



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



TABLE OF CONTENTS

SECTION 1 Overview	11
1. <i>Introduction</i>	11
2. <i>Delegation of some powers and duties.....</i>	11
3. <i>Guidelines</i>	11
4. <i>Legal Framework</i>	11
5. <i>Delegation Structure</i>	12
5.1 <i>Delegation from Council to Committees.....</i>	12
5.2 <i>Delegation from Council to the Audit Committee.....</i>	12
5.3 <i>Delegation from Council to the Chief Executive Officer</i>	12
5.4 <i>Delegation from the Chief Executive Officer.....</i>	12
6. <i>Delegation processes</i>	13
6.1 <i>Process 1 - The Power to Delegate</i>	13
6.2 <i>Process 2 - The Concept of Acting Through</i>	13
7. <i>Delegated Officers</i>	14
7.1 <i>Chief Executive Officer (CEO):</i>	14
7.2 <i>Executive Managers</i>	15
7.3 <i>Other Officers</i>	16
8. <i>Record Keeping.....</i>	16
8.1 <i>Returns Register and Authorised Officer Register.....</i>	16
8.2 <i>Certificates of Authority for Authorised Persons.....</i>	17
8.3 <i>Resignation of Authorised Officer/Person</i>	17
8.4 <i>Recording the exercise of power.....</i>	17
9. <i>Temporary Appointments of Officers</i>	18
10. <i>Public Access.....</i>	18
11. <i>Periodic Review</i>	18
12. <i>Public Feedback.....</i>	18
13. <i>Definitions</i>	18
SECTION 2 Executive Services (Delegations to the CEO).....	23

ES1	<i>Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 --- --- Delegation to the CEO -</i>	23
	STATEMENT OF INTENT	23
	POWERS AND DUTIES	23
	FUNCTION	24
	CONDITIONS	26
ES2	<i>Execution of Documents</i>	31
	STATEMENT OF INTENT	31
	POWER AND DUTIES	31
	FUNCTION	31
	CONDITIONS	32
ES3	<i>Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911 ----- Delegation to the CEO -</i>	34
	STATEMENT OF INTENT	34
	POWERS AND DUTIES	34
	FUNCTION	35
	CONDITIONS	36
ES4	<i>Food Act 2008 - Delegation to the CEO.....</i>	39
	STATEMENT OF INTENT	39
	POWERS AND DUTIES	39
	FUNCTION	39
	CONDITIONS	40
ES5	<i>Building Act 2011 - Delegation to CEO.</i>	43
	STATEMENT OF INTENT	43
	POWERS AND DUTIES	43
	FUNCTION	44
	CONDITIONS	45
ES6	<i>Cat Act 2011 --- Delegation to the CEO</i>	49
	STATEMENT OF INTENT	49
	POWERS AND DUTIES	49
	FUNCTION	50
	CONDITIONS	50
ES7	<i>Dog Act 1976 --- Delegation to the CEO</i>	53
	STATEMENT OF INTENT	53

Note: the CEO has statutory responsibilities to appoint Authorised persons in accordance with s.11A of the *Dog Act 1976*. POWERS AND DUTIES 53

FUNCTION 53

CONDITIONS 54

ES8 Bush Fires Act 1954 --- Delegation to the CEO..... 57

STATEMENT OF INTENT 57

POWERS AND DUTIES 57

FUNCTION 57

CONDITIONS 60

ES9 Biosecurity and Agricultural Management Act 2007 --- Delegation to the CEO 63

STATEMENT OF INTENT 63

POWERS AND DUTIES 63

FUNCTION 63

CONDITIONS 63

ES10 Expression of Interest and Tenders 66

STATEMENT OF INTENT 66

POWER AND DUTIES 66

FUNCTION 66

CONDITIONS 67

ES11 Determine Grant, Sponsorship and Donation Allocations 71

STATEMENT OF INTENT 71

POWER AND DUTIES 71

FUNCTION 71

CONDITIONS 72

ES12 Local government property agreements..... 73

STATEMENT OF INTENT 73

POWER AND DUTIES 73

FUNCTION 74

CONDITIONS 74

ES13 Tenancy and Lease Agreements 76

STATEMENT OF INTENT 76

POWER AND DUTIES 76

FUNCTION 76

CONDITIONS 77

ES14	Contract Formalities	80
	STATEMENT OF INTENT	80
	POWER AND DUTIES	80
	FUNCTIONS	80
	CONDITIONS	81
ES15	Temporary Road Closures	83
	BACKGROUND	83
	STATEMENT OF INTENT	83
	POWERS AND DUTIES	83
	FUNCTION	84
	CONDITIONS	84
SECTION 3	Corporate & Community Services (Delegations to the	
	CEO)	86
CS1	Payments from Municipal Fund or Trust Fund	86
	STATEMENT OF INTENT	86
	POWER AND DUTIES	86
	FUNCTION	87
	CONDITIONS	88
CS2	Investment of Surplus Funds	92
	STATEMENT OF INTENT	92
	POWER AND DUTIES	92
	FUNCTION	92
	CONDITIONS	92
CS3	Rate Records (Amendment of and Objection to) and rates or	
	service charges	95
	STATEMENT OF INTENT	95
	POWERS AND DUTIES	95
	FUNCTION	95
	CONDITIONS	96
CS4	Approval of Payment Arrangement for Payment of Rates and	
	Service Charges	98
	STATEMENT OF INTENT	98
	POWER AND DUTIES	98
	FUNCTION	98
	CONDITIONS	99

CS5	Issue of Writ, Summons or Other Process	101
	STATEMENT OF INTENT	101
	POWERS AND DUTIES	101
	FUNCTION	101
	CONDITIONS	101
CS6	Power to Defer, Grant Discounts, Waive or Write-off Debts....	104
	STATEMENT OF INTENT	104
	POWER AND DUTIES	104
	FUNCTION	104
	CONDITIONS	104
CS8	Consumption of Liquor on local government property	106
	BACKGROUND	106
	STATEMENT OF INTENT	106
	POWERS AND DUTIES	106
	FUNCTION	107
	CONDITIONS	107
SECTION 4	Planning and Regulatory Services (Delegations to CEO) ...	109
	
PRS1	Applications for Treatment of Sewage and Disposal of Effluent and Liquid Waste	109
	STATEMENT OF INTENT	109
	POWERS AND DUTIES	109
	FUNCTION	109
	CONDITIONS	110
PRS2	Issue of Notice of Breach (Fencing)	112
	STATEMENT OF INTENT	112
	POWERS AND DUTIES	112
	FUNCTION	112
	CONDITIONS	112
PRS3	Dealing with Clearing Matters	114
	BACKGROUND	114
	STATEMENT OF INTENT	114
	POWERS AND DUTIES	115
	FUNCTION	115

	CONDITIONS	116
PRS4	Swimming Pools and Inspections	118
	STATEMENT OF INTENT	118
	POWERS AND DUTIES	118
	FUNCTION	118
	CONDITIONS	119
PRS5	Crossing from Public Thoroughfare to Private land or Private thoroughfare.....	121
	STATEMENT OF INTENT	121
	POWERS AND DUTIES	121
	FUNCTION	121
	CONDITIONS	122
PRS6	Stallholder Applications	124
	BACKGROUND	124
	STATEMENT OF INTENT	124
	POWERS AND DUTIES	124
	FUNCTION	125
	CONDITIONS	125
PRS7	Thoroughfares and Trading in Thoroughfares and Public Places Permits.....	127
	STATEMENT OF INTENT	127
	POWERS AND DUTIES	127
	FUNCTION	127
	CONDITIONS	128
PRS8	Development Application Delegations	130
	STATEMENT OF INTENT	130
	POWERS AND DUTIES	130
	FUNCTION	130
	CONDITIONS	131
PRS9	Illegal Development	135
	STATEMENT OF INTENT	135
	POWERS AND DUTIES	135
	FUNCTION	135
	CONDITIONS	136

PRS10	Appointment of Authorised Persons – the Shire of Toodyay current <i>Local Planning Scheme</i>.....	138
	STATEMENT OF INTENT	138
	POWERS AND DUTIES	138
	FUNCTION.....	138
	CONDITIONS	138
PRS11	Deed of Covenant for the Payment of a Developer Contribution.	140
	STATEMENT OF INTENT	140
	POWERS AND DUTIES	140
	FUNCTION.....	140
	CONDITIONS	140
PRS12	Caravan Park and Camping Grounds Act 1995	142
	STATEMENT OF INTENT	142
	POWERS AND DUTIES	142
	FUNCTION.....	142
	CONDITIONS	143
PRS13	Recommendations to the WAPC Regarding Applications for Subdivision / Amalgamation or Strata Title	145
	STATEMENT OF INTENT	145
	POWERS AND DUTIES	145
	FUNCTION.....	145
	CONDITIONS	145
SECTION 5	Infrastructure, Assets and Services (Delegations to CEO).	147
IAS1	Crossovers	147
	STATEMENT OF INTENT	147
	POWERS AND DUTIES	147
	FUNCTION.....	148
	CONDITIONS	148
IAS2	Private Works on, over or under public places	150
	STATEMENT OF INTENT	150
	POWERS AND DUTIES	150
	FUNCTION.....	150
	CONDITIONS	150

IAS3	Licence to deposit materials on or excavate adjacent to a street.	152
	STATEMENT OF INTENT	152
	POWERS AND DUTIES	152
	FUNCTION	152
	CONDITIONS	152
IAS4	Dangerous excavation	154
	STATEMENT OF INTENT	154
	POWERS AND DUTIES	154
	FUNCTION	154
	CONDITIONS	154
SECTION 6 External Agency Delegations (Delegations to CEO / Local Government Employees)		157
EA1	Noise Control – Serve Environmental Protection Notices [S65(1)]	167
	STATEMENT OF INTENT	167
	POWERS AND DUTIES	167
	FUNCTION	167
	CONDITIONS	168
EA2	Noise Control – Keeping of Logbooks, Noise Control Notices, Calibration and Approval of Non-Complying Events [reg.16]	169
	STATEMENT OF INTENT	169
	POWERS AND DUTIES	170
	FUNCTION	170
	CONDITIONS	170
EA3	Noise Control – Noise Management Plans – Construction Sites [reg.13]	172
	STATEMENT OF INTENT	172
	POWERS AND DUTIES	172
	FUNCTION	172
	CONDITIONS	173
EA4	Delegation to the CEO In relation to the <i>Freedom of Information Act 1992</i>	174
	STATEMENT OF INTENT	174
	POWER AND DUTIES	174

	FUNCTION.....	174
	CONDITIONS.....	174
EA5	Delegation to the CEO In relation to the <i>Public Interest Disclosure Act 2003</i>.....	177
	STATEMENT OF INTENT.....	177
	POWERS AND DUTIES.....	177
	FUNCTION.....	177
	CONDITIONS.....	177
EA6	Delegation to the CEO In relation to the <i>Local Government Act 1995 – Elections and other polls</i>.....	179
	STATEMENT OF INTENT.....	179
	POWER AND DUTIES.....	179
	FUNCTION.....	179
	CONDITIONS.....	179
EA7	Delegation to the Environmental Health Officer in relation to the <i>Public Health Act 2016 and the Health (Miscellaneous Provisions) Act 1911</i>.....	182
	STATEMENT OF INTENT.....	182
	POWERS AND DUTIES.....	182
	FUNCTION.....	182
	CONDITIONS.....	183
EA8	Delegation to the CEO In relation to the <i>Local Government Act 1995 – Powers of Entry in an emergency</i>.....	184
	STATEMENT OF INTENT.....	184
	POWER AND DUTIES.....	184
	FUNCTION.....	184
	CONDITIONS.....	184
EA9	Development Applications made under the auspices of the <i>Planning and Development Act 2005</i>.....	186
	STATEMENT OF INTENT.....	186
	POWERS AND DUTIES.....	187
	FUNCTION.....	187
	CONDITIONS.....	188
EA10	Delegation to Rangers, Pound keepers/Authorised Persons regarding the <i>Biosecurity and Agricultural Management Act 2007</i>.....	190

	STATEMENT OF INTENT	190
	POWERS AND DUTIES	190
	FUNCTION	190
	CONDITIONS	190
EA11	Delegation to Local Government Officers under the <i>Strata Titles Act 1985</i>	192
	STATEMENT OF INTENT	192
	POWERS AND DUTIES	192
	FUNCTION	193
	CONDITIONS	193
EA12	Delegation to Local Government Officers under the <i>Environmental Protection Act 1986</i>	195
	STATEMENT OF INTENT	195
	POWERS AND DUTIES	195
	FUNCTION	195
	CONDITIONS	195
EA13	Single House Development made under the auspices of the <i>Planning and Development Act 2005</i>	197
	STATEMENT OF INTENT	197
	POWERS AND DUTIES	197
	FUNCTION	198
	CONDITIONS	199

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.

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 of 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.

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.

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 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.

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	<p><u>Additional Conference Opportunities:</u> 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.</p> <p><u>Professional Development:</u> The CEO is authorised to approve requests from Members for professional development training and conference attendance in accordance with this Policy.</p>
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.

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.*

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

- (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,

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 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: <i>Conditions of the authorisation made by Council to the CEO and/or other employees will be contained within the Conditions of the Delegation.</i>
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.

