SHIRE OF toodyay
place of plenty

Special Council Meeting

25 June 2026

Minutes

To: The President and Councillors.

Here within are the Minutes of the Special Council Meeting of the Shire of Toodyay held on the above-mentioned date in the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566.

Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER

Our Vision, Purpose and Values

The Shire of Toodyay's Plan for the Future (Council Plan 2023-2033) is the Community's Strategic Plan outlining the direction that the Shire is undertaking to meet the needs and aspirations of its community.

Our Vision

A caring and visionary rural community, working together to preserve and enrich Toodyay's environment, character and lifestyle.

Our Purpose

The Shire of Toodyay exists to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Our Values

We conduct ourselves in line with values the local community cares deeply about:

- **Integrity** - we behave honestly to the highest ethical standard;
- **Accountability** – we are transparent in our actions and accountable to the community;
- **Inclusiveness** – we are responsive to the community and we encourage involvement by all people; and
- **Commitment** – we translate our plans into actions and demonstrate the persistence that will provide results.

Community Aspirations

There are five core performance areas in this plan: People, Planet, Place, Prosperity, and Performance. These areas are interrelated, and each must be satisfied to deliver excellent quality of life in the Shire of Toodyay.

For each area, there is an overarching aspirational statement and desired outcomes, summarised in the Council Plan which is available on the Shire's website at: https://www.toodyay.wa.gov.au/documents/432/council-plan-plan-for-the-future-2023-2033

Disclaimer

Any discussion regarding a planning matter or other application that any statement or intimation of approval made by any member or officer of the Shire of Toodyay during the course of any meeting is not intended to be and is not to be taken a notice of approval from Council. No action should be taken on any item discussed at a Council Meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions *(Copyright Act 1998,* as amended*)* and the express permission of the copyright owner(s) should be sought prior to reproduction.

Availability of Meeting Agenda and its Attachments

Information about Council Meetings is located on the website

http://www.toodyay.wa.gov.au/Council/Council-Meetings

Agendas & Minutes are located under the heading "Council Meetings" at

http://www.toodyay.wa.gov.au/Council/Council-Meetings/Agendas-Minutes-and-Notes

Public copies are available by contacting the Shire on (08) 9574 9300.

CONTENTS

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS 5
2 RECORDS OF ATTENDANCE 5
2.1 APOLOGIES 5
2.2 APPROVED LEAVE OF ABSENCE 5
3 DISCLOSURE OF INTEREST 5
4 PUBLIC QUESTIONS 5
4.1 PUBLIC QUESTION TIME 5
5 PUBLIC SUBMISSIONS 6
6 OFFICER REPORTS 6
6.1 EXECUTIVE SERVICES 6
6.1.1 Administrative Review of Delegation Register 6
7 CLOSURE OF MEETING 15

Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following a Special Meeting of Council, where the Minutes will be confirmed subject to any amendments made by the Council.

The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Council Meeting are put together as a separate attachment to these Minutes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as separate Confidential Minuted Agenda Items.

Unconfirmed Minutes

These minutes were approved for distribution on 26 June 2026.

Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER

Confirmed Minutes

These minutes were confirmed at a meeting held on 2 July 2026.

Signed: .....

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Cr M McKeown, Shire President, declared the meeting open at 4.32pm and read aloud an Acknowledgement of Country:

"*I acknowledge the Ballardong Noongar people, the traditional custodians of the land where we meet today and the Yued and Whadjuk people, who are traditional custodians of respective lands within the wider Shire of Toodyay. I pay my respect to their Elders, past, present and emerging.*"

The Shire President read through other preliminaries.

2 RECORDS OF ATTENDANCE

Members

Cr M McKeown	Shire President
Cr M Dival	Deputy Shire President
Cr R Mills	Councillor
Cr S Van der Heyden	Councillor

Staff

Mr A Hart	Temporary Chief Executive Officer
Mr P Nuttall	Executive Manager Planning and Regulatory Services
Ms C Delmage	Acting Executive Manager Finance and Corporate Services
Mrs M Rebane	Governance Coordinator

Visitors

Nil.

2.1 APOLOGIES

Cr R Madacsi	Councillor
Cr S McCormick	Councillor
Cr J Prater	Councillor

2.2 APPROVED LEAVE OF ABSENCE

Nil

3 DISCLOSURE OF INTEREST

Nil.

4 PUBLIC QUESTIONS

4.1 PUBLIC QUESTION TIME

Nil.

5 PUBLIC SUBMISSIONS

Nil.

6 OFFICER REPORTS

6.1 EXECUTIVE SERVICES

6.1.1 Administrative Review of Delegation Register

Date of Report:	21 May 2026
Applicant or Proponent:	Shire of Toodyay
File Reference:	MAN6
Author:	M Rebane – Governance Coordinator
Responsible Officer:	A Hart – Temporary Chief Executive Officer
Previously Before Council:	28/06/2025
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Review
Attachments:	1. Revised Delegation Register. ⇨

PURPOSE OF THE REPORT

To present the annually reviewed Register of Delegations to Council for consideration and adoption in accordance with section 5.46 of the *Local Government Act 1995*.

A focused administrative review of the Shire's Register of Delegations commenced on 28 May 2026. The review confirms that the Register remains substantially compliant with the *Local Government Act 1995* and relevant subsidiary legislation, and that no legislative changes have been identified that invalidate or materially affect the existing delegations.

Targeted amendments have been made to improve clarity, strengthen governance controls, and ensure continued legal compliance and audit readiness.

It is recommended that Council adopt the Register of Delegations as reviewed.

BACKGROUND

Section 5.46(1) of the *Local Government Act 1995* requires a local government to maintain a Register of Delegations specifying the powers and duties delegated by Council to the Chief Executive Officer and, where applicable, sub-delegated to employees.

Section 5.46(2) further requires that delegations be reviewed by the local government at least once every financial year.

The purpose of the review is to ensure that delegations remain accurate, legally valid, and reflective of current legislation and organisational arrangements.

The Shire's Register of Delegations consolidates delegations made under:

- the *Local Government Act 1995*; and

- a range of other enabling legislation, including planning, building, health, environmental, ranger and regulatory frameworks.

The Register was last formally adopted in June 2025 and is publicly available in accordance with legislative requirements.

The Register is a key governance instrument that:

- formalises the delegation of authority from Council to the CEO, and from the CEO to officers;
- promotes efficient decision-making; and
- supports transparency, accountability and compliance.

The current Delegation Register is available on the Shire's website at https://www.toodyay.wa.gov.au/council/council-registers/delegation-register.aspx

COMMENTS AND DETAILS

A focused administrative review of the Register commenced on 28 May 2026.

The review included consideration of legislative alignment; internal consistency; governance controls and conditions; clarity of delegated authority; and audit and compliance requirements.

In addition, a governance workshop was conducted with Elected Members. The workshop raised key questions regarding:

- the scope of CEO authority under broad delegations;
- the distinction between decision-making powers and execution of documents;
- compliance with statutory processes (including section 3.58 – disposal of property);
- governance controls for contract variations and extensions; and
- financial oversight and reporting requirements under delegated authority.

These matters have been addressed through targeted revisions to the Register, including:

- clearer delineation of delegated authority;
- strengthened conditions, thresholds and escalation requirements;
- improved alignment with legislative frameworks; and
- enhanced governance, reporting and record-keeping controls.

The outcome is a Register that is:

- legally robust;
- internally consistent;
- operationally clear; and
- aligned with contemporary governance and audit expectations.

A description of what changed and what delegations were reviewed is below.

Planning Delegations

PRS1 – Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste

This delegation was updated to correct legislative references and clearly align authority with the Public Health Act 2016, Health (Miscellaneous Provisions) Act 1911 and associated regulations.

The revision clarifies the CEO's delegated role, properly defines authorised officer functions, removes unrelated powers, and strengthens conditions to ensure lawful decision-making, operational clarity and audit compliance.

PRS2 – Issue of Notice of Breach (Fencing)

This delegation was updated to ensure the enforcement of the Fencing Local Law is properly grounded in the Local Government Act 1995. The revision removes irrelevant legislation, clarifies the CEO's authority to issue and enforce notices of breach, and strengthens governance and record-keeping requirements, providing a clear and legally enforceable compliance framework.

PRS3 – Dealing with Clearing Matters

This delegation was updated to clarify the local government's advisory role in native vegetation clearing matters under the Environmental Protection Act 1986. The revision removes incorrect delegation references, confirms that the CEO provides submissions rather than determines permits, and refines assessment criteria to ensure consistent, transparent and compliant decision-making aligned with planning and environmental frameworks.

PRS4 – Swimming Pool Inspections

This delegation was revised to correct the legislative framework, clearly aligning authority with the Building Act 2011 and Building Regulations 2012. The update clarifies the delegation of powers to the CEO, separates delegation from appointment provisions (including r.70), and strengthens the role of authorised persons and enforcement functions to ensure legal accuracy, consistency, and audit compliance.

PRS5 – Crossing from Public Thoroughfare to Private Land or Private Thoroughfare

This delegation was revised to clarify the legal basis under the *Local Government Act 1995* and *Uniform Local Provisions Regulations 1996*, remove unrelated legislative references, and better define the CEO's authority over crossover approvals. The update improves consistency, simplifies the delegation structure, and ensures clear, enforceable and auditable decision-making.

PRS6 – Stallholder Applications

This delegation was revised to clarify its legal basis under the Local Government Act 1995 and associated local law, remove incorrect legislative references, and improve the clarity of delegated authority for permit decisions. The update strengthens governance, ensures consistent application of discretion, and enhances audit compliance.

PRS7 – Trading in Thoroughfares Permits

This delegation was revised to align with the Local Government Act 1995 and relevant local law, remove unnecessary and outdated legislative references, and clarify the CEO's authority to determine trading applications. The changes improve consistency with related delegations, strengthen decision-making processes, and ensure legal clarity and audit compliance.

PRS8 – Development Application Delegations

This delegation was revised to ensure alignment with the correct legislative framework, remove inaccurate or redundant references, and clarify the CEO's delegated authority and functions. The update improves consistency with other planning delegations, strengthens governance controls, and ensures decisions are legally sound, transparent and audit-compliant.

PRS9 – Illegal Development

This delegation was revised to strengthen and clarify the legal framework under the Planning and Development Act 2005 and associated regulations, remove duplication, and improve the structure of enforcement powers. The update refines the CEO's delegated authority, clarifies sub-delegation and authorised officer roles, and ensures consistent, lawful, and auditable enforcement processes.

PRS10 – Appointment of Authorised Persons (Local Planning Scheme)

This delegation was revised to clearly distinguish between delegated powers and statutory powers conferred directly on the CEO under the Planning and Development Act 2005. The update strengthens legal clarity around appointment and designation functions, removes duplication, and ensures proper governance, accountability and audit compliance for enforcement and inspection activities.

PRS11 – Developer Contribution Deed of Covenant

This delegation was revised to correct the legislative basis and clarify that the CEO's authority is limited to the execution of developer contribution agreements, not planning enforcement or decision-making powers. The update removes incorrect references, aligns the delegation with the Local Planning Scheme framework, and strengthens governance, accountability and audit compliance for entering into legally binding agreements.

PRS12 – Caravan Parks and Camping Grounds

This delegation was revised to correct legislative alignment with the Caravan Parks and Camping Grounds Act 1995, clarify the CEO's delegated authority, and properly reflect the statutory appointment of authorised persons. The update removes unnecessary references, strengthens governance arrangements, and ensures consistent, legally compliant and audit-ready administration and enforcement.

PRS13 – Subdivision / WAPC Recommendations

This delegation was revised to correct legislative alignment with the Planning and Development Act 2005, remove inappropriate enforcement references, and clearly define the local government's advisory role to the WAPC. The update strengthens the CEO's delegated authority to provide recommendations, clarifies decision thresholds, and improves consistency, transparency and audit compliance.

Infrastructure, Assets and Services Delegations

IAS1 – Crossovers

This instrument was refined to correctly align with the Local Government (Uniform Local Provisions) Regulations and remove unnecessary legislative references. The update improves clarity around approvals, notices and cost recovery, ensuring consistent and lawful administration of crossover works.

IAS2 – Private Works on, Over or Under Public Places

The delegation was updated to clearly define authority under regulation 17 and align with infrastructure and planning frameworks. The revision strengthens control over works

affecting public land, clarifies conditional approvals, and ensures alignment with local laws and policies.

IAS3 – Licence to Deposit Materials or Excavate Adjacent to a Street

This instrument was refined to correctly reflect regulatory powers under the Uniform Local Provisions Regulations. The update strengthens clarity around approvals, conditions and infrastructure protection, removes incorrect legislative references, and ensures proper coordination between infrastructure and planning functions.

IAS4 – Dangerous Excavation

This delegation was updated to clearly define emergency and enforcement powers under regulation 11 and relevant Local Government Act provisions. The revision strengthens authority to act in public safety situations, clarifies notice and intervention processes, and ensures decisions are legally defensible and properly documented.

Executive Services Delegations

ES1 – General Delegations

This delegation was revised to improve clarity, remove duplication, and distinguish between true conditions and legislative statements. The updated version strengthens legal defensibility, aligns with the Local Government Act 1995, and ensures the delegation provides clear, enforceable controls over the exercise of CEO authority, supporting improved governance, audit outcomes and operational application.

ES2 – Execution of Documents

This instrument was updated to correctly reflect Council's authorisation powers under section 9.49A(4), removing incorrect delegation language and aligning with the Execution of Documents Policy.

The revision ensures a clear distinction between authorisation and delegation, strengthens controls relating to the Common Seal and document execution, and improves legal compliance and audit transparency.

ES4 – Food Act 2008 Delegation to the CEO

This delegation has been updated to align with the enforcement framework of the Food Act 2008, clarifying the roles of the Council, CEO and authorised officers. The revision corrects legislative references, strengthens the delegation structure, and ensures consistency with Local Government Act requirements. The instrument now clearly defines functions, enforcement powers and conditions, providing improved legal certainty, governance control and audit compliance.

ES5 – Building Act 2011 Delegation to the CEO

This delegation has been revised to clarify the legal basis for delegation under the Building Act 2011, ensure proper separation between delegation, designation and appointment powers, and strengthen governance controls. The update improves clarity around the roles of the CEO and authorised persons, aligns functions with statutory requirements, and ensures conditions and compliance provisions are enforceable and audit-ready.

ES6 – Cat Act 2011

This delegation was updated to ensure legal accuracy and alignment with current legislation. Amendments clarify the distinction between Council delegation to the CEO, sub-delegation to employees under the *Local Government Act 1995*, and the appointment of authorised persons under the *Cat Act 2011*. References were corrected, obsolete provisions removed,

and the instrument updated to align with the Cat Local Law 2026 and contemporary governance and record-keeping requirements.

ES7 – Dog Act 1976 Delegation to the CEO

The delegation was reviewed to improve legal clarity, ensure alignment with the *Dog Act 1976*, and remove overly broad or ambiguous wording. Amendments were required to clearly define the scope of Council powers being delegated, correct statutory references (including dangerous dog provisions), and ensure compliance with legislative requirements. The changes do not alter intent but strengthen enforceability, governance clarity, and audit compliance.

ES8 – Bush Fires Act 1954 Delegation to the CEO

The delegation was updated to ensure compliance with section 48 of the *Bush Fires Act 1954*, which restricts delegation to Council functions only and does not permit sub-delegation. Amendments were required to remove operational and statutory officer powers (e.g. Bush Fire Control Officer functions) that cannot be delegated, and to clearly distinguish governance, enforcement and operational responsibilities. The revised delegation improves legal validity, reduces risk of invalid delegation, and aligns with best practice governance standards.

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

Revised to ensure the delegation is legally valid by limiting it to Council's actual powers, removing unsupported enforcement authorities, and aligning with the BAM Act governance framework

ES10 – Expression of Interest and Tenders

This delegation was refined to align with the Local Government (Functions and General) Regulations 1996 and the Purchasing Policy.

The update clarifies procurement authority, removes duplication with policy content, strengthens governance controls around tendering, and ensures that the instrument clearly supports lawful procurement processes while maintaining operational efficiency and audit compliance.

ES11 – Grant, Sponsorship and Donation Allocations

The delegation was updated to improve clarity around financial powers under section 6.12, clearly distinguishing between donations, concessions and write-offs. The revision strengthens financial governance, confirms limits and conditions, and ensures consistency with Council policies, supporting transparency, accountability and proper application of discretion.

ES12 – Local Government Property Agreements

The review was undertaken to improve clarity, remove duplication and inconsistencies, and ensure alignment with the Local Government Act 1995 and the Shire's Local Laws. Changes refined the scope of the CEO's authority, clarified permit and agreement functions, strengthened conditions, and improved governance, record-keeping, and operational consistency.

ES13 – Tenancy and Lease Agreements

The review was undertaken to clearly distinguish leasing functions from disposal powers, ensure compliance with relevant legislation, and strengthen governance controls. Changes clarified the CEO's authority, limited the delegation to leasing only, improved consistency with statutory requirements, and strengthened conditions relating to leases, approvals, and legal compliance.

ES14 – Contract Formalities

This instrument was refined to correctly align with section 9.49B and clarify the relationship between procurement, contract formation and execution. The update strengthens legal accuracy, clearly defines contract management functions, and ensures appropriate controls for variations and extensions, supporting risk management and audit defensibility.

ES15 – Temporary Road Closures

The changes were necessary to clarify Council's role within the multi-agency approval framework, ensure alignment with the Local Government Act and Road Traffic legislation, strengthen decision-making authority of the CEO, and improve legal clarity, record-keeping requirements, and overall enforceability of the delegation.

Finance and Corporate Services delegations

CS1 – Payments from Municipal or Trust Fund

This delegation was updated to strengthen financial controls, improve clarity of payment authorisation processes, and align with Financial Management Regulations. The revision enhances internal control mechanisms, separation of duties and reporting requirements, ensuring compliance with legislative obligations and supporting audit and financial governance standards.

CS2 – Investment of Surplus Funds

The instrument was revised to clearly separate investment authority from payment functions and align with section 6.14 and the Investment Policy. The update strengthens governance around risk, liquidity and return, ensures compliance with investment restrictions, and supports sound financial management practices consistent with legislative and policy requirements.

CS3 – Rate Records and Rates/Service Charges

This delegation was updated to ensure correct alignment with Part 6 Division 6 of the Local Government Act 1995. The revision improves clarity regarding rate record amendments and objection processes, removes incorrect references, and strengthens procedural controls to ensure lawful administration and defensible decision-making.

CS4 – Payment Arrangements for Rates and Service Charges

This instrument was refined to clearly reflect authority under section 6.49 and distinguish it from broader financial management provisions. The update strengthens governance around payment arrangements, recovery actions and hardship considerations, ensuring alignment with policy and improving clarity in decision-making processes.

CS5 – Issue of Writ, Summons or Other Process

This delegation was updated to clearly define Council's authority to initiate legal proceedings under section 6.56 and enforce recovery actions under section 6.64. The revision clarifies enforcement roles, removes irrelevant legislative references, and strengthens the lawful basis for court action and land-based recovery measures.

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

The instrument was refined to align strictly with section 6.12 and clearly define financial relief mechanisms. The update improves clarity around thresholds, conditions and decision-making, ensuring consistent application with Council policies and strengthening accountability and audit readiness.

Economic Development and Community Services delegation

ECCS1 – Consumption of Liquor on Local Government Property

This delegation was updated to correctly reflect the Local Government Act and Local Law framework, removing reliance on inappropriate legislative references. The revision clarifies Council's role in managing land use rather than enforcing liquor laws, and strengthens governance around permit approvals and conditions.

Section 7 – renumbered section

The section and table were updated to clearly distinguish statutory functions conferred directly by legislation from delegations made by Council, ensuring the Delegations Register is legally accurate and audit-compliant. The revisions remove duplication, standardise formatting, and clarify limitations on statutory powers, reinforcing that Council cannot vary or direct these functions except where expressly authorised by legislation.

The administrative review confirms that targeted amendments have been made to improve clarity, strengthen governance controls, and support the effective operation of delegated authority across the organisation.

The Register, as revised, provides a clear, legally compliant and operationally effective framework for the exercise of delegated powers.

It is therefore recommended that Council adopt the Register of Delegations as reviewed.

IMPLICATIONS TO CONSIDER

Consultative:

Sent the Delegation Register draft to Councillors with a copy (draft) of this report on Thursday 11 June 2026.

A workshop was undertaken with Elected Members on 18 June 2026 to review the Register of Delegations and to identify areas requiring clarification, strengthening or alignment with legislative requirements. Key questions raised related to the scope of CEO authority, the distinction between decision-making and execution powers, compliance with statutory processes (including section 3.58 disposals), and governance controls around contracts and financial delegations. These matters have been addressed through targeted revisions to the Register, including clearer delineation of authority, strengthened conditions and thresholds, improved statutory alignment, and enhanced governance and reporting controls to ensure the delegations are legally robust, transparent and operationally effective.

Strategic:

Plan for the Future: Shire of Toodyay Council Plan 2023-2033

Outcome 9: Responsible and effective leadership and governance.

9.1 Provide strong, clear, and accountable leadership

The Register of Delegations supports effective governance, compliance, and operational efficiency, consistent with the Shire's commitment to good governance and legislative accountability.

Policy related:

Nil

Financial:

Nil

Legal and Statutory:

s.2.7(2)(b); s.5.2; s.5.46; and s.9.10 of the *Local Government Act 1995*.

s.5.42(1) of the Local Government Act 1995

s.59 of the Interpretation Act 1984

This report addresses compliance with:

- ***Section 5.46 of the Local Government Act 1995** – Register of Delegations and annual review requirement.*
- ***Sections 5.42–5.44 of the Local Government Act 1995** – delegation and sub-delegation of powers and duties.*
- *Relevant subsidiary legislation under which powers and duties are delegated.*

Council adoption of the Register will satisfy the annual review requirement for the relevant period.

Risk related:

Failure to annually review and adopt the Register of Delegations may expose the Shire to governance, audit, and legal risk, including the potential invalidity of delegated decisions.

Adoption of the Register following review mitigates this risk and supports sound governance and administrative certainty.

There are no direct community impacts associated with this report. The Register of Delegations supports timely decision-making and transparency in the administration of local government functions.

Workforce related:

Nil.

VOTING REQUIREMENTS

Absolute Majority

OFFICER'S RECOMMENDATION

That Council:

1. Adopts, by absolute majority, the instruments of delegation contained in the REVISED Register of Delegations (**Attachment 1**), as follows:
   - (a) Executive Services section;
   - (b) Finance and Corporate Services Section;
   - (c) Economic Development and Community Services Section;
   - (d) Planning and Regulatory Services Section; and the
   - (e) Infrastructure, Assets and Services;

2. Notes and acknowledges the content of Section 7 – Statutory Functions and External Agency Powers (Functions conferred on the CEO and Local Government Employees under legislation):

3. Requests the Temporary Chief Executive Officer to make any necessary minor typographical changes prior to publication.

ALTERNATE MOTION/COUNCIL RESOLUTION NO. SCM136/06/26

MOVED Cr M Dival

SECONDED Cr R Mills

That Council:

1. Notes the adminstrative review commenced on 28 May 2026 and was brought to a Councillor Workshop on 18 June 2026;
2. Notes a review undertaken by Council at this meeting meets the legislative requirement under section 5.46(2) *Local Government Act 1995;*
3. Notes the Officer has advised Council that the existing delegation remains substantially compliant with the Act and relevant subsidiary legislation and no legislative changes have been identified that invalidate or materially affect the existing delegations;
4. Resolves to endorse the existing delegation register approved by Council on 26 June 2025; and
5. Resolves to undertake a detailed review of the delegation register within 3 months.

.

Voted For: Crs M McKeown, M Dival, R Madacsi, R Mills and S Van der Heyden

Voted Against: Nil

MOTION CARRIED 5/0

7 CLOSURE OF MEETING

The Shire President declared the meeting closed at 4.37pm.

ATTACHMENTS MINUTES

Special Council Meeting

Thursday, 25 June 2026

Table of Contents

6.1.1 Administrative Review of Delegation Register

Attachment 1 Revised Delegation Register.....4

Register of Delegations

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

Adopted by Council on 26 June 2025 – to be adopted in June 2026

TABLE OF CONTENTS

SECTION 1 Overview 11

1. *Introduction 11*
2. *Delegation of some powers and duties 11*
3. *Guidelines 11*
4. *Legal Framework 11*
5. *Delegation Structure 12*
5.1 *Delegation from Council to Committees 12*
5.2 *Delegation from Council to the Audit Committee 12*
5.3 *Delegation from Council to the Chief Executive Officer 12*
5.4 *Delegation from the Chief Executive Officer 12*
6. *Delegation processes 13*
6.1 *Process 1 - The Power to Delegate 13*
6.2 *Process 2 - The Concept of Acting Through 13*
7. *Delegated Officers 14*
7.1 *Chief Executive Officer (CEO): 14*
7.2 *Executive Managers 15*
7.3 *Other Officers 16*
8. *Record Keeping 16*
8.1 *Returns Register and Authorised Officer Register 16*
8.2 *Certificates of Authority for Authorised Persons 17*
8.3 *Resignation of Authorised Officer/Person 17*
8.4 *Recording the exercise of power 17*
9. *Temporary Appointments of Officers 18*
10. *Public Access 18*
11. *Periodic Review 18*
12. *Public Feedback 18*
13. *Definitions 18*

SECTION 2 Executive Services (Delegations to the CEO) 23

ES1 ***Local Government Act 1995* and *Local Government (Miscellaneous Provisions) Act 1960* --- --- Delegation to the CEO -** **23**

STATEMENT OF INTENT 23

POWERS AND DUTIES 23

FUNCTION 25

CONDITIONS 27

ES2 **Execution of Documents** **34**

STATEMENT OF INTENT 34

POWER AND DUTIES ..... 35~~34~~

FUNCTION 35

CONDITIONS 36

ES3 ***Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* ------- Delegation to the CEO –** **40**

STATEMENT OF INTENT 40

POWERS AND DUTIES 40

FUNCTION 41

CONDITIONS 42

ES4 ***Food Act 2008* - Delegation to the CEO** **46**

STATEMENT OF INTENT 46

POWERS AND DUTIES 47

FUNCTION 48

CONDITIONS 49

ES5 **Building Act 2011 - *Delegation to CEO.*** **56**

STATEMENT OF INTENT 56

POWERS AND DUTIES 56

FUNCTION 58

CONDITIONS 62

ES6 ***Cat Act 2011* --- Delegation to the CEO** **70**

STATEMENT OF INTENT 70

POWERS AND DUTIES 70

FUNCTION 72

CONDITIONS 73

ES7 ***Dog Act 1976* --- Delegation to the CEO** **77**

STATEMENT OF INTENT 77

This document is not controlled once it has been printed.

POWERS AND DUTIES 77
FUNCTION 78
CONDITIONS 79
ES8 Bush Fires Act 1954 --- Delegation to the CEO 83
STATEMENT OF INTENT 83
POWERS AND DUTIES 83
FUNCTION 85
CONDITIONS 88
ES9 Biosecurity and Agricultural Management Act 2007 --- Delegation to the CEO 93
STATEMENT OF INTENT 93
POWERS AND DUTIES 93
FUNCTION 94
CONDITIONS 94
ES10 Expression of Interest and Tenders 96
STATEMENT OF INTENT 96
POWER AND DUTIES 96
FUNCTION 97
CONDITIONS 99
ES11 Determine Grant, Sponsorship and Donation Allocations 105
STATEMENT OF INTENT 105
POWER AND DUTIES 105
FUNCTION 105
CONDITIONS 106
ES12 Local government property agreements 110
STATEMENT OF INTENT 110
POWER AND DUTIES 110
FUNCTION 112
CONDITIONS 113
ES13 Tenancy and Lease Agreements 116
STATEMENT OF INTENT 116
POWER AND DUTIES 116
FUNCTION 117
CONDITIONS 118
ES14 Contract Formalities ..... 121~~120~~

This document is not controlled once it has been printed.

STATEMENT OF INTENT ..... 121~~120~~
POWER AND DUTIES ..... 121~~120~~
FUNCTIONS ..... 121~~120~~
CONDITIONS ..... 123~~122~~
ES15 Temporary Road Closures ..... 127~~126~~
BACKGROUND ..... 127~~126~~
STATEMENT OF INTENT ..... 127~~126~~
POWERS AND DUTIES ..... 128~~127~~
FUNCTION ..... 128~~127~~
CONDITIONS ..... 129~~128~~
SECTION 3 Finance and Corporate Services (Delegations to the CEO) ..... 131~~130~~
CS1 Payments from Municipal Fund or Trust Fund ..... 131~~130~~
STATEMENT OF INTENT ..... 131~~130~~
POWER AND DUTIES ..... 131~~130~~
FUNCTION ..... 132~~131~~
CONDITIONS ..... 134~~133~~
CS2 Investment of Surplus Funds ..... 139~~138~~
STATEMENT OF INTENT ..... 139~~138~~
POWER AND DUTIES ..... 139~~138~~
FUNCTION ..... 139~~138~~
CONDITIONS ..... 140~~139~~
CS3 Rate Records (Amendment of and Objection to) and rates or service charges ..... 143~~142~~
STATEMENT OF INTENT ..... 143~~142~~
POWERS AND DUTIES ..... 143~~142~~
FUNCTION ..... 144~~143~~
CONDITIONS ..... 144~~143~~
CS4 Approval of Payment Arrangement for Payment of Rates and Service Charges ..... 147~~146~~
STATEMENT OF INTENT ..... 147~~146~~
POWER AND DUTIES ..... 147~~146~~
FUNCTION ..... 147~~146~~
CONDITIONS ..... 149~~148~~
CS5 Issue of Writ, Summons or Other Process ..... 151~~150~~

This document is not controlled once it has been printed.

STATEMENT OF INTENT ..... 151~~150~~
POWERS AND DUTIES ..... 151~~150~~
FUNCTION ..... 152~~151~~
CONDITIONS ..... 152~~151~~

CS6 Power to Defer, Grant Discounts, Waive or Write-off Debts ..... 156~~155~~
STATEMENT OF INTENT ..... 156~~155~~
POWER AND DUTIES ..... 156~~155~~
FUNCTION ..... 156~~155~~
CONDITIONS ..... 157~~156~~

SECTION 4 Economic Development and Community Services (Delegations to the CEO) ..... 160~~159~~

EDCS1 Consumption of Liquor on local government property ..... 160~~159~~
BACKGROUND ..... 160~~159~~
STATEMENT OF INTENT ..... 160~~159~~
POWERS AND DUTIES ..... 161~~160~~
FUNCTION ..... 161~~160~~
CONDITIONS ..... 162~~161~~

SECTION 5Planning and Regulatory Services (Delegations to CEO) ..... 164~~163~~

PRS1 Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste ..... 164~~163~~
STATEMENT OF INTENT ..... 164~~163~~
POWERS AND DUTIES ..... 164~~163~~
FUNCTION ..... 165~~164~~
CONDITIONS ..... 166~~165~~

PRS2 Issue of Notice of Breach (Fencing) ..... 169~~168~~
STATEMENT OF INTENT ..... 169~~168~~
POWERS AND DUTIES ..... 169~~168~~
FUNCTION ..... 170~~169~~
CONDITIONS ..... 170~~169~~

PRS3 Dealing with Clearing Matters ..... 173~~172~~
BACKGROUND ..... 173~~172~~
STATEMENT OF INTENT ..... 173~~172~~

This document is not controlled once it has been printed.

POWERS AND DUTIES ..... 175~~174~~
FUNCTION ..... 176~~175~~
CONDITIONS ..... 176~~175~~
PRS4 Swimming Pools and Inspections ..... 179~~178~~
STATEMENT OF INTENT ..... 179~~178~~
POWERS AND DUTIES ..... 179~~178~~
FUNCTION ..... 180~~179~~
CONDITIONS ..... 181~~180~~
PRS5 Crossing from Public Thoroughfare to Private land or Private thoroughfare. ..... 183~~182~~
STATEMENT OF INTENT ..... 183~~182~~
POWERS AND DUTIES ..... 183~~182~~
FUNCTION ..... 184~~183~~
CONDITIONS ..... 185~~184~~
PRS6 Stallholder Applications ..... 187~~186~~
BACKGROUND ..... 187~~186~~
STATEMENT OF INTENT ..... 187~~186~~
POWERS AND DUTIES ..... 188~~187~~
FUNCTION ..... 188~~187~~
CONDITIONS ..... 189~~188~~
PRS7 Thoroughfares and Trading in Thoroughfares and Public Places Permits ..... 192~~191~~
STATEMENT OF INTENT ..... 192~~191~~
POWERS AND DUTIES ..... 192~~191~~
FUNCTION ..... 193~~192~~
CONDITIONS ..... 193~~192~~
PRS8 Development Application Delegations ..... 196~~195~~
STATEMENT OF INTENT ..... 196~~195~~
POWERS AND DUTIES ..... 196~~195~~
FUNCTION ..... 197~~196~~
CONDITIONS ..... 198~~197~~
PRS9 Illegal Development ..... 206~~204~~
STATEMENT OF INTENT ..... 206~~204~~
POWERS AND DUTIES ..... 206~~204~~
FUNCTION ..... 207~~205~~

This document is not controlled once it has been printed.

CONDITIONS ..... 208~~206~~

PRS10 Appointment of Authorised Persons – the Shire of Toodyay current *Local Planning Scheme*..... 212~~210~~

STATEMENT OF INTENT ..... 212~~210~~

POWERS AND DUTIES ..... 213~~211~~

FUNCTION ..... 213~~211~~

CONDITIONS ..... 215~~213~~

PRS11 Deed of Covenant for the Payment of a Developer Contribution. ..... 218~~216~~

STATEMENT OF INTENT ..... 218~~216~~

POWERS AND DUTIES ..... 218~~216~~

FUNCTION ..... 219~~217~~

CONDITIONS ..... 219~~217~~

PRS12 Caravan Park and Camping Grounds Act 1995 ..... 222~~220~~

STATEMENT OF INTENT ..... 222~~220~~

POWERS AND DUTIES ..... 223~~221~~

FUNCTION ..... 223~~221~~

CONDITIONS ..... 224~~222~~

PRS13 Recommendations to the WAPC Regarding Applications for Subdivision / Amalgamation or Strata Title ..... 227~~225~~

STATEMENT OF INTENT ..... 227~~225~~

POWERS AND DUTIES ..... 227~~225~~

FUNCTION ..... 228~~226~~

CONDITIONS ..... 228~~226~~

SECTION 6 Infrastructure, Assets and Services (Delegations to CEO) 231~~229~~

IAS1 Crossovers ..... 231~~229~~

STATEMENT OF INTENT ..... 231~~229~~

POWERS AND DUTIES ..... 231~~229~~

FUNCTION ..... 232~~230~~

CONDITIONS ..... 233~~231~~

IAS2 Private Works on, over or under public places ..... 235~~233~~

STATEMENT OF INTENT ..... 235~~233~~

POWERS AND DUTIES ..... 235~~233~~

FUNCTION ..... 236~~234~~

This document is not controlled once it has been printed.

CONDITIONS ..... 236~~234~~

IAS3 Licence to deposit materials on or excavate adjacent to a street. ..... 239~~237~~

STATEMENT OF INTENT ..... 239~~237~~

POWERS AND DUTIES ..... 239~~237~~

FUNCTION ..... 240~~238~~

CONDITIONS ..... 241~~239~~

IAS4 Dangerous excavation ..... 243~~241~~

STATEMENT OF INTENT ..... 243~~241~~

POWERS AND DUTIES ..... 243~~241~~

FUNCTION ..... 244~~242~~

CONDITIONS ..... 244~~242~~

SECTION 7 Statutory Functions and External Agency Powers (Functions conferred on the CEO / Local Government Employees under legislation) ..... 248~~246~~

EA1 Noise Control – Serve Environmental Protection Notices [S65(1)] ..... 259~~257~~

STATEMENT OF INTENT ..... 259~~257~~

POWERS AND DUTIES ..... 259~~257~~

FUNCTION ..... 259~~257~~

CONDITIONS ..... 260~~258~~

EA2 Noise Control – Keeping of Logbooks, Noise Control Notices, Calibration and Approval of Non-Complying Events [reg.16] ..... 261~~259~~

STATEMENT OF INTENT ..... 261~~259~~

POWERS AND DUTIES ..... 262~~260~~

FUNCTION ..... 262~~260~~

CONDITIONS ..... 262~~260~~

EA3 Noise Control – Noise Management Plans – Construction Sites [reg.13] ..... 264~~262~~

STATEMENT OF INTENT ..... 264~~262~~

POWERS AND DUTIES ..... 264~~262~~

FUNCTION ..... 264~~262~~

CONDITIONS ..... 265~~263~~

EA4 Delegation to the CEO In relation to the *Freedom of Information Act 1992* ..... 266~~264~~

This document is not controlled once it has been printed.

STATEMENT OF INTENT ..... 266~~264~~
POWER AND DUTIES ..... 266~~264~~
FUNCTION ..... 266~~264~~
CONDITIONS ..... 266~~264~~

EA5 Delegation to the CEO In relation to the *Public Interest Disclosure Act 2003* ..... 269~~267~~
STATEMENT OF INTENT ..... 269~~267~~
POWERS AND DUTIES ..... 269~~267~~
FUNCTION ..... 269~~267~~
CONDITIONS ..... 269~~267~~

EA6 Delegation to the CEO In relation to the *Local Government Act 1995* – Elections and other polls ..... 271~~269~~
STATEMENT OF INTENT ..... 271~~269~~
POWER AND DUTIES ..... 271~~269~~
FUNCTION ..... 271~~269~~
CONDITIONS ..... 271~~269~~

EA7 Delegation to the Environmental Health Officer in relation to the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911* ..... 274~~272~~
STATEMENT OF INTENT ..... 274~~272~~
POWERS AND DUTIES ..... 274~~272~~
FUNCTION ..... 274~~272~~
CONDITIONS ..... 275~~273~~

EA8 Delegation to the CEO In relation to the *Local Government Act 1995* – Powers of Entry in an emergency ..... 276~~274~~
STATEMENT OF INTENT ..... 276~~274~~
POWER AND DUTIES ..... 276~~274~~
FUNCTION ..... 276~~274~~
CONDITIONS ..... 276~~274~~

EA9 Development Applications made under the auspices of the *Planning and Development Act 2005* ..... 278~~276~~
STATEMENT OF INTENT ..... 278~~276~~
POWERS AND DUTIES ..... 279~~277~~
FUNCTION ..... 279~~277~~
CONDITIONS ..... 280~~278~~

This document is not controlled once it has been printed.

EA10 Delegation to Rangers, Pound keepers/Authorised Persons regarding the *Biosecurity and Agricultural Management Act 2007* ..... 282~~280~~

STATEMENT OF INTENT ..... 282~~280~~

POWERS AND DUTIES ..... 282~~280~~

FUNCTION ..... 282~~280~~

CONDITIONS ..... 282~~280~~

EA11 Delegation to Local Government Officers under the *Strata Titles Act 1985* ..... 284~~282~~

STATEMENT OF INTENT ..... 284~~282~~

POWERS AND DUTIES ..... 284~~282~~

FUNCTION ..... 285~~283~~

CONDITIONS ..... 285~~283~~

EA12 Delegation to Local Government Officers under the *Environmental Protection Act 1986* ..... 287~~285~~

STATEMENT OF INTENT ..... 287~~285~~

POWERS AND DUTIES ..... 287~~285~~

FUNCTION ..... 287~~285~~

CONDITIONS ..... 287~~285~~

EA13 Single House Development made under the auspices of the *Planning and Development Act 2005* ..... 289~~287~~

STATEMENT OF INTENT ..... 289~~287~~

POWERS AND DUTIES ..... 289~~287~~

FUNCTION ..... 290~~288~~

CONDITIONS ..... 291~~289~~

This document is not controlled once it has been printed.

SECTION 1 Overview

1. Introduction

This register describes the delegation of decision-making authority to local government officers, including the CEO and Executive Managers, for effective governance. It aims to provide transparency to the public about when and how decisions are made. The delegation instruments contained in this document serve to clarify the authority vested in local government officers, guiding them in decision-making processes. The register ensures transparency and informs the public of the circumstances in which decisions are made.

2. Delegation of some powers and duties

Council and the CEO are entrusted with certain functions and duties to perform, in accordance with section 5.42 (Delegation of certain powers and duties to the CEO) of the *Local Government Act 1995* (the Act). Council may delegate authority to exercise and perform some of its functions and duties to the CEO.

The CEO may then delegate to any other officer the power to perform such functions and duties as may be exercised by the CEO under specific laws and the provisions of any subsidiary legislation which has been delegated to the CEO either by Council or by a Minister by means of a legislative instrument.

This is consistent with the governance structure whereby Shire Officers are accountable to the CEO and the CEO to Council.

The objective of the delegated authority is to contribute to improving the time required to make decisions within the limits permitted by the relevant legislation. This is in line with the Shire of Toodyay's (the Shire) commitment to our Customer Service Charter and Council Plan.

Likewise, the implementation of the decisions and instructions of Council is ensured by the CEO, who may delegate part of this responsibility to other Shire Officers.

3. Guidelines

The Department of Local Government, Sport and Cultural Industries produced a Local Government Operational Guideline (Number 17 – September 2022) titled 'Delegations, Authorisations and Acting Through' 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.

4. Legal Framework

Legislation prescribes the decision-making powers and duties that may be exercised and appoints 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 employees and Prescribed Officers) who may exercise these decision-making powers and functions.

This document is not controlled once it has been printed.

Where the legislation provides for decision-making powers and the functions are to be exercised by a CEO, President, Mayor, Elected Member, Environmental Health Officers, Building Surveyor or Returning Officer, a local government (Council) cannot issue further directives or make changes to the decision-making powers and/or duties prescribed by law. There are approximately 170 pieces of legislation requiring local government discretion.

5. Delegation Structure

Delegations contained herein are written with consideration being given to the head of authority that bestows certain powers to Authorised Officers, Persons, designated personnel, etc.

5.1 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*

5.2 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.

5.3 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.

5.4 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.

This document is not controlled once it has been printed.

6. Delegation processes

6.1 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

(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.

6.2 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.

This document is not controlled once it has been printed.

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.

7. Delegated Officers

7.1 Chief Executive Officer (CEO):

The CEO manages the Executive Services area of the Shire.

