division 7 Provisions about electoral officers and the conduct of elections] the following:

Section 4.20 (CEO to be returning officer unless other arrangements are made) of the Act appoints the CEO of a local government for each election as a Returning Officer.

Section 4.1 (terms used) of the Act provides the definition of an electoral officer as meaning "a returning officer or a deputy returning officer or electoral officer appointed by a returning officer."

POWER AND DUTIES

This delegation is a Statutory Delegation to the Principal Officer of the Agency, holding office under the Act.

Section 4.19 (Returning Officer) states "the principal electoral office of a local government is that of returning Officer."

FUNCTION

The CEO, appointed under s. 4.20(1) (CEO to be returning officer unless other arrangements made) of the Act, will appoint one or more deputy returning officers or electoral officers to assist in the conduct of elections according to the principles set out in s. 5.40 (Principles affecting employment by local governments) of the Act *(*refer to reg. 6 (Appointment of electoral officers) of the *Local Government (Elections) Regulations 1997).*

CONDITIONS

In accordance with s. 7 (Declaration by electoral officer – s. 4.27(1)(c)) of the *Local Government (Elections) Regulations 1997* before beginning to act as an electoral officer the Returning Officer appointed under s. 4.21 (Deputy returning officers) or an electoral officer

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appointed under s. 4.32 (Eligibility to enrol under s. 4.30, how to claim) is to make a declaration (Form 1) before the Returning Officer (i.e., CEO).

Section 4.26(2) (Delegation) of the Act states that a returning officer may delegate any of his or her powers or duties under this Act (except this power of delegation) to a deputy returning Officer.

Section 4.27 (Regulations about electoral officers and conduct of elections) of the Act states that the regulations may include provisions for (b) the appointment, removal or suspension of electoral officers, (c) declarations to be made by electoral officers, and (d) setting out functions to be performed by local governments, CEOs (Chief Executive Officer) and returning officers to ensure the proper and efficient conduct of elections.

EA6 DELEGATION TO THE CEO IN RELATION TO THE *LOCAL GOVERNMENT ACT 1995*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Local Government Act 1995 *Part 4 Elections and other polls [Division 7 Provisions about electoral officers and the conduct of elections]*	• s. 4.20 (CEO to be returning officer unless other arrangements made) • s. 4.21 (Deputy Returning Officer) • s. 4.26 (Delegation) • s. 4.27 (Regulations about electoral officers and conduct of elections) • s. 4.32. (Eligibility to enroll under s. 4.30, how to claim) • s. 4.34 (Accuracy of enrolment details to be maintained) • s. 4.35 (Decision that eligibility to enroll under s. 4.30 has ended)
Local Government (Elections) Regulations 1997 Part 2 “Electoral Officers”	• s. 6 (Appointment of electoral officers) • s. 7 (Declaration by electoral officer) • s. 8 (Electoral codes of conduct)
File Number:	• ELE1

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EA6 DELEGATION TO THE CEO IN RELATION TO THE *LOCAL GOVERNMENT ACT 1995*	
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Returning Officer is required to keep written records of all actions taken in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable
Sub-Delegation made by the CEO to other employees	• Not applicable
Conditions	• Not applicable
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	22 September 2015
Last Review Date:	22 June 2021

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EA7 Delegation to the Environmental Health Officer in relation to the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through s. 26 (Powers of local government) of the *Health (Miscellaneous Provisions) Act 1911 that in terms of the powers of local government,* stated the following:

Every local government is authorised and directed to carry out within its district the provisions of the Act and the regulations, local laws, and orders made thereunder:

Provided that a local government may appoint and authorise any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or function.

Section 3(2) (References to former titles) of the *Health (Miscellaneous Provisions) Act 1911* states "*A reference in a written law or document to an environmental health officer, medical officer or public health official may, if the context permits, be taken to be a reference to an authorised Officer.*"

Refer to Delegation ES3.

POWERS AND DUTIES

The powers and duties of an Environmental Health Officer are stated in s. 312 (Environmental health officers to be authorised officers for certain purposes) of the *Public Health Act 2016.*

FUNCTION

The functions performed by an Environmental Health Officer will be in accordance with Prescribed Acts (and the provisions of those Acts) as follows:

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(a) Parts 8, 9, 14 and 16 of the *Public Health Act 2016*;

(b) the Health Act sections 145(1), 157(2), 173 (paragraph (a) of the definition of authorised person), 181, 183, 184(1), 227(1), 228(1), 234(1), 257, 262(3), 265(1), 267(1)(c), 268(a), 277(1)(b) and (3), 280(2), 349(1), 351(1), (2) and (5), 352(1) and (2), 358(2) and 375;

(c) the *Dog Act 1976*;

(d) the *Tobacco Products Control Act 2006;*

(e) the *Food Act 2008;* and

(f) the *Cat Act 2011.*

Refer to Delegation ES3.