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 <i>Criminal Procedure Regulations 2005</i> under Schedule 1A – Infringement Notices of the <i>Criminal Procedure Act 2004</i> as follows: <ul style="list-style-type: none"> • <i>Associations Incorporation Act 2015</i>; • <i>Biodiversity Conservation Act 2016</i>; • <i>Building Act 2011</i>; • <i>Building Services (Complaint Resolution and Administration) Act 2011</i>; • <i>Building Services (Registration) Act 2011</i>; • <i>Business Names Act 1962</i>; • <i>Charitable Collections Act 1946</i>; • <i>Chattel Securities Act 1987</i>; • <i>Child Care Services Act 2007</i>; • <i>Companies (Co-operative) Act 1943 3</i>; • <i>Co-operative and Provident Societies Act 1903 3</i>; • <i>Credit Act 1984</i>;

Term	Meaning
	<ul style="list-style-type: none"> • <i>Credit (Administration) Act 1984;</i> • <i>Debt Collectors Licensing Act 1964;</i> • <i>Electricity Act 1945;</i> • <i>Emergency Management Act 2005;</i> • <i>Employment Agents Act 1976;</i> • <i>Energy Coordination Act 1994;</i> • <i>Energy Safety Act 2006;</i> • <i>Fair Trading Act 2010;</i> • <i>Gas Standards Act 1972;</i> • <i>Health (Miscellaneous Provisions) Act 1911;</i> • <i>Health Services Act 2016;</i> • <i>Hire Purchase Act 1959;</i> • <i>Juries Act 1957;</i> • <i>Land Administration Act 1997;</i> • <i>Land Valuers Licensing Act 1978;</i> • <i>Limited Partnerships Act 2016;</i> • <i>Mining Rehabilitation Fund Act 2012;</i> • <i>Public Health Act 2016;</i> • <i>Real Estate and Business Agents Act 1978;</i> • <i>Residential Tenancies Act 1987;</i> • <i>Retail Trading Hours Act 1987;</i> • <i>Settlement Agents Act 1981;</i> • <i>Street Collections (Regulation) Act 1940;</i> • <i>Sunday Entertainments Act 1979;</i> • <i>Tobacco Products Control Act 2006;</i> • <i>Transport (Road Passenger Services) Act 2018;</i> • <i>Water Services Act 2012; and</i> • <i>Western Australian Meat Industry Authority Act 1976.</i>

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	<p>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).</p> <p>If unable to delegate the functions of the delegation to other employees, a reference will be made to any legislation that restricts sub-delegation.</p>

SECTION 2 Executive Services (Delegations to the CEO)

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

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

STATEMENT OF INTENT

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

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

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.*

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

This delegation authorises the CEO to:

- appoint fit and proper persons to be a keeper of Pounds, and to also appoint a Ranger or Rangers, in accordance with s.449 of the *Local Government (Miscellaneous Provisions) Act 1960*;
- exercise the powers given to a local government in respect to Subdivision 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.

Refer to Delegation ES10.

FUNCTION

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.

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.

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

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

r.21 Local Government (Uniform Local Provisions) 1996

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

Refer to Section 6 and DAR10.

This delegation also authorises 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 the authority to:

- (a) determine the manner and form by which a person may request copies of rates record information or owners and occupiers register and electoral rolls and to make the information available, 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 not to provide a right to inspect information where it is considered that in doing so would divert a substantial and unreasonable portion of the local governments resources away from its other functions;
- (c) Consider an owner of a vehicle's submission that the vehicle that is subject of an infringement notice had been stolen or unlawfully taken at the time of the alleged offence;
- (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 notice within one year after the notice was given, whether or not the modified penalty has been paid by sending a withdrawal notice (in the prescribed form) to the alleged offender and if the modified penalty has been paid, providing a refund.

CONDITIONS

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 subject to the exclusions / conditions set out below:

- (a) Only persons who are appropriately qualified and trained may be authorised to perform relevant functions;
- (b) This delegation is subject to the requirements of other legislation and regulations and the Shire's adopted local laws, schemes, codes, policies, and practices;
- (c) This delegation does not include those duties referred to in s.5.43 (Limits on delegations to CEO) of the Act;
- (d) A delegate who participates in a decision to issue an infringement notice must NOT determine any matter related to that infringement notice under this Delegation;
- (e) Delegation is limited to settlements which do not exceed 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 function outside the District, can only be made under this delegation where there is a relevant budget allocation, and the performance of the functions does not negatively impact service levels within the district. Where these conditions are not met, the matter must be referred for a Council decision;
- (g) Under the *Planning and Development Act 2005* a **designated person** in ss. 228, 229, 230 or 231 means a person appointed under s.234 to be a designated person for the purposes of the section in which the term is used;
- (h) Section 234 (2) of the *Planning and Development Act 2005* states that a person who is authorised as a **Designated Person** to give infringement notices under s.228 is not eligible to be a designated person for the purposes of any of the other sections;
- (i) Section 64 (4) (Appointment of Authorised Persons) of the *Animal Welfare Act 2002* states that a person cannot be both an authorised person and an inspector;
- (j) Delegated authority under s.3.34(1) and (3) may only be used where there is imminent or substantial risk to public safety or property;
- (k) Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may be disposed of by any means considered to provide best value, provided the process is transparent and accountable in accordance with Disposal of Property Policy;
- (l) Delegation in regard to s.3.47A and s.3.48 is only to be used where the delegate's reasonable efforts to identify and contact an owner have failed;
- (m) The management of reserves is limited to matters where the financial implications do not exceed a relevant and current budget allocation, and which do not create a financial liability in future budgets.
- (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) All decisions taken in respect to infringement notices, or the removal or impoundment of goods are to be made in writing and kept on relevant subject file

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

- (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) Authorisations are to be provided in writing by issuing a Certificate of Authorisation

..ES1 <i>Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 ---- Delegation to the CEO -</i>	
Compliance Links to consider when making decisions under this delegation	
Management Practice:	<ul style="list-style-type: none"> • Refer to Section 6; Delegations PRS10 and ES10. • Shire of Toodyay's current Local Planning Schemes and Strategies; • Shire of Toodyay Record Keeping Plan.
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Disposal of Property; • Purchasing Policy;
<p><u>Part 3 Functions of Local Government</u> <i>Local Government Act 1995</i></p>	Division 1 – General <ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> • 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)

..ES1 Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 ---- Delegation to the CEO -	
<p><u>Part 3 Functions of Local Government</u> Local Government Act 1995</p>	<p>Subdivision 4 – Impounding abandoned vehicle wrecks and goods involved in certain contraventions</p> <ul style="list-style-type: none"> • 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 <p>Subdivision 5 – certain provisions about thoroughfares</p> <ul style="list-style-type: none"> • s.3.51 (Affected owners to be notified of certain proposals); <p>Subdivision 6 – Various executive functions</p> <ul style="list-style-type: none"> • s.3.53 Control of certain unvested facilities; • s.3.55. Acquisition of land
<p><u>Part 5 Administration</u> Local Government Act 1995</p>	<p>Division 4 Local Government Employees</p> <ul style="list-style-type: none"> • 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
<p><u>Part 9 Miscellaneous provisions</u> Local Government Act 1995</p>	<p><i>Division 1 (Objections and Review)</i></p> <ul style="list-style-type: none"> • s.9.5 Objection may be lodged; <p><i>Division 2 (Enforcement and legal proceedings)</i> (Subdivision 1 Miscellaneous provisions about enforcement)</p> <ul style="list-style-type: none"> • s.9.10 Appointment of authorised persons; <p><i>Division 2 (Enforcement and legal proceedings)</i> Subdivision 1 (Miscellaneous provisions about enforcement)</p> <ul style="list-style-type: none"> • 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 <p>Subdivision 2 Infringement Notices</p> <ul style="list-style-type: none"> • 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)

..ES1 Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 --- Delegation to the CEO -	
Local Government (Miscellaneous Provisions) Act 1960	<ul style="list-style-type: none"> • 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.
Local Government (Uniform Local Provisions) Regulations 1996	<ul style="list-style-type: none"> • 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.
Planning and Development Act 2005	<ul style="list-style-type: none"> • s.214 (Illegal development, responsible authority's powers as to)
Control of Vehicles (Off Road Areas) Act 1978	<ul style="list-style-type: none"> • 38. (Authorised Persons)
Local Government (Administration) Regulations 1996	<ul style="list-style-type: none"> • 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)
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • Section 1, Clause 8 (and 8.4) Delegation Register; • Shire of Toodyay Record Keeping Plan; and the • Shire of Toodyay Record Keeping Policy.

..ES1 <i>Local Government Act 1995 and Local Government (Miscellaneous Provisions) Act 1960 --- Delegation to the CEO -</i>	
Delegation made by Council to authorise the CEO and/or other employees	<ul style="list-style-type: none"> • CEO.
Sub-delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable in accordance with s. 5.43 (Limits on delegations to CEO) of the <i>Local Government Act 1995</i>.
Conditions	<ul style="list-style-type: none"> • 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 <i>☑ limited suitability for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent; • s.3.39 (Power to remove and impound) of the <i>Local Government Act 1995</i> suitable for Acting Through. • Appointment of a Designated person subject to s.234 of the <i>Planning and Development Act 2005</i>.
Adoption Date:	15 March 2007
Last Review Date:	26 June 2025

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 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 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*.

POWER AND DUTIES

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 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
- To sign documents on behalf of the local government that are necessary, appropriate, and directly or indirectly related to the performance of their functions under any written law in accordance with ss. 9.49A(4) (5) and (7) (Execution of Documents) of the Act 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 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 subject to the exclusions / conditions set out below.

- In terms of application of the Common Seal to documents Officers comply with ss. 9.49A (2) and (3) (Execution of Documents) of the *Local Government Act 1995*.
- A Common Seal Register is to be kept in respect to the use of the Common seal;
- Use of the Common Seal is to be reported in the Executive Section of the Council Information Bulletin;
- Signed copies of executed documents, sealed or unsealed, are to be stored in the Shire’s Record Keeping System in accordance with the Shire of Toodyay’s Record Keeping Plan and Record Keeping Policy
- Section 9.49A(5) (Execution of documents) of the Act states that a document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by this authorisation.
- s.9.49 (Documents, how authenticated) of the Act states that “A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.
- This authorisation is subject to conditions or restrictions specified in the authorisation; and r.18G. Delegations to CEOs, limits on (Act s. 5.43).
- 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 consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> Governance Framework and Risk Management Tables; Shire of Toodyay Record Keeping Plan; Execution of Documents Policy.
Local Government Act 1995	<ul style="list-style-type: none"> s.5.46. (Register of, and records relevant to, delegations to CEO and employees) s. 9.49A(1) (Execution of documents) document executed by person under an authority is permitted to do so by this authorisation; s. 9.49 (Documents, how authenticated).

ES2 EXECUTION OF DOCUMENTS	
Local Government (Functions and General) Regulations 1996	<ul style="list-style-type: none"> r.34. Common seal, unauthorised use of
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Not permitted in accordance with s. 5.43 (Limitations on delegations to CEO) states a local government cannot delegate to a CEO (s.5.43(ha) (Limits on delegations to CEO) the power under s. 9.49A(4) (Execution of documents) to authorise a person to sign documents on behalf of the local government)
Conditions	<ul style="list-style-type: none"> 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.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Not applicable.
Adoption Date:	19 April 2007
Last Review Date:	26 June 2025

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

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

STATEMENT OF INTENT

The *Public Health Act 2016*:

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

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

- *Health (Miscellaneous Provisions) Act 1911*, in accordance with s.26 (Powers of local government); and
- *Public Health Act 2016* in accordance with s.21(1)(b) (Enforcement Agency may delegate) and s.24(1) (Designation of Authorised Officers) and s.17. Appointment of Environmental Health Officers

This delegation is 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:

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

- (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) 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) 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) of the *Health (Miscellaneous Provisions) Act 1911 and the regulations, local laws and orders made thereunder*; and
- (f) report to the Chief Health Officer concerning the sanitary conditions of its district, and all works executed, and proceedings taken by the local government pursuant to s.38. Local governments to report annually; and
- (g) exercise the powers given to a local government in respect to Division 2 — Criminal liability in accordance with s.280 (Commencing proceedings) of the *Public Health Act 2016*.