The CEO is authorised to act as an Authorised Officer through the instruments of delegation contained herein. Delegation will ~~include, but~~include but not be limited to compliance and enforcement actions; investigation and resolution of matters; and issuance of notices, orders and directions.

The CEO is responsible for the appointment of Authorised Officers and Persons.

Policies that give discretion to the CEO

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
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.
Closed Circuit Televisions (CCTV)	The CEO may authorise minor changes to the system and to this policy, where appropriate.

This document is not controlled once it has been printed.

Policy Name	Discretion
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 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.
Related Parties and Related Party Transactions	Where an impartiality issue (perceived or otherwise) exists, either the Executive Manager Infrastructure, Assets and Services or the Executive Manager Planning and Regulatory Services may be selected at the discretion of the CEO.
Temporary Employment and Appointment of 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.
Temporary Road Closures for public events	The CEO has delegated authority to approve the temporary closure of a road in accordance with the Policy.

7.2 Executive Managers

Delegations of authority provide Executive Managers 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.

Executive Managers are responsible for their relevant Departments named below:

- Finance and Corporate Services;
- Economic Development and Community Services;
- Planning and Regulatory Services; and
- Infrastructure, Assets and Services.

This document is not controlled once it has been printed.

7.3 Other Officers

Delegations of authority provide Other Officers who are from their respective responsible department, 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.

There are also statutory delegations of authority that may apply to other Officers, contained in this register.

8. 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 (Role of CEO) of the Act.

Section 5.46 (3) of the *Local Government Act 1995* stipulates that:

(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.

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

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.

8.1 Returns Register and Authorised Officer Register

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.

This document is not controlled once it has been printed.

8.2 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 decision made in respect to the Appointment of Authorised Persons is made in writing through a detailed Memorandum (Appointment Certificate of Authority) and an identity card (where applicable). The certificate of authority and the identity card must specify each law to which the person's appointment relates in accordance with s.9.10(4) (Appointment of authorised persons) of the Act.

The Memorandum Certificate of Authority and 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 Officers and Authorised Persons are to produce their Memorandum or Identity card whenever required to do so by a person who has been or is about to be affected by any exercise of authority (refer to the Act s.9.10(5)).

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.

8.3 Resignation of Authorised Officer/Person

Where a person resigns from a position that had been given delegated authority, 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 (refer to the Act s.9.10(6)).

8.4 Recording the exercise of power

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

This document is not controlled once it has been printed.

(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.

9. 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.

10. Public Access

For easy public access, this register is available on the local government website at this link: https://www.toodyay.wa.gov.au/council/council-registers/delegation-register.aspx

11. Periodic Review

This register is reviewed once a year in accordance with s.5.46 of the *Local Government Act 1995.* It is considered by Council prior to its adoption. It is also reviewed at other times during the year and if a delegation is needed to bring to Council, the review table will be administratively updated as part of the Compliance Register.

12. Public Feedback

Members of the public may ask questions and provide submissions to the Council Meeting at which this register is adopted if they have any feedback or concerns about the delegation process.

13. Definitions

Term	Meaning
Adoption Date	The date that a delegation was adopted through a Council Meeting.
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.
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,

This document is not controlled once it has been printed.

Term	Meaning
	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~~through, and some are not and each delegation states whether this is possible or not.
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.
Conditions in the table at the end of each instrument of delegation	This area will contain the legislative requirements and conditions upon which the delegation is made. 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.
Delegation	To grant authority by one party (delegator) to another (delegate) for an agreed purpose (specified in the instrument of delegation).
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.*
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.
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.
Last Review Date	The date that a delegation was last reviewed through a Council Meeting.
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.
Legislative 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.

This document is not controlled once it has been printed.

Term	Meaning
Local Law(s)	This will contain, where applicable, the reference to a local law that relates or provides information on the functions (and exercise) of the delegation.
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 part of a business operational practice approved by the CEO
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.
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.
Prescribed Acts	Acts that are prescribed by the *Criminal Procedure Regulations 2005* under Schedule 1A – Infringement Notices of the *Criminal Procedure Act 2004 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;*

This document is not controlled once it has been printed.

Term	Meaning
	• *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;* • *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.*

This document is not controlled once it has been printed.

Term	Meaning
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
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.
Responsible Department	The department the responsible officer is representing.
Responsible Officer	To whom the delegation is being made.
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.
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.

This document is not controlled once it has been printed.

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 Chief Executive Officer (CEO), pursuant to s.5.42 (Delegation of some powers and duties to CEO) of the *Local Government Act 1995* (*express power to delegate*) the exercise of ~~any local government~~those ~~(Council)~~ powers and~~or~~ the discharge of ~~any Council~~those duties of the local government under:~~in respect to the legislation stated below:~~

- *the Local Government Act 1995*;
- *the Local Government (Miscellaneous Provisions) Act 1960; and*
- *other legislation specified in this instrument.~~Planning and Development Act 2005, sections 214(2), (3) and (5);~~*
- ~~pursuant to the express power to delegate: in accordance with s.5.42 (Delegation of some powers and duties to CEO) of the Act~~.

~~** Absolute majority required.*~~

To the extent that such powers and duties are capable of delegation; and are not excluded under section 5.43 of the *Local Government Act 1995* or any other written law.

Authority extends to relevant subsidiary legislation and local laws made under the above Acts.

** 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 the administration of any Shire of Toodyay local laws where the head of power is the *Local Government Act 1995*.~~

~~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

The CEO is ~~is delegation~~ authorised to exercise the powers and duties of the local government under the legislation referred to in this delegation, including but not limited to:

~~s the CEO to:~~

This document is not controlled once it has been printed.

1. Local Government Act 1995

(a) performing executive functions under Part 3;

(b) exercising powers relating to land, entry, impounding and control of goods;

(c) managing and controlling thoroughfares and facilities;

(d) entering into, varying and discharging contracts (subject to relevant financial delegations);

(e) commencing and conducting legal proceedings;

2. Local Government (Miscellaneous Provisions) Act 1960

(a) establishing and maintaining pounds;

(b) appointing poundkeepers and rangers (s.449);

(c) exercising powers relating to impounding and management of animals;

(d) administering fees, charges and recovery processes associated with impounding;

Note: this Act is to be read as part of the *Local Government Act 1995*)

3. Planning and Development Act 2005 (limited)

(a) exercising the powers of the local government as a responsible authority under section 214,

subject to:

(b) appointment of designated persons under section 234; and

(c) any applicable planning delegations and procedures.

- ~~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 1 – Performing executive functions in accordance with s.3.18 to s.3.23 inclusive (Authorising persons under this subdivision) of the Act;~~
- ~~exercise the powers given to a local government in respect to Subdivision 2 – Certain provisions about land, in accordance with s.3.24 to s.3.27 inclusive (Authorising persons under this subdivision) of Act;~~
- ~~exercise the powers given to local government in respect to Subdivision 3 – Powers of entry, in accordance with s.3.28 to s.3.36 inclusive (Authorising persons under this Subdivision) of the Act;~~
- ~~exercise the powers given to local government in respect to Subdivision 4 - Impounding abandoned vehicle wrecks and goods involved in certain contraventions in accordance with s.3.37 to s.3.48 inclusive (Authorising persons under this Subdivision) of the Act; and~~
- ~~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.~~

This document is not controlled once it has been printed.

~~Refer to Delegation ES10.~~

The exercise of powers under this section does not remove the requirement for any appointment, designation or authorisation required under a written law for those powers to be lawfully exercised.

FUNCTION

The CEO is authorised to perform the following functions, either personally or through authorised persons or employees in accordance with section 5.44 of the *Local Government Act 1995*:

1. Authorisation and Administration

(a) appoint authorised persons or classes of persons under section 9.10;

(b) appoint rangers and poundkeepers under the *Local Government (Miscellaneous Provisions) Act 1960*;

(c) manage and administer enforcement systems, including infringement notices;

2. Enforcement and Compliance

(a) administer infringement notices, including extension of time and withdrawal of notices.

(b) consider submissions relating to alleged offences;

(c) initiate and manage compliance and enforcement actions;

3. Operational Decision Making

(a) determine access to local government records in accordance with legislation;

(b) manage operational decisions required to give effect to powers under this delegation;

4. Performance of Functions through Others

(a) perform functions through authorised employees and authorised persons where appropriate;

Relevant statutory functions include (non-exhaustive)

The Chief Executive Officer performs functions of the local government under this delegation and, as part of administering the operations of the local government, is authorised to appoint persons or classes of persons as authorised persons for the purposes of one or more specified laws or specified provisions of laws under section 9.10 of the *Local Government Act 1995*.

Functions may be performed by the Chief Executive Officer, or by authorised persons or employees of the local government in accordance with section 5.44 of the Act and any applicable statutory authorisation or designation requirements.

~~The CEO is statutorily delegated to 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 under s.9.10 (Appointment of authorised persons) of the Act.~~

This document is not controlled once it has been printed.

~~Functions to be specifically performed by the CEO, as an Authorised Person, or an authorised employee of the 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.3.22 Compensation;

s.3.23 Arbitration;

s.3.25 Notices requiring certain things to be done by owner or occupier of land;

s.3.32 Notice of entry;

s.3.39 Power to remove and impound;

s.3.40A Abandoned vehicles;

s.3.46 Goods may be withheld until costs paid;

s.3.47A Sick or injured animals, disposal of;

s.3.48 Impounding expenses, recovery 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.3.53 Control of certain unvested facilities;

s.3.54 Reserves under control of local government;

s.9.5 Objection may be lodged;

s.9.11 Persons found committing breach of Act to give name on demand;

s.9.13 Onus of proof in vehicle offences may be shifted;

s.9.16 Notice, giving of to alleged offender;

s.9.19 Extension of time;

s.9.20 Withdrawal of Notice;

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.

This document is not controlled once it has been printed.

Planning and Development Act 2005

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

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

Note: These functions are exercised subject to the appointment of designated persons under section 234 of the Act.

~~r.21~~ Local Government (Uniform Local Provisions) 1996

r.21 Wind erosion and sand drifts (giving notice)

Refer to Section 6 and DAR10.

Administrative Functions

This delegation also authorises the Chief Executive Officer to:

~~CEO, as an Authorised Person, or an authorised employee of the local government in accordance with s.5.44 (CEO may delegate powers and duties to other employees) of the Act the authority to:~~

(a) determine the manner and form by which access may be requested to ~~a person may request copies of~~ rates record information, ~~or~~ owners and occupiers registers and electoral rolls, and to make such~~the~~ information available in accordance with applicable legislation, if satisfied by statutory declaration or otherwise, that the information will not be used for commercial purposes subject to r.29B of the *Local Government (Administration) Regulations 1996;*

(b) ~~determine~~determine that access ~~not~~ to ~~provide a right to inspect~~ information is not to be provided where this would unreasonably ~~it is considered that in doing so would~~ divert ~~a substantial and unreasonable portion of~~ the local governments resources ~~away~~ from its other functions;

(c) Consider ~~an owner of a vehicle's~~ submissions relating to ~~that the vehicle that is subject of an~~ infringement notices, including claims that a vehicle was stolen or ~~had been stolen or~~ unlawfully taken at the time of the alleged offence;

(d) Extend the ~~28 day~~ period within which payment of a modified penalty may be paid, whether or not the period ~~of 28 days~~ has elapsed; and

(e) Withdraw ~~an~~ infringement notices in accordance with applicable legislation and arrange refunds where required.

~~(e)~~(f) ~~within one year after the notice was given, whether or not the modified penalty has been paid by sending a withdrawal notice (in the prescribed form) to the alleged offender and if the modified penalty has been paid, providing a refund~~.

CONDITIONS

The exercise of this delegation is subject to the following:

~~above authority is subject to provisions contained in Part 6 – Financial Management of the *Local Government Act 1995* (the Act) and compliance links contained in this instrument of delegation and subject to the exclusions / conditions set out below:~~

(a) Only persons who are appropriately qualified, ~~and~~ trained and ~~may be~~ authorised may~~to~~ perform relevant functions under this delegation;

This document is not controlled once it has been printed.

(b) This delegation must be exercised in accordance with ~~is subject to the requirements~~ all applicable ~~of other~~ legislation and regulations; and the Shire's adopted local laws, schemes, codes, policies, and practices;

(c) This delegation does not include any powers or duties excluded under ~~those duties referred to in~~ s.5.43 (Limits on delegations to CEO) of the *Local Government Act 1995*~~*Act*~~;

(d) A person ~~delegate~~ who participates in ~~a~~ the decision to issue an infringement notice must NOT determine any matter related to that infringement notice under this Delegation;

(e) Authority to determine compensation under s.3.22 of the *Local Government Act 1995* ~~Delegation~~ is limited to settlements ~~which do~~ not exceeding ~~a material value of~~ $3,000. ~~in regard to following s.3.22 procedures related to assessment and determination as to the extent of damage to private property arising directly from performance of executive functions and making a payment of compensation~~;

(f) ~~A decision to undertake a~~A function may only be performed outside the District where: ~~, can only be made under this delegation where~~ there is ~~a~~an appropriate ~~relevant~~ budget allocation;~~,~~ and the performance of the functions does not adversely affect service delivery ~~negatively impact service levels~~ within the district. Where these conditions are not met, the matter must be referred to Council~~for a Council decision~~;

(g) Where functions are exercised u~~U~~nder the *Planning and Development Act 2005*, *those functions must only be performed by a person who has been appointed as* 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~~of the *Planning and Development Act 2005*;

(h) A person appointed as a designated person under ~~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 of the *Planning and Development Act 2005* must not be appointed as ~~is not eligible to be~~ a designated person for the purposes of ~~any of the other~~ sections 229, 2230 or 231 of the *Planning and Development Act 2005*;

(i) Where functions are exercised under the ~~Section 64 (4) (Appointment of Authorised Persons) of the~~ *Animal Welfare Act 2002*, ~~states that~~ a person must ~~cannot~~ not be appointed or act as ~~be~~ both an authorised person and an inspector in accordance with section 64(4) of that Act;

(j) Delegated authority under section~~s.~~ 3.34(1) and (3) of the *Local Government Act 1995* may only be exercised ~~used~~ where there is an imminent or substantial risk to public safety or property;

(k) Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than $20,000 may be conducted in a manner that ~~disposed of by any means considered to provide best value, provided the process~~ is transparent, ~~and~~ accountable and consistent ~~in accordance~~ with the Disposal of Property Policy;

(l) Delegated authority under sections ~~ion in regard to s.~~3.47A and s.3.48 of the *Local Government Act 1995* is only to be exercised ~~used~~ where ~~the delegate's~~ reasonable efforts have been made to identify and contact the~~an~~ owner ~~have failed~~;

This document is not controlled once it has been printed.

(m) The management of reserves must be ~~is~~ limited to matters ~~where the financial~~within an approved ~~implications do not exceed a relevant and current~~ budget allocation;~~,~~ and which do not create future~~a~~ financial liabilitiesy ~~in future budgets~~.

(n) Records relevant to the exercise of this delegation, including volunteer-related records, are to be maintained in accordance with the Record Keeping Plan and Policy

~~(n) Volunteer records are to be kept up to date in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.~~

(o) Commencement of legal proceedings must be within approved budget allocations; and where the financial or reputational risk exceeds a threshold determined by Council, be reported to or approved by Council;

(p) The exercise of contract powers under this delegation is subject to financial limits under Delegations ES10 and ES14; and Council reporting requirements where thresholds are exceeded.

~~(o)~~(q) All decisions relating to ~~taken in respect to~~ infringement notices;~~,~~ and ~~or~~ the removal or impoundment of goods ~~are to~~must be made in writing and ~~kept on relevant~~recorded on the relevant ~~subject~~ file in accordance with the ~~Shire of Toodyay~~ Record Keeping Plan and Record Keeping Policy.

~~(p) 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.~~

~~(q) Minor amendments to the delegation register and to policies will be around amendment of departments, Officer names, and numbers of delegations including their acronyms.~~

(r) All Authorisations under this delegation must be made ~~are to be provided~~ in writing by issuing a Certificate of Authorisation.

Register Administration

~~(r)~~ Minor amendments to the Delegations Register, including updates to department names, officer titles, or delegation numbering, may be made administratively where such changes do not alter the substance of the delegation.

ES1 *Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960* ---- *Delegation to the CEO* -	
When exercising this delegation consider the following Compliance Links ~~to consider when making decisions under this delegation~~	
Governance and Management Framework ~~Management Practice:~~	• Refer to Section 6; Delegations PRS10 and ES10. • Shire of Toodyay's current Local Planning Schemes and Strategies; • Shire of Toodyay Record Keeping Plan.
Council Policies and Local Laws~~Shire of Toodyay Corporate Publications:~~	• Disposal of Property; • Purchasing Policy; • • Financial Hardship Policy; • Crossover Policy; • All of Shire of Toodyay's adopted local laws.

This document is not controlled once it has been printed.

ES1 *Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 ---- Delegation to the CEO -*	
Primary Legislation **Part 3 Functions of Local Government (including executive functions, land, entry, impounding and facilities)** ***Local Government Act 1995***	Division 1 – General • s.3.1. General function • s.3.6. Places outside district Division 2 – Legislative function of local government Division 3 Executive Functions of Local Government Subdivision 1 Performing executive Functions Subdivision 2 – certain provisions about land • s.3.24. (Authorising persons under this Subdivision); • s.3.26. (Additional powers when notices given); • s.3.27.(Particular things local governments can do on land that is not local government property); Subdivision 3 – Powers of entry • s.3.20(1) (Performing functions outside district); • s.3.22 (Compensation); • s.3.23 (Arbitration); • s.3.32 (Notice of entry); • 3.28 and 3.29 - Subdivision 3 — Powers of entry (s.3.28 and 3.29) • s.3.31. (General procedure for entering property)
Part 3 Functions of Local Government (including executive functions, land, entry, impounding and facilities) ***Local Government Act 1995***	Subdivision 4 – Impounding abandoned vehicle wrecks and goods involved in certain contraventions • s.3.39 (Power to move and impound); • s.3.40. (Vehicle may be removed if goods to be impounded are in or on vehicle); • s.3.40A. (Abandoned vehicle wreck may be taken); • s.3.45. (Notice to include warning); • s.3.46. (Goods may be withheld until costs paid); • s.3.47A. Sick or injured animals, disposal of Subdivision 5 – certain provisions about thoroughfares • s.3.51 (Affected owners to be notified of certain proposals); Subdivision 6 – Various executive functions • s.3.53 Control of certain unvested facilities; • s.3.55. Acquisition of land
Part 5 Administration (including employee powers and delegation provisions) ***Local Government Act 1995***	Division 4 Local Government Employees • s.5.36 (Local Government Employees); and • s.5.42 (Delegation of some Powers and Duties to CEO); • s.5.43. Limits on delegations to CEO • s.5.46. Register of, and records relevant to, delegations to CEO and employees

This document is not controlled once it has been printed.

ES1 *Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960* ---- *Delegation to the CEO* -	
Part 9 Miscellaneous provisions *(Enforcement and legal proceedings (including authorised persons and infringement notices)* ***Local Government Act 1995***	*Division 1 (Objections and Review)* • s.9.5 Objection may be lodged; *Division 2 (Enforcement and legal proceedings)* (Subdivision 1 Miscellaneous provisions about enforcement) • s.9.10 Appointment of authorised persons; *Division 2 (Enforcement and legal proceedings)* Subdivision 1 (Miscellaneous provisions about enforcement) • 9.11.Persons found committing breach of Act to give name on demand • 9.13.Onus of proof in vehicle offences may be shifted • 9.13A. Notice to prevent continuing contravention • 9.14.Penalty for offence when not otherwise specified Subdivision 2 Infringement Notices • 9.16.Notice, giving of to alleged offender • 9.17.Notice, content of • 9.18.Notice placing onus on vehicle owner • 9.19.Extension of time (CEO only) • 9.20.Withdrawal of notice (CEO only)
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, poundkeepers and rangers, notice and proof of etc.); • s.455. (Pound book, information in and access to etc.); • s.457 (Unclaimed money, how pound keeper and local government to deal with); • s.458. (Trespassing cattle, powers to impound etc.); • s.462. (Fees etc. for impounded cattle (Sch. 3)); • s.467. (Poundkeeper's functions as to impounded cattle); • s.468. (Impounded cattle, notice of to be displayed at pound); • s.469. (Unclaimed impounded cattle, notice of to be given).
Local Government (Functions and General) Regulations 1996	Part 5 – Owner onus and infringement notices.

This document is not controlled once it has been printed.

ES1 *Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 ---- Delegation to the CEO -*	
Local Government (Uniform Local Provisions) Regulations 1996	• r.5 interfering with or taking from local government land; • r.6 obstruction of public thoroughfares by things placed and left; • r.7A obstruction of public thoroughfare by fallen things; • r.7 encroaching on public thoroughfare; • r.8. Separating land from public thoroughfare — Sch. 9.1 cl. 4 • r.9 Permission to have gate across public thoroughfare; • r.11 Dangerous excavation in or near public thoroughfare; • r.17 Private works on, over, or under public places; • r.21 Wind erosion and sand drifts Sch 9.1 of 12.
Statutory Authorisation Requirements	• Authorised persons must be appointed in accordance with s.9.10 of the *Local Government Act 1995* • Designated persons under the *Planning and Development Act 2005* must be appointed in accordance with s.234 • Statutory restrictions on appointments (including incompatibility of roles under other legislation) must be complied with • Authorised officers must act within the limits of their statutory authority
Planning and Development Act 2005	• s.214 (Illegal development, responsible authority's powers as to)
Control of Vehicles (Off Road Areas) Act 1978	• 38. (Authorised Persons)
Local Government (Administration) Regulations 1996	• r.18G. (Delegations to CEOs, limits on (Act s. 5.43) - admin regulations); • r.29. Information to be available for public inspection (Act s. 5.94)
Operational Provisions (where applicable)	Key provisions typically relied upon when exercising this delegation include: • powers of entry and notice requirements; • impounding and disposal processes; • infringement notice procedures; and • enforcement and prosecution processes
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.

This document is not controlled once it has been printed.

..ES1 *Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960* ---- *Delegation to the 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	• The CEO uses their discretion in regard to conditions/limitations that apply when using the subdelegated powers or duties
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.*
Adoption Date:	15 March 2007
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

ES2 Execution of Documents

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~~ authorisation is for Council, as a local government and ~~defined as a~~ ***prescribed public authority*** under the *Criminal Procedure Act 2004*, to:

(1) A ~~a~~ppoint~~ed~~ the CEO as an Authorised Officer for the purposes s.6(a) and s.6(b) of the *Criminal Procedure Act 2004*; *and*

~~to delegate to the:~~

(2) authorise specified officers, pursuant to s.9.49A(4) of the *Local Government Act 1995,* to execute documents on behalf of the local government.

~~and having~~This authorisation applies to the following Officers:

- Chief Executive Officer;~~;~~
- Executive Manager Infrastructure, Assets and Services;
- Executive Manager Planning and Regulatory Services;
- Executive Manager Economic Development and Community Services; and
- Executive Manager Finance and Corporate Services

~~appointed the CEO as an Authorised Officer for the purposes s.6(a) and s.6(b) of the *Criminal Procedure Act 2004* to delegate to the:~~

- ~~Chief Executive Officer;~~
- ~~Executive Manager Infrastructure, Assets and Services;~~
- ~~Executive Manager Planning and Regulatory Services;~~
- ~~Executive Manager Economic Development and Community Services; and~~
- ~~Executive Manager Finance and Corporate Services~~

~~the authority to exercise of any local government (Council) powers or the discharge of any Council duties pursuant to the express power to authorise: s.9.49A(4) of the *Local Government Act 1995*.~~The purpose of this authorisation is to ensure the lawful execution and authentication of documents and to support the administration, governance, and enforcement functions of the local government in accordance with applicable legislation and the Shire of Toodyay Execution of Documents Policy.

This authorisation relates to the execution of documents and does not, of itself, confer decision-making authority to enter into agreements, which must be exercised under the relevant delegation.

This document is not controlled once it has been printed.

POWER AND DUTIES

Council authorises the above officers pursuant to section 9.49A(4) of the *Local Government Act 1995,* to:

(a) execute documents on behalf of the local government with or without the common seal where permitted;

(b) authenticate documents in accordance with section 9.49 of the Act;

(c) execute, make, vary, or discharge contracts on behalf of the local government in accordance with section 9.49B of the Act; and

(d) execute documents that are necessary, appropriate, and related to the performance of the local government's functions under any written law.

This authorisation does not confer power to further authorise another person to execute documents under section 9.49A(4).

~~This delegation authorises the abovenamed officers to sign documents on behalf of the local government pursuant to s.9.49A. Execution of documents of the *Local Government Act 1995*.~~

FUNCTION

Functions performed by the Authorised Officers under this authorisation are as follows:

1. Execution of Documents
   - (a) Execute documents on behalf of the local government in accordance with section 9.49A of the Local Government Act 1995, either:
     - (i) under the Common Seal where authorised by Council; or
     - (ii) by signature, where authorised under section 9.49A(4).
2. Custody and Control of the Common Seal
   - (a) Maintain the custody, control and safe keeping of the Common Seal;
   - (b) Ensure the Common Seal is used only in accordance with sections 9.49A(2) and (3) of the Act and the Shire's Execution of Documents Policy
3. Authentication of Documents
   - (a) Authenticate documents on behalf of the local government without the Common Seal where permitted, in accordance with section 9.49 of the Act.
4. Contracts and Agreements
   - (a) Execute, make, vary or discharge contracts on behalf of the local government in accordance with section 9.49B of the Act, subject to applicable delegations, financial limits, and policies.
5. Compliance and Governance
   - (a) Ensure all documents are executed in accordance with:
     - (i) the terms, conditions and limitations of this authorisation;

This document is not controlled once it has been printed.

(ii) relevant legislation; and

(iii) the Shire's Execution of Documents Policy.

6. Execution of Deeds

(a) Execute documents as deeds only where:

(i) the document is intended to be executed as a deed; and

(ii) the authorised officer is permitted to do so under this authorisation, in accordance with section 9.49A(5) of the Act.

7. Administrative Amendments

(a) Make minor administrative amendments to Council-endorsed policies and delegations, limited to formatting, spelling, grammar, titling, officer or department naming, and correction of clerical errors, provided these do not alter the intent, scope or effect of the document.

~~Functions specifically performed by the abovenamed Officers, pursuant to s.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~~
- ~~that are necessary, appropriate, and directly or indirectly related to the performance of their functions under any written lawTo sign documents on behalf of the local government in accordance with ss. 9.49A(4) (5) and (7) (Execution of Documents) of the Act subject to the conditions of this delegation.~~
- ~~To 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.~~
- ~~to make amendments to format, spelling, grammar, titling, responsible/affected departments, Officers, staff authorities and minor errors within the text of Register of Delegations and Policies that have already been endorsed by Council.~~

CONDITIONS

The exercise of this authorisation ~~above authority~~ is subject to the provisions ~~contained in~~of Part 6 – Financial Management of the *Local Government Act 1995* (the Act) and the compliance links contained within this instrument of delegation that is further subject to the ~~exclusions /~~ conditions set out below.

1. Application of Common Seal

(a) ~~In terms of application of T~~the Common Seal must only be applied to documents:

(i) where required by legislation or authorised by Council resolution; and

This document is not controlled once it has been printed.

(ii) in accordance with sections 9.49A(2) and 9.49A(3) of the *Local Government Act 1995.*

~~(a) Officers comply with ss. 9.49A (2) and (3) (Execution of Documents) of the Local Government Act 1995.~~

2. Custody and Register of Common Seal

(a) A Common Seal Register must be maintained;

(b) The use of the Common Seal must be recorded accurately and contemporaneously in that register;

(c) The Common Seal must be kept in secure custody and controlled to prevent unauthorised use.

~~A Common Seal Register is to be kept in respect to the use of the Common seal;~~

3. Reporting of Common Seal Use

(a) All instances of the use of the Common Seal must be:

(i) reported in the Executive Section of the Council Information Bulletin; and
(ii) available for inspection in accordance with governance and audit requirements.

4. Record Keeping

(a) All executed documents, whether sealed or unsealed:

(i) must be stored in the Shire's record keeping system; and
(ii) must be maintained in accordance with the Record Keeping Plan and Record Keeping Policy.

5. Execution of Deeds

(a) A document must not be executed as a deed unless:

(i) the authorised officer intends to execute the document as a deed; and
(ii) the officer is expressly authorised to do so under this authorisation,
in accordance with section 9.49A(5) of the *Local Government Act 1995.*

6. Authentication of Documents

(a) Documents executed without the Common Seal must be signed by an authorised officer; and

(b) be authenticated in accordance with section 9.49 of the Local Government Act 1995.

7. Compliance with Authorisation and Legislative Limits

(a) This authorisation must be exercised strictly in accordance with the terms, conditions and limitations set out in this instrument; and

This document is not controlled once it has been printed.

(b) is subject to any applicable restrictions imposed by legislation, including regulation 18G of the *Local Government (Administration) Regulations 1996.*

8. Non-Delegable Authorisation

The authority granted under section 9.49A(4) of the Local Government Act 1995 must be exercised only by the officers expressly authorised under this instrument; and must not be further delegated, transferred or conferred to any other person.

9. Limitation under Section 5.43

Nothing in this authorisation permits the Chief Executive Officer to further authorise a person to sign documents on behalf of the local government under section 9.49A(4), in accordance with section 5.43(ha) of the *Local Government Act 1995.*

Internal Oversight and Notification

Where documents are executed by authorised officers, internal governance processes must be followed, including:

- notification to the CEO or Acting CEO where required under this authorisation; and
- compliance with internal review and approval processes.

~~(b) Use of the Common Seal is to be reported in the Executive Section of the Council Information Bulletin;~~
~~(c) 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~~
~~(d) 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.~~
~~(e) 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.~~
~~(f) This authorisation is subject to conditions or restrictions specified in the authorisation; and r.18G. Delegations to CEOs, limits on (Act s. 5.43).~~
~~(g) 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).~~

ES2 EXECUTION OF DOCUMENTS	
Compliance Links to be considered when exercising this Authorisation~~to consider when making decisions under this delegation~~.	
Shire of Toodyay Corporate Publications:	• Governance Framework and Risk Management Tables; • Shire of Toodyay Record Keeping Plan; • Execution of Documents Policy.

This document is not controlled once it has been printed.

ES2 EXECUTION OF DOCUMENTS	
Primary Legislation ***Local Government Act 1995***	• s.5.46. (Register of, and records relevant to, delegations to CEO and employees) • s. 9.49A~~(1)~~ (Execution of documents) (including subsections (1), (2), (3), (4), (5) and (7))~~document executed by person under an authority is permitted to do so by this authorisation~~; • s. 9.49 (Documents, how authenticated). • s.9.49B – Contract formalities.
Supporting legislative Regulations **Local Government (Functions and General) Regulations 1996**	• r.34. Common seal, unauthorised use of
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
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). • Regulation 18G of the *Local Government (Administration) Regulations 1996* applies to limits on delegations to the CEO.
Conditions	• That where Executive 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. • Execution of documents must be consistent with the applicable document category (Category 1–4); and risk, financial and legal considerations as defined in the Execution of Documents Policy.
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Not applicable.
Adoption Date:	19 April 2007
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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 for the purposes of infringement notices, as defined by the *Criminal Procedures Act 2004*; and
- defines both an ***enforcement agency*** and a ***public authority*** as meaning a local government.

The intent of this delegation is for Council, as an enforcement agency and public authority ~~and enforcement agency,~~ under the Public Health Act 2016, to delegate to the Chief Executive Officer (CEO)~~, as delegate of the local government / enforcement agency,~~ the exercise of ~~any local government (Council)~~those powers and~~or~~ those duties of the local government ~~e 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) and s.17. Appointment of Environmental Health Officers

This delegation is made pursuant to the express powers to delegate: s.21 (Enforcement Agency may delegate) and ~~s.24 (Designation of Authorised Officers of the *Public Health Act 2016 and*~~ *r.*15D(5) Infringement notices of the *Health (Asbestos) Regulations 1992.*.

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:

(a) exercise those powers ~~given to a local government~~ and perform the functions of local government and enforcement agency under the ~~in relation to the administration of the~~ *Public Health Act 2016* that are capable of delegation under section 21 of the Act including the functions of the local government and enforcement agency under sections 16 (Functions of local government); and 19 (Functions of enforcement agencies); of the Act.~~in accordance with s.16 (Functions of local government);~~

This document is not controlled once it has been printed.

(b) appoint one or more persons as Environmental Health Officers in accordance with section ~~s.~~17 (Appointment of environmental health officers) and ~~s.~~section 312 (Environmental Health Officers to be authorised officers for certain purposes) of the *Public Health Act 2016*;

~~(c) 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);~~

~~(d)~~(c) 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);

~~(e)~~(d) exercise those powers and perform those ~~authorise and direct to carry out within the district of the Shire of Toodyay all or any of the powers and~~ functions of the local government ~~in accordance with s.26 (Powers of local government)~~ under~~of~~ the *Health (Miscellaneous Provisions) Act 1911* that are capable of delegation, including under s.26 (Powers of local government) of that Act, and in accordance with applicable ~~*and the*~~ *regulations, local laws and orders made thereunder;* and

~~(f)~~(e) report to the Chief Health Officer pursuant to s.38. Local governments to report annually of the Health (Miscellaneous Provisions) Act 1911 regarding ~~concerning~~ the sanitary conditions of its district, ~~and all~~ works executed, and proceedings undertaken by the local government ~~pursuant to s.38. Local governments to report annually;~~ and

~~(g)~~(f) commence proceedings and exercise powers relating to criminal liability under Division 2 of the Public Health Act 2016 in accordance with section 280 of the Act~~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 delegate of the local government and~~/~~ enforcement agency, ~~,~~ will administer and perform 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.20 Conditions on performance of functions by enforcement agencies;

s.21 Enforcement agency may delegate;

s.22 Reports by and about enforcement agencies;

s.24 Designation of Authorised Officers;

s.25-s.32 - Provisions relating to authorised officers

~~Certain authorised officers required to have qualifications and experience;~~

~~s.26 Further provisions relating to designations;~~

~~s.27 Lists of authorised officers to be maintained;~~

This document is not controlled once it has been printed.

~~s.28 When designation as authorised officer ceases;~~

~~s.29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers;~~

~~s.30 Certificates of authority;~~

~~s.31 Issuing and production of certificate of authority for purposes of other written laws;~~

~~s.32 Certificate of authority to be returned;~~

s.136 Authorised officer to produce evidence of authority;

s.240 Powers of Authorised Officers;

s.260-s.264 Seizure and forfeiture provisions;~~Return of seized item;~~

~~s.262 Cost of destruction or disposal of forfeited items;~~

s.280 Commencing proceedings;

s.299 – Information sharing; and

s.312 Environmental Health Officers to be Authorised Officers for certain purposes.

~~s.263 Return of forfeited items;~~

~~s.264 Compensation; and~~

~~s.299 Information Sharing.~~

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 and PRS **1**

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and to the following:

(a) The powers and functions of the delegate (Chief Executive Officer) may be exercised in accordance with this instrument, but this does not prevent the local government from exercising or discharging any power or function itself;

~~(a) 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;~~

(b) The appointment of an Environmental Health Officer must be in accordance with s. 17(1) (Appointment of environmental health officers) and s.24(1) and (3) (Designation of Authorised Officers) and s.25(1) (Certain authorised officers required to have qualifications and experience) of the *Public Health Act 2016*;

(c) The delegate (CEO) ~~will issue~~is to issue to each person who is an authorised person a Certificate of Authority in accordance with s.30 (Certificates of authority) and s.31

This document is not controlled once it has been printed.

(Issuing and production of certificate of authority for purposes of other written laws) of the *Public Health Act 2016*;

(d) Reporting requirements under section 38 of the Health (Miscellaneous Provisions) Act 1911 must be complied with, including provision of reports to the Chief Health Officer in the prescribed form and within required timeframe~~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 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~~; and

(e) When making decisions, file notes, ~~writing~~ correspondence, including memorandums and all associated records must be created and retained in the appropriate file and/or register~~ensure these are recorded and kept in the appropriate file and/or register in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy~~.

ES3 *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* ----- Delegation to the CEO	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Public Health Plans; • Shire of Toodyay Health Local Law
Health (Asbestos) Regulations 1992:	• r.15D Infringement Notices.
Criminal Investigation Act 2006	• Parts 6 and 13 – refer s.245 of the Public Health Act 2016.
Health (Miscellaneous Provisions) Act 1911	• s.353 Power to take possession of and lease land or premises on which expenses are due.
***The Criminal Code*, Chapter XXVI**	refer s.252 of the *Public Health Act 2016.*
Public Health Act 2016	• s.16 (Functions of local government); • s.17. (Appointment of environmental health officers); • s.19. (Functions of enforcement agencies); • s.20 (Conditions on performance of functions by enforcement agencies); • s.21 (Enforcement agency may delegate); • s.22 (Reports by and about enforcement agencies); • s.24(1) and (3) (Designation of authorised officers); • s.25 (Certain authorised officers required to have qualifications and experience); • s.26 (Further provisions relating to designations); • s.27 (Lists of authorised officers to be maintained); • s.28 (When designation as authorised officer ceases); • s.29 (Chief Health Officer may issue guidelines about qualifications and experience of authorised officers);

This document is not controlled once it has been printed.

ES3 *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* ----- Delegation to the CEO	
	• s.30 (Certificates of authority); • s.31 (Issuing and production of certificate of authority for purposes of other written laws); • s.32 (Certificate of authority to be returned); • s.38. (Local governments to report annually); • s.136 (Authorised officer to produce evidence of authority); • s.213. (Contents of improvement notice); • s.215. (Compliance with improvement notice); • s.214. (Extension of period of compliance with improvement notice Under Public Health Act 2016); • s.216. (Issue of enforcement orders); • s.217. (Contents of enforcement order); • s.218. (Extension of period of compliance with enforcement order); • s.223. (Certificate of clearance to be given in certain circumstances); • s.224. (Request for assessment); • s.240 (Powers of Authorised Officers); • s.246. (Application for warrant to enter premises); and • s.247. (How application made); • s.251. (Execution of warrant); • s.260 (Return of seized item); • s.262 (Cost of destruction or disposal of forfeited items); • s.263 (Return of forfeited items); • s.264 (Compensation); • s.280 (Commencing proceedings); • s.299 (Information Sharing); • s.312. (Environmental health officers to be authorised officers for certain purposes).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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

This document is not controlled once it has been printed.

ES3 *Public Health Act 2016* and *Health (Miscellaneous Provisions) Act 1911* ----- Delegation to the CEO	
Adoption Date:	22 May 2018
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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, as an enforcement agency under the *Food Act 2008*, ~~defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*,~~ to delegate to the Chief Executive Officer (CEO) the exercise of any local government ~~(Council)~~ powers and the performance of functions conferred on the local government under that Act.

This delegation is made in accordance with ~~or the discharge of any Council functions pursuant to the express power to delegate:~~ s.118(2)(b) (Functions of enforcement agencies) which provides for the functions of enforcement agencies and the ability for those functions to be delegated in accordance with the Act.

Council also authorises the DEO to carry out the functions of ~~and duties as an~~ the **enforcement agency** and to exercise those functions directly; and through Authorised Officers appointed under ~~in respect to~~ s.122(1) (Appointment of authorised officers) of the *Food Act 2008*.

In performing these functions, the CEO is responsible for:

(a) ensuring that authorised officers are appointed in accordance with section 122 of the *Food Act 2008*; and

(b) ensuring that authorised officers are appropriately qualified, authorised and supervised in the exercise of their statutory functions.

For the avoidance of doubt:

(a) this delegation applies to all powers, duties and functions of the local government as an enforcement agency under the Food Act 2008;

(b) the CEO may exercise those functions as the delegate of Council; and

(c) functions may be carried out by the CEO or by authorised officers in accordance with section 120 of the Food Act 2008.

This delegation extends to all regulations and subsidiary legislation made under the *Food Act 2008* and applies where the local government is the enforcement agency for the purposes of that Act.

This Instrument operates alongside, but does not extend beyond, any applicable powers under the *Local Government Act 1995*, the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911* where those laws interact with or support the administration of 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 *Local Government Act 1995*, the *Public Health Act 2016*, or the *Health (Miscellaneous Provisions) Act 1911*.

This document is not controlled once it has been printed.

POWERS AND DUTIES

This delegation authorises the Chief Executive Officer (CEO), as delegate of the Council, to exercise the powers and perform the functions of the local government as an enforcement agency under the *Food Act 2008*. ~~CEO to~~:

1. Exercise of Enforcement Agency Powers

   The CEO may exercise all powers and perform all functions conferred or imposed on the local government as an enforcement agency under the Food Act 2008, including but not limited to:

   (a) administering and enforcing the provisions of the Act;

   (b) making decisions relating to the registration and regulation of food businesses;

   (c) issuing improvement notices and prohibition orders;

   (d) exercising powers of entry, inspection, investigation and seizure; and

   (e) initiating and conducting enforcement action, including prosecutions where authorised by law.

2. Performance of Functions

   In accordance with the *Food Act 2008*, the CEO may perform the functions of the enforcement agency:

   (a) directly; or

   (b) through authorised officers appointed under section 122 of the Food Act 2008.

3. Appointment of Authorised Officers

   The CEO is authorised to appoint authorised officers in accordance with section 122 of the *Food Act 2008*. The CEO must ensure that authorised officers:

   (a) are suitably qualified and competent to perform their functions; and

   (b) are properly authorised to exercise powers under the Act. ---

4. Exercise of Powers by Authorised Officers

   Authorised officers appointed by the CEO may exercise powers conferred on them under the Food Act 2008, including powers relating to:

   (a) entry, inspection and investigation;

   (b) issuing notices and taking enforcement action; and

   (c) monitoring compliance with the Act. ---

5. Enforcement and Prosecution

   The CEO is authorised to initiate, commence and conduct proceedings for offences under the Food Act 2008, and to undertake all actions necessary for enforcement, including the issuing of infringement notices where permitted under the Act.

6. Scope of Delegation

   The powers and duties delegated under this Instrument extend to:

This document is not controlled once it has been printed.

(a) all functions of the enforcement agency under the Food Act 2008; and

(b) all regulations and subsidiary legislation made under that Act.

~~(a) 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);~~

~~(b) 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);~~

~~(c) 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*;~~

~~(d) 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.**~~

1. General Functions

The Chief Executive Officer (CEO) is authorised to perform the functions of the local government as an enforcement agency under the *Food Act 2008*. The CEO may perform these functions:

(a) directly; or

(b) through authorised officers appointed under section 122 of the Food Act 2008; and

(c) through employees to whom powers or duties have been sub-delegated in accordance with this Instrument.