CONDITIONS

Section 38 (Local government to report annually) of the *Health (Miscellaneous Provisions) Act 1911* implies that every local government shall, in the prescribed form, during the month of February in every year, and at such other times as the Executive Director, Public Health may direct, report to the Executive Director, Public Health concerning the sanitary conditions of its district, and all works executed, and proceedings taken by the local government.

EA7 DELEGATION TO THE ENVIRONMENTAL HEALTH OFFICER IN RELATION TO THE *PUBLIC HEALTH ACT 2016* AND THE *HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911* -	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• *Public Health Act 2016* • *Health (Miscellaneous Provisions) Act 1911* • *Health Legislation Administration Act 1984*
File Number:	• STR22

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EA7	DELEGATION TO THE ENVIRONMENTAL HEALTH OFFICER IN RELATION TO THE *PUBLIC HEALTH ACT 2016* AND THE *HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911* -
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Decisions made in respect to this delegation and any matters related thereto are to be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Environmental Health Officer
Conditions	• In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	28/06/2016 (Council Resolution: 90/06/16)
Review Date(s):	22 June 2021

This document is not controlled once it has been printed.

EA8 Delegation to the CEO In relation to the *Local Government Act 1995* – Powers of Entry in an emergency

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the Act which defines through Part 3 - Functions of Local Governments - Division 3 - Executive functions of Local Governments the following:

Section 3.34 (Entry in an emergency) of the Act states that if it is the opinion of the CEO of a local government that the circumstances are such that compliance with the requirements for obtaining entry other than under this section would be impractical or unreasonable because of, or because of the imminent risk of an emergency that the CEO can authorise Officers to enter land in an emergency without notice or consent.

This delegation is to authorise entry onto land to fulfil any statutory function that the Shire has under the Act *(*Subdivision 3 – Powers of Entry).

POWER AND DUTIES

This delegation is a Statutory Delegation to the Principal Officer of the Agency, holding office under the Act.

This delegation will allow the Local Government to, in an emergency, lawfully enter any land, premises or thing immediately and without notice and perform any of its functions as it considers appropriate to deal with the emergency as determined by the CEO.

FUNCTION

The CEO will determine in an emergency, whether Officers of the Shire may lawfully enter any land, premises, or thing immediately and without notice and perform any of its functions as it considers appropriate to deal with the emergency in accordance with s. 3.34 (Entry in an emergency) of the Act.

CONDITIONS

This delegation does not include those duties referred to in s. 5.43 (Limits on delegates to CEO) of the Act. This delegation is also subject to the requirements of other legislation

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and regulations and the Shire's adopted local laws, schemes, codes, policies, and practices.

Refer to E2 Delegation to the CEO – Local Government Act 1995 in respect to the appointment of Authorised Persons.

EA8	**Delegation to the CEO In relation to the *Local Government Act 1995* - Powers of Entry in an emergency**
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• *Local Government Act 1995*, Part 3, Division 3, Subdivision 3.
File Number:	• Relevant Property File.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Notices and relevant evidence of determinations recorded on relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Manager Corporate & Community Services • Manager Development and Regulation • Manager Infrastructure and Assets
Conditions	• In accordance with conditions above.
Appointment of Authorised Officers / Authorised Persons ☑ Suitable for Acting Through	• Suitable for Acting Through in accordance with 3.31(2) of the *Local Government Act 1995.*
Adoption Date:	18 April 2013
Last Review Date:	22 June 2021

This document is not controlled once it has been printed.

EA9 Development Applications made under the auspices of the *Planning and Development Act 2005*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Manager Development and Regulation

STATEMENT OF INTENT

This delegation was from an External Agency through the following instrument: -

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

In order to reduce processing times and costs, the Minister for Lands Hon. Terry Redman MLA, approved new and more streamlined arrangements to allow Local Government Authority CEOs to sign selected Development Applications, without need of referral to the Department of Lands (DoL).

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POWERS AND DUTIES

This is a Statutory Delegation made to any person holding or acting in the office of CEO under the Act.

The Schedule to the Instrument of Authorisation dated 2 June 2016, sets out the specific types of Development Applications for which a local government CEO can now sign as owner.