FUNCTION

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

Public Health Act 2016

- s.16 Functions of the local government (Division 2);
- s.17 Appointment of environmental health officers;
- s.19 Functions of enforcement agencies;
- s.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 Certain authorised officers required to have qualifications and experience;
- s.26 Further provisions relating to designations;
- s.27 Lists of authorised officers to be maintained;
- s.28 When designation as authorised officer ceases;
- s.29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers;
- s.30 Certificates of authority;
- s.31 Issuing and production of certificate of authority for purposes of other written laws;
- 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 Return of seized item;

- s.262 Cost of destruction or disposal of forfeited items;
- s.280 Commencing proceedings;
- 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) 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 to each person who is an authorised person a Certificate of Authority in accordance with s.30 (Certificates of authority) and s.31 (Issuing and production of certificate of authority for purposes of other written laws) of the *Public Health Act 2016*;
- (d) 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 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

ES3 Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911 ----- Delegation to the CEO	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Public Health Plans; • Shire of Toodyay Health Local Law
Health (Asbestos) Regulations 1992:	<ul style="list-style-type: none"> • r.15D Infringement Notices.
Criminal Investigation Act 2006	<ul style="list-style-type: none"> • Parts 6 and 13 – refer s.245 of the Public Health Act 2016.
Health (Miscellaneous Provisions) Act 1911	<ul style="list-style-type: none"> • 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 <i>Public Health Act 2016</i> .
Public Health Act 2016	<ul style="list-style-type: none"> • 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); • 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);

ES3 <i>Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911 ----- Delegation to the CEO</i>	
	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Environmental Health Officer
Conditions	<ul style="list-style-type: none"> • Subject to s. 17(3) (Appointment of environmental health officers) of the <i>Public Health Act 2016</i>.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent
Adoption Date:	22 May 2018
Last Review Date:	26 June 2025

ES4 *Food Act 2008* - Delegation to the CEO

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

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a **prescribed public authority** under the *Criminal Procedure Act 2004*, to delegate to the CEO the exercise of any local government (Council) powers or the discharge of any Council functions pursuant to the express power to delegate: s.118(2)(b) (Functions of enforcement agencies) and duties as an **enforcement agency** in respect to s.122(1) (Appointment of authorised officers) 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*.

POWERS AND DUTIES

This delegation authorises the CEO to:

- (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.

CONDITIONS

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

- 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*.
- (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 <i>Food Act 2008</i> ---- Delegation to the CEO-	
Compliance Links to consider when making decisions under this delegation	
Guidelines:	<ul style="list-style-type: none"> • Department of Health Publications and Fact Sheets https://ww2.health.wa.gov.au/Articles/F_1/food-act-2008-wa-fact-sheets

ES4 Food Act 2008 ---- Delegation to the CEO-	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> Shire of Toodyay Health local laws; and Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law
Food Regulations 2009	<ul style="list-style-type: none"> r.43 Local Government may require security; r.45 Withdrawal of inspection services; r.51 Enforcement agency may make list of food.
Food Act 2008	<ul style="list-style-type: none"> 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).
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Environmental Health Officer
Conditions	<ul style="list-style-type: none"> Subject to s. 117(2) of the <i>Food Act 2008</i>.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent

ES4 Food Act 2008 ---- Delegation to the CEO-	
Adoption Date:	15 March 2007
Last Review Date:	26 June 2025

ES5 Building Act 2011 - Delegation to CEO.

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

STATEMENT OF INTENT

The *Building Act 2011*:

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

The *Building Services (Registration) Act 2011*:

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

The intent of this delegation is for Council, as a **public permit authority**, to

- designate the CEO to be an authorised person 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*.
- 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.
- appoint the Chief Executive Officer to be an Authorised 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

This delegation appoints 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), authorising the CEO to:

- exercise any powers or duties given to a local government as a public permit authority and perform the functions of a public permit authority in relation to buildings and incidental structures located or proposed to be located in the district of the local government in accordance with s.127(1) (Delegation: special permit authorities and local governments) of the *Building Act 2011*;

- (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

The CEO, 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;
- 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

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

- (a) Part 6 — Circumstances in which building, demolition or occupancy permits not required (Building Regulations 2012);
- (b) Part 8 (Enforcement) Division 2 - Authorised Persons (Building Act 2011);
- (c) Part 8 (Enforcement) Division 3 - Powers of Authorised Persons (Building Act 2011);
- (d) Part 8 (Enforcement) Division 4 - Entry Warrants (Building Act 2011); and
- (e) Part 8 (Enforcement) Division 5 – Building Orders (Building Act 2011); and

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

- (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.

- (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*;
- (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. An Officer must have the prescribed qualifications to be delegated authority to exercise the functions of this delegation;
- (e) 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) 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) 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) 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 <i>Building Act 2011 – Delegation to the CEO</i>	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications	<ul style="list-style-type: none"> • Shire of Toodyay Record Keeping Plan; • Shire of Toodyay Record Keeping Policy. • Shire of Toodyay Property Local Law; • Shire of Toodyay Health Local Law.
Building Services (Registration) Act 2011	<ul style="list-style-type: none"> • reg. 374AAA (Local governments not to issue building licences in certain circumstances).

ES5 <i>Building Act 2011 – Delegation to the CEO</i>	
Building Regulations 2012	<ul style="list-style-type: none"> • r.5A (Authorised persons (s.3)); • r.36 (Certificate of building compliance (s. 57)); • r.51. (Approvals by permit authority); • r.53 (Inspection of barrier to private swimming pool); • r.70 (Approved officers and Authorised Officers); • 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 (s. 36(2)(h) and (j)) Building Regulations); • r.61. (Local government approval of battery powered smoke alarms); • r.62. (Requirement to maintain certain smoke alarms.).
Building Act 2011	<ul style="list-style-type: none"> • s.6 Permit (Authority for a building or incidental structure); • s.18 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 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.111(1) Notice of proposed building order other than a building order (emergency);

ES5 <i>Building Act 2011 – Delegation to the CEO</i>	
Building Act 2011	<ul style="list-style-type: none"> • 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.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.133 (Prosecutions). • s.133 Prosecutions; • s.374AAA. Local governments not to issue building licences in certain circumstances
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO
Sub-delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services; • Environmental Health Officer.
Conditions	<ul style="list-style-type: none"> • As per the Instrument of Delegation and the Prescribed Act and subsidiary legislation of the Prescribed Act.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • 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

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

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

STATEMENT OF INTENT

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

* *Absolute majority required.*

The intent with respect to the above is that the authority will extend to any subsidiary legislation of the *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:

- (a) administer 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.

FUNCTION

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

The 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:

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

- (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 <i>Cat Act 2011 – Delegation to the CEO</i>	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications	<ul style="list-style-type: none"> • <i>Cat Local Law 2018</i>
Cat Act 2011	<ul style="list-style-type: none"> • s.13 (Notice to be given of certain decisions); • s.27 (Cats may be seized); • s.37 (Approval to breed cats); • s.38 (Cancellation of approval to breed cats); • s.39 (Certificate to be given to approved cat breeder); • s.40 (Notice to be given of certain decisions made under subdivision); • s.42 (Administration by local government); • s.44 (Delegation by local government); • s.45 (Delegation by CEO of local government); • s.46 (Other matters relevant to delegations under this division); • s.47 (Register, and review of, delegations); • s.49 (Authorised person may cause a cat to be destroyed); • s.50 (Persons found committing breach of Act to give name on demand); • s.52 (General powers of authorised person); • s.62 (Giving an infringement notice); • s.73 (Prosecutions); • s.79 (Local Laws)
Cat Regulations 2012	<ul style="list-style-type: none"> • r.22. Other circumstances leading to refusal of approval to breed cats (s. 37(2)(f))
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.

ES6 <i>Cat Act 2011 – Delegation to the CEO</i>	
Sub-Delegation made by the CEO to other employees in accordance with s.45(1) and subject to ss. 45(3) and (6) of the <i>Cat Act 2011</i> .	<ul style="list-style-type: none"> • Rangers; • Registration Officers.
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <i>☒ suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent; • Suitable for Acting through in accordance with s. 46(2) (Other matters relevant to delegations under this Division) of the <i>Cat Act 2011</i>.
Adoption Date:	15 March 2007
Last Review Date:	26 June 2025

ES7 Dog Act 1976 --- Delegation to the CEO

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

STATEMENT OF INTENT

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

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 in accordance with s.11A of the Dog Act 1976.

POWERS AND DUTIES

This delegation authorises the CEO to:

- 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

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

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 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.

- (a) 10AA.(5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.
- (b) Registration officers are to be authorised to effect the registration of dogs.
- (c) 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*;
- (d) 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*;
- (e) 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;
- (f) 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)];

- (g) 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
- (h) 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.
- (i) 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.

S7 Dog Act 1976 – Delegation to the CEO	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> Shire of Toodyay Dog Local Law Dogs Policy; Financial Hardship Policy.
Dog Act 1976	<ul style="list-style-type: none"> 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); s.29 (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.39 (Dogs causing injury or damage may be destroyed); s.44 (Enforcement proceedings); s.49 (Local Laws); and s.61 (Authorised Persons).

S7 Dog Act 1976 – Delegation to the CEO	
Dog Regulations 1976.	<ul style="list-style-type: none"> 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)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees subject to s. 10AA (3) of the <i>Dog Act 1976</i> .	<ul style="list-style-type: none"> Not applicable.
Appointment of Authorised Officers / Authorised Persons <i>☑ Suitable for Acting Through</i>	<ul style="list-style-type: none"> 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 <i>Dog Act 1976</i>.
Adoption Date:	15 March 2007
Last Review Date:	26 June 2025

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

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

STATEMENT OF INTENT

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

* *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

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:*

- 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

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

- (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
 - (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)).
 - (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, 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 above authority is subject to the compliance links contained in this instrument of delegation and to the following:

- (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.
- (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:	<ul style="list-style-type: none"> Code of Conduct for Council Members, Committee Members and Candidates; Code of Conduct for Workers; Shire of Toodyay Record Keeping Plan; Bush Fire Brigades Operations (Administration) Standard Operating Procedures.
<i>Bush Fire Act 1954</i>	<ul style="list-style-type: none"> (Part III Prevention of Bush Fires)
<i>Bush Fire Act 1954 (Part IV Control and Extinguishment of Bush Fires)</i>	<ul style="list-style-type: none"> 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);
<i>Bush Fire Act 1954 (Part V Miscellaneous Provisions)</i>	<ul style="list-style-type: none"> s.59(3) & (5) (Prosecution of Offences).

ES8 Bush Fires Act 1954 – Delegation to the CEO	
Bush Fire Act Regulations 1954	<ul style="list-style-type: none"> 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.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B crop dusters etc., use of in restricted or prohibited burning times.
Bush Fires (Infringement) Regulations 1978	<ul style="list-style-type: none"> r.3. Offences and penalties r.4. Prescribed officers
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Not applicable in accordance with s. 48(3) (Delegation by local governments) of the <i>Bush Fires Act 1954</i>.
Conditions	<ul style="list-style-type: none"> Not applicable.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Not suitable for Acting Through	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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

The intent with respect to the above is that the authority will extend to any subsidiary legislation 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

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

* *Simple majority.*

FUNCTION

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

Refer to Section 6 - Delegation EA10 for Authorised Person responsibilities.

CONDITIONS

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

- (a) *Local Government (Miscellaneous Provisions) Act 1960 section 449;*
- (b) *Local Government (Miscellaneous Provisions) Act 1960 Part XX*

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

- (a) Signed copies of executed documents are to be recorded and stored in the Shire's Record Keeping System in accordance with the Shire of Toodyay's Record Keeping Plan and Record Keeping Policy.
- (b) To comply with s.184 Information Sharing of the Biosecurity and Agriculture Management Act 2007; and Biosecurity and Agricultural Management (Identification and Movement of Stock and Apiaries) Regulations 2013.
- (c) This delegation should be read in conjunction with Delegation ES1 and is subject to other Acts (s.4 (Relationship with other Acts) of the Biosecurity and Agricultural Management Act 2007); and the Shire's adopted local laws, schemes, codes, policies, and practices.

ES9 Biosecurity and Agricultural Management Act 2007 ---- Delegation to CEO	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications	<ul style="list-style-type: none"> • Shire of Toodyay Health Local Law; and • Shire of Toodyay Pest Plants Local Law
Biosecurity and Agricultural Management Act 2007	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • s.449 (Pounds, establishing; pound keepers and rangers, appointing)
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.

ES9 <i>Biosecurity and Agricultural Management Act 2007 ---- Delegation to CEO</i>	
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Infrastructure, Assets and Services; Rangers.
Conditions	<ul style="list-style-type: none"> Not applicable.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	22 May 2018
Last Review Date:	26 June 2025

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) and other employees to:

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

POWER AND DUTIES

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

- (a) Regulation 11A (Purchasing Policies for local governments) Part 4 – Provision of goods and services - Division 1 Purchasing Policies; and
- (b) Regulations 11 to 24 (Division 2 – Tenders for providing goods or services).

FUNCTION

To exercise any of the local government's powers or the discharge of any of its duties in relation to inviting Expressions of Interest and Tenders 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);
- (b) Authority to undertake tender exempt procurement, in accordance with the Purchasing Policy requirements, where the total consideration under the resulting contract is expected to be included in the adopted Annual Budget (F&G r.11(2));
- (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 though not required to do so (F&G reg. 13);
- (f) Authority to determine the criteria for accepted tenders (F&G reg. 14(2a));
- (g) Authority to determine the information that is to be disclosed to those interested in submitting a tender (F&G r.14(4)(a));
- (h) Authority to determine whether or not to reject tenders that do not comply with requirements as specified in the invitation to tender;
- (i) Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation (F&G reg. 14(5));
- (j) 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) Authority to seek clarification from tenderers in relation to information contained in their tender submission (F&G reg. 18(4a));
- (l) 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) accept the tender that is most advantageous.
- (m) Authority to decline to accept any tender;
- (n) 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;
- (o) 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);
- (p) 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) 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) 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
- (s) 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)).