For the avoidance of doubt, the functions described in this section are those that may be exercised by the CEO and, where applicable, by authorised officers or sub-delegated officers acting under the CEO's authority.

2. Core Enforcement and Administration functions

Without limiting clause 1, the CEO is authorised to perform the following functions under the *Food Act 2008*:

(a) administration and regulation of food businesses, including:

- notification and registration of food businesses;
- monitoring compliance with registration requirements; and
- maintaining records and registers of food businesses;

(b) food safety and compliance functions, including:

This document is not controlled once it has been printed.

- ensuring compliance with the Food Standards Code;
- overseeing food safety programs and audit requirements; and
- managing risk to public health;

(c) compliance and enforcement functions, including:

- issuing improvement notices and prohibition orders;
- taking enforcement action for breaches of the Act;
- exercising powers of entry, inspection, and seizure; and
- investigating suspected offences;

(d) operational and regulatory control functions, including:

- assessing compliance of premises, equipment and practices;
- responding to complaints and public health risks; and
- coordinating regulatory responses to unsafe or unsuitable food;

(e) legal and evidentiary functions, including:

- initiating and conducting prosecutions;
- issuing infringement notices where authorised; and
- managing evidentiary and procedural requirements under the Act.

3. Functions of Authorised Officers

Authorised officers appointed under section 122 of the Food Act 2008 may perform functions conferred on them under the Act, including functions relating to:

(a) entry, inspection and investigation;

(b) collection of information, samples and evidence;

(c) issuing notices and directions; and

(d) monitoring and enforcing compliance with the Act.

4. Scope of Functions

The functions described in this Instrument:

(a) include all functions conferred on the enforcement agency under the Food Act 2008;

(b) extend to all regulations and subsidiary legislation made under that Act; and

(c) include functions that are incidental, ancillary or necessary to give effect to the proper administration and enforcement of the Act.

CONDITIONS

The above exercise of authority is subject to the compliance links contained in this instrument of delegation and to the following:

(a) the provisions of the *Food Act 2008* and *Food Regulations 2009;* and

(b) compliance with the applicable provisions of Part 5 (Powers of entry, inspection and seizure) of the *Food Act 2008;* and

(c) the compliance links contained within this Instrument.

The above authority is also subject to the following conditions and limitations:

1. Application of Other Delegation Instruments

   Where relevant, this delegation is to be read in conjunction with Delegation ES3.

2. Register of Food Businesses

   The CEO must ensure that a register of food businesses is maintained in accordance with section 115 of the *Food Act 2008.*

3. Statutory Compliance and Conditions

   Any person exercising powers under this Instrument must:

   (a) comply with the requirements of section 123(1) of the *Food Act 2008* in relation to certificates of authority; and

   (b) comply with any conditions or limitations imposed under section 119 (Conditions on performance of functions by enforcement agencies) and section 120 (Performance of functions by enforcement agencies and authorised officers) of the *Food Act 2008.*

4. Appointment and Management of Authorised Officers

   (a) The CEO is responsible for appointing authorised officers in accordance with section 122 of the *Food Act 2008.*

   (b) The CEO must ensure that each authorised officer:

      (i) is provided with a certificate of authority in accordance with section 123; and

      (ii) is recorded in an Authorised Officers Register maintained by the local government.

5. Certificates of Authority

   (a) Certificates of authority must comply with the requirements of section 123(2) of the *Food Act 2008.*

   (b) Authorised officers must produce their certificate of authority for inspection when required in accordance with section 123(3).

6. Compliance with Legislation and Policy

   Authorised officers and any person exercising delegated powers must perform their functions in accordance with:

   (a) the *Food Act 2008* and *Food Regulations 2009;*

   (b) relevant Department of Health guidelines and regulatory requirements applicable in Western Australia; and

   (c) the Shire's adopted local laws, policies, procedures and practices.

7. Infringement Notices

This document is not controlled once it has been printed.

Where infringement notices are issued under section 126 of the *Food Act 2008*, the CEO must ensure that:

(a) designated officers are properly authorised; and

(b) any limitations within section 126 regarding designated officers are complied with.

8. Record Keeping

(a) All decisions, inspections, enforcement actions and related documentation must be recorded in writing.

(b) Records must be created, maintained and retained in accordance with:

(i) the Shire of Toodyay Record Keeping Plan; and

(ii) the Shire of Toodyay Record Keeping Policy. ---

9. Limitation on Exercise of Powers

A person exercising a delegated power must:

(a) act within the scope of this Instrument;

(b) comply with all statutory limitations under the *Food Act 2008*; and

(c) not exercise a power where they are not authorised or where a conflict of interest exists.

~~• Part 5 — Powers of entry, inspection and seizure, Division 1 — Entry, inspection and seizure~~
~~The above authority is also subject to the exclusions / conditions set out below.~~
~~(a) Refer to Delegation ES3;~~
~~(b) A register of food businesses is to be maintained in accordance with s.115. Register of food businesses to be maintained~~
~~(c) To comply with s.123(1) (Certificates of Authority) of the *Food Act 2008* and with any condition or limitation imposed under s.119 (Conditions on performance of functions by enforcement agencies) or s.120 (Performance of functions by enforcement agencies and authorised officers) of the *Food Act 2008*;~~
~~(d) 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;~~
~~(e) 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;~~
~~(f) 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);~~
~~(g) 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; and~~
~~(h) 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*.~~

This document is not controlled once it has been printed.

~~(i) 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.~~

ES4 *Food Act 2008* ---- Delegation to the CEO-	
When exercising powers and functions under this Instrument of Delegation, the Chief Executive Officer, authorised officers and any sub-delegate must comply with, and have regard to, the following Compliance Links ~~to consider when making decisions under this delegation~~	
Department of Health Guidance~~elines:~~	• Department of Health Publications and Fact Sheets https://ww2.health.wa.gov.au/Articles/F_I/Food-Act-2008-WA-fact-sheets
Shire of Toodyay Corporate Publications:	• Shire of Toodyay Health local laws; and • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law
Food Act 2008	• Part 5 – Powers of entry, inspection, and seizure • Part 6 – Improvement notices and prohibition orders • Part 9 – Registration of food businesses • Part 10 – Administration (including functions of enforcement agencies) • s.119. (Conditions on performance of functions by enforcement agencies); • s.120. (Performance of functions by enforcement agencies and authorised officers); • s.122(1) (Appointment of Authorised Officers); • s.123 – Certificates of authority; • s.125 (Institution of proceedings); and s.126(13) (Infringement Notices) ~~s.38. Powers of authorised officers~~ ~~s.54 Cost of destruction or disposal of forfeited item;~~ ~~s.56 Compensation to be paid in certain circumstances;~~ ~~s.63. (Improvement notice may require certain action to be taken);~~ ~~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.118.(2)(b) (Functions of enforcement agencies and delegation);~~ ~~s.119. (Conditions on performance of functions by enforcement agencies);~~

This document is not controlled once it has been printed.

ES4 *Food Act 2008* ---- Delegation to the CEO-	
	~~s.120. (Performance of functions by enforcement agencies and authorised officers);~~ ~~s.122(1) (Appointment of Authorised Officers);~~ ~~s.125 (Institution of proceedings); and~~ • ~~s.126(13) (Infringement Notices).~~
Food Regulations 2009	Provisions relating to enforcement agency functions and administration, where applicable, including but not limited to: • r.43 Local Government may require security; • r.45 Withdrawal of inspection services; • r.51 Enforcement agency may make list of food.
Local Government Act 1995	• s.5.41 — CEO functions • s.5.42 — Delegation of some powers and duties to CEO • s.5.43 — Delegation of CEO powers and duties • s.5.46 — Register of delegations • s.5.44 — Limits on delegations
Criminal Procedure Act 2004 (in relation to prosecutions and infringement notices only)	• Applicable to prosecution and enforcement proceedings under the Food Act 2008

This document is not controlled once it has been printed.

ES4 *Food Act 2008* ---- Delegation to the CEO-	
~~*Food Act 2008*~~	~~• s.38. Powers of authorised officers~~ ~~• s.54 Cost of destruction or disposal of forfeited item;~~ ~~• s.56 Compensation to be paid in certain circumstances;~~ ~~• s.63. (Improvement notice may require certain action to be taken);~~ ~~• 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.118.(2)(b) (Functions of enforcement agencies and delegation);~~ ~~• s.119. (Conditions on performance of functions by enforcement agencies);~~ ~~• s.120. (Performance of functions by enforcement agencies and authorised officers);~~ ~~• s.122(1) (Appointment of Authorised Officers);~~ ~~• s.125 (Institution of proceedings); and~~ ~~• s.126(13) (Infringement Notices).~~
Shire of Toodyay Corporate Publications	• Shire of Toodyay Record Keeping Plan; • Shire of Toodyay Record Keeping Policy. • Shire of Toodyay Health Local Law; • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law • Any Council policies governing the exercise of discretion or regulatory functions • Authorised Persons Register; • Delegations Register (*Local Government Act 1995* compliance).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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

This document is not controlled once it has been printed.

ES4 *Food Act 2008* ---- Delegation to the CEO-	
Conditions	• Subject to s. 117(2) of the *Food Act 2008.* • Functions must be exercised in accordance with this Instrument of Delegation; • Authorised officers must be appointed in accordance with section 122 of the Food Act 2008 • Certificates of authority must be issued and maintained in accordance with section 123
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:	~~26 June 2025~~2/06/2026

This document is not controlled once it has been printed.

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 the~~a~~ ***public permit authority***, under the *Building Act 2011* to

(a) delegate to the Chief Executive Officer ~~EO~~ the exercise of any local government (Council) powers or the discharge of any ~~Council~~ duties conferred on the local government under ~~in respect to~~ the Building Act 2011, pursuant to the express power to delegate: S.127(1) Delegation: special permit authorities and local governments of the *Building Act 2011*. ~~*and in* accordance with s.96(3) (Authorised persons) of the Building Act 2011.~~

~~(a)~~(b) designate the Chief Executive Officer as ~~CEO to be~~ an authorised person for the purposes of the *Building Act 2011* in relation to buildings and incidental structures located, or proposed to be located, in the district of the local government pursuant to the power to designate: s.96(3) (Authorised persons) of the *Building Act 2011.*

~~(b)(a) delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the Building Act 2011, pursuant to the express power to delegate: S.127(1) Delegation: special permit authorities and local governments of the *Building Act 2011 and in* accordance with s.96(3) (Authorised persons) of the Building Act 2011.~~

(c) appoints the Chief Executive Officer as ~~to be~~ an Approved ~~uthorised~~ Officer for the purposes of the *Criminal Procedure Act 2004*, section 6(b) pursuant to the power to appoint: r.70.(2) (Approved officers and Authorised Officers) of the *Building Regulations 2012.*

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 (see compliance links) where the head of power is either the *Local Government Act 1995* or the *Building Act 2011.*

POWERS AND DUTIES

1. Delegation of Powers and Duties

This document is not controlled once it has been printed.

Pursuant to section s.127(1) (Delegation: special permit authorities and local governments) of the *Building Act 2011, the local government delegates to the* ~~This delegation appoints the~~ Chief Executive Officer (CEO) all powers or duties conferred or imposed on the local government as a public permit authority under the *Building Act 2011.*

The CEO may exercise those powers and perform those duties as if the CEO were the local government, subject to any limitations contained within this Instrument of Delegation, the Act, and any other written law.

2. Exercise of Delegated Authority

Without limiting clause 1, the CEO as an Approved Officer in accordance with r.70 of the *Building Regulations 2012* for the purposes of the *Criminal Procedure Act 2004* section 6(a), is authorised ~~authorising the CEO~~ to:

(a) exercise all statutory ~~ny~~ powers and perform all ~~or~~ duties of the permit authority in relation to building, demolition and occupancy approvals, compliance, enforcement and administration under the Building Act 2011 and Building Regulations 2012;

(b) make decisions, give approvals, issue notices, impose conditions, and take enforcement action as may be required under the *Building Act 2011;*

~~(a) 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*~~;

(c) exercise powers relating to compliance and enforcement, including but not limited to:

(i) issuing building orders;

(ii) issuing notices to stop unlawful work;

(iii) exercising investigation and entry powers; and

(iv) commencing and conducting prosecutions where authorised by law.

3. Sub-delegation

Pursuant to section 127(6A) of the *Building Act 2011*, the CEO may sub-delegate any power or duty delegated to the CEO under this Instrument to an employee of the local government, provided that:

(a) the sub-delegation is made in writing;
(b) the employee is suitably qualified and competent to exercise the relevant power or duty; and
(c) the sub-delegation is recorded in the local government's Delegations Register.

The CEO remains responsible for the proper exercise of any power or duty that has been sub-delegated.

4. Exercise Through Authorised Persons

The CEO may perform the powers and duties of the permit authority through Authorised Persons designated under section 96 of the *Building Act 2011.*

This document is not controlled once it has been printed.

Authorised Persons may exercise those powers conferred on them under the Act and any powers sub-delegated to them by the CEO, subject to the limitations of the Act and this Instrument.

5. Designation and Appointment

For the purposes of administration and enforcement of the *Building Act 2011*:

(a) the CEO is designated as an Authorised Person under section 96(3) of the *Building Act 2011*; and

(b) the CEO is appointed as an Approved Officer under regulation 70 of the *Building Regulations 2012* for the purposes of the *Criminal Procedure Act 2004.*

6. Prosecutions and Legal Proceedings

The CEO is authorised to initiate, commence, and conduct prosecutions for offences under the Building Act 2011 where the Act confers that power on the local government, and to undertake all actions necessary for enforcement proceedings.

7. Limitations

The powers and duties delegated to the CEO under this Instrument are subject to:

(a) any statutory limitations contained in the *Building Act 2011* and *Building Regulations 2012;*

(b) any express limitations contained in this Instrument of Delegation;

(c) any relevant Council policies that lawfully constrain the exercise of discretion; and

(d) the requirement that any sub-delegation complies with section 127(6A) of the *Building Act 2011.*

The CEO must not exercise powers under this Instrument where a conflict of interest exists, or where the matter is required by law or Council resolution to be determined by the Council.

~~(b) 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*; and~~

~~(c) exercise the powers that are conferred or imposed on the permit authority and perform the functions of the public authority in accordance with s. 133 Prosecutions, s.145A Local government functions and s.191 Notices to stop unlawful work of the *Building Act 2011.*~~

FUNCTION

1. General Functions

The Chief Executive Officer (CEO)~~,~~ is authorised to perform the functions of the local government as the permit authority under the *Building Act 2011.*

The CEO may perform these functions:

(a) directly; or

This document is not controlled once it has been printed.

(b) through Authorised Persons designated under section 96 of the Building Act 2011; and

(c) through employees to whom powers or duties have been sub-delegated in accordance with section 127(6A) of the Building Act 2011.

For the avoidance of doubt, the functions set out in this section are those that may be performed by the CEO and, where applicable, by Authorised Persons or sub-delegated officers acting under the CEO's authority.

2. Statutory Functions under the *Building Act 2011*

Without limiting the generality of clause 1, the CEO is authorised to perform the following functions under the *Building Act 2011*:

(a) Application assessment and information

s.18 Further Information;

s.22 Further grounds for not granting an application;

s.24 Notice of decision not to grant building or demolition permit;

s.55 Further information;

s.60 Notice of decision not to grant occupancy permit or to grant building approval certificate;

(b) Permits, certificates and approvals

s.19 Certificate of design compliance;

s.20 Grant of building permit;

s.21 Grant of 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.56 Certificate of construction compliance;

s.57 Certificate of building compliance;

s.58 Grant of occupancy permit, building approval certificate;

s.62(1) & (3) Conditions imposed by permit authority;

s.65 Extension of period of duration;

(c) Compliance, enforcement and investigation

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.

(d) Building orders and enforcement action

This document is not controlled once it has been printed.

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.191 Notices to stop unlawful work.

(e) Administration, records and legal proceedings

s.131 Inspection, copies of building records;

s.133 Prosecutions;

s.140 Proof of permits, certificates, building orders, declarations, obtained records, approved forms; and

(f) Discretionary and technical provisions

s.88(3) Finishes of walls close to boundaries;

3. Functions under the Building Regulations 2012

The CEO is authorised to perform functions conferred or imposed on the local government under the Building Regulations 2012, including but not limited to:

(a) Permit administration and time extensions

r.23 Application to extend time during which permit has effect;

r.24 Extension of time during which permit has effect;

(b) Approval and certification matters

r.26 Approval of new responsible person;

r.32 Statements to accompany application;

r.36 Certificate of building compliance (s. 57);

r.51 Approvals by permit authority;

(c) Inspections and compliance

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

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

r.53 Inspection of barrier to private swimming pool;

(d) Safety and regulatory requirements

r.35 Display of occupancy permit details;

~~r.53 Inspection of barrier to private swimming pool;~~

r.61 Local government approval of battery powered smoke alarms;

(e) Authorised persons and enforcement roles

r.70 Approved Person and Authorised Officers;

4. Relationship to Enforcement and Prosecution Functions

Where functions under this Instrument involve enforcement or prosecution, the CEO may exercise those functions in the CEO's capacity as an Approved Officer under the *Building Regulations 2012* for the purposes of the *Criminal Procedure Act 2004.*

5. Scope of Functions

The functions described in this Instrument:

(a) include any functions incidental, ancillary or necessary to give effect to the *Building Act 2011* and *Building Regulations 2012*; and

(b) extend to all amendments, subsidiary legislation and replacement instruments in force from time to time.

~~as an Approved Officer 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;~~

This document is not controlled once it has been printed.

~~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.131 Inspection, copies of building records;~~

~~s.133 Prosecutions;~~

~~s.140 Proof of permits, certificates, building orders, declarations, obtained records, approved forms; and~~

~~s.191 Notices to stop unlawful work.~~

~~***Building Regulations 2012***~~

~~r.23 Application to extend time during which permit has effect;~~

~~r.24 Extension of time during which permit has effect;~~

~~r.26 Approval of new responsible person;~~

~~r.32 Statements to accompany application;~~

~~r.35 Display of occupancy permit details;~~

~~r.36 Certificate of building compliance (s. 57);~~

~~r.51 Approvals by permit authority;~~

~~r.53 Inspection of barrier to private swimming pool;~~

~~r.61 Local government approval of battery powered smoke alarms;~~

~~r.70 Approved Person and Authorised Officers;~~

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

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

CONDITIONS

When exercising powers and functions under this Instrument of Delegation, the Chief Executive Officer, Authorised Persons and any sub-delegates must comply with, and have regard to, the ~~The above authority is subject to the~~ compliance links contained in this instrument of delegation and to the following:

(a) the applicable provisions of the Building Act 2011 and Building Regulations 2012 including:

~~(a)~~(i) Part 6 of the Building Regulations 2012 ~~—~~ (Circumstances in which building, demolition or occupancy permits not required) ~~(Building Regulations 2012);~~;

~~(b)~~(ii) Part 8 (Enforcement) Division 2 - Authorised Persons (Building Act 2011);

~~(c)~~(iii) Part 8 (Enforcement) Division 3 - Powers of Authorised Persons (Building Act 2011);

~~(d)~~(iv) Part 8 (Enforcement) Division 4 - Entry Warrants (Building Act 2011); and

This document is not controlled once it has been printed.

~~(e)~~(v) Part 8 (Enforcement) Division 5 – Building Orders (Building Act 2011); and

(b) compliance with all relevant written laws, regulations, and Council policies referenced within this Instrument.

The above authority is also subject to the following ~~exclusions /~~ conditions and limitations set out below.

1. Exercise of Delegated Authority

(a) A person exercising or performing a power or duty that has been delegated is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.

2. Statutory Limitations

(b) 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*;

(c) 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*;

3. Sub-delegation

The power to sub-delegate is limited to the Chief Executive Officer (CEO) in accordance with section 127(6A) of the Building Act 2011.

Any sub-delegation:

(a) must be in writing;

(b) must clearly identify the powers and duties being sub-delegated; and

(c) must be recorded in the Delegations Register.

4. Qualification and Competency

(d) 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.

(e) An Authorised Person or Officer exercising powers under this instrument must have the prescribed qualifications under the *Building Act 2011* or *Building Regulations 2012* to be delegated authority to exercise the functions of this delegation;

5. Authorised Persons and Identity Cards

(f) The CEO must ensure that all Authorised Persons are properly designated in accordance with section 96 of the Building Act 2011.

(g) identity cards must be issued to each Authorised person ~~designated by it as an Authorised Person pursuant to~~in accordance with section~~,~~ 97 Identity cards of the *Building Act 2011* and any applicable regulations,

(h) an identity card must be issued to each person designated as an Authorised Person under regulation 4B. Identity cards of the *Building Regulations 2012*.

6. Conflicts of Interest

An officer must not exercise a delegated power or duty in relation to any matter in which they have a direct or indirect financial or personal interest.

This document is not controlled once it has been printed.

Where a conflict exists, the matter must be referred to another authorised person.

7. Compliance with Statutory Obligations

An officer exercising powers under this Instrument must comply with all relevant provisions of the Building Act 2011, including section 131 (Inspection and copies of building records). ---

8. Discretion and Council Policy

Where a discretionary power is exercised (including under section 88(3) of the Building Act 2011), the decision must be made in accordance with any applicable Council policy. Matters outside the scope of policy or exceeding delegated authority must be referred to Council for determination. ---

(i) A register of all building permits, demolition permits, occupancy permits and building approval certificates granted by it, and all building orders made by it must be kept .

9. Registers and Records

(a) A register of all building permits, demolition permits, occupancy permits, building approval certificates and building orders must be maintained in accordance with the *Building Act 2011*.

(b) The register is to be in an approved manner and form accordance with s.128 (Register of Permits, building approval certificates, building orders) and s.129 (Inspection, copies of permits, building approval certificates in register) of the *Building Act 2011*

(c) All decisions must be:

(i) made in writing; and
(ii) recorded and retained

in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.

10. Administrative Controls

(a) The Appointment of Authorised Persons is to be recorded in the Authorised Officer Register and reported in the Executive Services Section of the Council Information Bulletin;

11. Limitations on Exercise of Power The CEO and any sub-delegate must not:

(a) exercise a power beyond the scope of this Instrument;
(b) sub-delegate powers except as permitted under section 127(6A);
(c) exercise a power that is required by law or resolution to be exercised by Council; or
(d) exercise a power in a manner inconsistent with the Building Act 2011 or Building Regulations 2012.

~~(a)~~

~~(b)~~(a) ~~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*;~~

This document is not controlled once it has been printed.

~~(c)~~(a) ~~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*;~~

~~(d)~~(a) ~~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;~~

~~(e)~~(a) ~~an identity card must be issued to each person designated as an Authorised Person under regulation 4B. Identity cards of the *Building Regulations 2012*.~~

~~(f)~~(a) ~~identity cards must be issued to each person designated by it as an Authorised Person pursuant to s.97 Identity cards of the *Building Act 2011*.~~

~~(g) 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;~~

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

~~(i)~~(k) 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 delegation or policy shall come to Council for a decision.

~~(j) A register of all building permits, demolition permits, occupancy permits and building approval certificates granted by it, and all building orders made by it must be kept in an approved manner and form accordance with s.128 (Register of Permits, building approval certificates, building orders) and s.129 (Inspection, copies of permits, building approval certificates in register) of the *Building Act 2011*.~~

~~(k) 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;~~

(l) ~~the Appointment of Authorised Persons is to be recorded in the Authorised Officer Register and reported in the Executive Services Section of the Council Information Bulletin~~

ES5 *Building Act 2011* – Delegation to the CEO	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications	• Shire of Toodyay Record Keeping Plan; • Shire of Toodyay Record Keeping Policy. • Shire of Toodyay Property Local Law; • Shire of Toodyay Health Local Law; • Authorised Persons Register; • Delegations Register (*Local Government Act 1995* compliance); • Any Council policy governing the exercise of discretionary powers under the Building Act 2011

This document is not controlled once it has been printed.

ES5 *Building Act 2011* – Delegation to the CEO	
Building Services (Registration) Act 2011	• reg. 374AAA (Local governments not to issue building licences in certain circumstances).
Building Regulations 2012	• r.5A (Authorised persons (s.3)); • r.23–24 – Extension of permit duration; • r.26 – Approval of responsible person; • r.27 (Required inspection and tests: Class 2 to Class 9 buildings (s. 36(2)(a)); • r.28 (Required inspection: barrier to private swimming pool (s. 36(2)(a)); • r.29 – Inspection certificates; • r.32 – Statements accompanying applications; • r.35 – Display of occupancy permits; • r.36 (Certificate of building compliance (s. 57); • r.51. (Approvals by permit authority); • r.53 (Inspection of barrier to private swimming pool); • r.61–62 – Smoke alarm requirements; • r.70 (Approved officers and Authorised Officers); • ~~r.27 (Required inspection and tests: Class 2 to Class 9~~

This document is not controlled once it has been printed.

ES5 *Building Act 2011* – Delegation to the CEO	
Building Act 2011	• s.6 Permit (Authority for a building or incidental structure); • s.18-24 Application Assessment and decisions ~~Further Information;~~ • ~~s.19 Certificate of design compliance;~~ • ~~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.50A Pool barrier requirements • s.55-60 Certificates and approvals ~~Further information;~~ • ~~s.56 Certificate of construction compliance;~~ • ~~s.57 Certificate of building compliance;~~ • ~~s.59. (Time for granting occupancy permit or 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.96 (Authorised persons); • s.99 (Limitation on powers of authorised person); • s.100 (Entry Powers); • s.101 (Powers after entry for compliance purposes); • s.102 (Obtaining information and documents); • s.103 (Use of force and assistance); • s.104 (Directions generally); • s.106 (Entry warrant to enter place); and • s.107 (Issue of Warrant); and • s.111(1) Notice of proposed building order other than a building order (emergency);

This document is not controlled once it has been printed.

ES5 *Building Act 2011* – Delegation to the CEO	
Building Act 2011	• s.118 Permit authority may give effect to building order if non-compliance; • ~~s.96 (Authorised persons);~~ • s.127 (Delegation: special permit authorities and local governments; • s.133 (Prosecutions); • s.140 (Proof of permits, certificates, building orders, declarations, obtained records, approved forms); • 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.101 (Powers after entry for compliance purposes);~~ • ~~s.102 (Obtaining information and documents);~~ • ~~s.103 (Use of force and assistance);~~ • ~~s.104 (Directions generally);~~ • ~~s.106 (Entry warrant to enter place); and~~ • ~~s.107 (Issue of Warrant); and~~ • s.131 – Inspection and copies of building records • ~~s.133 (Prosecutions).~~ • ~~s.133 Prosecutions;~~ • s.374AAA. Local governments not to issue building licences in certain circumstances
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; • Environmental Health Officer.
Conditions	• As per the Instrument of Delegation and the Prescribed Act and subsidiary legislation of the Prescribed Act. • Any sub-delegation must comply with section 127(6A) of the Building Act 2011 • Officers must act within the scope of this Instrument and any sub-delegation • Officers must comply with all conditions set out in this Instrument

This document is not controlled once it has been printed.

ES5 *Building Act 2011* – Delegation to the CEO	
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:	~~26 June 2025~~2/06/2026

This document is not controlled once it has been printed.

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 the local government (Council), defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*, and an enforcement agency under the *Cat Act 2011* to delegate to the Chief Executive Officer (CEO) the exercise of the~~any~~ local government's ~~(Council)~~ powers and~~or~~ the discharge of ~~any Council~~its duties and functions under the ~~as an enforcement agency in respect to the~~ *Cat Act 2011* and associated subsidiary legislation.

This delegation is made:

- pursuant to **section 5.42 of the Local Government Act 1995**; and
- pursuant to the express power to delegate: s.44 (Delegation by local government) of the Cat Act 2011.

~~** Absolute majority required.*~~

This delegation extends to:

- the administration of the *Cat Act 2011*;
- any regulations made under the Act (including those operating as local laws); and
- the Shire's Cat Local Law where the head of power derives from the *Cat Act 2011* or the *Local Government Act 1995*.

The local government's role in administering the Act is recognised under **section 42 (Administration by local governments) of the Cat Act 2011**.

Note: This is a legislative delegation from Council and requires an **absolute majority**.

~~The intent with respect to the above is that the authority will extend to any subsidiary legislation of the *Cat Act 2011*, and the Shire's Cat local law where the head of power is the *Local Government Act 1995 or the Cat Act 2011*, in accordance with *s.42 Administration by local governments and s.77 Regulations that operate as local laws of the Cat Act 2011.*~~

POWERS AND DUTIES

This delegation authorises the CEO to exercise, on behalf of the local government, all powers, duties and functions under the *Cat Act 2011*, including but not limited to the following:

Part 2 – Registration, Identification and Sterilisation of Cats

s.9 Registration (i.e. authority to grant, or refuse to grant or renew the registration of a cat);

s.10 Cancellation of registration;

This document is not controlled once it has been printed.

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;

Part 3 – Management of Cats

s.26 Cat control notice may be given to cat owner;

Part 4 – Administration and Enforcement

s.37 Approval to breed cats (i.e. refuse to approve or renew the approval of a person 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); and

Fees and Charges

Determine, reduce or waive fees where permitted under the Act or regulations, including fees prescribed under Schedule 3 of the *Cat Regulations 2012*.

General Powers

(a) Do all things necessary or convenient for the proper administration of the Cat Act 2011 and associated legislation; and

~~(a)~~(b) ~~administer~~ Administer and enforce the Shire's Cat Local Law 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*;

~~(b) 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 (i.e. authority to grant, or refuse to grant or renew the registration of a cat);~~

~~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 (i.e. refuse to approve or renew the approval of a person 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); and~~

s.49 Authorised person may cause cat to be destroyed.

This document is not controlled once it has been printed.

FUNCTION

The CEO, acting under this delegation, ~~as Council's Deputy,~~ is responsible for ~~will~~ administering 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~~of the local government under the *Cat Act 2011*.

In performing these functions, the CEO may:

- make decisions relating to approvals, registrations, and compliance matters;
- issue notices, approvals, certificates and directions;
- take administrative action necessary to give effect to the Act and local law;
- ensure proper record keeping and compliance with statutory obligations.

APPOINTMENT OF AUTHORISED PERSONS (NOT A SUB-DELEGATION)

The CEO may appoint authorised persons in accordance with section 45 of the *Cat Act 2011.*

Authorised persons exercise their own statutory powers under the Act, including but not limited to:

- s.27 – Seizure of cats
- s.28 – Disposal of seized cats
- powers under Division 3 – Authorised Persons

Note: The exercise of these powers is not a delegation from the CEO but arises from the statutory appointment under section 45.

SUB-DELEGATION

The CEO may delegate any of the powers or duties conferred under this instrument to another employee of the local government in accordance with section 5.44 of the *Local Government Act 1995*

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

~~1. 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).~~

~~2. seize cats under s. 27 (Cats may be seized).~~

~~3. dispose of cats under s.28 (Disposing of seized cats).~~

~~4. 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.~~

~~Notes:~~

This document is not controlled once it has been printed.

- ~~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.*~~
- ~~*Authorised persons have the the authority to undertake functions in accordance with Division 3 – Authorised Persons and Subdivision 2 – particular powers of Authorised Persons*~~

CONDITIONS

The above exercise of authority is subject to the compliance links contained in this instrument of delegation and to the following:

1. Statutory Compliance

The CEO must comply with:

(a) *the Cat Act 2011;*

(b) *Cat Regulations 2012;*

(c) *Cat (Uniform Local Provisions) Regulations 2013;*

(d) *Local Government Act 1995; and*

(e) all applicable local laws, policies and procedures

2. Decision Making and Documentation

All approvals, refusals, notices and decisions must be made in writing; and recorded in accordance with the Shire's Record Keeping Plan and Policy

3. Objections and Review

Any objection to a decision made under this delegation must be dealt with by the local government in accordance with section 70(1) of the Cat Act 2011

4. Breeder Approvals

Any approval to breed cats must be issued in the prescribed form; and in accordance with section 39.

5. Authorised Persons

Authorised persons must act in accordance with Division 3 – Authorised Persons of the Act and any applicable policies, procedures and lawful directions

6. Limitations

This delegation:

(a) does not permit the CEO to further delegate powers except in accordance with **section 5.44 of the Local Government Act 1995**;

(b) does not override statutory requirements or limit the functions of authorised persons;

(c) must be exercised consistently with natural justice and procedural fairness principles.

7. Legislative References

- **Local Government Act 1995**

This document is not controlled once it has been printed.

- s.5.42 – Delegation of local government powers and duties
- s.5.44 – Delegation of CEO powers

~~(a) Part 2 – Registration, identification and sterilisation of cats.~~

~~(b) Part 3 – Management of Cats~~

~~(c) Part 4 – Administration and Enforcement~~

~~(d) Division 4 – Infringement Notices~~

~~The above authority is also subject to the exclusions / conditions set out below.~~

~~(a) 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*;~~

~~(b) 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);~~

~~(c) 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;~~

~~(d) 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; and~~

~~(e) Authorised persons must abide by Division 3 – Authorised Persons.~~

ES6	***Cat Act 2011*** *– Delegation to the CEO*
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications	• *Cat Local Law **2026*** • *Record Keeping Plan* • *Record Keeping Policy~~Cat Local Law 2018~~*

This document is not controlled once it has been printed.

ES6 *Cat Act 2011 – Delegation to the CEO*	
Cat Act 2011	**Governance / Delegation Framework** • 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.70 – Dealing with objections **Registration and Identification** • s.9 – Registration of cats • 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); **Management of Cats** s.26 – Cat control notice **Breeder Approvals** • 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). **Authorised Person Powers (NOT delegated – exercised via s.45 appointment)** ☑ important distinction • s.27 (Cats may be seized); • s.28 – Disposing of seized cats • 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); **Enforcement** • s.62 (Giving an infringement notice); • s.73 (Prosecutions); **Local Laws** • s.79 (Local Laws)
Cat Regulations 2012~~***Cat Act 2011***~~	• r.4 – Standard number of cats • r.11, r.21 – Fees • r.22. Other circumstances leading to refusal of approval to breed cats (s. 37(2)(f))~~s.13 (Notice to be given of certain decisions);~~
Cat (Uniform Local Provisions) Regulations 2013	• r.8 – Applications for approvals *(important for Part 2 of your local law)*

This document is not controlled once it has been printed.

ES6 *Cat Act 2011 – Delegation to the CEO*	
Local Government Act 1995~~Cat Regulations 2012~~	• s.5.42 – Delegation of local government powers and duties; • s.5.44 – Delegation of CEO powers.~~r.22. Other circumstances leading to refusal of approval to breed cats (s. 37(2)(f))~~
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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.5.44 of the *Local Government Act 1995*.~~s.45(1) and subject to ss. 45(3) and (6) of the *Cat Act 2011*.~~	• Rangers; • Registration Officers.
Authorised Persons (NOT sub-delegation – separate statutory appointment) Appointment made by the CEO under s.45(1) and subject to ss. 45(3) and (6) of the *Cat Act 2011*.	• Rangers; • Compliance Officers.
Conditions	• Not applicable. (conditions are contained within the delegation instrument itself)
Appointment of Authorised Officers / Authorised Persons ☒ *suitable for Acting Through*	• Refer to the Statement of Intent; • ~~Suitable for Acting~~ Suitable for acting through authorised persons appointed under **s.45 of the Cat Act 2011**, in accordance with ~~through in accordance with s.~~ s.46(2) (Other matters relevant to delegations
Adoption Date:	15 March 2007
Last Review Date:	~~26 June 2025~~2 June 2026

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 the local government ~~Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*,~~ to delegate to the Chief Executive Officer (CEO), ~~CEO~~pursuant to the express power to delegate: s.10AA (Delegation of local government powers and duties) of the *Dog Act 1976*, the exercise of ~~any local government (Council)~~ the powers and the performance of the ~~or the discharge of any Council~~ duties of the local government under the ~~as an enforcement agency in respect to the provisions of the~~ *Dog Act 1976*, *as specified in this delegation*~~*pursuant to the express power to delegate: 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*~~

This delegation is made recognising that the CEO acts as the principal executive officer of the local government and is responsible for ensuring the effective administration and enforcement of the *Dog Act 1976*, associated regulations and the Shire's Dogs Local Law.

The authority conferred by this delegation extends to the exercise of powers and duties under:

- the *Dog Act 1976*;
- subsidiary legislation made under the *Dog Act 1976*; and
- the Shire's Dogs Local Law, where the head of power is the *Dog Act 1976* or the *Local Government Act 1995*.

This delegation includes authority for the CEO to further delegate those powers and duties in accordance with section 10AA(3) of the *Dog Act 1976*.

~~The intent with respect to the above is that the authority will extend to any subsidiary legislation of the *Dog Act 1976*, and the Shire's Dog Local Law where the head of power is the *Local Government Act 1995 and* the *Dog Act 1976*.~~

Note: the CEO has statutory responsibilities to appoint Authorised persons under ~~in accordance with~~ s.11A of the *Dog Act 1976*.

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

POWERS AND DUTIES

This delegation authorises the ~~-~~ CEO to exercise the following powers and perform the following duties of the local government under the *Dog Act 1976*:

Administration and enforcement

- exercise and perform the functions of the local government for the administration and enforcement of the *Dog Act 1976* and the Shire's Dogs Local Law;

This document is not controlled once it has been printed.

- coordinate the provision of staff and services under section 11 of the *Dog Act 1976*.

Dog management facilities

- exercise the powers of the local government in relation to the establishment, operation and management of dog management facilities.

Limitation as to numbers

- determine applications under section 26(3) of the *Dog Act 1976* to permit the keeping of more than the prescribed number of dogs;
- determine applications under the Dogs Local Law relating to the keeping of additional dogs.

Dangerous dogs

- exercise the powers of the local government under Part 5 of the *Dog Act 1976*, including:
  - section 33E — to declare a dog to be a dangerous dog;
  - section 33F — to give notice of a declaration;
  - section 33H — to revoke a declaration or proposal to destroy a dog;
  - section 33M — to recover local government expenses.

General powers

- perform all functions of the local government under the *Dog Act 1976* that are necessary for the effective administration of the Act, to the extent specified in this delegation.

~~:~~

- ~~administer the Shire's Dog local law 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*; and~~
- ~~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.~~
- ~~Give written notice declaring a dog to be a dangerous dog to the owner of that dog pursuant to s.33F. Owner to be notified of making of declaration of the *Dog Act 1976*.~~

~~Note: *Authorised persons have the power undertake functions pursuant to Part IV – Control of Dogs.*~~

FUNCTION

This document is not controlled once it has been printed.

The CEO is authorised to perform ~~, as Council's Deputy, will administer~~ the functions of the local government under the *Dog Act 1976*, subsidiary legislation and the Shire's dogs Local Law, subject to the conditions of this delegation.

For the avoidance of doubt:

- Authorised persons appointed under section 11A of the *Dog Act 1976* are responsible for exercising operational enforcement powers;
- The CEO may act through officers or agents in accordance with section 10AA(5).

This delegation authorises the CEO to further delegate powers and duties under this instrument to another person, in accordance with section 10AA(3) of the *Dog Act 1976*.

that are conferred or imposed on the public authority and enforcement agency within the *Dog Act 1976* and any subsidiary legislation.

~~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.29 Power to seize dogs;~~

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

~~s.33G Seizure and destruction;~~

~~s.33H Local government may revoke declaration or proposal to destroy~~

~~s.38 Nuisance dogs; and~~

~~s.39 Dogs causing injury or damage may be destroyed.~~

~~This delegation authorises the CEO to further delegate the power or duties delegated by Council to the CEO; to another person pursuant to the express power to delegate: s.10AA(3) Delegation may expressly authorise the delegate to further delegate the power or duty of the *Dog Act 1976*.~~

CONDITIONS

The exercise of this delegation ~~above authority~~ is subject to the compliance links contained in this instrument of delegation and ~~to Part 3 – Registration and identification and to the exclusions / conditions set out below~~the following:~~.~~

Legislative compliance

(a) Section 10AA.(5) of the *Dog Act 1976* – the ~~Nothing in this section limits the ability of a local government's~~ chief executive officer may ~~to~~ perform ~~a~~ functions through an officer or agent.

(b) Section 11(3) (Staff and Services) of the *Dog Act 1976* - authorised persons must be issued with and produce identification when exercising powers.

(c) Section 10AB (Register of, and review of, delegations) of the *Dog Act 1976* – a register of delegations must be maintained and reviewed annually.

This document is not controlled once it has been printed.

Operational controls

~~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*;~~

(d) Registration officers must be authorised to process the registration of dogs in accordance with the Act~~are to be authorised to effect the registration of dogs~~.

(e) Decisions relating to the keeping of more than two dogs must be recorded in writing; and retained in accordance with the Shire's Record Keeping Plan and Record Keeping Policy.

(f) A person exercising powers under section 33H must only revoke a declaration where satisfied that the dog can be kept without likelihood of contravention of the Act.

(g) Prior to considering revocation of a dangerous dog declaration, the CEO may require evidence of behavioural improvement, including training or assessment.

(h) Charges imposed under section 33M must be reasonable and within prescribed limits, having regard to costs incurred by the Shire.

Enforcement powers clarification

(i) Operational enforcement powers under the *Dog Act 1976*, including but not limited to the following sections, are exercised by authorised persons appointed under section 11A:

(j) section 12A — entry of premises

(k) section 29 — power to seize dogs

(l) section 33E — declaration of dangerous dog

(m) section 33G — seizure and destruction

(n) section 33H — revocation powers

(o) section 38 — nuisance dogs

section 39 — destruction for injury or damage

~~(b) 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*;~~

~~(c) 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*;~~

~~(d) 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;~~

~~(e) A person authorised to revoke a declaration of a dangerous dog or revoke notice proposing to cause a dog to be destroyed, should only do so where satisfied that the dog can be kept without likelihood of any contravention of this Act [s.33H(1)];~~

This document is not controlled once it has been printed.