FUNCTION

The Schedule referred to in the Instrument of Authorisation relating to Development Applications under the *Planning and Development Act 2005* contains three columns. The second column lists all local governments. The third column lists the conditions to the delegation (refer to the "conditions" section of this delegation).

Column 1 of the Instrument of Authorisation reads as follows:

The power to sign as owner in respect of Crown land that is:

(a) A reserve managed by the local government pursuant to section 46 of the *Land Administration Act 1997* and the development is consistent with the reserve purpose and the development is not for a commercial purpose; or

(b) The land is a road of which the local government has the care, control and management under section 55(2) of the *Land Administration Act 1997* 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, veranda or thing" (regulation 45B), or is a ground anchor, and where the development is consistent with the use of the land as a road.

In respect of development applications being made under or referred to in:

(a) Section 99(2) of the *Planning and Development Act 2005* in respect of development for which approval is required under a regional interim development order (as that term is defined in that Act);

(b) Section 103(2) of the *Planning and Development Act 2005* in respect of development for which approval is required under a local interim development order (as that term is defined in that Act);

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(c) Section 115 of the *Planning and Development Act 2005* in respect of development within a planning control area (as that term is defined in that Act);

(d) Section122A of the *Planning and Development Act 2005* in respect of which approval is required under an improvement scheme (as that term is defined in that Act);

(e) Section 162 of the *Planning and Development Act 2005* 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);

(f) Section 163 of the *Planning and Development Act 2005* in respect of development on land which is comprised within a place entered in the Register maintained by the Heritage Council under the Heritage of Western Australia Act 1990, or of which such a place forms part;

(g) Section 171A of the *Planning and Development Act 2005* in respect of a prescribed development application (as that term is defined in that section of that Act).

CONDITIONS

In accordance with and subject to approved Government Land policies.

Please ensure that any such signature is subject to and also annotated with the standard endorsement i.e.: 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 *Planning and Development Act 2005* (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.

Development Applications relating to Unallocated Crown land, Unmanaged Reserves, land under management order to a local government where the development is not consistent with the reserve's purpose, or is used for commercial purposes, or land which is subject to a lease issued under the *Land Administration Act 1997*, will still need to be referred for the Department of Lands' consideration and signature.

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EA9 DEVELOPMENT APPLICATIONS MADE UNDER THE AUSPICES OF THE *PLANNING AND DEVELOPMENT ACT 2005 (PDA)*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• *Planning and Development Act 2005:* s.99 (2), s.103 (2), s.115, s.122A, s.162, s.163, s.171A and s.267A • *Land Administration Act 1997:* s.55 (2) and s.46 • *Building Regulations 2012:* r45A, r45B
File Number:	• DEV1/CON5.
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Applications and matters related thereto are made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Manager Development and Regulation
Conditions	• *In accordance with the functions and conditions placed upon this Statutory Delegation.*
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• *Appointment of a Designated person subject to s. 234 of the Planning and Development Act 2005 and* subject to s. 127 (3) and s. 127(6A) of the *Building Act 2011; and* • *Refer to the Statement of Intent.*
Adoption Date:	Department of Lands Director General Correspondence - ICR38764.
Review Date(s):	22 June 2021

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EA10 Delegation to the Ranger, Pound keeper / Authorised Person in relation to the *Biosecurity and Agricultural Management Act 2007*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Executive Services
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the *Biosecurity and Agricultural Management Act 2007* that states a Ranger / Pound keeper means a ranger appointed under the *Local Government (Miscellaneous Provisions) Act 1960* s. 449 (Pounds, establishing; pound keepers and rangers appointing).

POWERS AND DUTIES

This delegation is a Statutory Delegation to the Ranger/Pound keeper holding the office of an authorised person under the Act.

The *Biosecurity and Agricultural Management Act 2007* defines a public authority as "a local government, regional local government or regional subsidiary". A local government is also an 'operator' in accordance with s. 3 (Terms used) of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013.*

FUNCTION

The Ranger / Pound keeper (Authorised Officers) *will exercise the provisions of the Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013 and the Local Government Act (Miscellaneous Provisions) Act 1960.*

CONDITIONS

The exercise of power will be in accordance with conditions set out in the Act, the *Local Government Act (Miscellaneous Provisions) 1960* and the *Biosecurity and Agricultural Management Act 2007.*

Refer to Delegation ES1 in terms of authorised persons.