CONDITIONS

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

- (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
 - (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 consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Purchasing Policy; • Disposal of Property Policy.
Local Government Act 1995	<ul style="list-style-type: none"> • 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).
Local Government (Functions and General) Regulations 1996	<ul style="list-style-type: none"> • 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); • reg. 21A. (Varying a contract for the supply of goods or services); • 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).
Local Government (Administration) Regulations 1996	<ul style="list-style-type: none"> • reg. 29 (e) (Information to be available for public inspection) (Act s. 5.94) (Part 7 - Access to information)

ES10 EXPRESSION OF INTEREST AND TENDERS	
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> 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 <input checked="" type="checkbox"/> Limited suitability for Acting Through	<ul style="list-style-type: none"> <i>regs. 19, 21(3), 24, 24E (1) and 24E (4) of the Local Government (Functions and General) Regulations 1996 suitable for Acting Through.</i> <i>Refer to Statement of Intent.</i>
Adoption Date:	3 April 2012
Last Review Date:	26 June 2025

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 are the exercise of any local government (Council) powers or the discharge of any Council duties 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*.

**Absolute majority required*

FUNCTION

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

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

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.
- (b) 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.
- (c) write-off any single amount of money owing to Shire less than \$5,000 (GST exclusive) subject to conditions stipulated.
- (d) write-off any amount of money previously specifically identified and provided for in the Provision for Doubtful Debts subject to conditions as stipulated

CONDITIONS

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

- (a) To comply with the requirements of Delegation CS1.
- (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) **Local Nature** means a person, community group, business or organisation that lives or operates within the Shire. This term may also extend to a person, community group, business or organisation that, although they are not part of the Toodyay District, as long as what they are providing via an event that will promote the heritage and culture of the district and be of benefit to the community consideration, at the discretion of the CEO, may be given.
- (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:	<ul style="list-style-type: none"> • Purchasing Policy; • Financial Hardship Policy.
Local Government Act 1995:	<ul style="list-style-type: none"> • s.6.12 Power to defer, grant discounts, waive or write off debts; • s.6.48. Regulation of grant of discounts and concessions
Local Government (Financial Management) Regulations 1996	<ul style="list-style-type: none"> • s.69A. When concession under Act s. 6.47 cannot be granted
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable in accordance with s. 5.43 of the <i>Local Government Act 1995</i>.
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Not suitable for Acting Through	<ul style="list-style-type: none"> • <i>Refer to the Statement of Intent.</i>
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

ES12 Local government property agreements.

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

STATEMENT OF INTENT

Refer to the background of Delegation CS8.

The intent of this delegation is for Council, defined as a **prescribed public authority** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of 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 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 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.

FUNCTION

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

1. approving applications for the hire of local government property.
2. Issuing permits for the hiring of local government property.
3. 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 above authority is subject to the compliance links contained in this instrument of delegation and to the following:

- (a) All hire of Council Buildings, reserves and other local government property will be arranged through the Shire's booking procedure; and
- (b) Long-term or seasonal bookings of Council owned buildings will require the preparation of user agreements between the Shire (Principal) and the Hirer in accordance with s.3.18 of the Act;
- (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

ES12 LOCAL GOVERNMENT PROPERTY AGREEMENTS	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> 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.
Local Government Act 1995	<ul style="list-style-type: none"> s. 3.18 (Performing Executive Functions); s.3.58 (Disposing of Property)
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation; and Subject to s. 5.43(d) (Limits on delegations to CEO) of the <i>Local Government Act 1995</i>.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> <i>Refer to the Statement of Intent.</i>
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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, 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 CEO the exercise of any local government (Council) powers or the discharge of any Council duties in respect to s.3.58 (Disposing of Property) of the Act 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* and subject to the conditions of this delegation.

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

This delegation also authorises the CEO to enter into agreements to lease property that the Shire owns or that it controls under a management order 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/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:

1. approving applications for the lease of local government property.
2. preparing an agreement for the leasing of local government property between the Shire (Lessor) and a Lessee occupying local government premises owned by the Shire.
3. use their discretion in relation to:
 - (a) Whether or not the lease 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 lease 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 lease of local government property.
 - (d) Setting limits for the duration of the lease.
4. the authority to renew a lease and licence agreement.

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

This 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 (s.6.60(2)); and
- (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 (s.6.60(4)).

CONDITIONS

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) Obtaining Minister for Lands consent in accordance with section 18 of the *Land Administration Act 1997*, should the property be subject to a management order where applicable;
- (c) Leases being for a maximum term of three years with a 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 of an existing commercial lease being for a maximum term of three years.
- (e) All new commercial leases will be brought to Council for consideration.
- (f) To comply with the entire section of Part IV — Residential tenancy agreements of the *Residential Tenancies Act 1987*;

- (g) To comply with s.18 (Crown land transactions that need Minister’s approval) of the *Land Administration Act 1997*;
- (h) To comply with s.6.62 (Application of money paid for rates and service charges) of the Act; and
- (i) To comply with Council’s policies and local government property local law.
- (j) Executed documents are to be stored in the Shire’s Record Keeping System in accordance with the Shire of Toodyay’s Record Keeping Plan.
- (k) For the purposes of s5.43(d) of the *Local Government Act 1995*, disposal of property is limited to a maximum value of \$250,000.

ES13 TENANCY AGREEMENTS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • <i>Local Government Property Local Law</i>; • Purchasing Policy; • Disposal of Property Policy; • Leasing of Shire Property Policy; • Financial Hardship Policy.
<i>Local Government Act 1995</i>	<ul style="list-style-type: none"> • s. 3.58 Disposing of property; • s. 3.18 Performing Executive Functions.
<i>Local Government (Functions and General) Regulations 1996</i>	<ul style="list-style-type: none"> • s.30. Dispositions of property excluded from Act; • s.3.58 (F&G Regs)
<i>Health (Miscellaneous Provisions) Act 1911</i>	<ul style="list-style-type: none"> • s.353. Power to take possession of and lease land or premises on which expenses are due
Other Relevant References	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Infrastructure, Assets and Services; and • Executive Manager Finance and Corporate Services.

ES13 TENANCY AGREEMENTS	
Conditions	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation and subject to s. 5.43(d) (Limits on delegations to CEO) of the <i>Local Government Act 1995</i>.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>Suitable for Acting Through</i>	<ul style="list-style-type: none"> <i>Refer to the Statement of Intent.</i>
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

ES14 Contract Formalities

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

STATEMENT OF INTENT

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

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

- Exercising contract 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

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

- (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 made, varied or discharged by a natural person in accordance with s.9.49B. Contract formalities
- (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;
- (c) Authority to choose the next most advantageous tender to accept, if the chosen tenderer is unable or unwilling to form a contract to supply the varied requirement OR the minor variation cannot be agreed with the successful tenderer, so that the tenderer ceases to be the chosen tenderer;
- (d) Authority to vary a tendered contract, after it has been entered into, provided the variation(s) are necessary for the goods and services to be supplied, and do not change the scope of the original contract or increase the contract value beyond what was budgeted for in lieu of the project;
- (e) Authority to approve the exercise of a contract extension option that was included in the original tender specification and existing contract; and

- (f) Authority to assign operational contract management responsibilities via position descriptions or documented procedures.

CONDITIONS

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

- (a) 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;
- (b) 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;
- (c) A decision to renew or extend the contract must only occur where the original contract contained the option to renew or extend its term as per reg.11(2)(j) (When tenders must be publicly invited) **and** that the contractor's performance has been reviewed and the review evidences the rationale for entering into the extended term;
- (d) Each sub-delegate may only use the sub-delegation in regard to contracts that are within the scope of their position, role and responsibilities; and
- (e) Where the total consideration of a Tender Exempt procurement contract exceeds the value as per the purchasing policy the decision is to be referred to Council.
- (f) Contracts relating to Tenders to be kept on relevant Tender files containing written evidence of determinations, extensions, variations, and other relevant evidence of decisions made in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
- (g) Contracts not relating to Tenders to be kept on relevant Agreement files in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.

Refer to ES10 Expression of Interest and Tenders delegation.

ES14 CONTRACT FORMALITIES	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • ES10 Expression of Interest and Tenders delegation; • Purchasing Policy; • CCTV Policy; • Asset Management Policy; • Risk Management Policy; • Execution of Documents Policy.
Local Government Act 1995	<ul style="list-style-type: none"> • s.3.18 Performing Executive Functions; and • s.9.49B Contract formalities.

ES14 CONTRACT FORMALITIES	
<i>Local Government (Functions and General) Regulations 1996</i>	<ul style="list-style-type: none"> • r.11. When tenders have to be publicly invited • r.30. Dispositions of property excluded from Act s. 3.58
<i>Application of s.9.49B</i>	<ul style="list-style-type: none"> • 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)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • 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 for sub-delegates in addition to compliance links	<ul style="list-style-type: none"> • Delegation of power regarding reg. 20 (Variation of requirements before entry into contract) of the <i>Local Government (Functions and General) Regulations 1996</i> 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 <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> • Refer to Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

ES15 Temporary Road Closures

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

BACKGROUND

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

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

Information in relation to the above is available via

<https://www.police.wa.gov.au/Traffic/Events-on-Roads/Events-and-road-closures>

STATEMENT OF INTENT

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

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

POWERS AND DUTIES

This delegation will facilitate the timely processing of road closure applications in accordance with the *Road Traffic Act 1974*; and the *Road Traffic (Events on Roads) Regulations 1991* and to provide prompt written responses to the Western Australian Police Force in respect to temporary road closure permits.

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

FUNCTION

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

The CEO will approve temporary road closures on behalf of Council.

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and to what is specified below.

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:	<ul style="list-style-type: none"> • The Shire of Toodyay Code of Conduct; • Temporary Road Closures Local Planning Policy.
Local Government Act 1995	<ul style="list-style-type: none"> • 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).
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • 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.

ES15 TEMPORARY ROAD CLOSURES	
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>limited suitability for Acting Through</i>	<ul style="list-style-type: none"> • s. 3.50(8) (Closing certain thoroughfares to vehicles) of the <i>Local Government Act 1995</i> suitable for Acting Through.
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

SECTION 3 Corporate & Community Services

(Delegations to the CEO)

CS1 Payments from Municipal Fund or Trust Fund

Responsible Officer:	Chief Executive Officer
Responsible Department:	Executive Services
Affected Department:	Corporate Services
Responsible Officer:	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 CEO the exercise of its power to authorise and make payments from the Municipal, Trust and Reserve funds held by the Shire (referred to in s. 6.10 (Financial management regulations) of the Act in accordance with reg. 12 (Payments from municipal fund or trust fund, restrictions on making) from the *Local Government (Financial Management) Regulations 1996*.

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* and s.5.43 Limits on delegations to the CEO.

POWER AND DUTIES

This delegation authorises the CEO to:

- (a) ensure that the signing of cheques and authorisation of electronic payments is compliant with legislative provisions contained in Part 6 – Financial Management of the *Local Government Act 1995* (the Act);
- (b) develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so in accordance with reg. 11 (Payments, procedures for making etc.) of the *Local Government (Financial Management) Regulations 1996*;
- (c) 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;
- (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) authorise and make payments from the municipal fund, trust or reserve 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.

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

The CEO, as an Authorised Officer, will:

1. 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:
 - (a) s.2.7(2)(a) and (b) (Role of Council);
 - (b) s.6.4 Prepare an annual financial report and such other financial reports as prescribed;
 - (c) s.6.5 (Accounts and records);
 - (d) s.6.6 (Funds to be established: Municipal fund and a separate and distinct Trust Fund);
 - (e) s.6.7 (Municipal fund);
 - (f) s.6.9 (Trust fund);
 - (g) 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.

2. 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.

CONDITIONS

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.

- (a) When the CEO authorises or approves payments from the municipal fund, the transactions must be within budgeted expenditure limits contained in the Annual Budget;
- (b) Only the CEO may appoint Authorised Signatories to be registered with the Shire's banking institution(s);
- (c) Only the CEO may authorise transaction cardholders and set limits on spending for those cardholders;
- (d) 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, all payments made, regardless of size and method of payment, are to be authorised by two signatories;
- (f) Members are not eligible for nomination as signatories;
- (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.
- (h) Authorised persons 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;
- (i) Cash floats may be established with the authority of the CEO contingent upon the need for such cash float being validated and approved;
- (j) A requisitioning Officer cannot approve a purchase order or payment of an invoice;
- (k) All payments are to be made in accordance with the relevant Council Policies;

- (l) 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 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 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;
- (o) 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;
- (p) 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;
- (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 Practice:	Management	<ul style="list-style-type: none"> • Not applicable
Shire of Toodyay Publications:	Corporate	<ul style="list-style-type: none"> • Purchasing Policy; and • Transaction Card Policy.