~~(f) The CEO, before dealing with an application to revoke a declaration or notice under s.33H(5), is to require the owner of the dog to attend with the dog a course in behaviour and training or otherwise demonstrate a change in the behaviour of the dog; and~~

~~(g) The CEO is to determine the reasonable charge to be paid by an owner at the time of payment of the registration fee under s.15, up to the maximum amount prescribed, having regard to expenses incurred by the Shire in making inquiries, investigations and inspections concerning the behaviour of a dog declared to be dangerous pursuant to s.33M Local Government expenses to be recoverable.~~

~~(h)~~(p) ~~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.~~

ES~~S~~7 ***Dog Act 1976*** – *Delegation to the CEO*	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay Dog Local Law • Dogs Policy; • Financial Hardship Policy (where applicable to fees and charges)~~.~~.
Dog Act 1976	• s.9 — Administrative responsibility; • 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.33G. Seizure and destruction • s.33H (Local government may revoke declaration or proposal to destroy); • s.33M — Local government expenses recoverable • s.39 (Dogs causing injury or damage may be destroyed); • s.44 (Enforcement proceedings); • s.49 (Local Laws).~~; and~~ • ~~s.61 (Authorised Persons).~~

This document is not controlled once it has been printed.

ES~~S~~7 ***Dog Act 1976*** – *Delegation to the CEO*	
Dog Regulations 1976.	• r.4 (Dangerous dog (restricted breed) breeds); • r.14. (Certificates of authorisation) • r.15 (Warrants) • r.16 (Information to be recorded in register of dogs).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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 subject to s. 10AA (3) of the *Dog Act 1976.*	• Not applicable.
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:	~~26 June 2025~~2 June 2026

This document is not controlled once it has been printed.

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 the local government ~~Council, defined as a ***prescribed public authority*** under the *Criminal Procedure Act 2004*,~~ to delegate to the Chief Executive Officer (CEO) pursuant to the express power to delegate: **s.48 Delegation by local governments (the performance of any of its functions under this Act.) of the *Bush Fires Act 1954*,** ~~-~~the exercise of the~~any~~ ~~local government (Council)~~ powers and performance of ~~or~~ the ~~discharge of any Council~~ duties ~~pursuant to the express power to delegate: **s.48 Delegation by local governments (the performance of any of its functions under this Act.) of the *Bush Fires Act 1954*.**~~of the local government under that Act, as specified in this delegation.

This delegation recognises that the CEO is responsible for the effective administration and enforcement of the *Bush Fires Act 1954*, the *Bush Fires Regulations 1954*, the *Bush Fires (Infringements) Regulations 1978*, and any relevant local law.

The authority conferred by this delegation extends to:

- the *Bush Fires Act 1954*;
- subsidiary legislation made under that Act; and
- the Shire's Bush Fire Local Law, where the head of power derives from the *Bush Fires Act 1954*.

This delegation does not extend to powers that are conferred by the Act on bush fire control officers, bush fire brigade officers, or other persons appointed under the Act.

** Simple majority.*

~~The intent with respect to the above is that the authority will extend to any subsidiary legislation in accordance with sections of the *Bush Fires Act* and the Shire's *Bush Fire* Local Law where the head of power is the *Bush Fires Act 1954 pursuant to s.41 Bush Fire Brigades of the Bush Fires Act 1954.*~~

POWERS AND DUTIES

This delegation authorises the CEO to exercise the following powers and perform the following duties of the local government under the *Bush Fires Act 1954*:

~~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 and the sections* of the *Bush Fires Act 1954 named below*:~~

1. Administration and governance

This document is not controlled once it has been printed.

(a) exercise and perform the functions of the local government for the administration of the *Bush Fires Act 1954* and associated regulations;

(b) coordinate staff and resources for the prevention and management of bush fires;

2. Firebreaks and hazard reduction

(a) exercise the powers of the local government under section 33 to:

(i) give written notice requiring the establishment of firebreaks;

(ii) require works to reduce fire hazards;

(iii) determine compliance with such notices;

(iv) arrange for works to be carried out in default;

(v) recover costs and expenses incurred by the local government;

3. Burning restrictions and controls

(a) exercise the powers of the local government under sections 17, 18 and 24G to:

(i) vary restricted or prohibited burning times (where permitted under the Act);

(ii) impose or implement restrictions on burning;

(b) exercise the powers of the local government under section 25 to:

(i) grant approval for fires for cooking, camping or other permitted activities;

(ii) prohibit or restrict such fires where required;

4. Machinery and fire risk controls

(a) exercise the powers of the local government under section 27 to:

(i) prohibit or regulate the use of machinery during restricted or prohibited burning times;

(ii) issue permissions subject to conditions;

5. Enforcement and compliance

(a) institute and carry on proceedings for offences under section 59;

(b) issue infringement notices under section 59A;

(c) recover costs and expenses incurred by the local government under sections 28 and 33;

6. Organisational responsibilities

(a) exercise the powers of the local government under section 38 to appoint bush fire control officers (subject to statutory requirements);

(b) exercise the powers of the local government under section 41 to establish and maintain bush fire brigades;

(c) ensure compliance with section 50 regarding record keeping;

This document is not controlled once it has been printed.

- ~~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; and~~
- ~~s.59(A) (Alternative procedure – infringement notices) Part V Miscellaneous of the *Bush Fires Act 1954*~~

FUNCTION

The Chief Executive Officer is ~~delegation~~ authorised~~s~~ to perform the functions of the local government ~~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, subject to the conditions of this delegation. ~~including:~~

This includes:

- the administration and enforcement of statutory requirements relating to bush fire prevention;
- issuing notices, approvals and restrictions within the powers of the local government;
- managing compliance, enforcement and cost recovery processes;
- initiating and managing prosecutions and infringement processes;
- ensuring that statutory powers are exercised consistently, lawfully and in accordance with Council policy.

For the avoidance of doubt:

- this delegation does not include powers conferred by the Act on bush fire control officers or bush fire brigade officers;
- the CEO may act through officers or agents for the purpose of performing functions under this Act;
- sub-delegation of this authority is not permitted in accordance with section 48(3) of the *Bush Fires Act 1954*.

~~(a) authority to institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59];~~

~~(b) authority to serve an infringement notice for an offence against this Act [s.59A(2)];~~

~~(c) authority to give written notice to an owner or occupier of land or all owners or occupiers of land within the District, requiring:~~

~~(i) clearing of firebreaks as determined necessary and specified in the notice; and~~

~~(ii) act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and~~

This document is not controlled once it has been printed.

~~(iii) as a separate or coordinated action with any other person carry out similar actions (s.33(1)); and~~

~~(iv) determine that these matters have been acted upon to the satisfaction of the Shire.~~

~~(d) authority to direct a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with (refer to s.33(4)).~~

~~(e) authority to recover any costs and expenses incurred in doing the acts, matters or things required to carry out the requisitions of the notice (refer to s.33(5)).authority to arrange with the occupier of exempt land, the occupier of land adjoining it and the Bush Fire Brigade to cooperate in burning firebreaks and require the occupier of adjoining land to provide by the date of the burning, ploughed or cleared fire breaks parallel to the common boundary (refer to s.22(6) and (7)).~~

~~(f) authority to declare that the use of any harvesting machinery on any land under crop during the whole or any part of any Sunday or public holiday in the whole or a specified part of the District during Restricted Burning Times and Prohibited Burning Times is prohibited unless written consent of a Bush Fire Control Officer is obtained (refer to r.38C).~~

~~(g) authority to determine permits to burn during restricted or prohibited burning times that have previously been refused by a Bush Fire Control Officer (r.15).~~

~~(h) authority to determine to prohibit burning on Sundays or specified days that are public holidays in the District (refer to r.15C).~~

~~(i) authority to determine, during a Restricted Burning Time or a Prohibited Burning Time, if a firebreak around a landing ground for an aeroplane has been satisfactorily prepared (refer to r.39B(2)).~~

~~(j) authority to issue directions, during a Restricted Burning Time or Prohibited Burning Time, to a Bush Fire Control Officer, regarding matters necessary for the prevention of fire on land used as a landing ground for an aeroplane (refer to r.39B(3)).~~

~~(k) authority to prohibit the use of tractors, engines or self-propelled harvester, during Restricted Burning Times or Prohibited Burning Times, and to give permission for use of same during the Restricted Burning Time subject to compliance with requirements specified in a notice (refer to s.27(2) and (3)).~~

~~(l) authority to recover the cost of measures taken by the Shire or Bush Fire Control Officer, to extinguish a fire burning during either Prohibited Burning Times or Restricted Burning Times, where the occupier of the land has failed to comply with requirements under s.28(1) to take all possible measures to extinguish a fire the land they occupy (refer to s.28(4)), including authority to recover expenses in any court of competent jurisdiction (refer to s.28(5)).~~

~~(m) Authority, where a permitted burn fire escapes or is out of control in the opinion of the Bush Fire Control Officer or an officer of the Bush Fire Brigade, to determine to recoup bush fire brigade expenses arising from preventing extension of or extinguishing an out of control permitted burn (refer to s.18(11)).~~

This document is not controlled once it has been printed.

~~(n) authority, where seasonal conditions warrant it and after consultation with an authorised CALM Act officer, to determine to vary the restricted burning times in respect of that year (refer to s.18(5)).~~

~~(o) Authority to give directions to a Bush Fire Control Officer regarding matters necessary for the prevention of fire arising from:~~

~~(i) a person operating a bee smoker device during a prescribed period (refer to r.39CA(5));~~

~~(ii) a person operating welding apparatus, a power operated abrasive cutting disc (refer to r.39C(3));~~

~~(iii) a person using explosives (refer to r.39D(2)); and~~

~~(iv) a person using fireworks (refer to r.39E(3)).~~

~~(p) authority to determine directions or requirements for the carriage and deposit of incendiary materials (hot or burning ash, cinders, hot furnace refuse, or any combustible matter that is burning) (refer to s.27D). Note: this authority is also prescribed to a Bush Fire Control Officer, a Bush Fire Liaison Officer or an authorised CALM Act officer;~~

~~(q) authority to give written permission, during prohibited times and restricted times, for an incinerator located within 2m of a building or fence, only where satisfied it is not likely to create a fire hazard (refer to s.24F(2)(b)(ii) and (4));~~

~~(r) authority to prohibit or impose restrictions on the burning of garden refuse that is otherwise permitted under ss.24F and 24G(2):~~

~~(i) authority to issue directions to an authorised officer as to the manner in which or the conditions under which permits to burn plants or plant refuse shall be issued in the District (refer to r.27(3) and r.33(5)).~~

~~(ii) authority to prohibit (object to) the issuing of a permit for the burning of a proclaimed plant growing upon any land within the District (refer to r.34).~~

~~(s) authority to provide written approval, during prohibited times and restricted times, for fires to be lit for the purposes of:~~

~~(i) camping or cooking (refer to s.25(1)(a)).~~

~~(ii) conversion of bush into charcoal or for the production of lime, in consultation with an authorised CALM Act officer (refer to s.25(1)(b)).~~

~~(t) authority to prohibit the lighting of fires in the open are for the purposes of camping or cooking for such period during the prohibited burning times as specified in a note published in the Gazette and newspaper circulating in the District and authority to vary such notice (refer to s.25(1a) and (1b)).~~

~~(u) authority to serve written notice on a person to whom an exemption has been given under s.25 for lighting a fire in open air, prohibiting that person from lighting a fire and to determine conditions on the notice (s.25A(5)).~~

~~(v) 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:~~

~~(i) 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,~~

This document is not controlled once it has been printed.

~~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~~

~~(ii) 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

The exercise of the above authority is subject to the compliance links contained in this instrument of delegation and to the following:

1. Legislative compliance

(a) section 48(3) of the *Bush Fires Act 1954* — this delegation does not permit sub-delegation;

(b) section 38(2A)&(2E) — appointments of bush fire control officers must comply with statutory requirements, including public notice and certification;

(c) section 41 — the local government must maintain a register of bush fire brigades;

(d) section 50 — records must be maintained in accordance with the Act;

2. Operational controls

(a) Any decisions made under this delegation must be:

(i) recorded in writing; and

(ii) retained in accordance with the Shire's Record Keeping Plan and Record Keeping Policy;

(b) Relevant statutory forms must be completed and retained in the appropriate records system;

(c) All appointments of bush fire control officers or other persons under the Act must be formally documented; and recorded in the relevant register;

(d) Certificates of appointment or authority must be properly executed and retained on file;

(e) enforcement actions, including issue of infringement notices and prosecutions, must comply with relevant legislation and procedures;

(f) firebreak notices and related actions must be supported by appropriate documentation and evidence;

(g) cost recovery actions must be reasonable, documented and supported by statutory authority;

3. Governance and coordination

This document is not controlled once it has been printed.

(a) this delegation must be read in conjunction with Delegation ES1 and relevant Council policies, local laws and operational procedures;

(b) the CEO must ensure appropriate separation between:

(i) delegated administrative functions; and

(ii) operational fire control functions exercised by bush fire control officers;

(c) all appointments of authorised persons or officers must be made in accordance with the Act and recorded appropriately;

~~(a) Part IV Burning during restricted times and prohibited times *(Bush Fire Regulations 1954).*~~

~~(b) Part V Permit to burn proclaimed or declared plants during prohibited burning times *(Bush Fire Act Regulations 1954).*~~

~~The above authority is also subject to the exclusions / conditions set out below.~~

~~(a) Refer to Section 6 of this Delegation Register.~~

~~(b) s.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*.~~

~~(c) s.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.~~

~~(d) s.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.~~

~~(e) s.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.*~~

~~(f) 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;~~

~~(g) 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;~~

~~(h) 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;~~

~~(i) 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~~

~~(j) 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.~~

This document is not controlled once it has been printed.

~~(k) 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*	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Code of Conduct for Council Members, Committee Members and Candidates; • Code of Conduct for Workers; • Shire of Toodyay Record Keeping Plan; • Shire of Toodyay Record Keeping Policy; • Bush Fire Brigades Operations (Administration) Standard Operating Procedures. • Bush Fire Local Law.
Bush Fire Act 1954	**(Part III Prevention of Bush Fires)** • s.17 — Variation of prohibited burning times • s.18 — Restricted burning times • s.22 — Burning of bush during restricted times • s.24G — Local government may prohibit or restrict burning • s.25 — Fires for cooking, camping etc. • s.25A — Exemptions and conditions relating to fires
Bush Fire Act 1954 (Part IV Control and Extinguishment of Bush Fires)	• s.27 — Regulation of use of machinery during restricted and prohibited times; • s.27D — Incendiary materials; • s.28 — Duties of occupiers as to extinguishing fires; • s.33 — Firebreaks and hazard reduction notices; • s.36 — Expenditure by local government; • s.38 (Local government may appoint bush fire control officers); • s. 41 (Bush Fire Brigades) Division 2 – Bush Fire Brigades; • s.48 (Delegation by local governments); • s.50 (Records to be maintained by local governments).~~;~~
Bush Fire Act 1954 (Part V Miscellaneous Provisions)	• s.59(3) & (5) (Prosecution of Offences); • s.59A — Infringement notices.

This document is not controlled once it has been printed.

ES8 *Bush Fires Act 1954* – *Delegation to the CEO*	
Bush Fire Act Regulations 1954	**Burning and permits** • r.15 Permit to burn, form of and apply for after refusal, etc. • 15C. Local government may prohibit burning on certain days. • r.16 (Term used: authorised officer) Part IV — Burning during restricted times and prohibited times. • r.18. Permit to burn clover, form of application for etc. • r.24 (Term used: authorised officer) Part V — Permit to burn proclaimed or declared plants during prohibited burning times. • r.33. (Permit, application for and issue of; duties of permit holder); • r.34 — Objection to permit for burning proclaimed plants **Machinery and fire risk controls** • r.38A — Use of machinery during restricted/prohibited times • r.38B — Harvest ban provisions • • r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times. **Specialised operations and activities** • • r.39B crop dusters etc., use of in restricted or prohibited burning times; • r.39C — Welding and cutting apparatus • r.39CA — Bee smoker devices • r.39D — Explosives • r.39E — Fireworks.
Bush Fire Act Regulations 1954 Continued.	**Administration** • r.41 — Bush fire brigade register; • r.43 — Notification of bush fires.
Bush Fires (Infringement) Regulations 1978	• r.3. Offences and penalties • r.4. Prescribed officers (CEO relevant authority)
Bush Fire Risk Treatment Standards 2020	• Entire instrument — which sets requirements for vegetation management and risk treatment areas relevant to bush fire prevention obligations.
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees *(Section 48 of the Bush Fires Act 1954)*	• CEO.

This document is not controlled once it has been printed.

ES8 ***Bush Fires Act 1954*** *– Delegation to the 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	• Refer to conditions outlined in this delegation.~~Not applicable.~~
Appointment of Authorised Officers / Authorised Persons ☑ ~~☑ Not s~~*Suitable for Acting Through*	• Appointments must be made in accordance with section 38 of the *Bush Fires Act 1954* • Operational powers are exercised by bush fire control officers and bush fire brigade officers, not under delegation • ~~Refer to the Statement of Intent.~~CEO may act through officers or agents in performing functions under this delegation, consistent with administrative law principles.
Adoption Date:	18 April 2013
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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 ~~authorisation~~ is for Council, as a "public authority" within the meaning of the *Biosecurity and Agriculture Management Act 2007*, and as an "operator" of a non-farming property at which animals are kept, to delegate to the Chief Executive Officer (CEO) the exercise of those ~~its~~ power and discharge of those duties of the ~~as a~~ local government that may lawfully be delegated under the Act.

~~(Council), being both the "public authority" and the "operator" of a non-farming property at which animals are kept, to the CEO.~~

This delegation is limited to functions of the local government under section 41 (Public authority may assist owner or occupier to control declared pest) of the *Biosecurity and Agriculture Management Act 2007* and functions associated with the operation of a non-farming property or pound.

The intent with respect to the above is that the ~~authority~~ delegation~~will~~ extends to any subsidiary legislation made under the *Biosecurity and Agricultural Management Act 2007* and any Shire local laws where the head of power is the *Biosecurity and Agricultural Management Act 2007* pursuant to s.193. Local government may make local laws related to pest plants (means a plant that is prescribed by local laws made by a local government as a pest plant in that district) of the *Biosecurity and Agricultural Management Act 2007.*

POWERS AND DUTIES

This delegation authorises the Chief Executive Officer to:

(a) exercise those powers and perform those functions of the local government under section 41 of the *Biosecurity and Agriculture Management Act 2007* that are capable of delegation;

(b) provide assistance, support or coordination in relation to the control of declared pests within the district in accordance with section 41 of the Act;

(c) administer and manage the operation of any non-farming property at which animals are kept, including pounds, in accordance with applicable legislation;

(d) ensure compliance with relevant requirements under the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* in relation to the operation of a non-farming property or pound; and

(e) perform any ancillary or administrative functions necessary to give effect to the above powers and duties.

This document is not controlled once it has been printed.

~~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

The Chief Executive Officer, as delegate of the local government, will administer and perform functions associated with:

~~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~~ Section 41 (Public authority may assist owner or occupier to control declared pest) of the *Biosecurity and Agricultural Management Act 2007*; ~~-~~and

Functions associated with the Shire ~~its~~ responsibilities as an operator of a non-farming property or~~/~~ pound ~~in accordance with~~under the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013.*

Refer to Section 6 - Delegation EA10 for Authorised Person responsibilities and functions under the Act and Regulations.

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and to the following:

(a) The Chief Executive Officer may exercise the powers and functions delegated by this instrument, but this does not prevent the local government from exercising any power or function itself;

(b) The exercise of this delegation must not extend to powers or functions conferred under the *Biosecurity and Agriculture Management Act 2007* that are specifically vested in the Director General, an inspector, or another authorised person under that Act;

(c) The operation of any non-farming property or pound must comply with the requirements of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013;*

(d) Information sharing must comply with section 184 of the *Biosecurity and Agriculture Management Act 2007* and any applicable legislative requirements;

(e) This delegation is to be read in conjunction with Delegation ES1 and in accordance with section 4 (Relationship with other Acts) of the *Biosecurity and Agriculture Management Act 2007*; and

(f) All decisions, actions, correspondence and records arising from this delegation must be recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.

ES9	***Biosecurity and Agricultural Management Act 2007*** *---- Delegation to CEO*
Compliance Links to consider when making decisions under this delegation	

This document is not controlled once it has been printed.

ES9 *Biosecurity and Agricultural Management Act 2007* ---- *Delegation to CEO*	
Shire of Toodyay Corporate Publications	• Shire of Toodyay Health Local Law; and • Shire of Toodyay Pest Plants Local Law
Biosecurity and Agricultural Management Act 2007	• s.41 (Public authority may assist owner or occupier to control declared pest) • s.123. (Evidence of ownership or occupancy); • s.173. (Method of service); • s.184 (Information Sharing)
Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013	• 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)
Local Government (Miscellaneous Provisions) Act 1960	• s.449 (Pounds, establishing; pound keepers and rangers, appointing)
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Infrastructure, Assets and Services; • Rangers.
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:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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

Pursuant to the express power to delegate: s.5.42. Delegation of some powers and duties to CEO of the *Local Government Act 1995* (the Act) the intent of this delegation is for Council to delegate ~~power~~ to the Chief Executive Officer (CEO) the authority to exercise powers and discharge the duties of the local government in relation ~~and other employees to~~to:

1. inviting~~e~~ expressions of interest;
2. inviting~~e~~ tenders and expressions of interest for the disposal of impounded or uncollected goods on behalf of the local government in accordance with s.3.47 (Confiscated or uncollected goods, disposal of) of the Act; and
3. inviting~~e~~ and managing tenders on behalf of the local government in accordance with s.3.57 (Tenders for providing goods or services) of the Act.

in accordance with Part 4 of the *Local Government (Functions and General) Regulations 1996.*

~~3.~~ This delegation supports the Shire's procurement framework and must be exercised in conjunction with the Shire's Purchasing Policy and Disposal of Property Policy.

POWER AND DUTIES

This delegation authorises the CEO to exercise ~~any of the local government (Council)~~the powers ~~or the discharge of any Council~~and duties of the local government in respect of:

- ~~to~~ inviting Expressions of Interest for goods or services;
- inviting ~~and~~ Tenders for the provision of goods or services;
- inviting tenders or expressions of interest for disposal of impounded or uncollected goods; and
- administering procurement processes in accordance with applicable legislation and adopted policies;

in accordance with:

- ~~section~~s. 3.47 (Confiscated or uncollected goods, disposal of) of the Act;
- section ~~and s.~~ 3.57 (Tenders for providing goods or services) of the Act; ~~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).

This document is not controlled once it has been printed.

FUNCTION

The CEO may perform the following functions, either personally or through employees in accordance with section 5.44 of the *Local Government Act 1995*:

1. Tendering Processes

~~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 pursuant to 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* (F&G) as follows:~~

(a) Authority to invite tenders for provision of goods or services before entering into a contract, ~~in accordance with s. 3.57 of the Act and reg. 11 of F&G~~where required under legislation~~)~~;

(b) Authority to undertake tender exempt procurement, in accordance with the Purchasing Policy requirements, where ~~e~~the total consideration under the resulting contract is expected to be included in the adopted Annual Budget (F&G r.11(2));

(c) Authority to, because of the unique nature of the goods or services or for any other reason it is unlikely that there is more than one supplier, determine to contract directly with a suitable supplier (F&G r.11(2)(f));

(d) Authority to invite tenders for the disposal of impounded goods (s. 3.47 of the Act);

(e) Authority to invite tenders where not required, where it is determined to be in the best interests of the local government ~~though not required to do so~~ (F&G reg. 13);

Ensure tenders are publicly invited and administered in accordance with Regulations 11–18;

~~(e)~~**2. Tender Documentation and Criteria**

~~(f)~~(a) Authority to determine the selection criteria for accepted tenders (F&G reg. 14(2a));

~~(g)~~(b) Authority to determine the content of tender documentation and information that is to be disclosed to those interested in submitting a tender (F&G r.14(4)(a));

~~(h)~~(c) Authority to determine whether or not to reject tenders that do not comply with requirements as specified in the invitation to tender;

(d) Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation by way of Issuing an addenda and variations to tender documentation prior to closing (F&G reg. 14(5));

3. Tender Assessment and Decision-Making

~~(i)~~

This document is not controlled once it has been printed.

~~(j)~~(a) Authority to determine whether or not to reject tenders that do not comply with requirements as specified in the invitation to tender (F&G r.18(2));

~~(k)~~(b) Authority to seek clarification from tenderers in relation to information contained in their tender submission (F&G reg. 18(4a));

~~(l)~~(c) Authority to assess, by written evaluation, tenders that have not been rejected, to determine:

(i) The extent to which each tender satisfies the criteria for deciding which tender to accept; and

(ii) The most advantageous ~~accept the~~ tender that is most advantageous in accordance with value for money principles.~~.~~

(d) Authority to decline to accept any tender;

4. Contract Formation (Pre-Execution)

~~(m)~~

~~(n)~~(a) Authority to accept the next most advantageous tender if, within 6-months of accepting a tender, a contract has not been entered into OR the local government and the successful tenderer agree to terminate the contract;

(b) Authority to determine whether variations in goods and services required are minor variations, and to negotiate with the successful tenderer to make minor variations before entering into a contract (F&G reg. 20 subject to F&G reg. 21A);

5. Expressions of Interest (EOI)

~~(o)~~

~~(p)~~(a) Authority to determine when to seek expressions of Interest and to invite Expressions of Interest for the supply goods or services (F&G reg. 21);

~~(q)~~(b) Authority to consider expressions of interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers (F&G reg. 23);

~~(r)~~(c) Authority to 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; and

(d) Authority to determine that there is a continuing need for the goods or services proposed to be provided by a panel of pre-qualified suppliers (FYG r.24AC(1)(b)).

6. Tender Exempt Procurement

(a) Determine when a tender exemption applies under Regulation 11(2), including:

(i) WALGA Preferred Supplier Arrangements;

(ii) State Government Common Use Arrangements;

This document is not controlled once it has been printed.

(iii) emergency procurement;

(iv) sole supplier/unique supply situations;

(b) Approve procurement through these mechanisms in accordance with the Purchasing Policy.

7. Panels of Pre-qualified Suppliers

(a) Determine when a panel is required;

(b) Establish panels under Division 3 of the Regulations;

(c) Determine distribution of work among panel members;

(d) Confirm ongoing need for panel arrangements;

8. Disposal of Goods

(a) Invite tenders or expressions of interest for disposal of impounded or uncollected goods;

(b) Determine appropriate disposal method for surplus goods not on the asset register;

(c) Ensure disposal processes achieve transparency and best value in accordance with policy.

9. Procurement Administration

(a) Ensure procurement processes align with:

(i) value for money principles;

(ii) risk management practices;

(iii) ethical procurement standards;

(iv) record keeping requirements;

~~(c)~~(b) Maintain tender registers and procurement records.

CONDITIONS

The exercise of this delegation ~~above authority~~ is subject to the compliance links contained in this instrument of delegation and to the following:

(a) Panels of Pre-qualified Suppliers

All panel arrangements must be established and administered in accordance with Division 3 – Panels of Pre-qualified Suppliers of the *Local Government (Functions and General) Regulations 1996.*

(b) Expressions of Interest – Budget Requirement

Expressions of interest may only be invited where:

- there is an adopted budget for the proposed goods or services; or
- the procurement complies with approved budget provisions under this delegation, including prospective budget approvals where applicable.

(c) Disposal of Impounded or Uncollected Goods

Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value of less than $20,000 may be undertaken in accordance with regulation 30(3) of the Local Government (Functions and General) Regulations 1996, provided that:

- the method of disposal achieves best value; and
- the process is transparent, fair and accountable.

(d) Calling of Tenders – Budget Requirement

Tenders may only be invited where there is an adopted budget for the proposed goods or services, except where:

- the procurement relates to a routine operational requirement; or
- an existing contract is nearing expiry; and
- the proposed expenditure has been included in the draft Annual Budget; and
- the tender documentation expressly states that any award is subject to Council adoption of the Annual Budget.

(e) Sub-Delegation (Scope of Authority)

A sub-delegate may only exercise this delegation:

- within the scope of their position, role and responsibilities; and
- in accordance with the Purchasing Policy and applicable financial limits.

(f) Acceptance of Tenders

A tender may only be accepted under this delegation where:

- the expenditure is included within the adopted Annual Budget (or otherwise authorised); and
- the tender complies with the requirements of regulations 18(2) and 18(4) of the Local Government (Functions and General) Regulations 1996.

(g) Minor Variations Prior to Contract

A decision to vary a tendered contract prior to entering into the contract must:

- be supported by written evidence; and
- demonstrate that the variation is minor in comparison to the overall scope of goods or services originally tendered; and
- comply with regulation 20 and regulation 21A where applicable.

(h) Tender Exempt Procurement

Tender exempt procurement may only be approved where:

- the exemption is permitted under regulation 11(2) of the Local Government (Functions and General) Regulations 1996; and
- the total consideration of the resulting contract is within the limits and requirements specified in the Purchasing Policy; and
- the justification for exemption is documented.

(i) Tender Register

This document is not controlled once it has been printed.

A Tender Register must be maintained in accordance with the Local Government (Functions and General) Regulations 1996 and must record all relevant tender information.

(j) Tender Files and Documentation

A file must be created for each tender process, containing written evidence of decisions made in relation to the exercise of this delegation, including (but not limited to):

- invitation and advertising processes;
- evaluation methodology and outcomes;
- decisions relating to compliance and acceptance or rejection of tenders;

All records must be retained in accordance with the Record Keeping Plan and Record Keeping Policy.

(k) Expressions of Interest – Decision Making

Any decision to invite Expressions of Interest must:

- be made in writing; and
- be recorded on the relevant subject file in accordance with the Record Keeping Plan and Record Keeping Policy.

(l) Surplus Goods Sales and EOI Records

Where Expressions of Interest are used in relation to surplus goods or disposal processes:

- records of the process, including decisions and outcomes, must be created; and
- those records must be maintained on the relevant subject file in accordance with the Record Keeping Plan and Record Keeping Policy.

~~(a) Division 3 — Panels of pre-qualified suppliers (F&G);~~

~~(b) Expressions of interest may only be called where there is an adopted budget for the proposed goods or services;~~

~~(c) Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than $20,000 may, pursuant to 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;~~

~~(d) Tenders may only be called where there is an adopted budget for the proposed goods or services, with the exception being in the period immediately prior to the adoption of a new Annual Budget where:~~

~~(i) the proposed goods or services are required to fulfill a routine contract related to the day-to-day operations of the Shire; or~~

~~(ii) a current supply contract expiry is imminent; and~~

~~(iii) the value of the proposed new contract has been included in the draft Annual Budget proposed for adoption; and~~

This document is not controlled once it has been printed.

~~(iv) the tender specification includes a provision that the tender will only be awarded subject to the budget adoption by the Council.~~

~~(e) Each sub-delegate may only use the sub-delegation in regard to contracts that are within the scope of their position, role and responsibilities;~~

~~(f) Tenders may only be accepted under this delegation where the expense is included in the adopted Annual Budget; and the Tenderer has complied with requirements under F&G r.18(2) and (4);~~

~~(g) A decision to vary a tendered contract before entry into the contract must include evidence that the variation is minor in comparison to the total goods or services that tenderers were invited to supply; and~~

~~(h) Tender exempt procurement may only be approved where the total consideration under the resulting contract is expected to be less than the maximum value specified within the Purchasing Policy.~~

~~(i) Tender Register to be kept in accordance with *Local Government (Functions and General) Regulations 1996*.~~

~~(j) 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.~~

~~(k) 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;~~

~~(l) 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.~~

ES10 EXPRESSION OF INTEREST AND TENDERS	
Compliance Links to be considered when exercising this delegation~~to consider when making decisions under this delegation~~	
Shire of Toodyay Corporate Publications:	• Purchasing Policy; • Disposal of Property Policy.

This document is not controlled once it has been printed.

ES10 EXPRESSION OF INTEREST AND TENDERS	
Primary Legislation ***Local Government Act 1995***	Key provisions relevant to this delegation include: • s. 3.40A (Abandoned vehicle wreck may be taken). • s. 3.45 (Notice to include warning). • s.3.46 Goods may be withheld until costs paid. • s.3.47 Confiscated or uncollected goods, disposal of. • s.3.48 Impounding expenses, recovery of. • Division 2 – Tenders for providing goods or services (s.3.57) • s.5.94 (u)(i) (Public can inspect certain local government information). • s. 6.8 (Expenditure from municipal fund not included in annual budget); • s. 5.43 (a) and (b) (Limits on delegations to CEO) (i.e., acceptance of tender); • s. 9.49B (Contract formalities).
Supporting Regulations ***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). • r.11 When tenders have to be publicly invited. • r.12. (Anti avoidance provision for r. 11(1)); • r.13 Requirements when local government invites tenders through not required to do so. • r.14 (publicly inviting tenders, requirements for); • r.16. (Receiving and opening tenders, procedure for); • reg. 18(4) and reg.18(5) (Rejecting and accepting tenders); and • reg.20 (variation of requirements before entry into contract).: Limited delegation of power • reg. 21A. (Varying a contract for the supply of goods or services).~~;~~ • • Division 3 – Panels of Pre-qualified Suppliers (including r.24AC–24AD) • r.30 – Disposition of property exemptions~~reg. 14(2a) (Publicly inviting tenders, requirements for);~~ • ~~r.16. (Receiving and opening tenders, procedure for);~~ • ~~reg. 18(4) and reg.18(5) (Rejecting and accepting tenders); and~~ • ~~reg.20 (variation of requirements before entry into contract).: Limited delegation of power~~ • ~~reg. 21A. (Varying a contract for the supply of goods or services).~~
Information Access and Transparency ***Local Government (Administration) Regulations 1996***	• reg. 29 (e) (Information to be available for public inspection) (Act s. 5.94) (Part 7 - Access to information)

This document is not controlled once it has been printed.

ES10 EXPRESSION OF INTEREST AND TENDERS	
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate Services; • Executive Manager Planning and Regulatory Services; • Executive Manager Economic Development and Community Services; and • Executive Manager Infrastructure, Assets and Services
Conditions	*All sub-delegation must be exercised:* • *within the scope of the employee's role; and* • *in accordance with this delegation and the Purchasing Policy.* *Procurement processes must comply with:* • *legislative tendering requirements;* • *purchasing thresholds and practices;* • *value for money principles;* • *risk management and probity principles;* *Tender and procurement activities must:* • *be documented;* • *be transparent and auditable;* • *comply with record keeping obligations.*
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 and applicable legislative provisions.*
Adoption Date:	3 April 2012
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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 determine grant, sponsorship and donation allocations up to $500 within budget limitations to a maximum of $50,000 per annum provided the request is of a local nature pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO under the *Local Government Act 1995.*

POWER AND DUTIES

The ~~express powers or duties delegated to the~~ CEO is authorised to ~~are the~~ exercise ~~of any local government (Council)~~the powers ~~or the discharge of any Council~~and duties of the local government in respect of:

~~in respect to:~~

(a) s. 6.10 (Financial management regulations) of the Act;

(b) s.6.12.(1)(b) (c) and (3) Power to defer, grant discounts, waive or write off debts of the *Local Government Act 1995;and*

(c) reg. 11 (Payments, procedures for making) from the *Local Government (Financial Management) Regulations 1996.*

for the purposes of administering grants, sponsorships, donations, concessions and minor financial relief measures.

**Absolute majority required*

FUNCTION

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.

This delegation authorises the CEO to:

1. -Financial Administration

   (a) make payments from the municipal fund in accordance with the Local Government (Financial Management) Regulations 1996.

2. **Donations, Grants and Sponsorship**

   (a) Approve grants, sponsorships or donations:

   - ~~make donations of~~ up to $500 per request;

This document is not controlled once it has been printed.

- within the approved annual allocation ~~budget limitations~~ to a maximum of $50,000 per annum provided the request is of a local nature.

3. Concessions

~~(a) 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.~~

~~This delegation authorises the CEO to:~~

(a) Grant concessions in relation to fees, levies or charges by the Council for the use of its facilities and services.

4. Write-offs and Financial Adjustments

~~(a)~~

~~(b)(a) make donations of up to $500 within budget limitations to a maximum of $50,000 per annum provided the request is of a local nature.~~

(a) write-off any single amount of money owing to Shire less than $5,000 (GST exclusive) subject to conditions stipulated.

~~(c)~~

(b) write-off any amount of money previously specifically identified and provided for in the Provision for Doubtful Debts subject to conditions as stipulated.

5. Operational Discretion

(a) determine the appropriateness of support requests in accordance with:

- community benefit
- available budget
- policy alignment
- ~~(d)~~ financial and governance considerations.

CONDITIONS

The exercise of the above authority is subject to the compliance links contained in this instrument of delegation and to the following:

(a) Compliance with Financial Delegations

The CEO must ~~To~~ comply with the requirements of Delegation CS1 and any applicable financial management delegations.

(b) Local Community Benefit

~~(a) .~~

~~(b)~~ 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.

(c) *Definition of Local Nature*

For the purpose of this delegation "local nature" means:

This document is not controlled once it has been printed.

- a person, community group, business or organisation that resides within, lives or operates within the districtShire.

and may include:

- This term may also extend to a persons, community groups, business or organisations outside the district where:
  - that, although they are not part of the Toodyay District, as long as what they are providing via an event that willthe activity promotes the Shire's heritage, and culture or community; and
  - a clear and direct of the district and be of bbenefit to the community considerationdistrict can be demonstrated;

with such determination to be made , at the discretion of the CEO, may be given.

(d) Monetary Limits

- No individual grant, sponsorship or donation may exceed $500;
- Total annual expenditure under this delegation must not exceed $50,000;

(e) Budget Requirement

All payments must:

- be within an adopted Annual Budget; and
- be made in accordance with approved financial management practices.

(f) Council Oversight

Any request:

- exceeding $500; or
- exceeding the total annual budget allocation;

must be referred to Council for determination.

(g) Record Keeping

All decisions must:

- be documented in writing; and
- be recorded in accordance with the Record Keeping Plan and Policy.

(h) Transparency and Accountability

All grants, sponsorships and donations must:

- be capable of audit review;
- demonstrate fairness, consistency and equity in decision-making;

(i) Financial Governance

Write-offs and financial concessions must:

- be supported by sufficient evidence;
- comply with accounting standards; and
- be reported where required under financial governance frameworks.

This document is not controlled once it has been printed.

~~(c)~~

~~(d) 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	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Purchasing Policy; • Financial Hardship Policy.
Primary Legislation ***Local Government Act 1995*:**	• s.6.10 – Financial management regulations; • s.6.12 Power to defer, grant discounts, waive or write off debts; • s.6.48. Regulation of grant of discounts and concessions
Supporting Regulations ***Local Government (Financial Management) Regulations 1996***	• r.11 – Payments (procedures for making) • r~~s~~.69A. When concession under Act s. 6.47 cannot be granted
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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 of the *Local Government Act 1995.*
Conditions	**Financial Governance Requirements** • All payments from the municipal fund must: ○ comply with adopted budget provisions; ○ align with financial management practices; ○ be supported by appropriate approvals and documentation; • Financial decisions must: ○ demonstrate accountability and transparency; ○ comply with applicable policies; **Operational Governance and Community Benefit** • Allocations must: ○ demonstrate a clear community benefit; ○ align with the purpose of the delegation; ~~•~~○ be consistent with principles of fairness, equity and accountability.~~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:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

This document is not controlled once it has been printed.

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, pursuant to the express power to delegate: **s.5.42 Delegation of some powers and duties to the CEO under the *Local Government Act 1995*** ~~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 s.6(a) and s.6(b) of the *Criminal Procedure Act 2004*;~~ to delegate to the Chief Executive Officer (CEO) the authority to ~~CEO~~ ~~the~~ exercise ~~of any local government (Council~~the~~)~~ powers ~~or the~~and discharge ~~of any Council~~the duties of the local government in relation ~~in respect~~ to

- the use, hire and occupation of local government property; and
- the granting of approvals, permits and agreements for that use;

in accordance with:

- section 3.18 of the *Local Government Act 1995*; and
- the Shire of Toodyay Local Government Property Local Law.

This delegation extends to the administration of permits and written agreements relating to the use of local government property, including those provided for under ~~subdivision 6 – various executive functions of the Act pursuant to the express power to delegate: **s.5.42 Delegation of some powers and duties to the CEO under the *Local Government Act 1995*.***~~
~~The intent with respect to the above is that the authority will extend to~~ the *Local Government Property Local Law* where the head of power is the *Local Government Act 1995 in accordance with* s.3.18 Performing Executive Functions of the *Local Government Act 1995.*

POWER AND DUTIES

This delegation authorises the CEO to:

(a) Use and Hire of Property

- approve the use and hire of local government property in accordance with the Local Government Property Local Law;

(b) Permits

- determine applications for permits under the Local Government Property Local Law, including:

This document is not controlled once it has been printed.

- approval;
- refusal;
- imposing conditions;

(c) Agreements

- enter into written agreements with persons for the use or occupation of local government property pursuant to section 3.18 of the Local Government Act 1995;

(d) Conditions and Controls

- impose conditions on:
  - permits;
  - agreements;

to ensure:

- proper use of property;
- protection of assets;
- public safety;

(e) Fees and Charges

- determine:
  - applicable fees;
  - waivers or reductions;

in accordance with the adopted Schedule of Fees and Charges;

(f) Property Management Controls

- regulate the use of local government property, including:
  - exclusive use;
  - duration of hire;
  - access arrangements;

~~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.

(c)

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.*

FUNCTION

Functions ~~specifically~~ may be performed by the CEO or employees in accordance with section 5.44 of the *Local Government Act 1995.*

The CEO is authorised to:

1. Permit Administration
   - administer permits under Part 3 of the Local Government Property Local Law, including:
     - applications for the hire of local government property;
     - conditions when issuing permits for the hiring of local government property;
     - cancellations.
2. Agreements for Use
   - establish and manage written agreements for:
     - long-term use
     - seasonal bookings
     - exclusive occupation
3. Operational Oversight
   - ensure that:
     - hirers comply with permit and agreement conditions;
     - local government property is protected;
     - use is consistent with community expectations and policy;

~~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:~~

This document is not controlled once it has been printed.

~~1. approving applications for the hire of local government property.~~

~~2. Issuing permits for the hiring of local government property.~~

~~3.~~4. Use their discretion in relation to:

(a) Whether or not the hire is for the exclusive use of the local government property;

(b) 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;

(c) 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;

(d) 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;

(e) waiving or reducing fees contained in the Shire's *Schedule of Fees and Charges* to be imposed upon applicants; and

(f) 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

The exercise of the above authority is subject to the compliance links contained in this instrument of delegation and to the following:

(a) Booking and Administrative Procedures

All use of local government property must:

- comply with adopted booking procedures;
- be processed through approved administrative systems;

~~(a) **All hire of Council Buildings, reserves and other local government property will be arranged through the Shire's booking procedure; and**~~

(b) Agreements for Extended Use

Where use involves:

- long-term
- seasonal
- exclusive access

a written agreement must be established in accordance with section 3.18 of the Local Government Act 1995;~~Long-term or seasonal bookings of Council owned~~

This document is not controlled once it has been printed.