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EA10	DELEGATION TO THE RANGER, POUND KEEPER / AUTHORISED PERSON IN RELATION TO THE *BIOSECURITY AND AGRICULTURAL MANAGEMENT ACT 2007.*
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Shire of Toodyay Health Local Law • Shire of Toodyay Pest Plants Local Law
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• *Health (Miscellaneous Provisions) Act 1911* • *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*
File Number:	• RGR7
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Decisions made in respect to this delegation and any matters related thereto are to be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable
Conditions	• In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	22 May 2018

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EA10	DELEGATION TO THE RANGER, POUND KEEPER / AUTHORISED PERSON IN RELATION TO THE *BIOSECURITY AND AGRICULTURAL MANAGEMENT ACT 2007.*
Review Date(s):	22 June 2021

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EA11 Delegation to Local Government Officers under the *Strata Titles Act 1985*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Chief Executive Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the following instrument: -

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 s. 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the W APC) 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 Act or an employee of a local government.

In accordance with s. 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.

POWERS AND DUTIES

On 20 January 2021, pursuant to s. 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 s. 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;

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B. TO DELEGATE to local governments, and to members and officers of those local governments, its powers, and functions under ss. 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.

FUNCTION

Schedule 1

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

Power to determine applications under s. 15 of the Strata Titles Act 1985, except those applications that-

(a) propose the creation of a vacant lot;

(b) propose vacant air strata's 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 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 1s otherwise in the public interest for the WAPC to determine the application.

2. Applications under ss. 21 and 22 of the *Strata Titles Act 1985*

Power to determine applications under-.

(a) s. 21 of the *Strata Titles Act 1985*;

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

CONDITIONS

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 W APC.

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Refer to Delegation ES1 in terms of authorised persons.

EA10 Delegation to Local Government Officers under the *Strata Titles Act 1985*	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• Strata Titles Act 1985 • Government Gazette dated 29 Jan 2021, page 449 and 450
File Number:	• MAN6
Record Keeping	s. 5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Decisions made in respect to this delegation and any matters related thereto must be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable
Conditions	• In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	22 June 2021
Review Date(s):	22 June 2021

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EA12 Delegation to Local Government Officers under the *Environmental Protection Act 1986*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Development and Regulation
Responsible Officer:	Environmental Health Officer

STATEMENT OF INTENT

This delegation was from an External Agency through the following instrument: -

Part VI — Enforcement

Environmental Protection Act 1986

POWERS AND DUTIES

Following the insertion of the new use of force entry powers in the *Environmental Protection Act 1986* on 3 February 2021, the Department of Water and Environmental Regulation (DWER) has modified its policy relating to statutory powers conferred on an authorised person and inspector under s.87 (Authorised persons, appointment of) and s.88 (Inspectors, appointment and purposes of) of the *Environmental Protection Act 1986* employed by a local government authority as follows:

FUNCTION

All statutory powers conferred on an Authorised Officer are to be available to local government Authorised Officers except for the limitations contained in the conditions section of this instrument of delegation.

CONDITIONS

- Current limitations on the use of the stop, search, and inspection of vehicles powers under section 91A (Stopping etc. vehicles and vessels, powers of inspectors and authorised persons as to) of the *Environmental Protection Act 1986*; and
- New limitation on the use of assistance and force powers under new section 89A (Use of assistance and force) of the *Environmental Protection Act 1986*.

The DWER has also reviewed its Authorised Officer training requirements. The training requirements available at this link: https://www.wa.gov.au/service/environment/business-and-community-assistance/authorised-officer-program aim to ensure that Authorised

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Officers have an appropriate understanding of their powers and responsibilities under the legislation administered by DWER and the fundamental skills and knowledge relevant to their appointment.

Refer to Delegation ES1 in terms of authorised persons.

EA12 Delegation to Local Government Officers under the Environmental Protection Act 1986.	
Relevant Management Practice:	• Not applicable.
Relevant Local Law:	• Not applicable.
Relevant Council Policy:	• Not applicable.
Other Relevant References:	• *Environmental Protection Act 1986*
File Number:	• MAN6
Record Keeping	s.5.46(3) (Register of, and records relevant to, delegations to CEO and employees) of the *Local Government Act 1995:* • Decisions made in respect to this delegation and any matters related thereto must be made in writing and kept on relevant subject file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Not applicable
Conditions	• In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent
Adoption Date:	8 May 2023

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EA12 Delegation to Local Government Officers under the Environmental Protection Act 1986.	
Review Date(s):	8 May 2023

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