CS1 PAYMENTS FROM MUNICIPAL FUND OR TRUST FUND	
Compliance Links to consider when making decisions under this delegation	
Local Government Act 1995	<ul style="list-style-type: none"> s. 6.4 (Financial Report); s. 6.5 (Accounts and Records); s. 6.6 (Funds to be established); <p><u>Limits</u></p> <ul style="list-style-type: none"> 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).
Local Government (Financial Management) Regulations 1996	<ul style="list-style-type: none"> 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) <p><u>Limits</u></p> <ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> r.11A. (Purchasing policies for local governments)
Local Government (Audit) Regulations 1996	<ul style="list-style-type: none"> r.9A. (CEO to provide documents to Auditor General carrying out financial audit)
Record Keeping Requirements (MAN6)	<p>Section 1, Clause 8 (and 8.4) Delegation Register;</p> <p>(a) Shire of Toodyay Record Keeping Plan; and the</p> <p>(b) Shire of Toodyay Record Keeping Policy.</p>
Delegator: Power/Duty assigned in legislation to	<ul style="list-style-type: none"> Responsible Authority (local government)
Delegate:	<ul style="list-style-type: none"> CEO.

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	<ul style="list-style-type: none"> 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 Officer(s) in the Corporate Services area.
Conditions:	<ul style="list-style-type: none"> 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 <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> <i>Refer to the Statement of Intent.</i>
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

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

- 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

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 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.12. Payments from municipal fund or trust fund, restrictions on making.

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

- (a) All investments are to be made in accordance with Council’s Investment of Surplus Funds Policy.

- (b) All investments are to be made in accordance with Council’s Investment of Surplus Funds Policy.
- (c) Clause 8(3) (Separate bank etc. accounts required for some money) from the *Local Government (Financial Management) Regulations 1996* which states that money from different accounts may be placed in a common investment authorised by the Act.
- (d) Regulation 13 (Payments from municipal fund or trust fund by CEO, CEO’s duties as to etc.) from the *Local Government (Financial Management) Regulations 1996* requires a list of accounts paid by the CEO is to be prepared each month.

CS2 INVESTMENT OF SURPLUS FUNDS	
Compliance Links to consider when making decisions under this delegation	
Administrative Management Practice:	<ul style="list-style-type: none"> • Not applicable.
Shire of Toodyay Corporate Publications	<ul style="list-style-type: none"> • Internal Control Policy; • Investment of Surplus Funds Policy;
Local Government Act 1995	<ul style="list-style-type: none"> • s.6.10 (Financial Management Regulations); • s.6.14 (Power to invest)
Local Government (Financial Management) Regulations 1996	<ul style="list-style-type: none"> • 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)).
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Finance and Corporate Services.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> • <i>Refer to the Statement of Intent.</i>
Adoption Date:	24 November 2005

CS2 INVESTMENT OF SURPLUS FUNDS
--

Compliance Links to consider when making decisions under this delegation

Last Review Date:	26 June 2025
-------------------	--------------

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, defined as a **public authority** under the *Financial Management Act 2006*, to delegate to the CEO the exercise of its power or the discharge of any of its duties in relation to Part 6, Division 6 (Rates and Services Charges) to amend a rate record (referred to in Subdivision 3 (Imposition of rates and service charges) of the Act pursuant to reg. 55 (Rate record, form of etc.) (Act s.6.39(1)) from 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;
4. Extend the time for a person to make an objection to a rate record (s.6.76(4)); and
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

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

s.6.33 Differential general rates;

- s.6.35 Minimum payment;
- s.6.37 Specified area rates;
- s.6.38 Service charges;
- s.6.39 Rate Record;
- s.6.40 Effect of amendment of rate record of the Act;
- s.6.50 Rates or service charges due and payable.

CONDITIONS

Refer to Delegation CS1.

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 the following:

- (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.
- (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.
- (c) A delegate who has participated in any matter contributing to a decision related to the rate record, which is the subject of a Rates Record Objection, must NOT be party to any determination under this Delegation.
- (d) Amendments of rate record(s) to be made in writing and decisions related thereto to be in writing and kept in the relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.

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:	<ul style="list-style-type: none"> • Not applicable.
Shire of Toodyay Corporate Publications	<ul style="list-style-type: none"> • Debt Collection Policy. • Financial Hardship Policy.
Local Government (Financial Management) Regulations 1996:	Part 5 Rates and Service Charges <ul style="list-style-type: none"> • r.6. (Rate notice, content of etc. (Act s. 6.41));

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	<p>Part 6, Division 6, Subdivision 2 (Categories of rates and service charges);</p> <ul style="list-style-type: none"> • s.6.33 Differential general rates; • s.6.35 Minimum payment; • s.6.37 Specified area rates; • s.6.38 Service charges; <p>Part 6, Division 6, Sub-division 3 Imposition of rates and service charges.</p> <ul style="list-style-type: none"> • s.6.39 Rate Record; • s.6.40 Effect of amendment of rate record of the Act; <p>Part 6, Division 6, Sub-division 4 Payment of rates and service charges.</p> <ul style="list-style-type: none"> • s.6.50 Rates or service charges due and payable. <p>Part 6, Division 6, Subdivision 7 Objections and review.</p> <ul style="list-style-type: none"> • s.6.76. Grounds of objection
Record Keeping Requirements (MAN6)	<p>Section 1, Clause 8 (and 8.4) Delegation Register;</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Finance and Corporate Services.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> • <i>Refer to the Statement of Intent.</i>
Adoption Date:	22 September 2015
Last Review Date:	26 June 2025

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

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 rates or service charges, as well as costs of proceedings for the recovery, in a court of competent jurisdiction (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 (s.6.64(3)).

FUNCTION

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

- s.6.45 Options for payment of rates or service charges;
- s.6.49 Agreement as to payment of rates and service charges;
- s.6.56 Rates or service charges recoverable in court; and
- s.6.64 Actions to be taken.

CONDITIONS

Refer to Delegation CS1, CS3 and Section 6.

The above authority is subject to 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.

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

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:	<ul style="list-style-type: none"> • Internal policies where applicable
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Debt Collection Policy; • Financial Hardship Policy.
Local Government Act 1995	Part 6, Division 6, Subdivision 4 Payment of rates and service charges <ul style="list-style-type: none"> • 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)
Local Government (Financial Management) Regulations 1996.	Part 5 Rates and Service Charges <ul style="list-style-type: none"> • r.56. (Rate notice, content of etc. (Act s. 6.41))
Record Keeping Requirements (MAN6)	Section 1, Clause 8 (and 8.4) Delegation Register; <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Finance and Corporate Services.

CS4 APPROVAL OF PAYMENT ARRANGEMENT FOR PAYMENT OF RATES AND SERVICE CHARGES	
Compliance Links to consider when making decisions under this delegation	
Conditions	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> <i>Refer to the Statement of Intent.</i>
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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*, 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

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

FUNCTION

This delegation authorises the CEO to:

- (a) issue summonses without continual reference back to Council in accordance with s.6.56 (Rates or service charges recoverable in court) of the Act.
- (b) comply with s.6.64(1) and (3) (Actions to be taken) of the Act and Council's Debt Collection Policy.
- (c) 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 above authority is subject to the compliance links contained in this instrument of delegation and is also subject to the conditions set out below.

- (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* 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:	<ul style="list-style-type: none"> Not applicable.
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> Debt Collection Policy.
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. <ul style="list-style-type: none"> S.6.64 (Actions to be taken).
Local Government (Financial Management) Regulations 1996:	Part 2 – General Financial Management <ul style="list-style-type: none"> 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; <ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Finance and Corporate Services

CS6 ISSUE OF WRIT, SUMMONS OR OTHER PROCESS	
Conditions	<ul style="list-style-type: none"> In accordance with the conditions of this delegation; and Subject to s. 5.43 (Limits on delegations to CEO) of the <i>Local Government Act 1995</i>.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>Suitable for Acting Through</i>	<ul style="list-style-type: none"> <i>Refer to the Statement of Intent.</i>
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

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

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

FUNCTION

This delegation provides authority to the CEO to:

1. Waive a debt or grant a concession in relation to any amount of money owed to the Shire; and
2. Write off any amount of money which is owed to the Shire; and
3. Determine conditions to be applied to waive, grant a concession or write-off money owed to the Shire.
4. consider and use discretion in relation to applications received, requesting that fees in the Shire's *Schedule of Fees and Charges* be waived and/or that discounts be granted.

CONDITIONS

The above authority is subject to the compliance links contained in this instrument of delegation and the conditions set out below.

- (a) The CEO may write off amounts of up to \$2,000.00
- (b) Defer or Write-off a rates or service charge debt in accordance with the Financial Hardship Policy and to the same limit at (a) above.

- (c) A debt may only be written off where all necessary measures have been taken to locate / contact the debtor and where costs associated with continued action to recover the debt will outweigh the net value of the debt if recovered by the Shire of Toodyay.
- (d) 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.

CS6 POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE-OFF DEBTS	
Compliance Links to consider when making decisions under this delegation	
Administrative Management Practice:	<ul style="list-style-type: none"> • Not applicable.
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Debt Collection Policy; and • Financial Hardship Policy.
Local Government Act 1995	<ul style="list-style-type: none"> • s. 6.12 (Power to defer, grant discounts, waive or write off debts)
Local Government (Financial Management) Regulations 1996.	<ul style="list-style-type: none"> • 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; <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Finance and Corporate Services.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions of this delegation and subject to s. 5.43(ha) (Limits on delegates to CEO) of the <i>Local Government Act 1995</i>.
Appointment of Authorised Officers / Authorised Persons <i>☑ Suitable for Acting Through</i>	<ul style="list-style-type: none"> • <i>Refer to the Statement of Intent.</i>
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

CS8 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 Shire's *Local Government Property Local Law* states that the Head of Power in relation to this delegation is the *Liquor Control Act 1988* (formerly named the *Liquor Licensing Act 1988*).

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

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a **prescribed public authority** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of 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 s.37 (Pre-requisites for grants of licences etc.; conditions on licences) from the *Liquor Control Act 1988*.

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

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

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 above authority is subject to the compliance links contained in this instrument of delegation and conditions set out below.

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

CS9 CONSUMPTION OF LIQUOR ON LOCAL GOVERNMENT PROPERTY	
Compliance Links to consider when making decisions under this delegation	
Administrative Management Practice:	<ul style="list-style-type: none"> • Applications for Public Events;
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Trading in thoroughfares and public places Local Planning Policy; • Local Government Property Local Law 2021

CS9 CONSUMPTION OF LIQUOR ON LOCAL GOVERNMENT PROPERTY	
Liquor Control Act 1988	<ul style="list-style-type: none"> 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; <ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

SECTION 4 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 delegation is for Council, defined as an **enforcement agency** and a **public authority** under the *Public Health Act 2016*, having delegated to the CEO as Council's Deputy, the exercise of any local government (Council) powers or the discharge of any Council duties in respect to the *Prescribed Acts* stated below:

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

POWERS AND DUTIES

This delegation authorises the CEO to:

- (a) exercise of any local government (Council) powers or the discharge of any Council duties in respect to s.24 (Designation of authorised officers) of the *Public Health Act 2016* including the provisions of any subsidiary legislation;
- (b) approve applications for septic tanks and other alternate effluent disposal treatment systems that are compliant with the *Health (Miscellaneous Provisions) Act 1911* and relevant provisions of any subsidiary regulations;
- (c) 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
- (d) 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, 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

- 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);
- 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

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.
- (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

PRS1 APPLICATIONS FOR TREATMENT OF SEWAGE AND DISPOSAL OF EFFLUENT AND LIQUID WASTE	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Shire of Toodyay's current Local Planning Scheme. • <i>Health Local Law 2017.</i> <p><u>Local Planning Policies:</u></p> <ul style="list-style-type: none"> • 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.
<i>Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974</i>	<ul style="list-style-type: none"> • Twelfth Report of Joint Standing Committee on delegated legislation in relation to The Treatment of sewage and Disposal of Effluent and Liquid Waste Amendment Regulations (No 2) 1993 Application to construct or install an apparatus for treatment of sewage. • r.46. Emptying tank or other waste storage component of apparatus
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Environmental Health Officer.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Not applicable.
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

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, 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 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 issue and serve a 'notice of breach' for non-conformance within the requirements of the Shire's Fencing *Local Law*.

FUNCTION

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

CONDITIONS

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)
Compliance Links to consider when making decisions under this delegation

PRS2 ISSUE OF NOTICE OF BREACH (FENCING)	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Shire of Toodyay's current Local Planning Scheme; • Local Government Property Local Law; and • Local Laws Relating to Fencing; <p><u>Local Planning Policies:</u></p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • s.5.42 (Delegation of some Powers and Duties to CEO).
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services; and • Planning and Compliance Officer (included Contractors); • Building Surveyor (included Contractors)
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> Suitable for Acting Through	<ul style="list-style-type: none"> • Refer to Statement of Intent; and • s. 3.26(2) (Additional powers when notices given) of the <i>Local Government Act 1995</i> is suitable for Acting Through.
Adoption Date:	27 March 2008
Last Review Date:	26 June 2025

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

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

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

STATEMENT OF INTENT

The intent of this delegation is for Council 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: 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 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;
 - (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 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

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

- (a) 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	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Shire of Toodyay's current Local Planning Scheme; • Subdivision Development Guidelines Policy.
<i>Environmental Protection Act 1986</i>	<ul style="list-style-type: none"> • s.51B(4) (Declaration of environmentally sensitive areas by regulation)
<i>Environmental Protection (Clearing of Native Vegetation) Regulations 2004</i>	<ul style="list-style-type: none"> • r.5. (Prescribed clearing (s. 51C)).
<i>Planning and Development Act 2005.</i>	<ul style="list-style-type: none"> • Section 4 (Terms used); • Section 72 (Local government may prepare or adopt scheme)
<i>Planning and Development (Local Planning Scheme) Regulations 2015</i>	<ul style="list-style-type: none"> • r.79. Entry and inspection powers
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.