~~buildings will require the preparation of user agreements between the Shire (Principal) and the Hirer in accordance with s.3.18 of the Act;~~

(c) Consistency with Local Law

All decisions must:

- comply with the Local Government Property Local Law;
- not be inconsistent with any determination or provision under that local law;

(d) Insurance and Indemnity

Where appropriate:

- hirers must provide insurance;
- indemnities must be obtained to protect the local government;

(e) Record Keeping

All permits, agreements and approvals must:

- be documented in writing;
- stored in accordance with the Record Keeping Plan and Policy;

(f) Policy Compliance

Decisions must be consistent with:

- Facility Hire Policy;
- Leasing Policy;
- Disposal of Property Policy.

~~(b)~~

~~(c) 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.~~

ES12 LOCAL GOVERNMENT PROPERTY AGREEMENTS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Space to Co Booking Procedures (https://www.toodyay.wa.gov.au/facilities/) • Shire of Toodyay - Local Government Property Local Law; • Leasing of Land and Facilities procedure; • Disposal of Property Policy; • Facility Hire and Use Policy; • Leasing of Shire Property Policy.

This document is not controlled once it has been printed.

ES12 LOCAL GOVERNMENT PROPERTY AGREEMENTS	
Primary Legislation ***Local Government Act 1995***	• s. 3.18 (Performing Executive Functions); • s.3.58 (Disposing of Property); • s.5.42 – Delegation • s.5.44 – Sub-delegation
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other	• CEO.
Sub-Delegation made by the CEO to other employees	• Executive Manager Finance and Corporate Services; • Executive Manager, Infrastructure, Assets & Services; • Executive Manager, Economic Development and Community Services; • Executive Manager, Planning and Regulatory 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
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

ES13 Tenancy and Lease 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, pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995* ~~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 s.6(a) and s.6(b) of the *Criminal Procedure Act 2004*;~~ to delegate to the **Chief Executive Officer (**CEO) the exercise of any local government ~~(Council)~~ powers or the discharge of any local government~~Council~~ ~~duties in respect to~~under s.3.58 (Disposing of Property) of the Act. ~~pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995*~~ **limited to the leasing of local government property and the arrangement of tenancy and lease agreements**~~and subject to the conditions of this delegation~~.

Although s.~~-~~3.58(1) (Disposing of Property) ~~states~~ provides that "dispose" includes to sell, lease, or otherwise dispose of property.~~,~~ ~~whether absolutely or not the intent with respect to~~ this delegation is ~~that the authority will only be to lease~~limited to leasing and ~~local government property and arrange~~ tenancy arrangements~~greements~~ and does not extend to the sale of property. ~~for such leases in accordance with the *Local Government Property Local Law* whose head of power is the *Local Government Act 1995*.~~

POWER AND DUTIES

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.

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:

(a) s.3.58 Disposing of Property of the Local Government Act 1995.

(b) ~~-~~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.

(c) the provisions of the Shire's Local Government Property Local Law.

This document is not controlled once it has been printed.

This delegation also authorises the CEO to enter into **lease and tenancy agreements for** ~~agreements to lease~~ property that the Shire owns or ~~that it~~ controls under a management order **subject to any requirements of the *Land Administration Act 1997* and any applicable provisions or exclusions under the Local Government (Functions and General) Regulations 1996.**~~which confers the power to lease and is exempt from the provisions of s.3.58 Disposing of Property of the *Local Government Act 1995.*~~

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/o~~or any employee **to whom powers are sub-delegated under section 5.44 of the Act and/or appointed as an authorised person under section 9.10 of the Act include:**~~of local government that the CEO has been *statutorily delegated to appoint* under s.9.10 (Appointment of authorised persons) are as follows:~~

1. approving applications for the lease of local government property.
2. preparing **lease and tenancy** ~~an~~ agreements for ~~the leasing of~~ local government property between the Shire (Lessor) and a Lessee ~~occupying local government premises owned by the Shire~~.
3. Exercising ~~use their~~ discretion in relation to:
   (a) Whether ~~or not~~ the lease is for the exclusive possession~~use~~ of ~~the~~ local government property.
   (b) Ensuring appropriate indemnity provisions are included in lease agreements to protect the local government;~~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~~.
   ~~(c)~~ determining appropriate lease terms, conditions, and duration; and~~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.~~
   ~~(d)~~(c) ~~Setting limits for the duration of the lease.~~
4. renewing lease and tenancy agreements in accordance with this delegation.~~the authority to renew a lease and licence agreement~~.

This delegation authorises the CEO to exercise discretion in relation to:

- Leasing arrangements; and
- rental and associated charges;

~~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.*

The~~is~~ Chief Executive Officer is also authorised to~~delegation also gives the CEO authority to~~:

(a) give notice to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay ~~its~~ rent to the Shire of Toodyay (section 6.60(2)); and

This document is not controlled once it has been printed.

(b) recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with a notice (section~~.~~ 6.60(4)).

CONDITIONS

The exercise of the above authority is subject to the compliance links contained in this instrument of delegation and to the following:

(a) Refer to the background of Delegation CS8.

(b) Where applicable, ~~o~~~~Obtaining~~obtaining Minister for Lands consent in accordance with section 18 of the *Land Administration Act 1997*, where~~should~~ the property is~~be~~ subject to a management order~~ where applicable~~;

(c) Leases for not-for-profit organisations, community groups, government bodies, committees, associations and educational institutions may be approved for appropriate terms having regard to operational need, community benefit, and compliance with section 3.58 of the *Local Government Act 1995* where applicable~~Leases for not for profit sporting organisations, community groups, government bodies, committees, associations and educational institutions being for a maximum term of three five years with a further option term of five years~~~~three year option for: Not for Profit Sporting Organisations, Not for Profit Organisations, Community Associations, Government Bodies, Committees and Associations, and educational institutions~~; and

(d) Renewal or extension of existing leases may be approved where consistent with this delegation and where the requirements of section 3.58 of the *Local Government Act 1995* and any applicable regulatory exclusions have been satisfied~~Renewal of an existing commercial lease being for a maximum term of three five years.~~;

(e) Where a proposed lease or disposition of property does not fall within an exemption under the *Local Government (Functions and General) Regulations 1996*, the requirements of section 3.58 of the *Local Government Act 1995* must be complied with, including public notice and consideration of submissions, unless otherwise determined by Council.

~~(d)~~

~~(e)~~(f) All new commercial leases ~~will be brought~~being referred to Council for consideration.

~~(f)~~(g) Compliance with all applicable provisions ~~To comply with the entire section~~ of Part IV — Residential tenancy agreements of the *Residential Tenancies Act 1987* where the lease constitutes a residential tenancy agreement;

~~(g)~~(h) Compliance ~~To comply~~ with s.18 (Crown land transactions that need Minister's approval) of the *Land Administration Act 1997* where applicable;

~~(h)~~(i) Compliance ~~To comply~~ with s.6.62 (Application of money paid for rates and service charges) of the *Local Government Act 1995*~~Act~~; and

~~(i)~~(j) Compliance ~~To comply~~ with Council's adopted policies and the Shire's local government property local law.

~~(j)~~(k) Executed documents are to be stored in the Shire's Record Keeping System in accordance with the Shire of Toodyay's Record Keeping Plan.

(l) Decisions must be made in accordance with relevant legislation, Council policies, local laws, and administrative procedures adopted by the local government.

This document is not controlled once it has been printed.

(m) For the purposes of s5.43(d) of the *Local Government Act 1995*, the Chief Executive Officer's authority to dispose of property ~~disposal of property~~ is limited to a maximum value of $250,000 provided that any disposition to which section 3.58 of the Act applies must comply with the requirements of that section prior to the exercise of this delegation, unless an exemption applies under the *Local Government (Functions and General) Regulations 1996.*

~~(k)~~

ES13 TENANCY AGREEMENTS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• *Local Government Property Local Law;* • Purchasing Policy; • Disposal of Property Policy; • Leasing of Shire Property Policy; • Financial Hardship Policy.
Local Government Act 1995	• s. 3.58 Disposing of property; • s. 3.18 Performing Executive Functions; • s. 6.60 Local government may require lessee to pay rent.
Local Government (Functions and General) Regulations 1996	• r.30. Dispositions of property excluded from Act; • r.3.58 (F&G Regs)
Residential Tenancies Act 1987	• Part IV – Residential tenancy agreements.
Land Administration Act 1997	• s.18 Crown land transactions that need Minister's approval.
Health (Miscellaneous Provisions) Act 1911	• s.353. Power to take possession of and lease land or premises on which expenses are due
Other Relevant References	• 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
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other employees	• CEO.

This document is not controlled once it has been printed.

ES13 TENANCY AGREEMENTS	
Sub-Delegation made by the CEO to other employees	• Executive Manager Infrastructure, Assets and Services; and • Executive Manager Finance and Corporate 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
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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 Chief Executive Officer (CEO), ~~CEO~~ pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995,* the authority ~~and other employees~~ to administer, manage and determine matters relating to contracts on behalf of the local government.

This includes contracts of an ~~or a contract matter including where the contract is of an~~ operational nature and those arising from procurement processes, on behalf of the local government in accordance with s.9.49B (Contract Formalities) of the *Local Government Act 1995*~~Act pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995*~~.

POWER AND DUTIES

The CEO is authorised ~~This delegation authorises the CEO~~ to exercise ~~any of~~ the ~~local government's~~ powers ~~or the discharge of any of its~~and duties of the local government in respect of:

- making, varying and discharging contracts;
- administering contract matters arising from procurement processes;
- exercising contract renewal and extension options;
- determining variations to requirements before entering into a contract;
- varying contracts for the supply of goods or services;

in accordance with:

- ~~in accordance with~~ section 9.49B of the *Local Government Act 1995*; and
- the *Local Government (Functions and General) Regulations 1996* including regulations relating to tendering and contract variation.

~~pertaining to:~~

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

FUNCTIONS

This document is not controlled once it has been printed.

Functions ~~specifically~~ may be performed by the CEO ~~as an Authorised Person in accordance with s.5.44 of the Act and/or~~ or by ~~an~~ employees of local government in accordance with section 5.44 of the *Local Government Act 1995.*

The CEO is authorised to~~that the CEO has been *statutorily delegated to appoint* under s.9.10 (Appointment of authorised persons) are as follows~~:

1. Contract Formation and Administration

(a) 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~~ were made, varied or discharged by a natural person in accordance with s.9.49B. Contract formalities.

2. Minor Variations Before Contract Formation

~~(a)~~

(b) ~~Authority to~~ determine whether proposed variations in goods and services required are minor variations, and to negotiate with the successful tenderer to make minor variations before entering into a contract in accordance with regulatory requirements;

~~(b)~~3. Alternative Tender Selection

(c) ~~Authority to choose~~Select the next most advantageous tender ~~to accept~~where:

i. ~~,~~ the preferred ~~if the chosen~~ tenderer is unable or unwilling to ~~form~~ enter into a contract to supply the varied requirement; ~~-~~OR

ii. agreement cannot be reached on ~~the~~ minor variations ~~cannot be agreed with the successful tenderer, so that the tenderer ceases to be the chosen tenderer~~;

~~(c)~~4. Variations After Contract Formation

(d) Approve variations to an executed contract where:

i. The ~~Authority to vary a tendered contract, after it has been entered into, provided the~~ variation(s) are necessary for the goods and services to be supplied;

ii. The variation does not materially ~~, and do not~~ change the scope of the original contract unless permitted under procurement legislation and policy; and

iii. ~~-~~the variation does not exceed ~~or increase~~ approved budget allocations~~the contract value beyond what was budgeted for in lieu of the project~~; and

iv. Any contract variation exceeding a financial or percentage threshold determined by Council is to be referred to Council for consideration.

~~(d)~~5. Contract Extensions and Renewals

(e) ~~Authority to a~~Approve the exercise of a contract extension or renewal options where:

i. ~~-~~such options were included in the original contract; and

This document is not controlled once it has been printed.

ii. contractor performance has been assessed and supports continuation~~that was included in the original tender specification and existing contract; and~~; and

iii. extensions are consistent with the original tender or procurement documentation.

6. Contract Management Responsibilities

~~(e)~~

(f) ~~Authority to~~ A~~a~~ssign operational contract management responsibilities through~~via~~ position descriptions or documented procedures.

CONDITIONS

The exercise of the above authority is subject to the compliance links contained in this instrument of delegation and to the following:

Variations Before Contract Formation

(a) A decision to vary a tendered contract prior to entering into the contract must:

- comply with regulation 20 of the *Local Government (Functions and General) Regulations 1996*; and
- include documented evidence that the variation is minor in comparison to the goods or services originally tendered~~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)~~ **Variations After Contract Formation**

(b) A decision to vary a contract after execution must:

- comply with regulation 21A of the Local Government (Functions and General) Regulations 1996;
- be consistent with Delegation ES10 (Expression of Interest and Tenders); and
- ~~(b)~~ include documented evidence that the variation is necessary and does not materially change the scope of the contract~~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~~;

Contract Extensions and Renewals

(c) A contract may only be renewed or extended where:

- the original contract included such provisions;
- the extension complies with regulation 11(2)(j) or other applicable exemption provisions; and
- ~~(c)~~ a documented performance review supports the exercise of the extension option;~~decision to renew or extend the contract must only occur where the~~

This document is not controlled once it has been printed.

~~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~~;

Sub-Delegation

(d) ~~Each~~ Sub-delegation may only be exercised:

- within the scope of the employee's role, responsibilities and position; and
- ~~(d)~~ in accordance with approved purchasing and contract management frameworks~~sub-delegate may only use the sub-delegation in regard to contracts that are within the scope of their position, role and responsibilities~~; and

Tender Exempt Contracts

(e) Where a contract arises from tender exempt procurement:

- And the total consideration ~~of a Tender Exempt procurement contract~~ exceeds the ~~value~~ limits established in ~~as per~~ the purchasing policy
- ~~(e)~~ the matter must ~~decision is to~~ be referred to Council for determination.

Record Keeping – Tender Contracts

(f) Contracts ~~relating to~~arising from Tender processes must:

- ~~s to~~ be retained within ~~kept on~~ the relevant Tender file; and
- include ~~s containing~~ written evidence of determinations, extensions, variations, and other relevant evidence of contract decisions;
- ~~(f)~~ made in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.

Record Keeping – Non-Tender Contracts

(g) Contracts not arising from tender processes must:

- be retained within relevant agreement files;
- ~~(g)~~ be documented and recorded in accordance with the Record Keeping Plan and Policy~~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.~~

Consistency with ES10

(h) All contract decisions must be consistent with:

- **delegation** ~~**Refer to**~~ **ES10 Expression of Interest and Tenders** ~~**delegation**~~; and
- procurement processes undertaken under that delegation.

ES14 CONTRACT FORMALITIEIS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• ES10 Expression of Interest and Tenders delegation; • Purchasing Policy; • CCTV Policy; • Asset Management Policy; • Risk Management Policy; • Execution of Documents Policy.
Primary Legislation ***Local Government Act 1995***	• s.3.18 Performing Executive Functions; and ○ s.5.42 – Delegation; ○ s.5.44 – Sub-delegation; • s.9.49B Contract formalities.
Supporting Regulations *Local Government (Functions and General) Regulations 1996*	• r.11. When tenders have to be publicly invited ○ r.20 – Variations before entry into contract ○ r.21A – Variations after contract formation • r.30. Dispositions of property excluded from Act s. 3.58
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).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate Services; • Executive Manager Planning and Regulatory Services; • Executive Manager Economic Development and Community Services; and • Executive Manager Infrastructure, Assets and Services.

This document is not controlled once it has been printed.

ES14 CONTRACT FORMALITIEIS	
Conditions for sub-delegates in addition to compliance links	• 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; and • 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
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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), together ~~along~~ with other relevant agencies is responsible for assessing and coordinating applications relating to events on roads, including~~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 Closures under ~~– s.81 A to F (~~Part VA (~~–~~ Events on roads) of the *Road Traffic Act 1974;*
- Temporary Suspension of the Road Traffic Act/Regulations for~~-~~ Racing Events under s.139 (Temporary suspension of road law) of the *Road Traffic (Administration) Act 2008; and*
- Permits to hold ~~a~~ Public Meetings and~~/or~~ Processions under~~–~~ s.7 (Permits) of the *Public Order in Streets Act 1984.*

Information in relation to these processes is available via the Western Australia Police Force ~~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 pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995* to delegate ~~power~~ to the Chief Executive Officer the authority to consider and determine applications for temporary road closures within the parameters set out in the Shire's Temporary Road Closures Policy, or otherwise refer matters of a strategic, high-risk or non-compliant nature to Council.

~~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 pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995*.~~.

This delegation is made pursuant to section 5.42 (Delegation of some powers and duties to CEO) of the Local Government Act 1995.

This delegation operates alongside the local government's functions under sections:

- Section 3.50 (Closing certain thoroughfares to vehicles);
- Section~~,~~ ~~s.~~3.51 (Affected owners to be notified of certain proposals); and
- Section ~~s.~~3.52 (Public access to be maintained and plans kept)

This document is not controlled once it has been printed.

of the *Local Government Act 1995*, noting that those provisions relate to the closure or partial closure of thoroughfares and associated statutory requirements.

~~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 authorises the Chief Executive Officer to:

(a) consider and determine applications for temporary road closures associated with events on roads within the district, in accordance with applicable legislation and Council policy;

(b) provide written advice and consent (where required) to the Western Australia Police Force and other approving authorities in relation to temporary road closure applications;

(c) impose reasonable conditions on approvals, where necessary to ensure public safety, traffic management and legislative compliance;

(d) refuse applications that do not meet legislative requirements or Council policy, or alternatively refer such applications to Council for determination; and

(e) perform any ancillary or administrative functions necessary to give effect to this delegation.

This delegation supports the processing of applications under the ~~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) Regulations 1991* and other associated regulations~~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 local government~~Shire~~, as a relevant ~~local~~ authority, participates in the approval process for temporary road closures associated with events on roads ~~is one of the agencies responsible for providing approval for a road closure application~~ prior to it being lodged with the Western Australian Police.

The Chief Executive Officer will exercise Council's role in reviewing and determining applications and providing local government consent as required under the applicable legislative framework.

~~The CEO will approve temporary road closures on behalf of Council.~~

This document is not controlled once it has been printed.

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and to what is specified below.

(a) The Chief Executive Officer may exercise the powers and functions delegated by this instrument, but this does not prevent the local government from exercising any power or function itself;

(b) Decisions must be made in accordance with the Shire's Temporary Road Closures Policy and any relevant legislative requirements;

(c) Where an application involves significant community impact, substantial road network disruption, or policy departure, the matter is to be referred to Council for determination;

(d) Records of all decisions, approvals, refusals and conditions must be maintained in accordance with regulation 19 of the *Local Government (Administration) Regulations 1996* and the Shire's Record Keeping Plan and Record Keeping Policy;

(e) Where required, affected landowners and occupiers are to be notified in accordance with sections 3.51 and 3.52 of the *Local Government Act 1995*;

(f) This delegation is to be read in conjunction with Delegations CS7 and ES1; and

(g) All relevant approvals from external agencies (including WA Police and Main Roads WA where applicable) must be obtained prior to implementation of any road closure.

~~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.~~

~~**The CEO will ensure compliance with legal requirements and adherence to legislation.**~~

~~**Refer to Delegation CS7 and ES1 for further information.**~~

ES15 TEMPORARY ROAD CLOSURES	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• The Shire of Toodyay Code of Conduct; • Temporary Road Closures Local Planning Policy.

This document is not controlled once it has been printed.

ES15 TEMPORARY ROAD CLOSURES	
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).
Road Traffic Act 1974	• Part VA – Events on roads.
Road Traffic (Administration) Act 2008	• s.139 – Temporary suspension of road law (racing events).
Public Order in Streets Act 1984	• s.7 – Permits.
Local Government (Administration) Regulations 1996	• r.19 – Delegates to keep certain records.
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate Services; • Executive Manager Planning and Regulatory Services; • Executive Manager Economic Development and Community Services; and • Executive Manager Infrastructure, Assets and Services.
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:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

SECTION 3 Finance and 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:	Executive Manager Finance and Corporate Services

STATEMENT OF INTENT

The intent of this delegation is for Council, ~~whose prescribed office is defined as a **public authority** under the *Financial Management Act 2006*, and the *Local Government (Financial Management) Regulations 1996*,~~ to delegate to the Chief Executive Officer (CEO), ~~CEO~~ pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995* the authority to ~~exercise of its power to~~ authorise and make payments from the Municipal, Trust fund and Reserve accounts~~funds~~ of the local government.

This delegation is made in accordance with:

- ~~held by the Shire (referred to in s.~~section 6.10 (Financial management regulations) of the Act; and
- ~~in accordance with reg.~~ regulations 11, 12 and 13 ~~12 (Payments from municipal fund or trust fund, restrictions on making) from~~ the *Local Government (Financial Management) Regulations 1996.*

This delegation enables the CEO to ensure that all payments are made lawfully, are properly authorised, and are supported by appropriate systems of financial control, accountability and governance~~is pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995* and s.5.43 Limits on delegations to the CEO~~.

POWER AND DUTIES

The CEO is authorised to~~This delegation authorises the CEO to~~:

Payment Authorisation and Compliance

- ensure that all payments (including ~~the signing of~~ cheques and ~~authorisation of~~ electronic transfers) comply with ~~payments is compliant with legislative provisions contained in~~ Part 6 – Financial Management of the *Local Government Act 1995* (the Act) and the *Financial Management Regulations*;

~~(a)~~ **Payment Procedures**~~;~~

(a) establish and maintain~~develop~~ procedures for the approval of accounts ensuring that:

- all liabilities are properly incurred; and

This document is not controlled once it has been printed.

- payments are supported by appropriate documentation;

~~(b) 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;*

Financial Controls and Systems

(b) implement systems and procedures to ensure:

- proper authorisation of payments;
- secure use of payment methods (including transaction cards);
- protection of financial assets;

~~(c)~~ **Banking and Signatories** ~~develop systems and procedures that ensure effective security for the authorisation of payment of accounts and for the authorised use of payment methods, including transaction cards;~~

(c) appoint authorised signatory positions for banking and payment purposes;

(d) ensure that authorised signatories are registered with the Shire's banking institutions;

Authorisation of Payments

~~(d) ensure there are appropriate systems in place for the effective security and properly authorised use of cheques/EFT payments from the Shire's bank accounts to safeguard financial resources;~~

~~(e) appoint positions to be Authorised Signatories, registered with the Shire's Banking Institution(s); and~~

~~(f)~~(e) authorise and make payments from the municipal fund, the trust fund; and ~~or~~ reserve accounts~~fund~~ (referred to in Section 6.10 "Financial management regulations" of the Act) in accordance with Regulation 12 "Payments from municipal fund or trust fund, restrictions on making.

Authorised Signatory Framework

For the purposes of *Regulation 11 Payments from Municipal Fund and Trust Fund*, the following positions will be Authorised Signatories, registered with the Shire's banking institution:

(a) Chief Executive Officer;

(b) Executive Manager Finance and Corporate Services;

(c) Executive Manager Economic Development and Community Services;

(d) Executive Manager Infrastructure, Assets and Services,

(e) Executive Manager Planning and Regulatory Services;

(f) Finance Coordinator; and

(g) Project Manager.

FUNCTION

This document is not controlled once it has been printed.

Functions may be performed by the CEO or by employees of the local government in accordance with section 5.44 of the *Local Government Act 1995.*

The CEO~~, as an Authorised Officer~~ is to~~, will~~:

i. administer the municipal fund, trust fund and reserve accounts ~~exercise the above powers and perform executive functions in accordance with Part 6 – Financial Management of the *Act*~~ and ~~will comply~~ensure compliance with the relevant sections of the Act as specified below:

~~(a) s.2.7(2)(a) and (b) (Role of Council);~~

~~(b)~~(a) s.6.4 Prepare an annual financial report and such other financial reports as prescribed;

~~(c)~~(b) s.6.5 (Accounts and records);

~~(d)~~(c) s.6.6 (Funds to be established: Municipal fund and a separate and distinct Trust Fund);

~~(e)~~(d) s.6.7 (Municipal fund);

~~(f)~~(e) s.6.9 (Trust fund);

~~(g)~~(f) s.6.11 (Reserve accounts: establish and maintain reserve funds for the holding of monies set aside for future use).

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

Internal Control Systems

The CEO must establish and maintain systems

ii. ~~have the authority to establish systems~~ and procedures that give effect to internal controls and risk mitigation for the:

(a) collection of money owed to the Shire of Toodyay;

(b) safe custody and security of money collected or held by the Shire;

(c) maintenance and security of all financial records, including payroll, stock control and costing records;

(d) proper accounting of the municipal and trust funds including revenue, expenses and assets and liabilities;

(e) proper authorisation of employees for incurring liabilities, including authority for initiating requisition orders, purchase orders and the use of credit and transaction cards;

(f) making of payments in accordance with this delegation; and

(g) preparation of budgets, budget reviews, accounts and reports as required by legislation or operational requirements.

Payment Processes

iii. The CEO must ensure:

(a) payments are properly authorised;
(b) liabilities are validated prior to payment;
(c) payments comply with this delegation and applicable policies;

This document is not controlled once it has been printed.

Financial Governance and Risk Management

iv. The CEO must ensure that:

(a) risks relating to financial management are identified and mitigated;
(b) procedures are documented and reviewed;
(c) financial systems are subject to internal and external audit;

Trust Fund Administration

v. Payments from trust funds may include (but are not limited to) release of bonds; and deposits held for infrastructure or development works;

~~(g)~~

CONDITIONS

The exercise of the above authority is subject to provisions contained in Part 6 – Financial Management of the *Local Government Act 1995* (the Act) and compliance links contained in this instrument of delegation and to:

r.6. Audits and performance review of accounting staff etc., who may conduct

r.6.8. Expenditure from municipal fund not included in annual budget

r.12. Payments from municipal fund or trust fund, restrictions on making

r.13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

The above authority is also subject to the exclusions / conditions set out below.

Budget Compliance

(a) All payments must be within adopted budget allocations; or be authorised in accordance with section 6.8 of the Act~~When the CEO authorises or approves payments from the municipal fund, the transactions must be within budgeted expenditure limits contained in the Annual Budget~~;

Authorised Signatories

(b) Only the CEO may appoint Authorised Signatories to be registered with the Shire's banking institution(s);

Transaction Cards

(c) Only the CEO may authorise transaction cardholders and spending ~~set~~ limits but be set and documented ~~on spending~~ for those cardholders;

~~(d)~~ **Dual Authorisation**~~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;~~

~~(e) For internal control purposes, a~~All payments ~~made, regardless of size and method of payment, are to~~must be authorised by at least two authorised persons~~signatories~~;

(d)

(e) One authorising officer must be the CEO; or Executive Manager Finance and Corporate Services; or another senior authorised officer determined by the CEO;

A requisitioning Officer cannot approve a purchase order or payment of an invoice;

This document is not controlled once it has been printed.

(f)

Separation of Duties

(g) A person who raises or verifies a liability must not approve its payment;

(h) Adequate segregation of duties must be maintained;

Member Restrictions

(i) Elected Members must not be authorised as payment signatories~~are not eligible for nomination as signatories~~;

~~(f)~~ **Monthly Reporting**

(j) A list of payments must be prepared and provided to Council monthly, including:

- The payee's name;
- The amount of the payment;
- The date of the payment; and
- Sufficient information to identify the transaction.

~~(g)~~ In accordance with Regulation 13~~, each payment from the Municipal Fund, Trust Fund or Reserve Fund is to be noted on a list compiled for Council each month showing:~~

~~(i) The payee's name;~~

~~(ii) The amount of the payment;~~

~~(iii) The date of the payment; and~~

~~(iv) Sufficient information to identify the transaction.~~

~~A.~~

Financial Institution Requirements

~~(h)~~(k) Authorised signatories~~persons~~ must be verified and approved by ~~are required to be identified by~~ the Shire's banking institution~~ to ensure that signatories are both authorised and identified prior to making payments on behalf of the Shire~~;

Cash Floats

(l) Cash floats may only be established with CEO approval; and must be supported by documented justification and controls~~the authority of the CEO contingent upon the need for such cash float being validated and approved~~;

~~(i)~~ **Compliance with Policies**

~~(j)(a) A requisitioning Officer cannot approve a purchase order or payment of an invoice;~~

~~(k)~~(m) All payments are to be made in accordance with the relevant Council Policies;

~~(l)~~ **Documentation and Procedures** ~~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;~~

~~(m) 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~~

This document is not controlled once it has been printed.

~~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;~~

(n) Procedures ~~are to be systematically~~must be documented and retained in accordance with the Record Keeping Plan and must include references to legislative requirements; and must ~~that enable recognition of statutory requirements and~~ assign responsibility for actions to positions ~~titles;~~;

Review and Audit

(o) Procedures ~~are to~~must be administratively reviewed for continuing compliance and confirmed as fit for purpose; and ~~and subsequently~~

~~(o)~~(p) Procedures must be considered by the Audit and Risk Committee at least once within each 3 financial years as part of the Audit regulation 17 review;

Authorisation of Liabilities

~~(p)~~(q) When exercising authority to authorise persons under FM.r.5 to incur liabilities:

(i) A register of authorisations is to be maintained as a local government record;

(ii) Only persons who are appropriately qualified and trained may be authorised for this purpose; and

(iii) Authorisations are to be provided in writing by issuing a Certificate of Authorisation.

~~(q) All payments are to be made in accordance with the relevant Council Policies;~~

Record Keeping

(r) All financial records must be maintained in accordance with the Shire's Record Keeping Plan and Record Keeping Policy.

~~(r) Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles;~~

~~(s) Procedures are to be administratively reviewed for continuing compliance and confirmed as fit for purpose and subsequently considered by the Audit and Risk Committee at least once within each 3 financial years as part of the Audit regulation 17 review.~~

CS1 PAYMENTS FROM MUNICIPAL FUND OR TRUST FUND	
Compliance Links to consider when making decisions under this delegation	
~~**Administrative Management Practice:**~~	~~• Not applicable~~
Shire of Toodyay Corporate Publications:	• Purchasing Policy; and • Transaction Card Policy.

This document is not controlled once it has been printed.

CS1 PAYMENTS FROM MUNICIPAL FUND OR TRUST FUND	
Compliance Links to consider when making decisions under this delegation	
Primary Legislation **Local Government Act 1995**	• s. 6.4 (Financial Report); • s. 6.5 (Accounts and Records); • s. 6.6 (Funds to be established); Limits • s.6.7 (Municipal fund); • s.6.8 (Expenditure from municipal fund not included in annual budget); • s.6.9 (Trust fund); • s.6.10 (Financial management regulations); and • s.6.11 (Reserve accounts). establish and maintain reserve funds for the holding of monies set aside for future use).
Supporting regulations ***Local Government (Financial Management) Regulations 1996***	• r.5 (CEO's duties as to financial management); • r.11 Payments, procedures for making; • r.13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.). • r.13A. (Payments by employees via purchasing cards) Limits • r.6. (Audits and performance review of accounting staff etc., who may conduct); • r.12 (Payments from municipal fund or trust fund, restrictions on making); and • r. 8 (Separate bank etc. Accounts required for some money); • r.10 (Money received, how to be dealt with).
Local Government (Functions and General) Regulations 1996	• r.11A. (Purchasing policies for local governments)
Local Government (Audit) Regulations 1996	• r.9A. (CEO to provide documents to Auditor General carrying out financial audit)
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; (a) Shire of Toodyay Record Keeping Plan; and the (b) Shire of Toodyay Record Keeping Policy.
Delegator: Power/Duty assigned in legislation to	• Responsible Authority (local government)
Delegate:	• CEO.

This document is not controlled once it has been printed.

CS1 PAYMENTS FROM MUNICIPAL FUND OR TRUST FUND	
Compliance Links to consider when making decisions under this delegation	
Sub-Delegation made by the CEO to other employees	• Executive Manager Finance and Corporate Services; • Executive Manager Economic Development and Community Services; • Executive Manager Planning and Regulatory Services; • Executive Manager Infrastructure, Assets and Services; • Finance Coordinator; and • ~~Finance~~ Administration Officer(s) in the Finance and Corporate Services area.
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 Executive Manager Finance and Corporate Services or the Executive Manager Infrastructure, Assets and Services; and • 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:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

CS2 Investment of Surplus Funds

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Executive Manager Finance and Corporate Services

STATEMENT OF INTENT

The intent of this delegation is for Council, pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995* ~~whose prescribed office is defined as a ***public authority*** under the *Financial Management Act 2006*,~~ to delegate to the Chief Executive Officer (CEO) ~~CEO~~ the ~~exercise of its power to~~ authority to~~se an~~ invest surplus funds of the local government.

This delegation is made in accordance with:

- ~~d make payments from the municipal or trust fund (referred to in~~section ~~s.~~ 6.14 (Power to Invest) of the *Local Government Act 1995; and*
- ~~Act in accordance with~~ regulation 19~~.~~ (Investments, control procedures for) and regulation 19C (Investment of money, restrictions on) of ~~from~~ the *Local Government (Financial Management) Regulations 1996* ~~pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995*~~.

and must be exercised in accordance with the Shire of Toodyay **Investment of Surplus Funds Policy.**

POWER AND DUTIES

The CEO is authorised to:

~~This delegation authorises the CEO to:~~

- Establish and document internal control and risk management procedures to be followed by employees to ensure control over investments in accordance with regulation 19 (Investments, control procedures for) of the *Local Government (Financial Management) Regulations 1996; and*
- 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

Functions may be performed by the CEO or by employees of the local government in accordance with section 5.44 of the *Local Government Act 1995.*

1. Investment Decision-Making

The CEO may:

- determine the type, amount and term of investments;

This document is not controlled once it has been printed.

- select authorised institutions for investment;
- ensure diversification of the investment portfolio;

in accordance with r.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 and Council's Investment Policy.

2. Risk and Portfolio Management

The CEO must ensure:

- investments prioritise capital preservation; liquidity; and return (in that order);
- credit risk, market risk and counterparty exposure are managed;
- investments comply with approved credit rating and maturity limits

3. Compliance and Reporting

The CEO must:

- maintain an Investment Register;
- report investment performance and compliance monthly to Council;
- ensure reconciliation and verification of all investments;

4. Sub-Delegation

The CEO may delegate day-to-day management of investments to:

- Executive Manager Finance and Corporate Services; and
- Finance Coordinator;

in accordance with Council policy.

~~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 r.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.

The exercise of this delegation ~~above authority~~ is subject to provisions contained in Part 6 – Financial Management of the *Local Government Act 1995* (the Act), regulations 19 and 19C of the *Financial Management Regulations*, and compliance links ~~contained~~ in this instrument ~~of delegation and to r.12. Payments from municipal fund or trust fund, restrictions on making.~~

~~The above authority is also subject to the exclusions / conditions set out~~and the following: ~~below.~~

Policy Compliance

(a) All investments must comply with the ~~are to be made in accordance with Council's~~ Investment of Surplus Funds Policy.

Separation of Funds

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

Funds must be managed in accordance with:

~~(c)~~(b) ~~Clause~~ Regulation 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.

(c) 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.

(d) regulation 19 (Investments, control procedures for) of the *Local Government (Financial Management) Regulations 1996;*

including where funds are combined in a common investment;

Sub-Delegation

(e) Sub-delegation must be to suitably qualified officers; be documented; and operate within policy and legislative limits.

~~(d)~~

CS2 INVESTMENT OF SURPLUS FUNDS	
Compliance Links to consider when making decisions under this delegation	
~~Administrative Management Practice:~~	~~• Not applicable.~~
Shire of Toodyay Corporate Publications	• Internal Control Policy; • Investment of Surplus Funds Policy;
Primary Legislation ***Local Government Act 1995***	• s.6.10 (Financial Management Regulations); • s.6.14 (Power to invest)
Supporting Regulations ***Local Government (Financial Management) Regulations 1996***	• r.5 – CEO financial management responsibilities; • r.8 (Separate bank etc. Accounts required for some money); • r.12 (Payments from municipal fund or trust fund, restrictions on making); • r.13 (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.); • r.19 (Investments, control procedures for); and • r.19C (Investment of money, restrictions on) (Act s. 6.14(2)(a)).
Additional Legislation and Standards	• Trustees Act 1962; • Banking Act 1959; • Australian Accounting Standards.

This document is not controlled once it has been printed.

CS2 INVESTMENT OF SURPLUS FUNDS	
Compliance Links to consider when making decisions under this delegation	
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate Services. • Finance Coordinator.
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through in accordance with section 5.45 of the Act*	• *Refer to the Statement of Intent.*
Adoption Date:	24 November 2005
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

CS3 Rate Records (Amendment of and Objection to) and rates or service charges

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Executive Manager Finance and Corporate Services

STATEMENT OF INTENT

The intent of this delegation is for Council, pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995* ~~defined as a ***public authority*** under the *Financial Management Act 2006*,~~ to delegate to the Chief Executive Officer (CEO) ~~CEO~~ the authority to ~~the~~ exercise ~~of its~~the powers and~~or the~~ discharge the duties of the local government in relation to:

- the maintenance and amendment of the rate record;
- the imposition, administration and collection of rates and service charges; and
- the consideration and determination of objections to rate records;

in accordance with ~~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 of the *Local Government Act 1995* ~~Act~~ pursuant to reg. 55 (Rate record, form of etc.) (Act s.6.39(1)) ~~from~~ of the *Local Government (Financial Management) Regulations 1996*.

~~This delegation is pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995*.~~

POWERS AND DUTIES

This delegation authorises the CEO to:

1. 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*;
2. 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;*
3. Determine the due date on which rates or service charges become due and payable to the Shire of Toodyay in accordance with section 6.50;
4. Extend the time for a person to make an objection to a rate record (s.6.76(4)); and

This document is not controlled once it has been printed.

5. consider an objection to a rate record and either allow it or disallow it, wholly or in part, providing the decision and reasons for the decision in a notice promptly served upon the person who made the objection (s.6.76(5)).

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995.*

The CEO is authorised to exercise functions in relation to:

~~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:~~

Rating Framework

s.6.33 Differential general rates;

s.6.35 Minimum payment;

s.6.37 Specified area rates;

s.6.38 Service charges;

Rate Record Management

s.6.39 Rate Record;

s.6.40 Effect of amendment of rate record of the Act;

Payment and Recovery

s.6.50 Rates or service charges due and payable.

Objections and Review

s.6.76 Objections to rate record.

CONDITIONS

Refer to Delegation CS1.

The exercise of this delegation ~~above authority~~ is subject to provisions contained in Part 6 – Financial Management of the *Local Government Act 1995* (the Act) and compliance links contained in this instrument ~~of delegation~~ and to the following:

Service of Rate Notices

(a) 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.

Interim Rating Limitation

(b) Decisions under this delegation in respect to r.6.50 are limited to determining due date and instalment due dates applicable to interim rating only.

Separation of Functions (Objections)

(c) A ~~delegate~~ person involved in or who has participated in any matter contributing to a decision related to the rate record, which is the subject of a Rates Record Objection, must NOT be party to any determination under this Delegation.

This document is not controlled once it has been printed.

Record Keeping

(d) All a~~A~~mendments 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.

Consistency with Financial Delegations

(e) This delegation must be exercised consistently with Delegation CS1 (Payments); and relevant financial management controls;

~~(d)~~

CS3 RATE RECORDS (AMENDMENT OF AND OBJECTION TO) RATES OR SERVICE CHARGES	
Compliance Links to consider when making decisions under this delegation	
~~Administrative Management Practice:~~	~~• Not applicable.~~
Shire of Toodyay Corporate Publications	• Debt Collection Policy. • Financial Hardship Policy.
Primary Legislation ***Local Government Act 1995***	Part 6, Division 6, Subdivision 2 (Categories of rates and service charges); • s.6.33 Differential general rates; • s.6.35 Minimum payment; • s.6.37 Specified area rates; • s.6.38 Service charges; ~~Part 6, Division 6,~~ Sub-division 3 Imposition of rates and service charges. • s.6.39 Rate Record; • s.6.40 Effect of amendment of rate record of the Act; ~~Part 6, Division 6,~~ Sub-division 4 Payment of rates and service charges. • s.6.50 Rates or service charges due and payable. ~~Part 6, Division 6.~~ Subdivision 7 Objections and review. • s.6.76. Grounds of objection Additional provisions • s.6.36 – Notice of rates • s.6.41 – Service of rate notices
Supporting regulations ***Local Government (Financial Management) Regulations 1996:***	Part 5 Rates and Service Charges • r.6. (Rate notice, content of etc. (Act s. 6.41)); • r.55 – Rate record (form and content); • r.56 – Rate notices (content)

This document is not controlled once it has been printed.

CS3 RATE RECORDS (AMENDMENT OF AND OBJECTION TO) RATES OR SERVICE CHARGES	
Compliance Links to consider when making decisions under this delegation	
~~***Local Government Act 1995***~~	~~Part 6, Division 6, Subdivision 2 (Categories of rates and service charges);~~ ~~• s.6.33 Differential general rates;~~ ~~• s.6.35 Minimum payment;~~ ~~• s.6.37 Specified area rates;~~ ~~• s.6.38 Service charges;~~ ~~Part 6, Division 6, Sub-division 3 Imposition of rates and service charges.~~ ~~• s.6.39 Rate Record;~~ ~~• s.6.40 Effect of amendment of rate record of the Act;~~ ~~Part 6, Division 6, Sub-division 4 Payment of rates and service charges.~~ ~~• s.6.50 Rates or service charges due and payable.~~ ~~Part 6, Division 6, Subdivision 7 Objections and review.~~ ~~• s.6.76. Grounds of objection~~
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate Services.
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through in accordance with section 5.45 of the Act*	• *Refer to the Statement of Intent.*
Adoption Date:	22 September 2015
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

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:	Executive Manager Finance and Corporate Services

STATEMENT OF INTENT

The intent of this delegation is for Council, pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995*~~defined as a ***public authority*** under the *Financial Management Act 2006*,~~ to delegate to the Chief Executive Officer (CEO) the authority to~~CEO the~~ exercise ~~of its~~the powers and ~~or the~~ ~~discharge of any the~~discharge the duties of the local government in relation to:

- entering into agreements for the payment of rates or service charges;
- administering payment arrangements; and
- undertaking recovery actions for unpaid rates or service charges;

~~of its~~ in accordance with ~~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 *Local Government Act 1995* ~~Act~~ and in accordance with Part 2 - General financial management - s.6.10 of the *Local Government (Financial Management) Regulations 1996*.

