



Special Council Meeting

25 June 2026

Commencing at 4:30 PM

Agenda

Notice of Meeting.

To: The President and Councillors.

A Special Council Meeting of the Shire of Toodyay will be held at the Shire of Toodyay Council Chambers, 15 Fiennes Street, Toodyay WA 6566 on the above-mentioned date and time.

The Special Meeting of Council has been called by the Shire President.

The Special Meeting of Council is for the purpose of considering the Administrative Review of the Delegations Register and all matters related thereto.

Alan Hart

TEMPORARY CHIEF EXECUTIVE OFFICER



Information

Disclaimer

The business conducted at a Council Meeting may include a range of matters for consideration and decision by Council. Any discussion, statement or comment made by a Councillor or Officer during the course of the meeting is not to be taken as an indication or notice of a decision of Council unless and until a formal resolution is made.

No person should place reliance on any discussion or information contained in this agenda or arising during the meeting unless and until Council has resolved the matter and formal written notification of the decision has been issued.

Personal information contained in this agenda has been included in accordance with the Council's statutory functions and applicable legislation.

Availability of Agendas and Minutes


Information about Council Meetings, Agendas and Minutes is available on the Shire's website under Council Meetings:

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

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ATTACHMENTS can be found in the Attachments Paper on the Council website alongside this agenda.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member is to run through the Preliminaries, and to declare the Ordinary Meeting of Council open.

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."

2 RECORDS OF ATTENDANCE**2.1 APOLOGIES****2.2 APPROVED LEAVE OF ABSENCE**

Nil

3 DISCLOSURE OF INTERESTS**4 PUBLIC QUESTIONS****4.1 PUBLIC QUESTION TIME****5 PUBLIC SUBMISSIONS**

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 1

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.

7 CLOSURE OF MEETING