PRS3 DEALING WITH CLEARING MATTERS	
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services; and • Executive Manager Infrastructure, Assets and Services.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions of this delegation.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Not applicable.
Adoption Date:	27 April 2006
Last Review Date:	26 June 2025

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*, to delegate to the CEO the exercise of any local government (Council) powers 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 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, 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.

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.

CONDITIONS

Refer to Delegation ES5.

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

- (a) Approved and Authorised Officers are to be issued with a Certificate of Authority.
- (b) Details of inspections recorded on the appropriate file or register in accordance with Shire of Toodyay Record Keeping Plan and Record Keeping Policy; and
- (c) Reported in quarterly Council Information Bulletin.

PRS4 SWIMMING POOL INSPECTIONS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Shire of Toodyay's current Local Planning Scheme. • Health Local Law 2017
<i>Building Act 2011:</i>	<ul style="list-style-type: none"> • 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
<i>Building Regulations 2012:</i>	<ul style="list-style-type: none"> • 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).
<i>Local Government Act 1995</i>	<ul style="list-style-type: none"> • s.36 – former provision 245A - Local Government (Miscellaneous Provisions) Act 1960.

PRS4 SWIMMING POOL INSPECTIONS	
Building Regulations 2012	<ul style="list-style-type: none"> r.53B. Local governments to give Building Commissioner information
Other Relevant References:	<ul style="list-style-type: none"> Provisions of the <i>Australian Standard 1926.1-2012</i> (Safety Barriers for Swimming Pools – Western Australia).
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Planning and Regulatory Services; Planning and Compliance Officer (included Contractors); Environmental Health Officer.
Conditions	<ul style="list-style-type: none"> Same conditions as Delegation ES5.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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 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 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

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*.

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 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	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • <i>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.</i> Local Planning Policies: <ul style="list-style-type: none"> • Trading in thoroughfares and public places; • Directional Signage & Signage within Thoroughfares. • Crossover Policy.
<i>Local Government (Uniform Local Provisions) Regulations 1996</i>	<ul style="list-style-type: none"> • <i>reg. 12(1) (Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)).</i>
<i>Local Government Act 1995</i>	<ul style="list-style-type: none"> • 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)

PRS5 CROSSING FROM PUBLIC THOROUGHFARE TO PRIVATE LAND OR PRIVATE THOROUGHFARE	
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services; and • Executive Manager Infrastructure, Assets and Services.
Conditions	<ul style="list-style-type: none"> • Subject to ss. 127(3) and 127(6A) (Delegation: special permit authorities and local governments) of the <i>Building Act 2011</i>.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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 *Local Government Act 1995*.

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

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

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

STATEMENT OF INTENT

The intent of this delegation is for Council, defined as a **prescribed public authority** under the *Criminal Procedure Act 2004*, and having appointed the CEO as an Authorised Officer for the purposes of 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 exercise any of the local government's powers or the discharge of any of its duties in relation to approving, refusing, applying a condition, varying an approval or condition, or cancelling a permit for a stallholder subject to relevant Council Policies and the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

FUNCTION

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

- (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:

- (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.
- (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) 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

PRS6 STALLHOLDER APPLICATIONS	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> Shire of Toodyay's current Local Planning Scheme; and Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. Local Planning Policies <ul style="list-style-type: none"> Trading in Thoroughfares and Public Places; Directional Signage & Signage within Thoroughfares; Alfresco Dining
<i>Planning and Development Act 2005.</i>	<ul style="list-style-type: none"> s. 3.5 (Legislative power of local governments) and s.3.12 (Procedure for making local laws) of the Act
Other references:	<ul style="list-style-type: none"> https://www.coag.gov.au/about-coag/agreements/competition-principles-agreement
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Planning and Regulatory Services; and Environmental Health Officer.
Conditions	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i><input checked="" type="checkbox"/> Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

PR57 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 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 exercise any of the local government’s powers or the discharge of any of its duties in relation to approving, refusing, applying a condition, varying an approval or condition, or cancelling a permit for a Trader subject to relevant Council Policies and the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*.

FUNCTION

Functions specifically performed by the CEO as an Authorised Person in accordance with s.5.44 (CEO may delegate powers and 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 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:	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • Trading in Thoroughfares and Public Places; • Directional Signage & Signage within Thoroughfares; • Alfresco Dining.
Weights and Measures Act 1915	(repealed by the <i>Trade Measurement Administration Act 2006</i> (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	<ul style="list-style-type: none"> • s. 115 (Register of food businesses to be maintained) <i>Food Act 2008</i>.
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services; and • Environmental Health Officer.

PRS7 THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES PERMITS	
Conditions	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i><input checked="" type="checkbox"/> Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	24 November 2005
Last Review Date:	26 June 2025

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 for Council to delegate to the CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties as a responsible authority in relation to land that is subject to a local planning scheme under the *Planning and Development Act 2005* within the Shire 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 from the *Planning and Development (Local Planning Schemes) Regulations 2015* are as follows:

Part 8 – Applications for development approval and in particular:

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.

r.83 (Local government CEO may delegate powers) of the *Planning and Development (Local Planning Schemes) Regulations 2015* states the local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation.

FUNCTION

Authority to undertake a development approval function under the local planning scheme in relation to development applications, approvals of development, or ancillary or incidental matters as follows:

1. Authority to determine an application for development approval by:

- (a) Receiving, administering, or considering development applications.
- (b) Granting or refusing approvals of development.
- (c) Imposing conditions on approvals of development.
- (d) Receiving, administering, or considering applications for any of the following —
 - (i) an amendment to an approval of development;

- (ii) an amendment 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.
- (f) Cancelling approvals of development.

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.

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

Applications for development approval for development:

- (i) exceeding \$2M in value; and / or
- (ii) a net increase of in excess of 10 dwellings; and / or
- (iii) a net increase of over 1000m² in building floor area; and/or
- (iv) located in the Roman Catholic Church Precinct; and/or
- (v) located in the SCA3 of the Local Planning Scheme No 5; and or
- (vi) involving a setback variation of greater than 50% of the prescribed amount.

may not be determined under delegated authority.

Specific Exclusions and Exceptions for Minor Works, etc.

- a) Subject to (f) below, with respect to applications for development approval for development other than advertising signage, domestic outbuildings, sea containers and/or other similar storage containers, fencing, residential additions/alterations and setback variations, any delegated decision must be consistent with, rather than giving due regard to, relevant Local Planning Policies;
- b) Subject to (f) below, applications for development approval for development of land within a Local Reserve may only be approved under delegated authority where it is consistent with the purpose of the Reserve; and
- c) Subject to (f) below, applications for development approval for the types of land-use or development listed below may only be refused under delegated authority:
 - (i) Abattoir;
 - (ii) Animal Establishment in other than the 'Rural' Zone;
 - (iii) Animal Husbandry – Intensive;
 - (iv) Hotel;
 - (v) Industry - Extractive;

- (vi) Motel;
- (vii) Night Club;
- (viii) Restricted Premises;
- (ix) Small Bar;
- (x) Tavern;
- (xi) Telecommunication Infrastructure; and
- (xii) Any other development associated with racing, gaming, or the sale of liquor, other than where development is of a temporary nature (no more than 48 hours duration).

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

- d) Subject to (f) below, unless specifically provided for in a Local Planning Policy or Policies, applications for development approval that must be assessed under the provisions of clause 18 of the Scheme (interpretation of the Zoning Table provisions) may only be refused under delegated authority;

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

- e) Subject to (f) below, applications for development approval that must be assessed Clause 18(4) (non-conforming uses provisions) may only be refused under delegated authority;

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

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

- amending the approval so as to extend the period within which the approval must be substantially commenced; and
- alterations and/or expansions affecting a maximum area of 10% of the existing development or 200m² (in terms of floor space or land area in use, as appropriate), whichever is the lesser, and which are associated with existing, lawful land-uses, wherein the application may be refused or approved, with or without conditions, under delegated authority.

- g) Where an application to extend the period within which the approved development must be substantially commenced is issued pursuant to f) above, the term of any extension shall not exceed 12 months, only one extension may be granted unless approved by Council.

2. Development Approval - Amended Plans

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

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

- b) the amended plans do not differ from the determined plans in any respect which generates a need to undertake consultation pursuant to clause 64 of the *deemed provisions for local planning schemes* (advertising applications) and/or Part 4 (Consultation) of the R-Codes; and/or
- c) the amended plans do not differ from the determined plans in respect of the number of residential units or an increase in floor space of more than 10% or 200m² (in terms of floor space or land area in use, as appropriate), whichever is the lesser.

3. Development Approval - Conditions Related To Consultation

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

- a) No submissions were received, or only supportive submissions that do not request any change to the development were received. All single house approvals are not permitted to 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, and those concerns are, in the opinion of the CEO, clearly not material planning considerations;
- c) Submissions that raise concerns with the proposed development were received, and those concerns are material planning considerations, but;
 - i) through liaison with the party or parties that lodged the submissions and/or amendments to the application and/or the application of conditions, the matters raised in the submissions can be resolved to the satisfaction of the CEO, the applicant, and the party or parties that lodged the submissions (the Chief Executive Officer must also ensure that the interests of fourth parties are protected and undertake further consultation if considered necessary); and
 - ii) prior to approval of the application, the applicant and/or party or parties who lodged the submissions have provided written (including via email) confirmation of their acceptance of the terms of the proposed delegated decision.

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

PRS8 DEVELOPMENT APPLICATION DELEGATIONS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Local Planning Scheme; and • Local Planning Policies

PRS8 DEVELOPMENT APPLICATION DELEGATIONS	
<i>Planning and Development Act 2005:</i>	<ul style="list-style-type: none"> s.164 Development commenced or carried out, subsequent approval of s.164A. Integration of subdivision and development.
<i>Planning and Development (Local Planning Schemes) Regulations 2015: AKA Deemed provisions</i>	<ul style="list-style-type: none"> 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.
<i>Local Government Act 1995:</i>	<ul style="list-style-type: none"> s. 5.42 (Delegation of some Powers and Duties to CEO) by the Local Government; s.5.46. Register of, and records relevant to, delegations to CEO and employees; and s.9.60 Regulations that operate as local laws.
<i>Local Government (Administration) Regulations 1996</i>	<ul style="list-style-type: none"> r.29. Information to be available for public inspection (Act s. 5.94)
<i>Other Delegations:</i>	<ul style="list-style-type: none"> EA13 Single House Development made under the auspices of the Planning and Development Act 2005
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Executive Manager Planning and Regulatory Services
Conditions:	In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons: <i><input checked="" type="checkbox"/> Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	26 June 2025

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 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 deemed Provisions 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).

This delegation will enable appropriate action to be instigated in a timely and efficient manner relating to breaches of the Scheme.

Regulation 83 (Local government CEO may delegate powers) of the *Planning and Development (Local Planning Schemes) Regulations 2015* state "the local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation".

FUNCTION

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

- (a) Give a written direction to the owner or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the Scheme, 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) to remove, pull down, take up, or alter the development; and

- ii) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.
- (c) Give a written direction to the person whose duty it is to execute work to execute that work where it appears that delay in the execution of the work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order.

CONDITIONS

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

- (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:	<ul style="list-style-type: none"> • 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.
<i>Local Government Act 1995</i>	<ul style="list-style-type: none"> • s. 5.42 (Delegation of some Powers and Duties to CEO)
<i>Planning and Development Act 2005</i>	<ul style="list-style-type: none"> • s. 214 (Illegal development, responsible authority's powers as to ss. (2), (3) or (5) • Part 13 (Enforcement and legal proceedings)
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	<ul style="list-style-type: none"> • r.79. Entry and inspection powers • r.80. Repair of existing advertisements
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services

PRS9 ILLEGAL DEVELOPMENT	
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i><input checked="" type="checkbox"/> Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent.
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	26 June 2025

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

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).

* *Absolute majority required.*

POWERS AND DUTIES

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

FUNCTION

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.

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:	<ul style="list-style-type: none"> • Shire of Toodyay's current Local Planning Scheme and Strategies; • Shire of Toodyay's adopted local laws; • Shire of Toodyay's adopted policies.
<i>Planning and Development Act 2005</i>	<ul style="list-style-type: none"> • Part 13, Division 3, s. 234 (Designated persons, appointment of)
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	<ul style="list-style-type: none"> • Schedule 2, Part 10 (Deemed provisions)
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable.
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Appointment of a Designated person subject to s. 234 (Designated persons, appointment of) of the <i>Planning and Development Act 2005</i>; • Refer to the Statement of Intent.
Adoption Date:	24/11/2015 Council Resolution No 242/11/15
Last Review Date:	26 June 2025

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 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 exercise any of the local government’s powers or the discharge of any of its duties the *Planning and Development Act 2005, Part 10 – Subdivision and Development Control*.