This delegation is ~~pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995*~~.

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.

This delegation also authorises the CEO to:

(a) Recover outstanding rates or service charges, including associated ~~as well as~~ costs of proceedings for the recovery, through a ~~in a~~ court of competent jurisdiction in accordance with section ~~(s.~~6.56(1)~~)~~; and

(b) To lodge (and withdraw) a caveat to preclude dealings in respect of land where payment of rates or service charges imposed on that land is in arrears in accordance with section ~~(s.~~6.64(3)~~)~~.

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995.*

This document is not controlled once it has been printed.

The CEO is authorised to exercise functions under:

~~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:~~

Payment Arrangements

s.6.45 Options for payment of rates or service charges;

s.6.49 Agreement as to payment of rates and service charges;

Recovery of Rates

s.6.56 Rates or service charges recoverable in court; and

Enforcement and Security

s.6.64 Actions to be taken.

This document is not controlled once it has been printed.

CONDITIONS

Refer to Delegation CS1, CS3 and Section 6.

The exercise of this delegation is ~~above authority is~~ subject to Part 6, Division 6 of the *Local Government Act 1995*, the compliance links in this instrument, and the following~~Part 2 – General financial management – s.6.10 of the *Local Government (Financial Management) Regulations 1996* and the compliance links contained in this instrument of delegation.~~

~~The above authority is also subject to the exclusions / conditions set out below.~~

Policy Compliance

(a) All payment arrangements and recovery actions must be undertaken in accordance with ~~All necessary measures are to be taken to recover the debt, and all decisions are to be in accordance with~~ Council's Debt Collection and Financial Hardship Policy.

Recovery of Debt

(b) All reasonable measures must be taken to recover outstanding rates or service charges, consistent with statutory requirements; and Council policy frameworks;

Payment Arrangements

(c) Agreements must be in writing, clearly setting out the agreed repayment terms;

(d) ~~To comply~~Compliance 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.

Financial Hardship Considerations

(e) Where appropriate:

- payment arrangements must consider financial hardship provisions;
- decisions must be consistent with the Financial Hardship Policy;

Record Keeping

~~(b)~~

(f) All agreements; recovery decisions; and enforcement actions; must be documented in writing; and recorded in accordance with the Record Keeping Plan and Policy;

Consistency with Related Delegations

(g) This delegation must be exercised consistently with CS1 (Payments from Municipal Fund); and CS3 (Rate Records and Administration).

~~(c) 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.~~

~~(d) Agreements must be in writing and are subject to the Financial Hardship Policy.~~

This document is not controlled once it has been printed.

CS4 APPROVAL OF PAYMENT ARRANGEMENT FOR PAYMENT OF RATES AND SERVICE CHARGES	
Compliance Links to consider when making decisions under this delegation	
~~Administrative Management Practice:~~	~~• Internal policies where applicable~~
Shire of Toodyay Corporate Publications:	• Debt Collection Policy; • Financial Hardship Policy.
Primary Legislation ***Local Government Act 1995***	Part 6, Division 6, Subdivision 4 Payment of rates and service charges • s.6.45 (Options for payment of rates or service charges); • s. 6.49 (Agreement as to payment of rates and service charges) • s.6.50. (Rates or service charges due and payable); • s.6.56 – Recovery in court; • s.6.64 – Actions to recover unpaid rates.
Supporting regulations ***Local Government (Financial Management) Regulations 1996.***	Part 5 Rates and Service Charges • r.56. (Rate notice, content of etc. (Act s. 6.41))
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate Services.
Conditions	• In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through in accordance with section 5.45 of the Act.*	• *Refer to the Statement of Intent.*
Adoption Date:	18 April 2013
Last Review Date:	~~26 June 2025~~3 June 2026

This document is not controlled once it has been printed.

CS5 Issue of Writ, Summons or Other Process

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	Executive Manager Finance and Corporate Services

STATEMENT OF INTENT

The intent of this delegation is for Council ~~defined as a ***public authority*** under the *Financial Management Act 2006*,~~ pursuant to section 5.42 of the *Local Government Act 1995*, to delegate to the Chief Executive Officer (CEO) the authority to initiate and undertake legal proceedings for the recovery of unpaid rates or service charges.

This includes issuing writs, summonses or other legal processes, and exercising powers relating to enforcement against land under Part 6, Division 6 of the Act.

~~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 (referred to in Subdivision 6 (Actions against land where rates or service charges unpaid) of the Act 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

The CEO is authorised to exercise the powers and duties of the local government in respect of:

Legal Proceedings

- commencing and conducting proceedings for ~~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.

Enforcement Action Against Land

- Taking~~e~~ possession of land and holding the land as against a person having an estate or interest in the land (referred to in Subdivision 6 (Actions against land where rates or service charges unpaid) of the Act 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.

This document is not controlled once it has been printed.

Security over Land

- Lodging and withdrawing ~~e (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.

Legal Instrument Authorisation

- issuing and authorising writs, summonses or other legal processes required for the recovery of unpaid rates or service charges;

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995.*

The CEO is authorised to:

~~(a)~~ **Legal Recovery of Rates** ~~This delegation authorises the CEO to:~~

~~(b)~~(a) issue summonses and initiate court proceedings without continual reference back to Council in accordance with s.6.56 (Rates or service charges recoverable in court) of the Act.

Enforcement Action

(b) exercise powers under section ~~comply with~~ s.6.64(1) and (3) (Actions to be taken) of the Act and Council's Debt Collection Policy to:

- secure land;
- protect the local government's interest;
- recover unpaid rates;

~~(c)~~ .

Administration of Legal Processes

(c) ~~r~~authorise and manage legal documentation associated with recovery proceedings, including writs; summonses; and enforcement notices;

(d) recover 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.

CONDITIONS

The exercise of this delegation is subject to Part 6, Division 6 of the *Local Government Act 1995*, the compliance links contained in this instrument, and the following:

~~The above authority is subject to the compliance links contained in this instrument of delegation and is also subject to the conditions set out below.~~

This document is not controlled once it has been printed.

(a) Policy Compliance

All enforcement actions must be undertaken in accordance with:

- the Debt Collection Policy;
- the Financial Hardship Policy (where applicable);

(b) Progressive Enforcement

Legal proceedings and enforcement actions must:

- follow reasonable debt recovery processes;
- only be undertaken after appropriate escalation steps have been applied;

(c) Legal Threshold for Land Action

Powers under section 6.64(1) (taking possession of land) may only be exercised where:

- rates or service charges have remained unpaid for at least three years;
- all statutory requirements have been satisfied;

(d) Record Keeping

All:

- writs, summonses and legal processes;
- enforcement decisions;
- recovery actions;

must:

- be documented in writing; and
- retained in accordance with the Record Keeping Plan and Policy;

(e) Consistency with Related Delegations

This delegation must be exercised consistently with:

- CS3 (Rate Record and administration);
- CS4 (Payment arrangements and recovery escalation);
- CS1 (Payments and financial controls);

(f) Legal and Governance Oversight

All legal proceedings must:

- be undertaken in accordance with applicable laws and court procedures;
- be supported by appropriate documentation and evidence;

~~(a) 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.~~

~~(b) 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*~~

This document is not controlled once it has been printed.

~~requires a 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.~~

~~(c) 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.~~

~~**Refer to CS1, CS3 and CS4.**~~

CS6 ISSUE OF WRIT, SUMMONS OR OTHER PROCESS	
Compliance Links to consider when making decisions under this delegation	
~~Administrative Management Practice:~~	~~• Not applicable.~~
Shire of Toodyay Corporate Publications:	• Debt Collection Policy.
Primary legislation ***Local Government Act 1995***	~~Part 6, Division 6, Sub-division 4 – Payment of rates and service charges.~~ Part 6, Division 6, Sub-division 4 - Payment of rates and service charges. • s.6.50 – Rates due and payable; • s.6.56 – Recovery of rates in court;
Supporting regulations ***Local Government (Financial Management) Regulations 1996:***	Part 2 – General Financial Management • r.12. (Payments from municipal fund or trust fund, restrictions on making); • r.13. (Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.) Part 5 - Rates and Service Charges.
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate 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 in accordance with section 5.45 of the Act* Appointment of Authorised Officers /	• *Refer to the Statement of Intent.*

This document is not controlled once it has been printed.

CS6 ISSUE OF WRIT, SUMMONS OR OTHER PROCESS	
Adoption Date:	24 November 2005
Last Review Date:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

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:	Executive Manager Finance and Corporate Services

STATEMENT OF INTENT

The intent of this delegation is for Council, pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995* ~~defined as a ***public authority*** under the *Financial Management Act 2006*,~~ to delegate to the Chief Executive Officer (CEO) the authority to ~~CEO the~~ exercise ~~of its~~the powers of the local government to defer payment; ~~,~~grant discounts or concessions;~~,~~ waive debts; 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 *Local Government Act 1995*. ~~pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO of the *Local Government Act 1995*.~~

** Absolute majority required.*

POWER AND DUTIES

The CEO is authorised to:

1. Write off any amount of money which is owed to the Shire; and
2. Determine conditions to be applied to waive, grant a concession or write-off money owed to the Shire.
3. 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.
4. defer payment of amounts owing to the local government;

in accordance with section 6.12 ~~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 *Local Government Act 1995*~~Act~~.

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995*.
The CEO is authorised to:

(a) Waiver and Concessions

waive debts or grant concessions in respect of monies owed to the Shire;

(b) Write-Off of Debts

write off amounts determined to be unrecoverable or uneconomical to pursue;

This document is not controlled once it has been printed.

(c) Deferral of Payment

defer payment of amounts owing, including rates and other charges;

(d) Determination of Conditions

determine conditions applicable to:

- deferral arrangements;
- concessions;
- waivers;
- write-offs;

(e) Discretion and Assessment

consider applications and exercise discretion in relation to:

- hardship requests;
- fee waivers;
- discounts under the Schedule of Fees and Charges;

~~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 above authority is subject to the compliance links contained in this instrument of delegation and the conditions set out below.

Monetary Limit

(a) The CEO may write off debts up to a maximum individual value of $2,000 (GST exclusive)

(b) The maximum amount applies per debtor, not per individual debt;

(c) Where multiple debts exist for a single debtor, the aggregate amount must be considered;

(d) Consideration must be given to the cost of recovery relative to the amount owed;

(e) A summary of all debts written off under this delegation must be reported to Council annually (or quarterly);

This document is not controlled once it has been printed.

Rates and Service Charges

~~(a) The CEO may write off amounts of up to $2,000.00~~

~~(b)~~(f) Defer or Write-off a ~~rates~~rate or service charge debt in accordance with the Financial Hardship Policy and to the same limit at (a) above.

Recovery Considerations

~~(c)~~(g) A debt may only be written off where all necessary measures and reasonable efforts have been ~~taken~~ made to locate / contact the debtor and where costs associated with continued action ~~to~~ and recover the debt will outweigh the net value of the debt if recovered by the Shire of Toodyay.

Policy Compliance

(h) All decisions must be consistent with the Debt Collection Policy and the Financial Hardship Policy;

Record Keeping

(i) 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.

Council Oversight

(j) Debts exceeding the delegated limit must be referred to Council for determination;

Consistency with Related Delegations

(k) This delegation must be exercised consistently with:

- CS1 (Payments);
- CS3 (Rates administration);
- CS4 (Payment arrangements);
- CS5 (Debt enforcement);

~~(d)~~

CS6 POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE-OFF DEBTS	
Compliance Links to consider when making decisions under this delegation	
~~Administrative Management Practice:~~	~~• Not applicable.~~
Shire of Toodyay Corporate Publications:	• Debt Collection Policy; and • Financial Hardship Policy.
Local Government Act 1995	• s. 6.12 (Power to defer, grant discounts, waive or write off debts)

This document is not controlled once it has been printed.

CS6 POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE-OFF DEBTS	
Local Government (Financial Management) Regulations 1996.	• Annual Budget Part 3, reg. 26 (Discounts for early payment etc., information about required); • Financial Reports Part 4, reg. 42 (Discounts for early payment etc., information about in annual financial report).
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Finance and Corporate 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 1995.*
Appointment of Authorised Officers / Authorised Persons ☑ *Suitable for Acting Through*	• *Refer to the Statement of Intent.*
Adoption Date:	24 November 2005
Last Review Date:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

SECTION 4 Economic Development and Community Services (Delegations to the CEO)

EDCS1 Consumption of Liquor on local government property

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Economic Development and Community Services
Responsible Officer:	Executive Manager Economic Development and 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 Local Government Property Local Law provides for the control of activities on local government property, including:

- the possession and consumption of liquor, where permitted by the local government.

The administration of liquor consumption on local government property is also supported by the *Liquor Control Act 1988*, which regulates the licensing and lawful consumption of liquor within the State~~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, pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO under the *Local Government Act 1995* ~~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 s.6(a) and s.6(b) of the *Criminal Procedure Act 2004*;~~ to delegate to the Chief Executive Officer (CEO) the authority to ~~CEO the~~ regulate and control the possession and consumption of liquor on local government property~~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*~~.

This includes:

- approving applications;

This document is not controlled once it has been printed.

- issuing permits; and
- administering restrictions relating to liquor consumption;

in accordance with:

- the Shire's Local Government Property Local Law; and
- applicable provisions of 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 Local Government Act 1995.~~
- ~~The intent of this delegation is for Council, defined as a public body under the Liquor Control Act 1988, to delegate to the CEO the exercise of its power to properly control the consumption of liquor on local government property pursuant to the express power to delegate: s.5.42 Delegation of some powers and duties to the CEO under the Local Government Act 1995.~~

POWERS AND DUTIES

The CEO is authorised to:

- approve and regulate the consumption of liquor on local government property;
- issue permits for possession and consumption of liquor;
- impose conditions on permits;
- ensure compliance with:
  - the Local Government Property Local Law;
  - the Liquor Control Act 1988;
  - Council policies;

~~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.~~

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the Local Government Act 1995.

The CEO is authorised to:

~~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 3.16 (Responsibilities of permit holder) of the *Local Government Property Local Law 2021* are as follows:~~

(a) approve~~ing~~ applications for the consumption of liquor on local government property;

(b) Issue~~ing~~ permits for possession and consumption of liquor on local government property;

(c) impose conditions on permits as necessary to ensure safety, compliance and community amenity

~~(c)~~(d) Use their discretion in relation to whether to apply, waive or reduce fees contained in the Shire's *Schedule of Fees and Charges* to be imposed upon applicants; and

(e) Prohibit or restrict ~~preventing~~ the consumption of ~~any~~ liquor on the local government property where permit conditions are not complied with, unless the permit allows it and a licence has been obtained under the *Liquor Licensing Act 1988* for that purpose; and~~.~~

~~(d)~~(f) Inform permit holders of their legal obligations under the Liquor Control Act 1988 and the Shire's local law.

~~The CEO, as an Authorised Person, will be authorised to sub-delegate the above function pursuant to the express power to delegate: s.5.44 (CEO may delegate powers and duties to other employees) of the Act.~~

CONDITIONS

The exercise of the above authority is subject to the compliance links contained in this instrument of delegation and conditions set out below.

(a) Permits must only be granted where the activity does not adversely impact public safety; and the use is appropriate to the location.

~~(a)~~(b) 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; and are reported in the Community Development Officer's section of the Council Information Bulletin.

~~(b)~~(c) Compliance with ~~ensure that~~ local laws of a local government under the Local Government Act 1995 or by-laws of an Aboriginal community under the Aboriginal Communities Act 1979 ~~are complied with~~.

~~(c)~~(d) 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~~EDCS1 CONSUMPTION OF LIQUOR ON LOCAL GOVERNMENT PROPERTY	
Compliance Links to consider when making decisions under this delegation	
~~Administrative Management~~Business Operational Practice:	• Applications for Public Events;
Shire of Toodyay Corporate Publications:	• Trading in thoroughfares and public places Local Planning Policy; • Local Government Property Local Law 2021
Primary Legislation Local Government Act 1995	• s.2.7 – Role of Council • s.3.5 – Legislative powers • s.3.12 – Local laws • s.5.42 – Delegation • s.5.44 – Sub-delegation

This document is not controlled once it has been printed.

~~CS9~~EDCS1 CONSUMPTION OF LIQUOR ON LOCAL GOVERNMENT PROPERTY	
Liquor Control Act 1988	• s.6. (Act not to apply in certain cases); • s. 37 (Pre-requisites for grants of licences etc.) conditions on licences • s.39. (Certificate of local government as to whether premises comply with laws); • s.69. (Advertising, referring, investigating and intervening in applications); • s.122 (Regulated premises offences as to juveniles); • s.156. (Local governments, functions of)
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
Delegation made by Council to authorise the CEO and/or other	• CEO.
Sub-Delegation made by the CEO to other employees	• Executive Manager Economic Development and Community Services; • Executive Manager Infrastructure, Assets and Services; • Executive Manager Planning and Regulatory Services; and • Executive Manager Finance and Corporate 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:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

SECTION 4 5 Planning and Regulatory Services (Delegations to CEO)

PRS1 Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

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

(a) *Health (Miscellaneous Provisions) Act 1911,* in accordance with s.26 (Powers of local government); and

(b) *Public Health Act 2016* in accordance with s.21(1)(b) (Enforcement Agency may delegate) and s.24(1) (Designation of authorised officers).

The Council authorises the CEO to exercise the functions of the local government:

(a) directly; and

(b) through authorised officers designated under the Public Health Act 2016; and

(c) through employees to whom powers or duties have been sub-delegated in accordance with the Local Government Act 1995.

For the avoidance of doubt:

(a) the CEO may exercise powers and perform functions of the local government as a public authority and enforcement agency; and

(b) authorised officers may perform functions conferred on them under relevant legislation under the direction of the CEO.

This delegation extends to all regulations made under the Health (Miscellaneous Provisions) Act 1911, including the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974.

~~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 document is not controlled once it has been printed.

This delegation authorises the CEO to:

(a) exercise ~~of any local government (Council)~~all powers and perform all functions conferred or imposed on the local government as a public authority and enforcement agency under ~~or the discharge of any Council duties in respect to~~ s.24 (Designation of authorised officers) of the *Public Health Act 2016* and the *Health (Miscellaneous Provisions) Act 1911* ~~*including* the provisions of any subsidiary legislation~~;

(b) consider, determine and approve or refuse applications for the installation, construction and use of septic tanks and ~~other~~ alternate effluent disposal treatment systems in accordance with the Health (Miscellaneous Provisions) Act 1911 and the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974;

~~(b) that are compliant with the *Health (Miscellaneous Provisions) Act 1911* and relevant provisions of any subsidiary regulations~~;

(c) administer and enforce the requirements of the Health (Miscellaneous Provisions) Act 1911 and relevant subsidiary legislation relating to sewage and effluent disposal;

(d) designate authorised officers in accordance with the Public Health Act 2016, and ensure that such officers are suitably qualified, authorised and able to exercise their statutory functions

~~(c)~~(e) ~~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~~; and

(f) take appropriate compliance and enforcement action in relation to breaches of the Health (Miscellaneous Provisions) Act 1911, the Public Health Act 2016, and associated regulations; and

(g) perform all functions incidental or necessary to give effect to the proper administration and enforcement of the above legislation.

~~(d)~~(h) ~~instigate appropriate action in a timely and efficient manner relating to breaches of the Shire of Toodyay's current *Local Planning Scheme*~~.

FUNCTION

The CEO is authorised to perform the functions of the local government under the ~~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.

The CEO may perform these functions directly or through authorised officers. Without limiting the above, the CEO is authorised to undertake the following functions:

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

r.4(3)(a) Approval or Refusal of construction or installation of apparatus by local government);

r.4(3)(b) Approval or Refusal of construction or installation of apparatus by local government);

This document is not controlled once it has been printed.

r.10(2) Permit to use apparatus);

r.10(4)(b) Permit to use apparatus);

r.22(2)(a) Review of decision of local government); and

r.22(2)(b) Review of decision of local government).

CONDITIONS

The exercise of authority under this Instrument of Delegation is subject to:

(a) the provisions of the *Public Health Act 2016*, the *Health (Miscellaneous Provisions) Act 1911* and the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*;

(b) compliance with any relevant conditions imposed under the *Public Health Act 2016*, including requirements relating to authorised officers and the performance of enforcement functions;

(c) the requirement that authorised officers designated under the *Public Health Act 2016* are suitably qualified and experienced in accordance with statutory requirements;

(d) the requirement that a register of approvals and applications relating to sewage and effluent disposal systems is maintained in an approved manner;

(e) the requirement that all decisions made under this delegation are:

(i) made in writing; and
(ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(f) the requirement that records of authorised officers are maintained in an Authorised Officers Register;

(g) the requirement to comply with reporting obligations under the *Health (Miscellaneous Provisions) Act 1911*, including section 38 (annual reporting on sanitary conditions); and

(h) this delegation being read in conjunction with Delegation ES3 and other relevant Council delegations.

~~**Refer to Delegation ES3 and EA7.**~~

~~**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.***~~

~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

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

~~(b) 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.~~

This document is not controlled once it has been printed.

~~(c) 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~~

~~(d) Reported in the quarterly Council Information Bulletin~~

~~(e) 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.~~

PRS1 APPLICATIONS FOR TREATMENT OF SEWAGE AND DISPOSAL OF EFFLUENT AND LIQUID WASTE	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's current Local Planning Scheme. • *Health Local Law* ~~2017~~. Local Planning Policies where they directly affect the assessment or approval of on-site effluent disposal systems: • Amendments to the Shire of Toodyay's current 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.
Public Health Act 2016	• Provisions relating to enforcement agencies • Designation and functions of authorised officers • Requirements relating to qualifications and performance of functions
Health (Miscellaneous Provisions) Act 1911	• Provisions relating to sanitary control and local government responsibilities; • Section 38 – Annual reporting requirements
Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974	• r.4 – Approval of installation of apparatus • r.10 – Permits to use apparatus • r.22 – Review of decisions • All provisions relating to installation, maintenance and operation of treatment systems ~~Twelfth Report~~
Department of Health Guidance	Department of Health (WA) guidance, codes and technical standards relating to: • on-site effluent disposal systems; • wastewater management; • public health compliance .

This document is not controlled once it has been printed.

PRS1 APPLICATIONS FOR TREATMENT OF SEWAGE AND DISPOSAL OF EFFLUENT AND LIQUID WASTE	
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Functions must be exercised in accordance with this Instrument of Delegation; • Authorised officers must be properly designated and qualified; • All approvals and decisions must be documented and recorded ~~In accordance with the conditions listed in this delegation.~~
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Not applicable.
Adoption Date:	24 November 2005
Last Review Date:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

PRS2 Issue of Notice of Breach (Fencing)

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

The *Land Administration Act 1997:*

(a) is a Prescribed Act as defined by the *Criminal Procedures Act 2004*; and

(b) defines a ***public authority*** as meaning a local government.

The intent of this delegation is for Council to delegate to the Chief Executive Officer (CEO) the exercise of powers and the performance of functions conferred on the local government under the Local Government Act 1995 and the~~, 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 Fencing local law.

This delegation is made in accordance with section 5.42(1)(b) of the Local Government Act 1995. The Council authorises the CEO to administer and enforce the Shire's Fencing Local Law and to exercise those functions:

(a) directly; and

(b) through employees to whom powers or duties have been sub-delegated in accordance with section 5.43 of the *Local Government Act 1995*.

For the avoidance of doubt:

(a) the CEO may exercise the powers of the local government in relation to compliance and enforcement of the Shire's Fencing Local Law; and

(b) authorised employees may perform those functions under the direction of the CEO.

This delegation applies to the administration and enforcement of the Shire's Fencing Local Law and may have regard to the relevant provisions of the *Dividing Fences Act 1961* where applicable.

~~pursuant to s.24 (Local government may be required to prescribe sufficient fence) of the *Dividing Fences Act 1961*.~~

~~The above authority will extend to any subsidiary legislation under the *Dividing Fences Act 1961* specified above pursuant to the express power to delegate: s.5.42(1)(B) Delegation of some powers and duties to the CEO of the *Local Government Act 1995* pursuant to the *Planning and Development Act 2005* s.214(2), (3) and (5).~~

POWERS AND DUTIES

This delegation authorises the CEO to:

This document is not controlled once it has been printed.

(a) exercise all powers and perform all duties of the local government under the Shire's Fencing Local Law;

(b) issue, serve and enforce notices of breach or compliance notices for non-compliance with the requirements of the Shire's Fencing Local Law;

(c) require the installation, repair or replacement of fencing in accordance with the provisions of the applicable local law and relevant legislation;

(d) take appropriate compliance and enforcement action in relation to breaches of the Shire's Fencing Local Law; and

(e) perform all functions incidental or necessary to give effect to the proper administration and enforcement of the local law.

~~This delegation authorises the CEO to issue and serve a 'notice of breach' for non-conformance within the requirements of the Shire's Fencing *Local Law*.~~

FUNCTION

The CEO is authorised to administer and enforce the functions conferred on the local government under the Shire's Fencing Local Law.

The CEO may perform these functions directly or through employees acting under sub-delegation.

Without limiting the above, the CEO is authorised to:

(a) assess compliance with fencing requirements;

(b) issue and manage notices of breach or compliance;

(c) monitor and enforce adherence to fencing standards; and

(d) undertake any administrative actions required to support enforcement.

~~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 *Fencing Local Law* .~~

CONDITIONS

The exercise of authority under this Instrument of Delegation is subject to:

(a) compliance with the Shire's Fencing Local Law and the *Local Government Act 1995;*

(b) all notices of breach being issued in accordance with the requirements of the applicable local law;

(c) the requirement that all notices, actions and decisions are:

  (i) made in writing; and

  (ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(d) the requirement that details of notices issued are recorded in the appropriate file or compliance register; and

(e) this delegation being read in conjunction with other relevant Council delegations.

This document is not controlled once it has been printed.

~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~
~~(a) To comply with the Shire's Local Laws relating to Fencing.~~
~~(b) Details of notices are to be recorded on the appropriate file or register in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.~~

PRS2 ISSUE OF NOTICE OF BREACH (FENCING)	
When exercising powers and functions under this Instrument of Delegation, the Chief Executive Officer and any sub-delegate must comply with, and have regard to, the following: **Compliance Links** ~~to consider when making decisions under this delegation~~	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's current Local Planning Scheme; • Local Government Property Local Law; and • Local Laws Relating to Fencing; Local Planning Policies: • Foggarthorpe Design Guidelines; • Subdivision Development Guidelines; • Glencoe Estate Design Guidelines; • Central Toodyay Heritage Area; • Landscaping Plans; and • Signage Outside the Central Toodyay Heritage Area.
Local Government Act 1995	• s.5.42 (Delegation of some Powers and Duties to CEO). • s.5.43 – Sub-delegation by CEO; • s.3.25 – Power to require work to be carried out; • s.3.26 – Local government to carry out work if person fails to comply.
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; and • Planning and Compliance Officer (included Contractors); • Building Surveyor (included Contractors)
Conditions	• Functions must be exercised in accordance with this Instrument of Delegation; • Sub-delegations must comply with section 5.43 of the *Local Government Act 1995;* • All enforcement actions must be lawful, reasonable, and procedurally fair ~~In accordance with the conditions listed in this delegation.~~

This document is not controlled once it has been printed.

PRS2 ISSUE OF NOTICE OF BREACH (FENCING)	
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.
Adoption Date:	27 March 2008
Last Review Date:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

PRS3 Dealing with Clearing Matters

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

BACKGROUND

The Department of Water and Environmental Regulation (DEWR) ~~is responsible for~~ administersing the native vegetation clearing provisions under ~~. 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 l~~Local government is consulted by DWER as ~~is~~ a public authority who, where clearing applications may impact matters within its jurisdiction, including local planning schemes and land use considerations~~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)* set out the clearing permit framework and associated processes. ~~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 to the Chief Executive Officer (CEO) the authority to provide submissions, comments and technical advice on behalf of the local government in relation to applications for native vegetation clearing.~~whose prescribed office is defined as a **public authority** to delegate to the CEO of any of the local government's powers or the discharge of any of the local government's duties pursuant to the express power to delegate:~~

This delegation is made in accordance with section ~~s.~~5.42(1)(B) Delegation of some powers and duties to the CEO of the *Local Government Act 1995*. ~~pursuant to s.214(2), (3) and (5) of the *Planning and Development Act 2005*~~

The Council authorises the CEO to exercise these functions:

(a) directly; and

(b) through employees to whom powers or duties have been sub-delegated in accordance with section 5.43 of the *Local Government Act 1995*.

For the avoidance of doubt:

This document is not controlled once it has been printed.

(a) this delegation relates to the provision of comments and advice only, and does not authorise the granting or refusal of clearing permits; and

(b) the CEO may provide written submissions to DWER, or other relevant authorities having regard to the Shire's Local Planning Scheme and adopted policies.

The CEO must refer matters to Council where the proposal does not meet the criteria set out below or where the matter raises significant environmental or strategic concerns.

~~The intent of this delegation is for Council to delegate power to the CEO to provide written comment for clearing applications under the Shire of Toodyay's current Local Planning Scheme (the Scheme) 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;~~

~~(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 the Scheme where such clearing complies with all provisions of the 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;~~

This document is not controlled once it has been printed.

~~(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); and~~

~~(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 authorises the CEO to:

(a) provide written comment, advice or submissions to the Department of Water and Environmental Regulation on applications for clearing permits;

(b) assess proposed clearing having regard to the Shire of Toodyay Local Planning Scheme, Local Planning Strategy and adopted policies;

(c) determine whether a clearing proposal is supported, not supported, or should be referred to Council in accordance with the criteria below; and

(d) undertake any administrative actions necessary to give effect to this delegation.

ASSESSMENT CRITERIA

1. Applications to clear land may be supported in the following circumstances:

(a) Clearing of trees or vegetation that presents a demonstrable risk to life, property or infrastructure;

(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;

(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 the Scheme where such clearing complies with all

This document is not controlled once it has been printed.

provisions of the 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 generally not be supported in the following circumstances:

(a) Where the proposed area to be cleared is situated within environmentally sensitive areas (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) Clearing that is likely to result in significant adverse environmental or landscape impacts.

3. The following applications to clear land must be referred to Council for determination:

(a) proposals that fall outside the above criteria;

(b) proposals involving large-scale clearing or sensitive environmental areas; and

(c) proposals raising significant community, environmental or strategic concerns.

~~This delegation will facilitate the timely processing of applications to clear land under the Scheme and to provide prompt written responses to the DWER on applications for clearing permits.~~

FUNCTION

The CEO is authorised to perform the functions of the local government as a public authority in responding to clearing applications referred for comment.

Without limiting the above, the CEO may:

(a) review and assess clearing applications referred by DWER;

(b) prepare and submit written responses; and

(c) determine whether matters fall within delegated authority or require referral to Council.~~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

The exercise of authority under this Instrument of Delegation is subject to:

(a) compliance with the *Environmental Protection Act 1986* and the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004;*

(b) the requirement that the local government acts only in an advisory capacity in relation to clearing permit applications;

(c) consideration of the Shire of Toodyay Local Planning Scheme, Local Planning Strategy and adopted policies;

(d) all submissions and determinations being:

(i) made in writing; and

(ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(e) matters outside the scope of this delegation being referred to Council; and

~~(a)~~ (f) this delegation being read in conjunction with other relevant Council delegations. ~~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; and~~

~~(b) 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.~~

~~(c) 5.46. Register of, and records relevant to, delegations to CEO and employees;~~

~~(d) r.29. Information to be available for public inspection (Act s. 5.94)~~

~~(e) 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~~.

PRS3 DEALING WITH CLEARING MATTERS	
When exercising powers and functions under this Instrument of Delegation, the Chief Executive Officer and any sub-delegate must comply with, and have regard to, the following: **Compliance Links ~~to consider when making decisions under this delegation~~**	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's current Local Planning Scheme; • Subdivision Development Guidelines Policy.
Environmental Protection Act 1986	• Provisions relating to native vegetation clearing; • Part V – Environmental regulation (including clearing permit framework); • s.51B(4) (Declaration of environmentally sensitive areas by regulation)
Environmental Protection (Clearing of Native Vegetation) Regulations 2004	• r.5. (Prescribed clearing (s. 51C)); ~~.~~ • Relevant provisions relating to exemptions and permit requirements;

This document is not controlled once it has been printed.

PRS3 DEALING WITH CLEARING MATTERS	
Planning and Development Act 2005.	• Section 4 (Terms used) – responsible authority; • Section 72 (Local government may prepare or adopt scheme)
Planning and Development (Local Planning Scheme) Regulations 2015	• r.79. Entry and inspection powers; • Provisions relating to administration and enforcement of local planning schemes;
Local Government Act 1995	• s.5.42 – Delegation of powers and duties to CEO; • s.5.43 – Sub-delegation by CEO; • s.5.46 – Register of delegations;
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; and • Executive Manager Infrastructure, Assets and Services.
Conditions	• Functions must be exercised in accordance with this Instrument of Delegation; • Sub-delegations must comply with section 5.43 of the Local Government Act 1995; • All submissions and advice must be documented and retained; • Officers must comply with all applicable written laws, regulations, policies, and standards relevant to the exercise of delegated powers.~~In accordance with the~~
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Not applicable.
Adoption Date:	27 April 2006
Last Review Date:	~~26~~ 4 June ~~2025~~2026

This document is not controlled once it has been printed.

PRS4 Swimming Pools and Inspections

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

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 s.6(a) and s.6(b) of the *Criminal Procedure Act 2004,*~~ as the permit authority under the *Building Act 2011,* to delegate to the Chief Executive Officer (CEO) the exercise of ~~any local government (Council)~~ powers and performance of functions relating to the inspection and compliance of private swimming pool barriers under the *Building Regulations 2012*, including regulation 53.

This delegation is made pursuant to section 127(1) of the *Building Act 2011* and section 5.42(1)(b) of the *Local Government Act 1995.*

For the avoidance of doubt:

(a) the CEO may exercise these functions directly or through authorised persons designated under section 96 of the *Building Act 2011*;

(b) authorised persons and approved officers may be appointed in accordance with regulation 70 of the Building *Regulations 2012* where required for enforcement and prosecution purposes.

~~or the discharge of any Council duties in respect to r.53. Inspection of barrier to private swimming pool of the Building Regulations 2012 pursuant to the power to appoint: r.70 (2) (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:

(a) exercise all powers and perform all duties of the local government as the permit authority in relation to swimming pool and spa barriers;

(b) arrange, undertake and manage inspections of private swimming pool and spa barriers in accordance with the Building Regulations 2012; (

(c) designate authorised persons in accordance with the Building Act 2011 to carry out inspections and compliance functions;

(d) monitor compliance with barrier requirements and applicable building standards;

This document is not controlled once it has been printed.

(e) take appropriate compliance and enforcement action in relation to non-compliant swimming pool or spa barriers, including issuing notices and initiating infringement or prosecution processes where authorised; and

(f) perform all functions incidental or necessary to give effect to the proper administration and enforcement of swimming pool and spa barrier requirements.

~~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 r.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 is authorised to administer the functions of the local government under the Building Act 2011 and Building Regulations 2012 in relation to swimming pool and spa barriers.

The CEO may perform these functions directly or through authorised persons or sub-delegated officers.

Without limiting the above, the CEO is authorised to perform functions including:

~~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

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

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

r.51 Approvals by permit authority;

r.53 Inspection of barrier to private swimming pool; and

r.69 Prescribed offences and modified penalties.

Without limiting the above, authorised persons may:

(a) receive and process approvals relating to swimming pools and their barriers;

(b) undertake inspections at least once every four years or as otherwise required;

(c) assess compliance with applicable building standards; and

(d) take enforcement action where non-compliance is identified. ~~Authorised Officers will be responsible for monitoring compliance with the requirements that apply to a swimming or spa pool barrier by:~~

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

This document is not controlled once it has been printed.

CONDITIONS

The exercise of authority under this Instrument of Delegation is subject to:

(a) compliance with the Building Act 2011 and Building Regulations 2012;

(b) the requirement that all authorised persons are properly designated and qualified in accordance with the Building Act 2011;

(c) the requirement that inspection programmes for private swimming pools and spa barriers are maintained in accordance with regulatory requirements;

(d) the requirement that all inspections, decisions and enforcement actions are:

(i) made in writing; and

(ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(e) the requirement that identity cards or certificates of authority are issued to authorised persons where required;

(f) reporting on compliance activities through appropriate Council reporting mechanisms; and

(g) this delegation being read in conjunction with Delegation ES5 and other relevant Council delegations.

PRS4 SWIMMING POOL INSPECTIONS	
When exercising powers and functions under this Instrument of Delegation, the Chief Executive Officer, authorised persons and any sub-delegate must comply with, and have regard to, the following Compliance Links, ~~to consider when making decisions under this delegation~~	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's current Local Planning Scheme. • Health Local Law 2017
Building Act 2011~~:~~	• s.127(1) & (3) Delegation: special permit authorities and local government • s.37 All buildings to comply with applicable building standards • s.19 Certificate of design compliance • Provisions relating to authorised persons and enforcement
***Building Regulations 2012*:**	• r.27 (Required inspection and tests: Class 2 to Class 9 buildings (s. 36(2)(a)); • r.28 (Required inspection: barrier to private swimming pool (s. 36(2)(a)); • r.31C (Applicable building standards for private swimming pools) • r.51 (Approvals by permit authority); • r.53. (Inspection of barrier to private swimming pool); • r.53B. Local governments to give Building Commissioner information); • r.69 (Prescribed offences and modified penalties).

This document is not controlled once it has been printed.

PRS4 SWIMMING POOL INSPECTIONS	
Standards and Guidance	• Australian Standard AS 1926.1 – Safety barriers for swimming pools
Local Government Act 1995	• s.36 – former provision 245A - Local Government (Miscellaneous Provisions) Act 1960.
Building Regulations 2012	• r.53B. Local governments to give Building Commissioner information
Other Relevant References:	• Provisions of the *Australian Standard 1926.*1-2012 (Safety Barriers for Swimming Pools – Western Australia).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; • Planning and Compliance Officer (included Contractors); • Environmental Health Officer.
Conditions	• Same conditions as Delegation ES5. • Functions must be exercised in accordance with this Instrument • Sub-delegations must comply with section 5.43 of the Local Government Act 1995 • All enforcement actions must be lawful, reasonable, and procedurally fair; • Officers must comply with all applicable written laws, regulations, standards, and policies relevant to the exercise of delegated powers.
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:	~~26~~ 4 June ~~2025~~2026

This document is not controlled once it has been printed.

PRS5 Crossing from Public Thoroughfare to Private land or Private thoroughfare.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

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 Instrument of Delegation is for the Council to delegate to the Chief Executive Officer (CEO) the exercise of powers and performance of functions relating to the approval and regulation of crossings from public thoroughfares to private land or private thoroughfares.

This delegation is made pursuant to section 5.42(1)(b) of the *Local Government Act 1995.*

The Council authorises the CEO to exercise these functions:

(a) directly; and

(b) through employees to whom powers or duties have been sub-delegated in accordance with section 5.43 of the *Local Government Act 1995.*

For the avoidance of doubt:

(a) the CEO may exercise the powers conferred on the local government under the *Local Government (Uniform Local Provisions) Regulations 1996* in relation to the construction and maintenance of crossings; and

(b) this delegation applies to crossings from public thoroughfares to private land or private thoroughfares within the district. ~~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.*~~

~~This delegation is pursuant to the express power to delegate: s.5.42 Delegation of some powers or duties to the CEO of the *Local Government Act 1995.*~~

POWERS AND DUTIES

This document is not controlled once it has been printed.

This delegation authorises the CEO to:

(a) approve, approve subject to conditions, or refuse applications for the construction of a crossing from a public thoroughfare to private land or a private thoroughfare;

(b) determine specifications and standards for the construction or modification of crossings;

(c) issue notices requiring the construction, repair or upgrade of a crossing in accordance with the Local Government (Uniform Local Provisions) Regulations 1996;

(d) arrange for works to be carried out where a person fails to comply with a notice, and recover costs in accordance with the Regulations; and

(e) perform all functions incidental or necessary to give effect to the proper administration of crossover works within the local government district. ~~This delegation authorises the CEO to approve or refuse to approve, applications for 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

The CEO is authorised to administer the functions of the local government under the Local Government (Uniform Local Provisions) Regulations 1996 in relation to crossings.

Without limiting the above, the CEO may:

(a) assess and determine crossover applications;

(b) set and enforce construction standards;

(c) issue and manage compliance notices; and

(d) ensure coordination with engineering, planning and building requirements where relevant. ~~To CEO is authorised to, pursuant to the Local Government (Uniform Local Provisions) Regulations 1996:~~

~~(a) determine the specifications for construction of crossings;~~

~~(b) give notice to an owner or occupier of land requiring the person to construct or repair a crossing;~~

~~(c) initiate works to construct a crossing where the person fails to comply with a notice requiring them to construct or repair the crossing and recover 50% of the cost of doing so as a debt due from the person; and~~

~~(d) 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 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.~~

This document is not controlled once it has been printed.

~~In summary, this delegation gives the Shire's Planning and Regulatory Services the ability to consider a Crossover application and either refuse or approve the placement of a crossover.~~

CONDITIONS

~~**Refer to Delegation ES1 and ES5.**~~

The exercise of authority under this Instrument of Delegation is subject to:

(a) compliance with the Local Government Act 1995 and the Local Government (Uniform Local Provisions) Regulations 1996;

(b) all approvals and determinations being:

(i) made in writing; and

(ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(c) works being carried out in accordance with approved specifications and any applicable local government standards or policies; and

(d) this delegation being read in conjunction with other relevant Council delegations.~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

~~(a) 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*.~~

~~(b) 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.~~

PRS5 CROSSING FROM PUBLIC THOROUGHFARE TO PRIVATE LAND OR PRIVATE THOROUGHFARE	
When exercising powers and functions under this Instrument of Delegation, the Chief Executive Officer and any sub-delegate must comply with, and have regard to, the following Compliance Links ~~to consider when making decisions under this delegation~~	
Shire of Toodyay Corporate Publications:	• *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.* Local Planning Policies: • Trading in thoroughfares and public places; • Directional Signage & Signage within Thoroughfares. • Crossover Policy and relevant engineering standards.
Local Government (Uniform Local Provisions) Regulations 1996	• *reg. 12(1) (Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)).*

This document is not controlled once it has been printed.

PRS5 CROSSING FROM PUBLIC THOROUGHFARE TO PRIVATE LAND OR PRIVATE THOROUGHFARE	
Local Government Act 1995	• s.3.25 – Power to require work to be carried out • s.3.26 – Local government to carry out work if person fails to comply • s.3.50 (Closing certain thoroughfares to vehicles); and • s.3.51 (Affected owners to be notified of certain proposals); and • s.3.52 (Public access to be maintained and plans kept) • s.5.42 – Delegation of powers and duties to CEO • s.5.43 – Sub-delegation by CEO
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; and • Executive Manager Infrastructure, Assets and Services.
Conditions	• Subject to ss. 127(3) and 127(6A) (Delegation: special permit authorities and local governments) of the *Building Act 2011.* • Functions must be exercised in accordance with this Instrument • Sub-delegations must comply with section 5.43 of the Local Government Act 1995 • All decisions and enforcement actions must be lawful, reasonable, and procedurally fair • Officers must comply with all applicable written laws, regulations, standards, and policies relevant to the exercise of delegated powers.
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:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

PRS6 Stallholder Applications

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

BACKGROUND

The Shire's '*Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*' was ~~gazetted on 25/10/2001 pursuant to 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~~made under the *Local Government Act 1995.*

Decisions relating to granting, varying or cancelling approvals under a local law are subject to review provisions under Part 9 of the *Local Government Act 1995* and may be referred to the State Administrative Tribunal.

These decisions involve the exercise of discretion and therefore require formal delegation to enable timely and consistent decision-making.

~~**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 Instrument of Delegation is for the Council to delegate to the Chief Executive Officer (CEO) the exercise of powers and performance of functions relating to the determination of stallholder and trading applications under the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law'.

This delegation is made pursuant to section 5.42(1)(b) of the Local Government Act 1995.

The Council authorises the CEO to exercise these functions:

(a) directly; and

This document is not controlled once it has been printed.

(b) through employees to whom powers or duties have been sub-delegated in accordance with section 5.43 of the Local Government Act 1995.

For the avoidance of doubt:

(a) the CEO may determine applications, impose conditions, vary approvals and cancel permits in accordance with the local law; and

(b) the exercise of discretion must be consistent with the Local Planning Scheme and relevant Council policies where applicable.

~~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 s.6(a) and s.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 Shire of Toodyay's current Local Planning Scheme (the 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.~~

~~This delegation is pursuant to the express power to delegate: 5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995*.~~

POWERS AND DUTIES

This delegation authorises the CEO to:

(a) approve, refuse, approve subject to conditions, vary or cancel stallholder or trading permits under the local law;

(b) impose and enforce conditions on permits consistent with the local law and Council policies;

(c) determine whether exemptions or fee variations may apply in accordance with the local law and the Schedule of Fees and Charges; and

(d) perform all functions incidental or necessary to give effect to the administration of stallholder and trading activities within the district. ~~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

The CEO is authorised to administer the functions of the local government under the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law'.

Without limiting the above, the CEO may:

(a) consider and determine stallholder and trading applications;

(b) apply discretion to determine conditions and exemptions;

(c) issue permits and provide advice on compliance requirements; and

(d) ensure that approvals align with planning, public safety, and local law requirements.

~~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:~~

~~(a) 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;~~

~~(b) 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;~~

~~(c) issue a stallholder permit on behalf of the local government subject to advising the stallholder of conduct requirements within the local law; and~~

~~(d) 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 above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~The exercise of authority under this Instrument of Delegation is subject to:

(a) compliance with the *Local Government Act 1995* and the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law';

(b) consideration of the Shire of Toodyay Local Planning Scheme and relevant Council policies where applicable;

(c) all decisions and determinations being:

(i) made in writing; and

(ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(d) any fee waivers or variations being consistent with adopted policies and the Schedule of Fees and Charges; and

(e) this delegation being read in conjunction with other relevant Council delegations.

~~(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 of Toodyay's current Local Planning Scheme (the Scheme) made in accordance with the *Planning and Development Act 2005* which came into operation on 17 December 2007.~~

This document is not controlled once it has been printed.

~~(c) 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:~~

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

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

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

PRS6 STALLHOLDER APPLICATIONS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• *Shire of Toodyay's current Local Planning Scheme;* and • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. Local Planning Policies • Trading in Thoroughfares and Public Places; • Directional Signage & Signage within Thoroughfares; • Alfresco Dining
Planning and Development Act 2005.	• s. 3.5 (Legislative power of local governments) and • s.3.12 (Procedure for making local laws) of the Act
Local Government Act 1995	• s.5.42 – Delegation of powers and duties to CEO • s.5.43 – Sub-delegation by CEO • Part 9 – Objections and review
Other references:	• *https://www.coag.gov.au/about-coag/agreements/competition-principles-agreement*
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; and • Environmental Health Officer.

This document is not controlled once it has been printed.

PRS6 STALLHOLDER APPLICATIONS	
Conditions	• Functions must be exercised in accordance with this Instrument • Sub-delegations must comply with section 5.43 of the Local Government Act 1995 • Decisions must be lawful, reasonable, and procedurally fair • Officers must comply with all applicable written laws, regulations, policies, and standards relevant to the exercise of delegated powers.~~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:	~~26 June 2025~~5 June 2026

This document is not controlled once it has been printed.

PRS7 Thoroughfares and Trading in Thoroughfares and Public Places Permits

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

The intent of this Instrument of Delegation is for the Council to delegate to the Chief Executive Officer (CEO) the exercise of powers and performance of functions relating to the determination of applications for trading permits under the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law'.

This delegation is made pursuant to section 5.42(1)(b) of the *Local Government Act 1995.*

The Council authorises the CEO to exercise these functions:

(a) directly; and

(b) through employees to whom powers or duties have been sub-delegated in accordance with section 5.43 of the Local Government Act 1995.

For the avoidance of doubt:

(a) the CEO may approve, refuse, impose conditions on, vary or cancel trading permits in accordance with the local law; and

(b) the CEO may determine whether fees may be waived or reduced in accordance with approved policies and the Schedule of Fees and Charges.~~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 s.6(a) and s.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 Shire of Toodyay's current Local Planning Scheme (the 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.~~

~~This delegation is made pursuant to the express power to delegate: 5.42(1)(a) Delegation of some powers and duties to the CEO of the Local Government Act 1995.~~

POWERS AND DUTIES

This delegation authorises the CEO to:

This document is not controlled once it has been printed.

(a) approve, refuse, approve subject to conditions, vary or cancel permits for trading in thoroughfares and public places;

(b) impose and enforce conditions on permits in accordance with the local law and Council policies;

(c) determine whether fee waivers or reductions may be applied in accordance with adopted policies and the Schedule of Fees and Charges; and

(d) perform all functions incidental or necessary to give effect to the administration and regulation of trading activities within the district~~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

The CEO is authorised to administer the functions of the local government under the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law'. Without limiting the above, the CEO may:

(a) consider and determine applications for trading permits;

(b) apply discretion in imposing conditions and granting exemptions;

(c) issue permits and provide advice on compliance requirements; and

(d) ensure that trading activities comply with local law, planning requirements and relevant policies.

~~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:~~

~~(a) 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.~~

~~(b) Consider and determine trading applications including conditions to be imposed upon traders in relation to local planning scheme requirements and the provisions of the local law; and~~

~~(c) Use discretion and make determinations in relation to trading applications in relation to the exemption provisions in the local law relating to permits and whether fees contained in the Shire's *Schedule of Fees and Charges* may be waived or reduced.~~

CONDITIONS

The exercise of authority under this Instrument of Delegation is subject to:

This document is not controlled once it has been printed.

(a) compliance with the Local Government Act 1995 and the Shire's 'Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law';

(b) consideration of the Shire of Toodyay Local Planning Scheme and relevant Council policies where applicable;

(c) all decisions and determinations being:

(i) made in writing; and

(ii) recorded and retained in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(d) any waiving or reduction of fees being consistent with adopted policies and the Schedule of Fees and Charges; and

(e) reporting of approvals through appropriate Council information reporting processes. ~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

~~(a) Determination of applications is pursuant to consideration of the Shire of Toodyay's current Local Planning Scheme (the 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.~~

~~*(b) Report in the Council Information Bulletin.*~~

PRS7 THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES PERMITS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Applications for Public Events; • Shire's current Local Planning Scheme; • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law; Local Planning Policies: • Trading in Thoroughfares and Public Places; • Directional Signage & Signage within Thoroughfares; • Alfresco Dining.
Local Government Act 1995	• s.5.42 – Delegation of powers and duties to CEO • s.5.43 – Sub-delegation by CEO • Part 9 – Objections and review
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).
Food Act 2008	• s. 115 (Register of food businesses to be maintained) *Food Act 2008.*

This document is not controlled once it has been printed.

PRS7 THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES PERMITS	
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; and • Environmental Health Officer.
Conditions	• In accordance with the conditions listed in this delegation. • Functions must be exercised in accordance with this Instrument • Sub-delegations must comply with section 5.43 of the Local Government Act 1995 • Decisions must be lawful, reasonable, and procedurally fair • Officers must comply with all applicable written laws, regulations, policies, and standards relevant to the exercise of delegated powers.
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:	4~~26 June 2025~~ June 2026

This document is not controlled once it has been printed.

PRS8 Development Application Delegations

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

The intent of this delegation is to enable the efficient, lawful and timely determination of development applications while maintaining appropriate governance oversight, statutory compliance, and transparency in decision-making.

This delegation recognises that ~~for~~ Council, as the local government and responsible authority under the *Planning and Development Act 2005*, may delegate its development assessment functions to the Chief Executive Officer to support effective administration of the Local Planning Scheme.

This delegation is made pursuant to:

- **section 5.42 of the *Local Government Act 1995***, which provides that a local government *may delegate to the CEO the exercise of any of its powers or duties* other than those excluded by section 5.43; and
- **regulation 82 (Delegations by local government) of Schedule 2, Part 10 of the *Planning and Development (Local Planning Schemes) Regulations 2015***, which expressly provides that a local government may 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*.

~~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 pursuant to the express power to delegate: r.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

The express powers or duties delegated are those conferred on the local government as the responsible authority under ~~from~~ the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015* in relation to land that is subject to the Shire's Local Planning Scheme.

Without limiting the generality of the above, the express powers and duties delegated include those arising under:

~~are as follows:~~

Part 8 – Applications for development approval and in particular:

This document is not controlled once it has been printed.

s.63A. Action by local government on receipt of application; and

s.64. Advertising applications.

Part 9 – Procedure for dealing with applications for Development Approval:

s.68 Determination of applications.

These provisions confer on the local government the power and duty to receive, administer, assess, determine, and otherwise deal with applications for development approval, including the imposition of conditions, refusal of applications, and the administration of approvals once granted.

In exercising the above powers and duties, the local government acts as the responsible authority for the purposes of the *Planning and Development Act 2005* and the Local Planning Scheme and is empowered to:

- determine applications for development approval;
- grant, refuse, or condition approvals of development;
- grant extensions of time on development approvals;
- amend or cancel approvals of development where authorised; and
- undertake all ancillary, incidental, and administrative actions necessary to give effect to those determinations.

Pursuant to regulation~~.~~ 83 (Local government CEO may delegate powers) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, *the Chief Executive* ~~states the local government CEO may~~*Officer 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 the Local Planning ~~is~~ Scheme other than this power of delegation itself, subject to limitations and conditions set out in this instrument of delegation.

FUNCTION

Authority is delegated to the Chief Executive Officer to undertake a development approval function under the local planning scheme in relation to development applications, approvals of development, and all ~~or~~ ancillary or incidental matters~~ as follows:~~.

For the purposes of this delegation, a *development approval function* includes any function performed by the local government as the responsible authority under the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015.*

1. Determination of development applications~~Authority to determine an application for development approval by:~~

Without limiting the generality of the above, the Chief Executive Officer is authorised to determine an application for development approval by:
~~1.~~

(a) Receiving, administering, and~~or~~ considering development applications.

(b) Granting or refusing approvals of development.

(c) Imposing conditions on approvals of development.

This document is not controlled once it has been printed.

(d) Receiving, administering, and~~or~~ considering applications for: ~~any of the following~~

(i) ~~an~~ amendment of~~to~~ an approval of development;

(ii) ~~an~~ amendment of~~to~~ conditions imposed on an approval of development;

(iii) ~~the~~ cancellation of an approval of development.

(e) Amending approvals of development or conditions imposed on approvals of development, where authorised by law;~~.~~

(f) Cancelling approvals of development where authorised by law; and~~.~~

~~(f)~~(g) Undertaking all actions incidental or ancillary to the above functions.

~~subject to consistency with the Shire of Toodyay's current Local Planning Scheme (the Scheme), including giving due regard to relevant Local Planning Policies, and / or WAPC / State Planning Policies, and the exclusions / conditions set out below.~~

2. Statutory and Policy Consistency

All decisions made under this delegation must be:

- consistent with the **Shire of Toodyay Local Planning Scheme**; and
- undertaken having regard to:
  - relevant **Local Planning Policies**;
  - applicable **State Planning Policies**;
  - applicable **Development Codes**
  - relevant **WAPC policies and instruments**; and
  - the **deemed provisions (Schedule 2)** of the *Planning and Development (Local Planning Schemes) Regulations 2015.*

3. Application of Exclusions and Conditions

The exercise of this delegated authority is subject to:

- the **General Exclusions** set out in this instrument of delegation;
- the **Specific Exclusions and Exceptions** set out in this instrument of delegation; and
- all other compliance links contained within the Register of Delegations.

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation including s.67 Consideration of application by local government; and Schedule 2 Deemed Provisions for Local Planning Schemes; contained in the *Planning and Development (Local Planning Schemes) Regulations 2015.*

The above authority is also subject to the exclusions / conditions set out below.

General Exclusions

The following exclusions operate as **limitations on delegated authority only**. They do **not** predetermine the exercise of statutory discretion under the Local Planning Scheme or the *Planning and Development Act 2005.*

This document is not controlled once it has been printed.

The Chief Executive Officer is **not authorised** to determine an application for development approval under delegated authority where the proposed development:

~~Applications for development approval for development:~~

(i) Has an estimated development cost exceeding $2,000,000~~M; in value;~~ and / or
(ii) Results in a net increase of more than ~~in excess of~~ ~~10~~ 20 dwellings; and / or
(iii) Results in a net increase of over 1,000m^2 in building floor area; and/or
(iv) Is located in the Roman Catholic Church Precinct; and/or
(v) Is located within Special Control Area 3 (~~in the~~ SCA3) of the Local Planning Scheme No 5 – only for ~~for~~ listed exclusions; and or
(vi) involves~~ing~~ a setback variation exceeding ~~of greater than~~ 50% of the setback prescribed by the Scheme. ~~amount.~~

Where any of the above circumstances apply, the application must be referred to Council for determination. ~~may not be determined under delegated authority.~~

Specific Exclusions and Exceptions for Minor Works and other matters~~, etc.~~

A. Consistency with Local Planning Policies

~~a)~~ Subject to clause (~~f~~E) below, where an ~~with respect to~~ application~~s~~ 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) is determined under ~~, any~~ delegated authority, the determination ~~decision~~ must be consistent with, and not merely have ~~rather than giving~~ due regard to, applicable ~~relevant~~ Local Planning Policies;

B. Consistency with Local Planning Policies

~~b)~~ Subject to clause (~~f~~E) below, an application~~s~~ for development approval for development on~~f~~ land within a Local Reserve may only be approved under delegated authority where the proposed development ~~it~~ is consistent with the purpose of the Reserve.

C. Specified Uses – Approval Reserved to Council

~~; and~~

~~c)~~ Subject to clause (~~f~~E) below, the Chief Executive Officer is not authorised to grant ~~applications for~~ development approval ~~for the types of land-use or development listed below may only be refused~~ under delegated authority for development involving the following land uses:

(i) Abattoir;
(ii) Animal Establishment in a zone other than the 'Rural' Zone;
(iii) Animal Husbandry – Intensive;
(iv) Hotel;
(v) Industry - Extractive;
(vi) Motel;
(vii) Night Club;

This document is not controlled once it has been printed.

(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 not exceeding (no more than 48 hours in duration).

Note: Should the CEO feel that the application may warrant approval, the application shall be reported to Council for consideration.Where approval of any of the above forms of development is contemplated, the application **must be referred to Council for determination**.

D. Clause 18 – Zoning Table Interpretation

d) Subject to clause (fE) below, unless expressly specifically provided for in an adopted Local Planning Policy or Policies, where an application**s** for development approval is required to that must be assessed under the provisions of clause 18(4) of the Scheme (interpretation of the Zoning Table provisions) the Chief Executive Officer is not authorised to grant development approval 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.Where approval is contemplated, the application **must be referred to Council for determination**.***Non-Conforming Uses***

e) Subject to clause (f) below, where an applications for development approval is required to that must be assessed under Clause 18(4) of the Scheme (non-conforming uses provisions) the Chief Executive Officer is not authorises to grant development approval may only be refused under delegated authority;

Where approval is contemplated, the application must be referred to Council for determination

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

E. Minor Amendments and Limited Extensions

The exclusions set out in clauses (A) to (ED) above **do not apply** to applications that involve:

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

This document is not controlled once it has been printed.

- An amendment ing the approval so as to extend the period within which an approved development the approval must be substantially commenced; and/or
- alterations and/or expansions affecting no more than 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 whichwhere the alterations or expansions are associated with an existing, lawful land-use.

In such cases, the application may be **approved or refused**, with or without conditions, under delegated authority.s, wherein the application may be refused or approved, with or without conditions, under delegated authority.

F. Extensions of Time

g) Where an application to extend the period within which anthe approved development must be substantially commenced is determined under clause (issued pursuant to fE):

- -above, the term of any extension mustshall not exceed 12 months; and
- , only one extension may be granted under delegated authority, unless otherwise approved by Council.

G. 2G. Development Approval (council approved) - Amended Plans

Notwithstanding the exclusions above(a) and (b) above, amended plans relating to development applications previously 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 approved plans in any respect that would require which generates a need to undertake consultation pursuant tounder 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 result in an differ from the determined plans in respect of the number of residential units or an increase in the number of dwellings or an increase in floor space exceeding of more than 10% or 200m² (in terms of floor space or land area in use, as appropriate), whichever is the lesser.

H. 3H. Development Approval - Conditions Related To Consultation

An aApplications for development approval that have has 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 wherei f-

a) No submissions were received, or only supportive submissions that do not requesting any change to the development were received (noting that . All single house applications must be determined by the CEO and cannot be determined by Council – Refer to rovals are not permitted to

This document is not controlled once it has been printed.

be determined by Council and must be approved or refused by the CEO (Refer to EA13); or

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

c) Submissions that raise concerns with the proposed development were received, and those concernsthat raise 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 canhave been resolved through consultation, amendments to the application, and/or conditions of approval; and

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 submitters /or party or parties who lodged the submissions have provided written (including via email) confirmation (including via email) of their acceptance of the terms of the proposed outcome;

with the CEO ensuring that the interests of any affected third parties are appropriately protected. delegated decision.

Where the above criteria are not satisfied, or where refusal is contemplated (other than for single house development), the application must be referred to Council for determination.

A. Special Control Area 3 (SCA3) of the Local Planning Scheme No 5
I. exemptions

All development within this special control area 3 must be determined by Council except signage.

- Single house on block - Refer to EA13
- Any outbuilding that complies with policy – Non Habitable Structures
- Minor works to any building where the development cost is less than $40,000 (excluding state listed heritage buildings)
- Signage
- Retaining walls

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 except single houses.

PRS8 DEVELOPMENT APPLICATION DELEGATIONS
Compliance Links to consider when making decisions under this delegation

PRS8 DEVELOPMENT APPLICATION DELEGATIONS	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay **Local Planning Scheme (current)** *(primary decision-making instrument)* • Shire of Toodyay **Local Planning Policies** • Shire of Toodyay **Local Planning Strategy (where applicable)** • ~~Local Planning Scheme; and~~ • ~~Local Planning Policies~~
Planning and Development Act 2005:	• **s.4** – Responsible authority *(establishes local government role)* • **Part 11 – Planning control (development)** *(framework for development approval system)* • **s.162–171A** – Development control provisions *(including approvals and referrals)* • **s.173** – Effect of development approval • **s.214** – Illegal development *(relevant where non-compliance arises from DA decisions)* • ~~s.164 Development commenced or carried out, subsequent approval of~~ • ~~s.164A. Integration of subdivision and development.~~
Planning and Development (Local Planning Schemes) Regulations 2015: *AKA Deemed provisions*	• **Schedule 2 (Deemed Provisions)** *(primary statutory basis for DA processes)* • **Part 7 – Requirement for development approval** • **Part 8 – Applications for development approval** *(including clause 63A and clause 64)* • **Part 9 – Procedure for dealing with applications** *(including clause 67 and clause 68)* • **r.82** – Delegations by local government *(Council → CEO authority)* • **r.83** – Local government CEO may delegate powers *(CEO → employee authority)* • ~~Part 7 – Requirement for Development approval;~~ • ~~Part 8 – Applications for development approval;~~ • ~~Part 9 – Procedure for dealing with applications for Development Approval;~~ • ~~Schedule 2, Part 4 – Structure Plans.~~(Note: Structure Plans removed — not generally relevant to DA determination unless specifically triggered)

This document is not controlled once it has been printed.

PRS8 DEVELOPMENT APPLICATION DELEGATIONS	
Local Government Act 1995:	• s. 5.42 (Delegation of some Powers and Duties to CEO) by the Local Government; • **s.5.44** – CEO may delegate to employees • s.5.46. Register of, and records relevant to, delegations to CEO and employees; and • s.9.60 Regulations that operate as local laws.
Local Government (Administration) Regulations 1996	• r.29. Information to be available for public inspection (Act s. 5.94) (delegation transparency)
Other Delegations:	• **EA13 – Single House Development (WAPC Delegation) -** *(must be read in conjunction with this delegation where applicable)* • ~~EA13 Single House Development made under the auspices of the Planning and Development Act 2005~~
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.
Delegator: Power/Duty assigned in legislation to	Responsible Authority (local government)
Delegate:	Chief Executive Officer
Sub-Delegates: Appointed by the Chief Executive Officer	• Executive Manager Planning and Regulatory Services • Authorised Planning Officers

Conditions:	The exercise of this delegated authority is subject to:
	• Compliance with:
	  ○ the Local Planning Scheme;
	  ○ the deemed provisions (Schedule 2) of the Regulations;
	  ○ relevant State Planning Policies;
	  ○ adopted Local Planning Policies;
	• Application of all **General and Specific Exclusions** set out in PRS8;
	• Compliance with all relevant legislation and internal governance procedures;
	• Consideration of **EA13 (Single House Delegation)** where applicable;
	• Maintenance of proper records in accordance with the Shire's Record Keeping requirements.
	~~In accordance with the conditions listed in this delegation.~~

This document is not controlled once it has been printed.

PRS8 DEVELOPMENT APPLICATION DELEGATIONS	
Appointment of Authorised Officers / Authorised Persons: ☒ *Not suitable for Acting Through*	• Refer to the Statement of Intent. • Refer to **PRS10 – Appointment of Authorised and Designated Persons (Planning)**
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	~~26 June 2025~~28 May 2026

This document is not controlled once it has been printed.

PRS9 Illegal Development

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

The intent of this delegation is to enable the timely, proportionate, and lawful investigation and enforcement of unauthorised or illegal development in order to protect the integrity of the Local Planning Scheme and maintain public confidence in the planning system.

This delegation recognises that Council, as the local government and responsible authority under the *Planning and Development Act 2005*, has enforcement powers in relation to illegal development and may delegate those powers to the Chief Executive Officer.

This delegation is made pursuant to:

- **section 5.42 of the *Local Government Act 1995***, which provides that a local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties (other than those excluded by section 5.43); and
- **regulation 82 (Delegations by local government)** of Schedule 2, Part 10 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which expressly provides that a local government may delegate to the Chief Executive Officer 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*; and
- **section 214 of the *Planning and Development Act 2005***, which confers enforcement powers on the responsible authority in relation to illegal or unauthorised development.

~~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 pursuant to the express power to delegate: regulation 82 (Delegations by local government) ***Schedule 2, Part 10*** *of the Planning and Development (Local Planning Schemes) Regulations 2015.*~~

** Absolute majority required.*:

POWERS AND DUTIES

The local government is the responsible authority for the purposes of the *Planning and Development Act 2005* and the Local Planning Scheme and has the power and duty to enforce compliance with:

This document is not controlled once it has been printed.

- **the Local Planning Scheme;**
- **any development approval;**
- **any interim development order or planning control area requirements; and**
- **any works required to be executed under the Scheme or the Act.**

The deemed Provisions (Schedule 2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* are to be read in conjunction with the Shire of Toodyay's current Local Planning Scheme (the Scheme) for the purposes of administering and enforcing compliance.~~.~~

Without limiting the generality of the above, **section 214 of the *Planning and Development Act 2005*** confers upon the responsible authority the power to:

- issue written directions requiring the cessation of unlawful development;
- require the demolition, removal, alteration, or rectification of development;
- require land to be restored to its previous condition; and
- require works to be carried out where delay would prejudice the operation of the Scheme.

This delegation will enable appropriate action to be instigated in a timely and efficient manner relating to breaches of the Scheme.

Further, pursuant to r~~R~~egulation 83 (Local government CEO may delegate powers) of Schedule 2, Part 10 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Chief Executive Officer ~~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 the Local Planning ~~is~~ Scheme other than this power of delegation itself~~"~~.*

FUNCTION

Council delegates to the **Chief Executive Officer** the authority to carry out enforcement functions in relation to illegal or unauthorised development, including:

1. Investigation and Compliance Monitoring

(a) investigate alleged illegal or unauthorised development;

(b) appoint authorised officers for the purposes of entry and inspection of land or buildings to determine compliance with the Scheme.

2. Directions and Enforcement Action

~~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:~~

(c) Giving~~e a~~ written directions subject to the provisions of reg. 65 (Review of local planning scheme) of the Planning and Development (Local Planning Schemes) Regulations 2015 to the owner, occupier, or any other person undertaking ~~an~~ unauthorised development to:

(a)i) stop, and not recommence, the development or that part of the development that is undertaken in contravention of the Scheme, an interim development order, or planning control area; requirements;

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

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

(d) Give a written direction to the a person responsible for carrying out works whose duty it is to execute those works 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 local planning scheme or an interim development order.

3. Ancillary Enforcement Powers

(e) undertake all actions incidental or ancillary to the exercise of enforcement powers under section 214 of the *Planning and Development Act 2005*, including recovery of costs where authorised;

(f) administer and manage compliance actions and records associated with enforcement.

4. Sub-Delegation to Employees

(c)(g) sub-delegate, in accordance with regulation 83 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and section 5.44 of the *Local Government Act 1995*, any of the above functions to suitably qualified employees, other than the power of delegation itself.

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and the following limitations:

1. Statutory Limits

(a) this delegation does **not** include any powers reserved to the Council or the Minister under **section 214(2), (3) or (5)** of the *Planning and Development Act 2005*;

(b) the delegation must be exercised consistently with all relevant legislation, including the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015.*

2. Responsible Authority Role

(c) the Chief Executive Officer and any sub-delegated employee must exercise powers in their capacity as acting on behalf of the local government as the responsible authority, as defined in section 4 of the *Planning and Development Act 2005.*

This document is not controlled once it has been printed.

3. Procedural and Legal Requirements

(d) all enforcement action must comply with principles of procedural fairness, including appropriate notice and opportunity to respond;

(e) enforcement action must be reasonable, proportionate, and consistent with the objectives of the Local Planning Scheme.

4. Limitations on Officers

(f) employees may only exercise enforcement powers where they have been properly appointed or authorised in writing;

(g) employees must not exercise any power beyond that expressly sub-delegated to them by the Chief Executive Officer;

(h) the Chief Executive Officer must not sub-delegate the power of delegation.

5. Governance and Compliance

(i) all actions taken under this delegation are subject to the Shire's adopted local laws, policies, procedures, and record-keeping requirements;

(j) matters of significant strategic, reputational, or legal risk may be referred to Council at the discretion of the Chief Executive Officer.

~~(a) 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.~~

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

PRS9 ILLEGAL DEVELOPMENT	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay **Local Planning Scheme (current)** *(including relevant clauses relating to enforcement and compliance)* • Shire of Toodyay **Local Planning Policies** • Shire of Toodyay **adopted local laws** ~~• Shire of Toodyay's current Local Planning Scheme (referencing 11.1.2, 11.3.1 and 11.3.2).~~ ~~• Shire of Toodyay's adopted local laws;~~ ~~• Shire of Toodyay's adopted local planning policies.~~
Local Government Act 1995	• s. 5.42 (Delegation of some Powers and Duties to CEO) • **s.5.44** – CEO may delegate to employees

This document is not controlled once it has been printed.

PRS9 ILLEGAL DEVELOPMENT	
Planning and Development Act 2005	• **s.4** – Responsible authority • **s.214** – Illegal development, responsible authority's powers as to *(primary enforcement power – all subsections apply)* • **Part 13 – Enforcement and legal proceedings** *(supports enforcement framework, offences, penalties, and legal action)* • **s.235A–235K** – Entry, inspection and related powers *(where applicable)* • **s.234** – Designated persons *(link to authorised enforcement officers under PRS10)* • ~~s. 214 (Illegal development, responsible authority's powers as to) ss. (2), (3) or (5)~~ • ~~Part 13 (Enforcement and legal proceedings)~~
Planning and Development (Local Planning Schemes) Regulations 2015	• **Schedule 2 (Deemed Provisions)** – General application to development control and compliance • **clause 67** – Consideration of application *(relevant to determining compliance with approvals)* • **clause 68** – Determination of applications *(relevant to approved vs unauthorised development)* • **clause 63A / 64** – Application processes *(context for lawful approvals vs breaches)* • **r.79** – Entry and inspection powers *(authorised officers under PRS10)* • ~~r.79. Entry and inspection powers~~ • ~~r.80. Repair of existing advertisements~~
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services • Authorised Planning Officers (where applicable)

This document is not controlled once it has been printed.

PRS9 ILLEGAL DEVELOPMENT	
Conditions	The exercise of this delegated authority is subject to the following: • All enforcement action must be undertaken in accordance with **section 214 of the Planning and Development Act 2005**; • Enforcement action must be supported by **properly appointed authorised officers, or designated persons** (refer PRS10); • Officers must not exercise entry, inspection, or enforcement powers unless formally authorised in writing; • All actions must comply with: • the Local Planning Scheme, • relevant legislation, and • the Shire's adopted policies and procedures; • Enforcement action must be reasonable, proportionate, and procedurally fair; • Matters of significant legal, reputational, or strategic risk may be referred by the CEO to Council .~~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. • Enforcement functions must be undertaken by properly **appointed authorised officers or designated persons** in accordance with **s.234 of the Planning and Development Act 2005** and **r.79 of the Planning and Development (Local Planning Schemes) Regulations 2015** • • Refer to **PRS10 – Appointment of Authorised and Designated Persons (Planning)**
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	~~26 June 2025~~28 May 2026

This document is not controlled once it has been printed.

PRS10 Appointment of Authorised Persons – the Shire of Toodyay current *Local Planning Scheme*

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 to ensure that planning compliance, inspection, and enforcement functions are exercised only by properly authorised and designated persons, thereby maintaining the legal validity, effectiveness, and integrity of enforcement actions undertaken under the Local Planning Scheme.

This delegation recognises that Council, as the local government and responsible authority under the *Planning and Development Act 2005*, may delegate to the Chief Executive Officer the exercise of its powers and duties relating to the administration and enforcement of the Local Planning Scheme.

This delegation is made pursuant to:

- **section 5.42 of the *Local Government Act 1995***, which provides that a local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties (other than those excluded by section 5.43); and
- **regulation 82 (Delegations by local government)** of Schedule 2, Part 10 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which provides that a local government may, by resolution, delegate to the Chief Executive Officer 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.

The intent of this instrument is to also to acknowledge that:

- **section 234 of the *Planning and Development Act 2005*** confers on the Chief Executive Officer, as the CEO of the responsible authority, the power to appoint persons or classes of persons as designated persons; and
- **regulation 79 of the *Planning and Development (Local Planning Schemes) Regulations 2015*** confers on the Chief Executive Officer the power to designate authorised officers for the purposes of entry and inspection.

These powers are conferred **directly on the Chief Executive Officer by statute** and are **not delegated by the local government**.

~~This delegation is made pursuant to the express powers to delegate: reg. 82 (Delegations of local government) of the deemed provisions (***Schedule 2, Part 10)*** 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 Shire of Toodyay's current Local Planning Scheme (the Scheme).~~

This document is not controlled once it has been printed.

** Absolute majority required.*

POWERS AND DUTIES

The Chief Executive Officer, as the CEO of the responsible authority, is conferred statutory powers and duties under the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015* in relation to the appointment and designation of authorised persons for planning compliance and enforcement purposes.

Without limiting the generality of the above:

- **section 234 of the *Planning and Development Act 2005*** provides that the Chief Executive Officer of a responsible authority may, in writing, appoint persons or classes of persons to be *designated persons* for the purposes of sections 228, 229, 230 or 231 of that Act;
- **regulation 79 (Entry and inspection powers)** of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides that the Chief Executive Officer may, by instrument in writing, designate an officer of the local government as an *authorised officer* for the purposes of exercising entry and inspection powers under the Local Planning Scheme; and
- the deemed provisions (Schedule 2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* are to be read in conjunction with the Shire of Toodyay's Local Planning Scheme for the purposes of administering, monitoring, and enforcing compliance with the Scheme.

The exercise of these statutory powers enables the Chief Executive Officer to:

- ensure that suitably qualified and authorised officers are appointed to carry out compliance, inspection, and enforcement functions under the Scheme;
- enable lawful entry onto land and inspection of development for compliance purposes; and
- support the effective operation and enforcement of the Local Planning Scheme and the *Planning and Development Act 2005*.

Further, pursuant to:

- **regulation 83 (Local government CEO may delegate powers)** of Schedule 2, Part 10 of the *Planning and Development (Local Planning Schemes) Regulations 2015*,

the Chief Executive Officer may delegate to any employee of the local government the exercise of the CEO's functions under the Local Planning Scheme (other than the power of delegation itself), subject to the limitations imposed by statute and this instrument.

~~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 s.214(2), (3) and (5) (Illegal development, responsible authority's powers as to) of the *Planning and Development Act 2005*.~~

FUNCTION

This document is not controlled once it has been printed.

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

This delegation will enable the Chief Executive Officer to exercise statutory powers relating to the appointment and designation of authorised persons for the purposes of administering, monitoring, and enforcing compliance with the Local Planning Scheme and the *Planning and Development Act 2005*.

1. Appointment and Designation of Persons

The Chief Executive Officer is authorised to:

(a) designate officers of the local government, by instrument in writing, as authorised officers for the purposes of exercising entry and inspection powers under regulation 79 of the Planning and Development (Local Planning Schemes) Regulations 2015;

(b) appoint persons or classes of persons, in writing, as designated persons under section 234 of the Planning and Development Act 2005 for the purposes of exercising enforcement powers under sections 228, 229, 230 and 231 of that Act.

2. Scope of Authorisation

(c) determine the scope, extent, and limitations of powers conferred on authorised officers and designated persons, including specifying any conditions, restrictions, or qualifications in the relevant instrument of appointment;

(d) amend, suspend, or revoke any designation or appointment made under this function.

3. Functions Performed by Authorised Officers and Designated Persons

Where validly appointed or designated, authorised officers and designated persons may:

(e) enter and inspect land or buildings, in accordance with regulation 79, to determine whether:

- **the Local Planning Scheme;**
- **development approvals; or**
- **the *Planning and Development Act 2005***

are being complied with;

(f) undertake compliance monitoring and investigation activities in support of enforcement functions under PRS9 – Illegal or Unauthorised Development;

(g) exercise statutory enforcement-related functions under the Planning and Development Act 2005, including the issuing of infringement notices or other authorised actions, where properly appointed as designated persons.

4. Administrative and Supporting Functions

(h) maintain and administer records of appointments, authorisations, and related compliance activities;

This document is not controlled once it has been printed.

(i) implement internal procedures to support the effective use of authorised officers and designated persons in the enforcement of the Local Planning Scheme.

5. Sub-Delegation (Administrative Only)

(j) sub-delegate, in accordance with regulation 83 of the Planning and Development (Local Planning Schemes) Regulations 2015 and section 5.44 of the Local Government Act 1995, any administrative functions associated with the implementation of this entry, other than the statutory function of appointing or designating persons, unless expressly permitted by law.

~~**Regulation 79. Entry and inspection powers** (*Planning and Development (Local Planning Scheme) Regulations 2015*) states that *the local government CEO may, by instrument in writing, designate an officer of the local overnment as an authorised officer for the purposes of r.79.*~~

~~**Note: s.234 Designated persons, appointment of** (*Planning and Development Act 2005*) states that the chief executive officer of a responsible authority may, in writing, appoint persons or classes of persons to be designated persons for the purposes of section 228, 229, 230 or 231 or for the purposes of 2 or more of those sections.~~

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and the following:

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

PRS10 APPOINTMENT OF AUTHORISED PERSONS – THE SHIRE OF TOODYAY CURRENT LOCAL PLANNING SCHEME	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay **Local Planning Scheme (current)** • Shire of Toodyay **Local Planning Strategy** • Shire of Toodyay **adopted Local Planning Policies** • Shire of Toodyay **adopted local laws** ~~• Shire of Toodyay's current Local Planning Scheme and Strategies;~~ ~~• Shire of Toodyay's adopted local laws;~~ • ~~Shire of Toodyay's adopted policies.~~
Planning and Development Act 2005	• **s.4** – Responsible authority • **Part 13, Division 3 – Enforcement provisions** • **s.214** – Illegal development (relevant to enforcement context) • **s.234** – Designated persons, appointment of *(primary statutory authority for designation)* • ~~Part 13, Division 3, s. 234 (Designated persons, appointment of)~~

This document is not controlled once it has been printed.

PRS10 APPOINTMENT OF AUTHORISED PERSONS – THE SHIRE OF TOODYAY CURRENT LOCAL PLANNING SCHEME	
Planning and Development (Local Planning Schemes) Regulations 2015	• **Schedule 2 (Deemed Provisions)** • **r.79** – Entry and inspection powers *(authorised officers)* • **r.82** – Delegations by local government *(governance context only)* • **r.83** – Local government CEO may delegate powers *(CEO to employee functions)* • ~~Schedule 2, Part 10 (Deemed provisions)~~
Local Government Act 1995	• **s.5.44** – CEO may delegate to employees *(administrative functions only)*
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	Authorised officers / designated persons appointed by: Chief Executive Officer (in writing under s.234 and r.79) Administrative implementation (where applicable): • Executive Manager Planning and Regulatory Services
Conditions	• The exercise of functions under this entry is subject to the following: • Appointments of authorised officers and designated persons must be made **in writing** and must clearly specify the powers conferred; • Officers must not exercise entry, inspection, or enforcement powers unless properly appointed or designated in accordance with legislation; • The Chief Executive Officer must not sub-delegate the power to appoint or designate persons unless expressly permitted by legislation; • Any delegation to employees must comply with **regulation 83** of the *Planning and Development (Local Planning Schemes) Regulations 2015*; • All actions must be consistent with the Local Planning Scheme, relevant legislation, and the Shire's adopted policies and procedures. • ~~Not applicable.~~

This document is not controlled once it has been printed.

PRS10 APPOINTMENT OF AUTHORISED PERSONS – THE SHIRE OF TOODYAY CURRENT LOCAL PLANNING SCHEME	
Appointment of Authorised Officers / Authorised Persons ☒ *Not suitable for Acting Through*	• Appointment and designation must be made personally by the Chief Executive Officer in accordance with **s.234** of the *Planning and Development Act 2005* and **r.79** of the *Planning and Development (Local Planning Schemes) Regulations 2015* • ~~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:	~~26 June 2025~~28 May 2026

This document is not controlled once it has been printed.

PRS11 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 intent of this Instrument of Delegation is for the Council to delegate to the Chief Executive Officer (CEO) the exercise of powers and the performance of functions relating to entering into Deeds of Covenant for the payment of developer contributions in connection with land subject to the Shire of Toodyay Local Planning Scheme.

This delegation is made pursuant to section 5.42(1)(b) of the Local Government Act 1995 and regulation 82 of Schedule 2, Part 10 of the Planning and Development (Local Planning Schemes) Regulations 2015.

The Council authorises the CEO to exercise these functions:

(a) directly; and

(b) for the purpose of executing agreements on behalf of the local government in accordance with the Scheme.

For the avoidance of doubt:

(a) this delegation applies only to the execution of Deeds of Covenant associated with developer contributions; and

(b) this delegation does not extend to decisions to initiate or adopt planning scheme amendments or developer contribution frameworks, which remain with Council.

~~The purpose of this delegation is to satisfy the provisions of the Shire of Toodyay's current Local Planning Scheme (the Scheme) 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 pursuant to the* express power to delegate: **5.42(1)(B) Delegation of some powers and duties to the CEO** of the *Local Government Act 1995* and pursuant to s.214(2), (3) and (5) (Illegal development, responsible authority's powers as to) of the *Planning and Development Act 2005*.~~

** Absolute majority required.*

POWERS AND DUTIES

This delegation authorises the CEO to:

(a) execute Deeds of Covenant for the payment of developer contributions on behalf of the local government;

(b) ensure that such deeds are consistent with the provisions of the Local Planning Scheme, Local Planning Strategy, and relevant Council policies; and

This document is not controlled once it has been printed.

(c) perform all functions incidental or necessary to give effect to the execution and administration of such deeds.

~~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 enables the Chief Executive Officer and the Shire President to enter into Deeds of Covenant with developers in support of:

(a) subdivision or development proposals; and

(b) rezoning or scheme amendment proposals,

where such arrangements are supported under the Local Planning Scheme and the Shire's Local Planning Strategy.