FUNCTION

This delegation of authority will enable the Shire President and the CEO to enter into a Deed of Covenant for the Payment of a Development Contribution with prospective developer(s) proposing to rezone land under 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 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

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:	<ul style="list-style-type: none"> • 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 - <i>Planning and Development Act 2005</i>	<ul style="list-style-type: none"> • Part 13, Division 3, s. 234 (Designated persons, appointment of)
<i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	<ul style="list-style-type: none"> • Schedule 2, Part 10 (Deemed provisions)
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable.
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • <i>Refer to the Statement of Intent.</i>
Adoption Date:	18 June 2008
Last Review Date:	26 June 2025

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 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 of authorised persons) of the Act to perform any of the functions of an authorised person under this local law. **Refer to Delegation ES1.**

POWERS AND DUTIES

This delegation authorises the CEO to:

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

FUNCTION

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

Caravan Parks and Camping Grounds Act 1995

- s. 7 Application for grant or renewal of licence;
- s. 10 Prohibition notice;

- s. 14 Register;
- s. 15 Local government may operate facility in its district without licence;
- s. 21 Inspections and works specification notices;
- s. 18 Powers of entry;
- s. 20 Entry of occupied caravan or camp;
- s. 22 Legal proceedings to be taken by authorised person; and
- s. 23 Infringement notices.

CONDITIONS

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.

PRS12 CARAVAN PARK AND CAMPING GROUNDS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • 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
<i>Caravan Park and Camping Grounds Act 1995</i>	<ul style="list-style-type: none"> • reg. 6 (Performance of local government functions by authorised persons) • Section 17(2) (Appointment of authorised person)

PRS12 CARAVAN PARK AND CAMPING GROUNDS	
<i>Caravan Parks and Camping Grounds Regulations 1997.</i>	<ul style="list-style-type: none"> • reg. 6 (Performance of local government functions by authorised persons) of
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services; and • Manager Infrastructure, Assets & Services.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions of this delegation.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to ES1; and • Not applicable.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

PR13 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.

* *Absolute majority required.*

POWERS AND DUTIES

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

FUNCTION

The WAPC grants subdivision approvals for residential subdivisions (excluding built strata with 5 or less units, which require Local Government Approval). Subdivision applications submitted to the WAPC are referred to the Shire (as well as other agencies) for comment. This delegation will facilitate timely responses to the WAPC regarding subdivision, amalgamation, and strata title referrals.

CONDITIONS

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

- a) The application is consistent with a structure plan approved by the WAPC, a local development plan approved by Council, or other plan endorsed by Council, or which forms part of the Scheme and/or a Local Planning Policy; and/or
- b) The application is for amended plans for an application that has been considered by Council within the last two years and the amendments are, in the opinion of the delegated officer, of a minor nature.

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:	<ul style="list-style-type: none"> • Shire of Toodyay current Local Planning Scheme; • Subdivision Contributions for Road and Footpath Upgrading (Local Planning Policy);
<i>Planning and Development Act 2005;</i>	<ul style="list-style-type: none"> • s.214 Illegal development, responsible authority's powers as to.
<i>Planning and Development (Local Planning Schemes) Regulations 2015;</i>	<ul style="list-style-type: none"> • Schedule 2, Part 4 – Structure Plans
<i>Local Government Act 1995</i>	<ul style="list-style-type: none"> • s.5.42 (Delegation of some Powers and Duties to CEO).
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services.
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation; and that the application for subdivision is not located in the Roman Catholic Precinct; and • Consideration of Delegation EA11 required prior to any decision.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent.
Adoption Date:	25 June 2019
Last Review Date:	26 June 2025

SECTION 5 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, 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 *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*.

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*.
- 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 powers 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 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

CONDITIONS

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.

Refer to Delegations ES1, ES10 and PRS5.

IAS1 CROSSOVERS	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • 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:	Schedule 9.1, cl. 7 (3).
Local Government (Uniform Local Provisions) Regulation 1996:	<ul style="list-style-type: none"> • ss. 12, 13, 14, 15 and 16.
Environmental Protection (Clearing of Native Vegetation) Regulations 2004:	<ul style="list-style-type: none"> • s. 21A.
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Infrastructure, Assets & Services; and • Executive Manager Planning and Regulatory Services
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent.
Adoption Date:	18 April 2007
Last Review Date:	26 June 2025

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, 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 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* 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, 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

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

- Refer to Delegations ES1, ES5, **PRS5**, IAS1, **PRS7** and **PRS12**.
- (b) 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

IAS2 PRIVATE WORKS ON, OVER OR UNDER PUBLIC PLACES	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> Shire of Toodyay's current Local Planning Scheme Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. <p><u>Local Planning Policies:</u></p> <ul style="list-style-type: none"> Signage outside the Central Toodyay Heritage Area; Central Toodyay Heritage Area; Directional Signage and signage within thoroughfares; and Subdivision Development Guidelines.
<i>Local Government (Uniform Local Provisions) Regulations 1996</i>	<ul style="list-style-type: none"> r.17 (Private works on, over, or under public places)— Sch. 9.1 cl. 8 of the.
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Infrastructure, Assets and Services; and Executive Manager Planning and Regulatory Services
Conditions	<ul style="list-style-type: none"> In accordance with the conditions listed in this delegation.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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, 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*.

POWERS AND DUTIES

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

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

FUNCTION

To comply with provisions of:

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

CONDITIONS

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

- (a) The CEO obtaining confirmation in writing from the Executive Manager Infrastructure, Assets and Services that the proposed activity will not create undue interference with the operations of the street, the way or public place.
- (b) Licences are to be issued subject to the condition detailed in s. 25 (Transitional and savings provisions) of the *Local Government (Uniform Local Provisions) Regulations 1996* and such other conditions as considered relevant by the CEO.
- (c) License and correspondence related thereto to be recorded in relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.
- (d) Refer to Delegation ES1 and ES5.

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:	<ul style="list-style-type: none"> Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. Landscaping Plans; and Subdivision Development Guidelines.
<i>Local Government (Uniform Local Provisions) Regulations 1996</i>	<ul style="list-style-type: none"> 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).
<i>Planning and Development Regulations 2009:</i>	<ul style="list-style-type: none"> s.36 (Rights, powers, and privileges under easements (Act s. 167(2))
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> CEO.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Infrastructure, Assets and Services; and Executive Manager Planning and Regulatory Services
Conditions	<ul style="list-style-type: none"> Subject to ss. 127(3) and 127(6A) (Delegation: special permit authorities and local governments) of the <i>Building Act 2011</i>.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	18 April 2013.
Last Review Date:	26 June 2025

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, 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

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

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 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.

IAS4 DANGEROUS EXCAVATION	
Compliance Links to consider when making decisions under this delegation	
Shire of Toodyay Corporate Publications:	<ul style="list-style-type: none"> • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law. • Landscaping Plans; and • Subdivision Development Guidelines.
Local Government Act 1995	<ul style="list-style-type: none"> • 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;
Planning and Development Regulations 2009:	<ul style="list-style-type: none"> • r.36 (Rights, powers, and privileges under easements (Act s. 167(2))).
Local Government (Uniform Local Provisions) Regulations 1996	<ul style="list-style-type: none"> • s. 25 (Transitional and savings provisions).
Record Keeping Requirements (MAN6)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • CEO.

IAS4 DANGEROUS EXCAVATION	
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Executive Manager Infrastructure, Assets and Services; and Executive Manager Planning and Regulatory Services.
Conditions	<ul style="list-style-type: none"> Subject to ss. 127 (3) and 127(6A) (Delegation: special permit authorities and local governments) of the <i>Building Act 2011</i>.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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

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 officer appointments.

Head of Power	Detail	Conditions
<i>Local Government Act 1995</i>	<p><i>In respect to the appointment of authorised persons in relation to the following laws or specified provisions of 1 of more specified laws:</i></p> <p>law means any of the following —</p> <ul style="list-style-type: none"> (a) <i>this Act;</i> (b) <i>the Caravan Parks and Camping Grounds Act 1995;</i> (c) <i>the Cat Act 2011;</i> (d) <i>the Cemeteries Act 1986;</i> (e) <i>the Control of Vehicles (Off-road Areas) Act 1978;</i> (f) <i>the Dog Act 1976;</i> (g) <i>subsidiary legislation made under an Act referred to in any of paragraphs (a) to (f);</i> (h) <i>a written law prescribed for the purposes of this section;</i> <p>specified means specified in the instrument of appointment.</p>	
<i>Planning and Development Act 2005</i>	<p>In relation to s. 234 (Designated persons, appointment of) the CEO of a responsible authority may, in writing, appoint persons or classes of persons to be designated persons for the purposes of ss. 228 (Giving an infringement notice), 229 (Content of infringement notice), 230 (Extending time to pay modified penalty) and 231 (Withdrawal of infringement notice)</p>	<p>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).</p>

Head of Power	Detail	Conditions
<i>Animal Welfare Act 2002</i>	In relation to s. 64 (Appointment of authorised persons) the CEO of the local government is an authorised person only in respect of infringement notices given by the local government.	s. 64(4) (Appointment of authorised persons) states that a person cannot be both an authorised person and an inspector.
<i>Litter Act 1979</i>	In relation to s. 26(1) (Authorised officers, appointment, and jurisdiction of etc.) the CEO of the local government is an authorised person.	26. Authorised officers, appointment and jurisdiction of etc.
<i>Litter Act 1979</i>	27. Authorised officers, powers of	27A. Offences involving vehicles, presumptions as to offender etc.
<i>The Bush Fires (Infringement) Regulations 1978</i>	In relation to s. 4 (Prescribed officers) the CEO and the Shire President are Prescribed Officers for the purposes of s. 59A(5) (Withdrawal of infringement notices) of the Act.	
<i>The Caravan Parks and Caravans Act 1995</i>	In relation to s. 17(1) (Appointment of authorised person) the CEO of the local government: (a) may appoint such persons to be authorised persons for the purposes of this Act as the CEO or the local government considers necessary; and (b) must issue each person appointed under paragraph (a) with an identity card, in the prescribed form, certifying that the person is an authorised person under this Act.	s. 17(2) (Appointment of authorised person) states that an authorised person is to produce the identity card referred to in subsection (1)(b) whenever required to do so by any person in respect of whom the authorised person has exercised, or is about to exercise, any of the powers of an authorised person under this Act.
<i>The Local Government Act 1995</i>	In relation to s. 5.5. (Convening council meetings): (1) The CEO is to convene an ordinary meeting by giving each council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting. (2) The CEO is to convene a special meeting by giving each council member notice, before the meeting,	

Head of Power	Detail	Conditions
	of the date, time, place, and purpose of the meeting.	
<i>The Local Government Act 1995</i>	<p>In relation to s. 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 —</p> <ul style="list-style-type: none"> (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.
<i>The Local Government Act 1995</i>	<p>In relation to s.4.31.(1B) (Rateable property: ownership and occupation):</p> <p>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 —</p> <ul style="list-style-type: none"> (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. 	
<i>The Local Government Act 1995</i>	<p>In relation to s. 5.29. (Convening electors' meetings):</p> <ul style="list-style-type: none"> (1) The CEO is to convene an electors' meeting by giving — <ul style="list-style-type: none"> (a) at least 14 days' local public notice; and (b) each council member at least 14 days' notice, <p>of the date, time, place, and purpose of the meeting.</p>	<p>Suitable for Acting through:</p> <p>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.</p> <p>s. 5.53(1) (Annual reports) states a local government must prepare an annual report for each financial year</p>

Head of Power	Detail	Conditions
The <i>Local Government Act 1995</i>	<p>In relation to s. 5.32. (Minutes of electors' meetings)</p> <p>The CEO is to —</p> <p>(a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and</p> <p>(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.</p>	
The <i>Local Government Act 1995</i>	<p>In relation to s. 5.55. (Notice of annual reports):</p> <p>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.</p>	
The <i>Local Government Act 1995</i>	<p>In relation to s. 5.55A. (Publication of annual reports):</p> <p>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.</p>	
The <i>Local Government Act 1995</i>	<p>In relation to s. 5.88(1) (Register of financial interests):</p> <p>A CEO is to keep a register of financial interests.</p>	s. 5.88 (sub sections (2) to (4) stipulate how the register is to be maintained
The <i>Local Government Act 1995</i>	<p>In relation to s. 5.89A (Register of gifts):</p> <p>A CEO is to keep a register of gifts</p>	s. 5.89A (sub sections (1) to (7) stipulate how the register is to be maintained
The <i>Local Government Act 1995</i>	<p>In relation to s. 5.95. (Limits on right to inspect local government information) states:</p> <p>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</p>	<p>s. 5.95(1) (Limits on right to inspect local government information) states:</p> <p>A person's right to inspect information referred to in s. 5.94 does not extend to the inspection of information —</p> <p>(a) which is not current at the time of inspection; and</p>