~~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 the Scheme to enable further subdivision subject to the proposed rezoning being supported under the provisions of the Council's current Local Planning Strategy.~~

CONDITIONS

The exercise of authority under this Instrument of Delegation is subject to:

(a) the proposed rezoning, subdivision or development being supported under the Local Planning Strategy and relevant planning framework;

(b) any Deed of Covenant being consistent with the Local Planning Scheme, relevant policies, and applicable legislation;

(c) execution of deeds in accordance with the Local Government Act 1995 (including use of the common seal where required);

(d) all deeds being recorded in an appropriate register;

(e) executed deeds being reported through the Council Information Bulletin; and

(f) this delegation being read in conjunction with other relevant Council delegations.

~~The above authority is subject to the compliance links contained in this instrument of delegation and the following:~~

~~(a) Subject to the proposed rezoning being supported under the provisions of the Council's current Local Planning Strategy.~~

~~(b) Refer to ES1 for information related to *Planning and Development Act 2005*.~~

~~(c) Detail of deeds to be recorded in appropriate register and upon the common seal being affixed, reported in the Council Information Bulletin~~

This document is not controlled once it has been printed.

PRS11 DEED OF COVENANT FOR THE PAYMENT OF A DEVELOPER CONTRIBUTION	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's adopted Planning Scheme and Strategies; • Shire of Toodyay's adopted local laws; and • Subdivision Contributions for Road and Footpath Upgrading Local Planning Policy; and • Sub-divisional Development Guidelines Local Planning Policy.
References - *Planning and Development Act 2005*	• Part 13, Division 3, s. 234 (Designated persons, appointment of)
Local Government Act 1995	• s.5.42 – Delegation of powers and duties to CEO • Provisions relating to execution of documents under common seal
Planning and Development (Local Planning Schemes) Regulations 2015	• Schedule 2, Part 10 (Deemed provisions) • Regulation 82 – Delegations by local government
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Deeds must be consistent with approved planning frameworks • Execution must comply with local government governance requirements • All actions must be lawful, reasonable, and properly documented • Officers must comply with all applicable written laws, policies, and planning instruments relevant to the exercise of delegated powers.~~Not applicable.~~

This document is not controlled once it has been printed.

PRS11 DEED OF COVENANT FOR THE PAYMENT OF A DEVELOPER CONTRIBUTION	
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:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

PRS12 Caravan Park and Camping Grounds Act 1995

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

The intent of this Instrument of Delegation is for the Council to delegate to the Chief Executive Officer (CEO) the exercise of powers and performance of functions relating to the administration and enforcement of the Caravan Parks and Camping Grounds Act 1995.

This delegation is made pursuant to section 5.42(1)(b) of the Local Government Act 1995.

The Council authorises the CEO to exercise these functions:

(a) directly; and

(b) through authorised persons appointed in accordance with the Caravan Parks and Camping Grounds Act 1995; and

(c) through employees to whom powers or duties have been sub-delegated in accordance with section 5.43 of the Local Government Act 1995.

For the avoidance of doubt:

(a) the CEO may exercise the powers of the local government under the Caravan Parks and Camping Grounds Act 1995 and associated regulations; and

(b) authorised persons may perform functions conferred on them under the Act in accordance with their appointment.

~~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 under the *Caravan Parks and Camping Grounds Act 1995*, and any Shire local laws made for the district pursuant to s.29 (Local Laws) of the *Caravan Parks and Camping Grounds Act 1995*, where the head of power is either the *Local Government Act 1995*, the *Caravan Parks and Camping Grounds Act 1995*, 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~~

This document is not controlled once it has been printed.

~~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:

(a) exercise all powers and perform all duties of the local government under the Caravan Parks and Camping Grounds Act 1995;

(b) administer the licensing, inspection and compliance requirements associated with caravan parks and camping grounds;

(c) appoint authorised persons in accordance with the Caravan Parks and Camping Grounds Act 1995 to carry out inspections, compliance monitoring and enforcement activities;

(d) take appropriate enforcement action, including issuing notices, initiating proceedings and issuing infringement notices where authorised; and

(e) perform all functions incidental or necessary to give effect to the administration and enforcement of the Act and associated regulations.

~~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*.~~

FUNCTION

The CEO is authorised to perform functions of the local government under the Caravan Parks and Camping Grounds Act 1995, including:

~~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;

This document is not controlled once it has been printed.

s. 22 Legal proceedings to be taken by authorised person; and
s. 23 Infringement notices.

The CEO may perform these functions directly or through authorised persons.

CONDITIONS

The exercise of authority under this Instrument of Delegation is subject to:

(a) compliance with the Caravan Parks and Camping Grounds Act 1995 and Caravan Parks and Camping Grounds Regulations 1997;

(b) authorised persons being properly appointed and issued with identification in accordance with statutory requirements;

(c) authorised persons producing identification when exercising statutory powers as required by the Act;

(d) all inspections, decisions and enforcement actions being:

(i) made in writing; and

(ii) recorded in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;

(e) this delegation being read in conjunction with other relevant Council delegations; and

(f) the exercise of powers being consistent with relevant local laws, policies and statutory requirements.

~~The above authority is subject to the compliance links contained in this instrument of delegation and the following:~~

~~(a) Refer to Delegation ES1.~~

~~(b) 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;*~~

~~(c) 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;~~

~~(d) 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; and~~

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

This document is not controlled once it has been printed.

PRS12 CARAVAN PARK AND CAMPING GROUNDS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's Parking and Parking Facilities local law; and • Shire of Toodyay Local Government Property Local Law; and • Caravan and Camping Grounds Policy; • Temporary Onsite Accommodation during construction of a dwelling Policy; and • Extracts Industrial Area Policy
Caravan Park and Camping Grounds Act 1995	• s.7 – Licensing • s.10 – Prohibition notices • s.17 – Authorised persons • s.18–21 – Entry, inspection and compliance powers • s.22 – Legal proceedings • s.23 – Infringement notices • ~~reg. 6 (Performance of local government functions by authorised persons)~~ • ~~Section 17(2) (Appointment of authorised person)~~
Caravan Parks and Camping Grounds Regulations 1997.	• reg. 6 (Performance of local government functions by authorised persons) of
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services; and • Manager Infrastructure, Assets & Services.
Conditions	• Authorised persons must be properly appointed in writing • Enforcement actions must be lawful, reasonable, and procedurally fair • Decisions must be documented and retained • Officers must comply with all applicable written laws, regulations, and policies relevant to the exercise of delegated powers.~~In accordance with the conditions of this delegation.~~

This document is not controlled once it has been printed.

PRS12 CARAVAN PARK AND CAMPING GROUNDS	
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:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

PRS13 Recommendations to the WAPC Regarding Applications for Subdivision / Amalgamation or Strata Title

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

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 pursuant to Council's express power* to delegate as follows:

- **Section 142** of the *Planning and Development Act 2005*, which provides for local governments to make recommendations to the Western Australian Planning Commission (WAPC) on applications for subdivision and amalgamation; and
- **Section 5.42** of the *Local Government Act 1995*, which allows a local government to delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or the discharge of any of its duties, other than the power of delegation itself.

The Council authorises the CEO to:

(a) provide recommendations to the WAPC on behalf of the local government; and

(b) undertake such functions directly or through employees sub-delegated in accordance with section 5.43 of the Local Government Act 1995.

For the avoidance of doubt:

(a) the CEO's role is advisory only; and

(b) the final determination of subdivision and amalgamation applications rests with the WAPC.

~~** Absolute majority required.*~~

POWERS AND DUTIES

This delegation authorises the CEO to:

(a) provide recommendations to the Western Australian Planning Commission in relation to applications for subdivision, amalgamation and strata title;

(b) assess applications having regard to the Local Planning Scheme, Local Planning Strategy, structure plans, and relevant Council policies;

(c) determine the appropriate recommendation, including support, conditional support, or non-support; and

This document is not controlled once it has been printed.

(d) perform all functions incidental or necessary to give effect to the provision of timely and informed recommendations.

~~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 CEO is authorised to administer the functions of the local government in responding to referral of subdivision, amalgamation and strata applications from the WAPC. Without limiting the above, the CEO may:

(a) assess applications referred by the WAPC;

(b) prepare and submit ~~written~~ recommendations.~~; and~~

~~(c) determine whether matters fall within delegated authority or require referral to Council.~~

~~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

The exercise of authority under this Instrument of Delegation is subject to:

(a) consistency with the Local Planning Scheme, Local Planning Strategy, structure plans and relevant policies;

~~(b) all recommendations being:~~

~~(i) made in writing; and~~

~~(ii) recorded in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy;~~

(c) When required, request the WAPC to defer an application so that further matters can be considered~~matters of strategic, significant or unusual impact being referred to Council~~ – which may upon acceptance from the department, be referred to Council; and

(d) this delegation being read in conjunction with other relevant Council delegations.

~~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-~~

~~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~~

This document is not controlled once it has been printed.

~~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.~~

PRS13 RECOMMENDATIONS TO THE WAPC REGARDING APPLICATIONS FOR SUBDIVISION / AMALGAMATION OR STRATA TITLE	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay current Local Planning Scheme; • Subdivision Contributions for Road and Footpath Upgrading (Local Planning Policy);
Planning and Development Act 2005;	• • s.142 – Referral to local government and recommendations • s.214 Illegal development, responsible authority's powers as to. • Provisions relating to subdivision and development control
Planning and Development (Local Planning Schemes) Regulations 2015;	• Schedule 2, Part 4 – Structure Plans
Local Government Act 1995	• s.5.42 (Delegation of some Powers and Duties to CEO).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Planning and Regulatory Services.
Conditions	• ~~In accordance with the conditions listed in this delegation; and t~~That ~~the application for subdivision is not located in the Roman Catholic Precinct; and~~ • Consideration of Delegation EA11 required prior to any decision. • Recommendations must be lawful, reasonable and evidence-based • Sub-delegations must comply with section 5.43 of the Local Government Act 1995 • All advice must be properly documented • Officers must comply with all applicable written laws and policies relevant to the exercise of delegated powers.

This document is not controlled once it has been printed.

PRS13 RECOMMENDATIONS TO THE WAPC REGARDING APPLICATIONS FOR SUBDIVISION / AMALGAMATION OR STRATA TITLE	
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:	~~26 June 2025~~4 June 2026

This document is not controlled once it has been printed.

SECTION ~~5~~ 6 Infrastructure, Assets and Services
(Delegations to CEO)

IAS1 Crossovers

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

STATEMENT OF INTENT

The intent of this delegation is for Council, pursuant to the express power to delegate: s.5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995* ~~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 s.6(a) and s.6(b) of the *Criminal Procedure Act 2004*,~~ to delegate to the Chief Executive Officer (CEO) the authority to~~CEO~~ ~~the~~ exercise ~~of any local government (Council)~~the powers and~~or the~~ discharge ~~of any Council~~the duties of the local government in relation to:

- the construction, repair and maintenance of crossovers;
- the control of works on or affecting public thoroughfares; and
- the administration of approvals, notices and enforcement actions relating to crossovers;

in accordance with:

- ~~in respect to~~ the *Local Government (Uniform Local Provisions) Regulations 1996* ~~pursuant to the express power to delegate: s.5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995*.~~
- relevant local laws, including ~~The intent with respect to the above is that the authority will extend to~~ the Shire's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* where the head of power is the *Local Government Act 1995.*

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.*

This document is not controlled once it has been printed.

- 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 r.13 (Requirement to 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.*
- grant permission to construct anything on, over or under a public thoroughfare or other public place that is local government property in accordance with Sch. 9.1 cl. 8 of the *Local Government (Uniform Local Provisions) Regulations 1996.*

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the Local Government Act 1995.

The CEO is authorised to exercise functions under:

~~Functions specifically performed by the CEO as an Authorised Person pursuant to 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

This document is not controlled once it has been printed.

CONDITIONS

The exercise of this delegation is subject to the compliance links contained in this instrument and the following:

Main Roads WA Requirements

Where applicable, the role of the Commissioner of Main Roads must be complied with in accordance with Regulation 14 of the *Local Government (Uniform Local Provisions) Regulations 1996.*

Register Requirements

A register must be maintained for:

- gates and structures approved under regulation 9;
- other relevant permissions where required by legislation;

Notices and Documentation

All:

- notices issued;
- approvals granted;
- enforcement actions;

must:

- be in writing; and
- be recorded in accordance with the Record Keeping Plan and Policy;

Policy Compliance

All decisions must be consistent with:

- the Crossovers Policy;
- relevant local laws;
- the Shire's operational procedures;

Consistency with Related Delegations

This delegation must be exercised consistently with:

- ES1 (Strategic/local government functions);
- ES10 (procurement where works required);
- PRS5 (if enforcement / regulatory crossover applies).

~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

~~14. Role of Commissioner of Main Roads in some cases — Sch. 9.1 cl. 7(2) ;~~

~~r.9.(8) A local government must keep a register of gates and other devices constructed in accordance with a permission granted under this regulation.~~

~~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.~~

This document is not controlled once it has been printed.

~~Refer to Delegations ES1, ES10 and PRS5.~~

IAS1 CROSSOVERS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's current Local Planning Scheme; • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law; • Crossovers Policy.
Local Government Act 1995:	• s.3.25 – Notices requiring works; • s.3.26 – Power to carry out works and recover cost; • Schedule 9.1, cl. 7 (3).
Local Government (Uniform Local Provisions) Regulation 1996:	• r.12 – Construction of crossovers • r.13 – Requirement to construct or repair • r.14 – Main Roads involvement • r.15 – Contribution to cost • r.17 – Works in public places~~ss. 12, 13, 14, 15 and 16.~~
Environmental Protection (Clearing of Native Vegetation) Regulations 2004:	• s. 21A.
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Infrastructure, Assets & Services; and • Executive Manager Planning and Regulatory 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:	18 April 2007
Last Review Date:	~~26~~ 4 June ~~2025~~2026

This document is not controlled once it has been printed.

IAS2 Private Works on, over or under public places

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

STATEMENT OF INTENT

The intent of this delegation is for Council, *1996* pursuant to the express power to delegate: s.5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995* to delegate to the Chief Executive Officer (CEO) the authority to exercise the powers and discharge the duties of the local government in relation to:

- granting permission for private works on, over or under public thoroughfares and other public places; and
- regulating and controlling such works;

~~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 s.6(a) and s.6(b) of the *Criminal Procedure Act 2004*, to delegate to the CEO~~ in accordance with ~~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* ~~*1996* pursuant to the express power to delegate: s.5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995*~~.

POWERS AND DUTIES

The CEO is authorised to:

(a) Granting Permissions

- grant permission to construct or place any structure or works on, over or under a public thoroughfare or other public place that is local government property in accordance with regulation 17;

(b) Conditions of Approval

- impose conditions on approvals for works to ensure:
  - public safety;
  - protection of infrastructure;
  - compliance with relevant policies and standards;

(c) Compliance and Control

- regulate and monitor private works to ensure compliance with:
  - approvals issued under this delegation;
  - applicable legislation;

This document is not controlled once it has been printed.

- local laws and policies;

(d) Sub-Delegation

- delegate powers or duties to employees in accordance with section 5.44 of the *Local Government Act 1995*;

~~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 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*.~~

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995*.

The CEO is authorised to:

1. Approval of Works

- assess and approve applications for private works on, over or under public places in accordance with regulation 17;

2. Operational Control

- determine:
  - the nature and extent of permitted works;
  - engineering and safety requirements;
  - reinstatement requirements;

3. Infrastructure Protection

- ensure works:
  - do not adversely affect public infrastructure;
  - do not interfere with public access or safety;

~~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

The exercise of this delegation is subject to the compliance links contained in this instrument and to the following:

(a) Alignment with Related Delegations

This delegation must be exercised consistently with ~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

~~Refer to~~ Delegations:

- -ES1 (General functions)

This document is not controlled once it has been printed.

- ES10 (procurement where works are undertaken)
- PRS5, PRS7, PRS12 (where planning or regulatory matters apply)
- IAS1 (Crossovers)

(b) Policy and Planning Compliance

All decisions must be consistent with:

- Local Planning Scheme
- Local Planning Policies
- relevant Local Laws

(c) Record Keeping

All:

- applications;
- approvals;
- conditions imposed;

must:

- be documented in writing;
- be recorded on the relevant file in accordance with the Record Keeping Plan and Policy;

(d) Safety and Public Access

Approvals must only be granted where:

- public safety is maintained;
- disruption to public thoroughfares is minimised;

~~ES1, ES5, **PRS5,** IAS1, **PRS7 and PRS12.correspondence**~~correspondence

~~(a) Any decisions related thereto to be recorded on appropriate file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.~~

IAS2 PRIVATE WORKS ON, OVER OR UNDER PUBLIC PLACES	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Shire of Toodyay's current Local Planning Scheme • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. Local Planning Policies: • Signage outside the Central Toodyay Heritage Area; • Central Toodyay Heritage Area; • Directional Signage and signage within thoroughfares; and • Subdivision Development Guidelines.

This document is not controlled once it has been printed.

IAS2 PRIVATE WORKS ON, OVER OR UNDER PUBLIC PLACES	
Primary Legislation ***Local Government Act 1995***	• s.5.42 – Delegation of powers • s.5.44 – Sub-delegation
Local Government (Uniform Local Provisions) Regulations 1996	• r.17 (Private works on, over, or under public places) — Sch. 9.1 cl. 8 of the.
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Infrastructure, Assets and Services; and • Executive Manager Planning and Regulatory 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:	18 April 2013
Last Review Date:	~~26~~ 4 June ~~2025~~2026

This document is not controlled once it has been printed.

IAS3 Licence to deposit materials on or excavate adjacent to a street.

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Infrastructure, Assets and Services; and Planning and Regulatory Services
Responsible Officer:	Executive Manager Infrastructure, Assets and Services; & Executive Manager Planning and Regulatory Services

STATEMENT OF INTENT

The intent of this delegation is for Council, pursuant to the express power to delegate: s.5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995* to delegate to the Chief Executive Officer (CEO) the authority to exercise the powers and discharge the duties of the local government in relation to:

- the placement of materials on public thoroughfares; and
- excavation or works on land adjacent to a street, way or public place;

in accordance with:

- ~~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* ~~pursuant to the express power to delegate: s.5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995*~~; and
- ~~-~~other relevant legislation governing development and works affecting public infrastructure.

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

POWERS AND DUTIES

The CEO is authorised to:

(a) Granting Permissions

- grant permission (licence/approval) for depositing materials on a public thoroughfare; and excavating or undertaking works on land adjoining a street or public place;

in accordance with regulation 6 of the *Local Government (Uniform Local Provisions) Regulations 1996*;

This document is not controlled once it has been printed.

(b) Conditions of Approval

- impose conditions to ensure public safety; protection of infrastructure; and orderly use of public thoroughfares;

(c) Regulation and Compliance

- regulate and monitor activities to ensure compliance with approvals issued under this delegation; and relevant legislation and policies;

(d) Sub-Delegation

- delegate powers or duties to employees in accordance with section 5.44 of the *Local Government Act 1995*;

~~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

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995*.

The CEO is authorised to:

1. Assessment of Applications

(a) assess applications to deposit materials or undertake excavation adjacent to a street;

2. Coordination with Internal Functions

(b) ensure consultation with Infrastructure, Assets and Services; and Planning and Regulatory Services where works may impact roads, drainage, services, or planning or development approvals

3. Compliance with Related Legislation

(c) ensure works comply with:

- Regulation 36 (Rights, powers, and privileges under easements (Act s. 167(2)) of the *Planning and Development Regulations 2009*;
- the *Local Government (Uniform Local Provisions) Regulations 1996*;
- the *Building Act 2011* (where applicable);
- the *Planning and Development Act 2005* and supporting regulations (where relevant);

4. Infrastructure Protection

(d) ensure works do not adversely affect public infrastructure; and do not obstruct or damage a public thoroughfare;

This document is not controlled once it has been printed.

~~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.*~~

CONDITIONS

The exercise of this delegation is subject to the compliance links contained in this instrument and the following:

~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

(a) Infrastructure Clearance

Approval must not be granted unless appropriate internal confirmation is obtained (e.g. from Infrastructure, Assets and Services) that the activity will not unduly interfere with road operations; pedestrian access; or public safety;

(b) Conditions of Approval

Permissions must be issued subject to conditions necessary to protect infrastructure; public safety; and amenity;

(c) Record Keeping

All applications; approvals; and conditions; must be recorded in writing and retained in the relevant file in accordance with the Record Keeping Plan and Policy;

(d) Policy and Delegation Alignment

This delegation must be exercised consistently with:

- ES1
- ES5
- IAS1 (Crossovers)
- IAS2 (Private works on public places)
- PRS5, PRS7, PRS12 (where regulatory matters apply)

IAS3 LICENCE TO DEPOSIT MATERIALS ON OR EXCAVATE ADJACENT TO A STREET	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. • Landscaping Plans; and • Subdivision Development Guidelines.
Primary Legislation ***Local Government Act 1995***	• s.5.42 – Delegation • s.5.44 – Sub-delegation

This document is not controlled once it has been printed.

IAS3 LICENCE TO DEPOSIT MATERIALS ON OR EXCAVATE ADJACENT TO A STREET	
Local Government (Uniform Local Provisions) Regulations 1996	• r.6 (Obstruction of public thoroughfare by things placed and left) — Sch. 9.1 cl. 3(1)(a); and • r.25 (Transitional and savings provisions).
Planning and Development Regulations 2009:	• r~~s~~.36 (Rights, powers, and privileges under easements (Act s. 167(2))
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Infrastructure, Assets and Services; and • Executive Manager Planning and Regulatory Services
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:	~~26~~ 4 June ~~2025~~2026

This document is not controlled once it has been printed.

IAS4 Dangerous excavation

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

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 pursuant to r.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, pursuant to the express power to delegate: 5.42(1)(a) Delegation of some powers and duties to the CEO of the Local Government Act 1995 to delegate to the Chief Executive Officer (CEO) the authority to exercise the powers and discharge the duties of the local government in relation to:

- dangerous excavations on or near public thoroughfares; and
- the protection of public safety in relation to such excavations;

in accordance with ~~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* ~~pursuant to the express power to delegate: 5.42(1)(a) Delegation of some powers and duties to the CEO of the *Local Government Act 1995*~~.

Refer to Delegations ES1, PRS7 and IAS3.

POWERS AND DUTIES

The CEO is authorised to:

(a) Determination of Dangerous Excavations

- determine whether an excavation in or near a public thoroughfare is dangerous;

(b) Notices to Owners or Occupiers

- require the owner or occupier to fill in; or securely fence; a dangerous excavation in accordance with regulation 11;

(c) Direct Intervention

- cause the excavation to be filled in; or fenced; where necessary to protect public safety;

This document is not controlled once it has been printed.

(d) Cost Recovery

- undertake works and recover costs from the responsible person where a notice is not complied with in accordance with sections 3.25 and 3.26 of the Local Government Act 1995;

(e) Sub-Delegation

- delegate powers or duties to employees in accordance with section 5.44 of the Act;

~~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*.~~

FUNCTION

Functions may be performed by the CEO or by employees in accordance with section 5.44 of the *Local Government Act 1995*.

The CEO is authorised to:

1. Risk Assessment

- assess whether an excavation presents a risk to public safety; traffic; or infrastructure;

2. Enforcement Action

- take appropriate action under regulation 11, including issuing notices; supervising compliance; and authorising works;

3. Emergency Action

- take immediate action where necessary to prevent harm; and secure the site;

~~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.~~

CONDITIONS

The exercise of this delegation is subject to the compliance links contained in this instrument and the following:

(a) Public Safety Priority

Action may be taken where the CEO (or delegate) is satisfied that the excavation presents a risk to public safety;

This document is not controlled once it has been printed.

(b) Notice Requirements

Where practicable notice must be given to the owner or occupier under section 3.25; allowing reasonable time for compliance;

(c) Immediate Action

Where there is an immediate risk the local government may undertake works without prior notice where permitted by law;

(d) Record Keeping

All determinations of risk; notices issued; and actions taken must be documented in writing and retained in accordance with the Record Keeping Plan and Policy;

(e) Decision and Review Framework

Where a notice is issued the decision constitutes a "decision" under section 9.1 (review provisions);

(f) Reporting

Instances where this delegation is exercised must be reported to Council (e.g. via Information Bulletin);

(g) Consistency with Related Delegations

This delegation must be exercised consistently with:

- ES1
- IAS1 (Crossovers)
- IAS2 (Private works)
- IAS3 (Materials and excavation adjacent to streets)
- PRS7 (enforcement where applicable)

~~The above authority is subject to the compliance links contained in this instrument of delegation and to the following:~~

~~(a) 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.~~

~~(b) When renewing permission granted under *Local Government (Uniform Provisions) Regulations 1996,* or at any other time, vary any condition imposed by it under subregulation (6) and the variation takes effect when written notice of it is given to the person to whom the permission was granted.~~

~~(c) Records to be kept on an appropriate file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.~~

~~(d) Any instances where this delegation has been enacted, are to be communicated to the Council.~~

This document is not controlled once it has been printed.

IAS4 DANGEROUS EXCAVATION	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. • Landscaping Plans; and • Subdivision Development Guidelines.
Primary Legislation ***Local Government Act 1995***	• 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.3.26 – Power to carry out works and recover costs • s.5.42 – Delegation • s.5.44 – Sub-delegation • s.9.1 – Review provisions
Planning and Development Regulations 2009 (where relevant to site works)~~:~~	• r.36 (Rights, powers, and privileges under easements (Act s. 167(2)).
Local Government (Uniform Local Provisions) Regulations 1996	• r.11 – Dangerous excavation in or near public thoroughfare; • s. 25 (Transitional and savings provisions).
Record Keeping Requirements (MAN6)	• Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay 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	• Executive Manager Infrastructure, Assets and Services; and • Executive Manager Planning and Regulatory Services.
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:	~~26~~ 4 June ~~2025~~2026

This document is not controlled once it has been printed.

This document is not controlled once it has been printed.

SECTION ~~6~~ 7 ~~External Agency Delegations~~Statutory Functions and External Agency Powers (Functions conferred on the ~~Delegations to~~ CEO / Local Government Employees under legislation)

BACKGROUND / PRINCIPLE

As noted in the Introduction, where legislation prescribes that a function, power or duty is to be performed or exercised by a specified office holder (including, but not limited to, the Chief Executive Officer, Mayor, President, Elected Member, Environmental Health Officer, Building Surveyor, or Returning Officer), the local government cannot direct, limit, amend or otherwise interfere with the exercise of that statutory function or power except as expressly authorised by legislation.

Such powers are conferred directly by legislation and are not subject to delegation by Council under section 5.42 of the Local Government Act 1995.

The table below identifies key statutory functions and appointments relevant to the local government.

~~As 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 functions conferred on the CEO and Local Government Employees~~officer appointments~~.

Head of Power	Detail	Conditions
Animal Welfare Act 2002 *Section 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.
Bush Fire Regulations 1954 reg. 16 & 24	Granting of Permits 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 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	Must comply with prescribed requirements

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
	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)	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;	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) Only a Prescribed Officer can withdraw an infringement notice.
Bush Fires Act 1954 *Section 23 Burning during prohibited burning times of the*	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.	
Caravan Parks and Caravans Act 1995 *Section* 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.
CAT Act 2011 *Section 45*	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.	(3) A person who is not an employee of a local government cannot be appointed to be an authorised person for the purposes of this section. This 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*.

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
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)
Conservation and Land Management Act 1984 *Section 102*	*Local government is a public authority with local law powers*	*Powers exercised in accordance with Act*
Control of Vehicles (Off Road Areas) Act 1978 *Section 38*	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.	
Dog Act 1976 *Sections 10AB & 11A*	*CEO must maintain delegation register and appoint authorised persons*	*Must comply with LG Act s.9.10*
Litter Act 1979 *Sections.26–27A*	*CEO is an authorised officer with enforcement powers under the Act*	*As per legislation*
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 (Development Assessment Panels) Regulations 2025	Performance of relevant DAP function A relevant DAP function must be performed for and on behalf of the local government by the CEO or by an authorised employee.	Cannot be performed by the local government in any other manner (for example, by the Council or a committee of Council).

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
Local Government (Financial Management) Regulations 1996 reg. 5 (CEO's duties as to financial management)	*'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 than once in every 3 financial years) and report to the local government the results of those reviews.
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 Act (Miscellaneous Provisions) Act 1960 *Section 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
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;*	

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
	(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.*	
Local Government Act 1995 *Section* 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.	
Local Government Act 1995 *Section* 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 by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.	
Local Government Act 1995 *Section* 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.	
Local Government Act 1995 *Section* 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
Local Government Act 1995 *Section* 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

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
Local Government Act 1995 *Section* 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 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.	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 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)
Local Government Act 1995 *Section* 5.120 (Complaint's officer)	In relation to (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.	
Local Government Act 1995 *Section* 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,	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

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
	may represent the local government in all respects as though the person were the local government.	
Local Government Act 1995 *Section* 3.34 (Entry in emergency)	an emergency exists where the local government or its CEO is of the opinion 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.	s.3.35 (Purpose of entry to be given on request) of the Act states a person who enters or who has entered any 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.
Local Government Act 1995 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.	
Local Government Act 1995 *Section* 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
Local Government Act 1995 s. 5.55. (Notice of annual reports)	The CEO is to give local public notice of the availability of the annual report as	

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
	soon as practicable after the report has been accepted by the local government.	
Local Government Act 1995 *Section* 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.	
Local Government Act 1995 *Section* 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
Local Government Act 1995 *Section* 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.
Local Government Act 1995 *Section* 5.118 (Carrying out orders)	(4) 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 the State Administrative Tribunal any failure to comply with any other order made under that subsection. (5) 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. (6) Without limiting subsections (1) and (2), the CEO of the local	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 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)

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
	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.	
Local Government Act 1995 *Section* 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.	
Local Government Act 1995 *Section* 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).	
Local Government Act 1995 *Section* 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.	
Local Government Act 1995 *Section* 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.	
Local Government Act 1995 *Section* 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 —	

This document is not controlled once it has been printed.

Head of Power	Detail	Conditions
	(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.	
Local Government Act 1995 *Section* 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
Planning and Development (Local Planning Scheme) Regulations 2015 – *Regulation 79. Entry and inspection powers*	that the local government CEO may, by instrument in writing, designate an officer of the local government as an authorised officer for the purposes of r.79	
Planning and Development Act 2005 *Section* 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 notice)	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).
Planning and Development Act 2005 *Section 257C*	The determination of development applications for single houses or any development associated with a single house, excluding development of or associated with a heritage protected place, must be made by the CEO of the local government or employees authorised by the CEO. This cannot be determined by Council.	This will not apply to any heritage protected place as defined in Schedule 2.
Public Health Act 2016 *Section 286*	A CEO of the local government, prescribed by the regulations in respect of the enforcement agency, is responsible for providing documentary	

This document is not controlled once it has been printed.

SECTION ~~6~~7
Statutory Functions and External Agency Powers – Functions conferred on the CEO/Employees under legislation
Register of Delegations

Head of Power	Detail	Conditions
	evidence of certain matters as a "Relevant Officer."	

This document is not controlled once it has been printed.

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.

POWERS AND DUTIES

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

FUNCTION

This document is not controlled once it has been printed.

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	
Management Practice:	• Not applicable.
Local Law(s):	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Trading in thoroughfares and Public Places.
Legislative References:	***Environmental Protection Act 1986*:** • s.20, Delegation No 52. ***Environmental Protection (Noise) 1997 Regulations:*** • r.65.
Record Keeping Refer to Section 1, Clause 8	• 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):	28 June 2023

This document is not controlled once it has been printed.

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.

Dated the 12th day of December 2013.

This document is not controlled once it has been printed.

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	
Management Practice:	• Not applicable.
Local Law(s):	• Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	• Trading in Thoroughfares and Public Places.
Legislative References:	***Environmental Protection Act 1986*;** ***Environmental Protection (Noise) Regulations 1997*.**
Record Keeping Refer to Section 1, Clause 8	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.

This document is not controlled once it has been printed.

EA2 NOISE CONTROL – KEEPING OF LOGBOOKS, NOISE CONTROL NOTICES; CALIBRATION AND APPROVAL OF NON-COMPLYING EVENTS	
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):	28 June 2023

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:	Planning and Regulatory Services
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.

FUNCTION

Powers and duties stated above in the gazettal notice.

This document is not controlled once it has been printed.

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.
Legislative References:	***Environmental Protection Act 1986:*** • s. 20, Delegation No 52.
Record Keeping Refer to Section 1, Clause 8	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):	28 June 2023

This document is not controlled once it has been printed.

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*.

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.*

This document is not controlled once it has been printed.

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*	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Personal Information (Privacy) Policy
Legislative 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.) ***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) ***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)

This document is not controlled once it has been printed.

EA4 DELEGATION TO THE CEO IN RELATION TO THE *FREEDOM OF INFORMATION ACT 1992*	
Record Keeping Refer to Section 1, Clause 8	• 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:	26 June 2025

This document is not controlled once it has been printed.

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:	Executive Services
Responsible Officer:	Chief Executive Officer

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*	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Public Interest Disclosure Policy
Legislative References:	***Public Interest Disclosure Act 2003*** • s. 23 (Principal executive officer of public

This document is not controlled once it has been printed.

EA5 DELEGATION TO THE CEO IN RELATION TO THE *PUBLIC INTEREST DISCLOSURE ACT 2003*	
Record Keeping Refer to Section 1, Clause 8	• 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:	26 June 2025

This document is not controlled once it has been printed.

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 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.

This document is not controlled once it has been printed.

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*	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative References:	***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; and • 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; and • s.8 Electoral codes of conduct.
Record Keeping Refer to Section 1, Clause 8	• 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

This document is not controlled once it has been printed.

EA6 DELEGATION TO THE CEO IN RELATION TO THE *LOCAL GOVERNMENT ACT 1995*	
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:	26 June 2025

This document is not controlled once it has been printed.

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:

(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*;

This document is not controlled once it has been printed.

(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* -	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative References:	***Public Health Act 2016;*** ***Health (Miscellaneous Provisions) Act 1911; and*** ***Health Legislation Administration Act 1984.***
Record Keeping Refer to Section 1, Clause 8	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 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):	28 June 2023

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

This document is not controlled once it has been printed.

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**
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative References:	***Local Government Act 1995:*** • Part 3, Division 3, Subdivision 3.
Record Keeping Refer to Section 1, Clause 8	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	• Executive Manager Finance and Corporate Services; • Executive Manager Planning and Regulatory Services; • Executive Manager Economic Development and Community Services; and • Executive Manager Infrastructure, Assets and Services.
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:	26 June 2025

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:	Planning and Regulatory Services
Responsible Officer:	Executive Manager Planning and Regulatory Services

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).

This document is not controlled once it has been printed.

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);

(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

This document is not controlled once it has been printed.

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; and

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.

EA9 DEVELOPMENT APPLICATIONS MADE UNDER THE AUSPICES OF THE *PLANNING AND DEVELOPMENT ACT 2005 (PDA): Development Applications*	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative 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:*** • r.45A, r.45B
Record Keeping Refer to Section 1, Clause 8	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.

This document is not controlled once it has been printed.

EA9 DEVELOPMENT APPLICATIONS MADE UNDER THE AUSPICES OF THE *PLANNING AND DEVELOPMENT ACT 2005 (PDA): Development Applications*	
Delegation made by Council to authorise the CEO and/or other employees	• Not applicable.
Sub-Delegation made by the CEO to other employees	• Executive Manager Planning and Regulatory Services
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):	28 June 2023

This document is not controlled once it has been printed.

EA10 Delegation to Rangers, Pound keepers/Authorised Persons regarding 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.

EA10 DELEGATION TO RANGERS, POUND KEEPERS/AUTHORISED PERSONS REGARDING THE *BIOSECURITY & AGRICULTURAL MANAGEMENT ACT 2007.*	
Management Practice:	• Not applicable.
Local Law(s):	• Shire of Toodyay Health Local Law; and • Shire of Toodyay Pest Plants Local Law.

This document is not controlled once it has been printed.

EA10 DELEGATION TO RANGERS, POUND KEEPERS/AUTHORISED PERSONS REGARDING THE *BIOSECURITY & AGRICULTURAL MANAGEMENT ACT 2007.*	
Relevant Council Policy:	• Not applicable.
Legislative References:	*Health (Miscellaneous Provisions) Act 1911* *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013*
Record Keeping Refer to Section 1, Clause 8	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
Review Date(s):	28 June 2023

This document is not controlled once it has been printed.

EA11 Delegation to Local Government Officers under the *Strata Titles Act 1985*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
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;

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*

This document is not controlled once it has been printed.

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.

Refer to Delegation ES1 in terms of authorised persons.

This document is not controlled once it has been printed.

EA11 Delegation to Local Government Officers under the *Strata Titles Act 1985*	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative References:	**Strata Titles Act 1985**
Other Relevant References:	• Government Gazette dated 29 Jan 2021, page 449 and 450
Record Keeping Refer to Section 1, Clause 8	• 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):	28 June 2023

This document is not controlled once it has been printed.

EA12 Delegation to Local Government Officers under the *Environmental Protection Act 1986*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
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 Officers have an appropriate understanding of their powers and responsibilities under the

This document is not controlled once it has been printed.

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.	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative References:	• *Environmental Protection Act 1986*
Record Keeping Refer to Section 1, Clause 8	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
Review Date(s):	28 June 2023

This document is not controlled once it has been printed.

EA13 Single House Development made under the auspices of the *Planning and Development Act 2005*

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Planning and Regulatory Services
Responsible Officer:	Environmental Health Officer

STATEMENT OF INTENT

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

PL401

PLANNING AND DEVELOPMENT ACT 2005

INSTRUMENT OF DELEGATION

DEL 2022/04 Powers of Officers (Housing Authority) Delegation to officers of certain powers and functions of the Western Australian Planning Commission

Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the Government Gazette, delegate any function to a member, committee or officer of the WAPC or to a public authority or a member or officer of a public authority.

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

POWERS AND DUTIES

Resolution under section 16 of the Act (delegation)

On 28 February 2024, pursuant to section 16 of the Act, the WAPC RESOLVED—

A. TO DELEGATE its powers and functions as set out in Column 1 of Schedule 1, to the person or persons from time to time holding or acting in the offices of the Housing Authority as specified in Column 2 of Schedule 1, subject to the conditions in Column 3 and terms set out in Schedule 2.

B. TO AMEND its delegation of powers and functions as detailed in the instrument of delegation 'DEL 2022/04 Powers of Officers (Housing Authority)' as published in the Government Gazette on 13 December 2022, to give effect to this resolution.

This document is not controlled once it has been printed.

FUNCTION

Schedule 1 – This does not apply to the Shire of Toodyay

Power to determine applications for approval of the development of public housing on zoned land made pursuant to the Metropolitan Region Scheme, the Peel Region Scheme or the Greater Bunbury Region Scheme, where such applications—

1. Propose the construction of

Power to determine applications under s. 15 of the Strata Titles Act 1985, except those applications that-

(a) any single house and ancillary dwellings, residential buildings or up to and including 30 grouped dwellings, provided the proposed works comply with the deemed to comply or design principles of the R-Codes Volume 1, including any modified provisions of the R-Codes in properly approved local planning frameworks;

(b) up to and including 30 multiple dwellings provided the proposed works comply with—

(i) the design principles of the R-Codes Volume 1 as applicable; or

(ii) the design element objectives of the R-Codes Volume 2 as applicable;

including any modified provisions of the R-Codes in properly approved local planning frameworks.

2. propose demolition of a building or structure, provided that building or structure is not in a heritage protected place.

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.

Schedule 2

1. The officer performing the powers and functions of the WAPC specified in Schedule 1 shall provide quarterly reports to the WAPC, in the format prescribed by the WAPC.
2. The reports provided under (1) shall detail the number of applications received in that period, the type of development applied ~~for~~for, and the decision made on each application
3. The officer performing the powers and functions of the WAPC specified in Schedule 1 and referred to under (2) shall publish the decisions on the Department of Communities website for public information (residential buildings excluded) in the format prescribed by the WAPC.

This document is not controlled once it has been printed.

4. The first reporting period shall commence on the date of gazettal of this instrument, with the first report being required not later than 3 months after gazettal.

Interpretation

1. A position listed in this instrument contemplates and includes its successor in title.
2. A heritage-protected place is a place—
   a. that is entered in the State Register of Heritage Places under the Heritage Act 2018 section 42; or
   b. that is under consideration for entry into the State Register of Heritage Places (where "under consideration" is as described in subclause (2) of clause 1A, Schedule 2, Planning and Development (Local Planning Schemes) Regulations 2015 (the LPS Regulations)); or
   c. that is the subject of an order under the Heritage Act 2018 Part 4; or
   d. that is the subject of a heritage agreement that has been certified under the Heritage Act 2018 section 90; or
   e. that is included on a heritage list as defined in clause 7 of Sch. 2 of the LPS Regulations; or
   f. that is within a heritage area as defined in clause 7 of Sch. 2 of the LPS Regulations.

CONDITIONS

1) Application must be made by, or on behalf of, the Housing Authority.
2) Design advice is sought through the Government Architect Western Australia in accordance with the process agreed between the Government Architect and Department of Communities;

OR

Design review is sought through the Local Government Design Review Panel if required by the local planning scheme or policy and the local government has established a design review panel.

Note:

Section 257C of the *Planning and Development Act 2005* and regulation 84C of the *Planning and Development (Local Planning Schemes) Amendment (Single House Development) Regulations 2024* prescribe that only an employee of the Local Government can be authorised for the purposes of these provisions (single house development).

Refer to Delegation ES1 in terms of authorised persons.

This document is not controlled once it has been printed.

EA13 Single House Development made under the auspices of the Planning and Development Act 2005	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.
Relevant Council Policy:	• Not applicable.
Legislative References:	• *Planning and Development (Local Planning Schemes) Regulations 2015 (the LPS Regulations* • *Planning and Development (Local Planning Schemes) Amendment (Single House Development) Regulations 2024 (refer to r.84A, r.84C and also r.84D)*
Record Keeping Refer to Section 1, Clause 8	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	• Executive Manager Planning and Regulatory Services.
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.* • **designated person** *in sections 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 (i.e. Infringement Notices)*
Date:	Gazettal: 5 March 2024 (gg20024_22 pages 463-464
Review Date(s):	8 July 2024

This document is not controlled once it has been printed.