Head of Power	Detail	Conditions
	<p>local government and whether or not it is current at the time of inspection —</p> <p>Sub sections (a) to (u) identifies the information that can be accessed.</p>	<p>(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.</p>
<p><i>The Local Government Act 1995</i></p>	<p>In relation to s. 5.118 (Carrying out orders):</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>s. 5.110 (Dealing with complaint of minor breach) refers to the actions taken by the standards panel in relation to minor breaches</p> <p>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.</p> <p>s. 5.117 (Punishment for serious breach) relates to allegations made under s. 5.116(2) (Allegation by Departmental CEO of serious breach)</p>
<p><i>The Local Government Act 1995</i></p>	<p>In relation to s. 5.120 (Complaint's officer):</p> <p>(1) The CEO may designate an employee of the local government to be its complaints, Officer.</p> <p>(2) If an employee is not designated under subsection (1), the CEO is the local government's complaints Officer.</p>	
<p><i>The Local Government Act 1995</i></p>	<p>In relation to s. 6.5 (Accounts and records):</p>	

Head of Power	Detail	Conditions
	<p>The CEO has a duty —</p> <p>(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</p> <p>(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.</p>	
<i>The Local Government Act 1995</i>	<p>In relation to s. 7.12AH (4) (Reporting on a supplementary audit):</p> <p>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).</p>	
<i>The Local Government Act 1995</i>	<p>In relation to s. 9.19 (Extension of time):</p> <p>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.</p>	
<i>The Local Government Act 1995</i>	<p>In relation to s. 9.20(1) (Withdrawal of notice):</p> <p>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.</p>	
<i>The Local Government Act 1995</i>	<p>In relation to s. 9.29(2) (Representing local government in court):</p> <p>In proceedings a person who is —</p> <p>(a) the CEO; or</p> <p>(b) an employee of the local government appointed in writing signed by the CEO to represent</p>	<p>s. 9.29(1) defines proceedings</p> <p>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</p>

Head of Power	Detail	Conditions
	<p>the local government generally or in a particular case,</p> <p>may represent the local government in all respects as though the person were the local government.</p>	
<i>Bush Fire Regulations 1954</i>	<p><u>Granting of Permits</u></p> <p>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</p> <p>reg. 24 (Term used: authorised officer) state that for the purposes of this Part, the term authorised officer means the chief executive officer of the local government, or an officer duly appointed by the local government to grant permits for the purpose of this part (Part V – Permit to burn proclaimed or declared plants during prohibited burning times)</p>	
<i>Bush Fires (Infringement) Regulations 1978</i>	<p>reg. 4 (Prescribed officers) of the <i>Bush Fires (Infringement) Regulations 1978</i> states:</p> <p>For the purposes of s. 59A (5) of the <i>Act</i> a prescribed officer is —</p> <p>(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 <i>Act</i>—the chief executive officer, mayor, or president of the local government;</p>	<p>s. 59A (Alternative procedure – infringement notices) of the <i>Bush Fires Act 1954</i> 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))</p> <p>Only a Prescribed Officer can withdraw an infringement notice.</p>
<i>Local Government (Functions and General) Regulations 1996</i>	reg. 16 (Receiving and opening tenders, procedure for)	18. Rejecting and accepting tenders
<i>Local Government (Functions and General) Regulations 1996</i>	reg. 24 (People who submitted expression of interest to be notified of outcome)	Nil
<i>Local Government (Financial Management) Regulations 1996</i>	reg. 5 (CEO's duties as to financial management) states that 'Efficient	(2) The CEO is to —

Head of Power	Detail	Conditions
	<i>systems and procedures are to be established by the CEO of a local government' (a) to (g).</i>	(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.
<i>Local Government (Audit) Regulations 1996</i>	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.
<i>Local Government Act (Miscellaneous Provisions) Act 1960</i> • s.478. Dying etc. impounded cattle, destruction of etc.	This section gives the power directly to the mayor, president, or CEO of the local government.	As per s.478
<i>Section 45(1) of the Cat Act 2011</i>	A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under another provision of this Act.	This delegation is subject to the provisions of ss. 45(3) and (6). The powers that an Authorised Person has are detailed in Subdivision 2 of the <i>Cat Act 2011</i> .
<i>Section 286 of the Public Health Act 2016.</i>	A CEO of the local government, prescribed by the regulations in respect of the enforcement agency, is responsible for providing documentary evidence of certain matters as a "Relevant Officer."	

Head of Power	Detail	Conditions
<i>Section 23 Burning during prohibited burning times of the Bush Fires Act 1954</i>	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.	
<i>Section 102 of the Conservation and Land Management Act 1984</i>	Public authority is the local government.	Local Government may make local laws.
<i>Section 45 of the CAT Act 2011</i>	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.
<i>Cemeteries Act 1986</i>	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 <i>Local Government Legislation Amendment Act 2019</i> (s. 97)
<i>Section 38 Control of Vehicles (Off Road Areas) Act 1978</i>	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.	
<i>Section 10AB of the Dog Act 1976</i>	The CEO is to keep a register of delegations made under s. 10AA(1)	
<i>Section 11A of the Dog Act 1976</i>	The CEO must, under the <i>Local Government Act 1995</i> s. 9.10(2), appoint persons to be authorised persons for the purposes of this Act.	
<i>Section 257C of the Planning and Development Act 2005</i>	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	This will not apply to any heritage protected place as defined in Schedule 2.

Head of Power	Detail	Conditions
	authorised by the CEO. This cannot be determined by Council.	
<i>Local Government (Development Assessment Panels) Regulations 2025</i>	<p>Performance of relevant DAP function</p> <p>A relevant DAP function must be performed for and on behalf of the local government by the CEO or by an authorised employee.</p>	Cannot be performed by the local government in any other manner (for example, by the Council or a committee of Council).
<i>Regulation 79. Entry and inspection powers (Planning and Development (Local Planning Scheme) Regulations 2015</i>	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	

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

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-authorized-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:	<ul style="list-style-type: none"> Not applicable.
Local Law(s):	<ul style="list-style-type: none"> Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	<ul style="list-style-type: none"> Trading in thoroughfares and Public Places.
Legislative References:	<p><i>Environmental Protection Act 1986:</i></p> <ul style="list-style-type: none"> s.20, Delegation No 52. <p><i>Environmental Protection (Noise) 1997 Regulations:</i></p> <ul style="list-style-type: none"> r.65.
<p>Record Keeping Refer to Section 1, Clause 8</p>	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Not applicable.
Conditions	<ul style="list-style-type: none"> Not applicable.
<p>Appointment of Authorised Officers / Authorised Persons</p> <p><input checked="" type="checkbox"/> Not suitable for Acting Through</p>	<ul style="list-style-type: none"> Refer to the Statement of Intent.
Adoption Date:	When DR Reviewed (Correspondence ICR27296)
Review Date(s):	28 June 2023

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.

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:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	<ul style="list-style-type: none"> • Trading in Thoroughfares and Public Places.
Legislative References:	<p><i>Environmental Protection Act 1986;</i> <i>Environmental Protection (Noise) Regulations 1997.</i></p>
<p>Record Keeping Refer to Section 1, Clause 8</p>	<p>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:</p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable.

EA2 NOISE CONTROL – KEEPING OF LOGBOOKS, NOISE CONTROL NOTICES; CALIBRATION AND APPROVAL OF NON-COMPLYING EVENTS	
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent.
Adoption Date:	When DR Reviewed (Correspondence ICR27296)
Review Date(s):	28 June 2023

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.

CONDITIONS

Conditions stated above in the gazettal notice.

EA3 NOISE CONTROL – NOISE MANAGEMENT PLANS – CONSTRUCTION SITES	
Relevant Management Practice:	<ul style="list-style-type: none"> Not applicable.
Relevant Local Law:	<ul style="list-style-type: none"> Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
Relevant Council Policy:	<ul style="list-style-type: none"> Trading in Thoroughfares and Public Places.
Legislative References:	<p><i>Environmental Protection Act 1986:</i></p> <ul style="list-style-type: none"> s. 20, Delegation No 52.
<p>Record Keeping Refer to Section 1, Clause 8</p>	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	<ul style="list-style-type: none"> Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Not applicable.
Conditions	<ul style="list-style-type: none"> Not applicable.
<p>Appointment of Authorised Officers / Authorised Persons</p> <p><input checked="" type="checkbox"/> <i>Suitable for Acting Through</i></p>	<ul style="list-style-type: none"> 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

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*.

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:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Personal Information (Privacy) Policy
Legislative References:	<p><i>Freedom of Information Act 1992 [Part 5 Publication of Information about agencies]</i></p> <ul style="list-style-type: none"> • 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.) <p><i>Local Government Act 1995</i></p> <ul style="list-style-type: none"> • 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) <p><i>Local Government (Administration) Regulations 1996</i></p> <ul style="list-style-type: none"> • 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)
Record Keeping Refer to Section 1, Clause 8	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Not applicable.

EA4 DELEGATION TO THE CEO IN RELATION TO THE FREEDOM OF INFORMATION ACT 1992	
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable.
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>Suitable for Acting Through</i>	<ul style="list-style-type: none"> • Suitable for Acting through an Authorised Person as stated above.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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 <i>PUBLIC INTEREST DISCLOSURE ACT 2003</i>	
Management Practice:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Public Interest Disclosure Policy
Legislative References:	<p><i>Public Interest Disclosure Act 2003</i></p> <ul style="list-style-type: none"> • s. 23 (Principal executive officer of public

EA5 DELEGATION TO THE CEO IN RELATION TO THE PUBLIC INTEREST DISCLOSURE ACT 2003	
<p>Record Keeping Refer to Section 1, Clause 8</p>	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable.
Conditions	<ul style="list-style-type: none"> • Not applicable.
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>Suitable for Acting Through</i>	<ul style="list-style-type: none"> • Suitable for Acting through a Designated Person as stated above.
Adoption Date:	22 September 2015
Last Review Date:	26 June 2025

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.

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:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.
Legislative References:	<p><i>Local Government Act 1995 - Part 4 Elections and other polls [Division 7 Provisions about electoral officers and the conduct of elections]</i></p> <ul style="list-style-type: none"> • 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). <p><i>Local Government (Elections) Regulations 1997 - Part 2 "Electoral Officers"</i></p> <ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Not applicable
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable
Conditions	<ul style="list-style-type: none"> • Not applicable
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent

EA6 DELEGATION TO THE CEO IN RELATION TO THE LOCAL GOVERNMENT ACT 1995	
Adoption Date:	22 September 2015
Last Review Date:	26 June 2025

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*;

- (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:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.
Legislative References:	<i>Public Health Act 2016; Health (Miscellaneous Provisions) Act 1911; and Health Legislation Administration Act 1984.</i>
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	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Environmental Health Officer
Conditions	<ul style="list-style-type: none"> • In accordance with conditions noted above.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent
Adoption Date:	28/06/2016 (Council Resolution: 90/06/16)
Review Date(s):	28 June 2023

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.

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 <i>Local Government Act 1995</i> - Powers of Entry in an emergency
Management Practice:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.
Legislative References:	<p><i>Local Government Act 1995:</i></p> <ul style="list-style-type: none"> • Part 3, Division 3, Subdivision 3.
<p>Record Keeping Refer to Section 1, Clause 8</p>	<p>Notices and relevant evidence of determinations recorded on relevant file in accordance with the Shire of Toodyay Record Keeping Plan and Record Keeping Policy.</p>
Delegation made by Council to authorise the CEO and/or other employees	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • In accordance with conditions above.
<p>Appointment of Authorised Officers / Authorised Persons</p> <p><input checked="" type="checkbox"/> Suitable for Acting Through</p>	<ul style="list-style-type: none"> • Suitable for Acting Through in accordance with 3.31(2) of the <i>Local Government Act 1995</i>.
Adoption Date:	18 April 2013
Last Review Date:	26 June 2025

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).

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) Section 122A of the *Planning and Development Act 2005* in respect of which approval is required under an improvement scheme (as that term is defined in that Act);
- (e) Section 162 of the *Planning and Development Act 2005* in respect of developments for which approval is required under a planning scheme or interim development order (as those terms are defined in that Act);
- (f) Section 163 of the *Planning and Development Act 2005* in respect of development on land which is comprised within a place entered in the Register maintained by the Heritage Council under the Heritage of Western Australia Act 1990, or of which such a place forms part;

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

CONDITIONS

In accordance with and subject to approved Government Land policies;

Please ensure that any such signature is subject to and also annotated with the standard endorsement i.e.: signed only as acknowledgement that a development application is being made in respect of a proposal that includes Crown land, Crown reserves under management for the purpose, or a road and to permit this application to be assessed under the appropriate provision of the *Planning and Development Act 2005* (including any planning scheme). The signature does not represent approval or consent for planning purposes. Further, in the event that development approval is granted for the proposal, the above signature should not be taken as an acknowledgement of or consent to the commencement or carrying out of the proposed development or to any modification of the tenure or reservation classification of the Crown land component; 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:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.
Legislative References:	<p><i>Planning and Development Act 2005:</i></p> <ul style="list-style-type: none"> • s.99 (2), s.103 (2), s.115, s.122A, s.162, s.163, s.171A and s.267A <p><i>Land Administration Act 1997:</i></p> <ul style="list-style-type: none"> • s.55 (2) and s.46 <p><i>Building Regulations 2012:</i></p> <ul style="list-style-type: none"> • 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.
Delegation made by Council to authorise the CEO and/or other employees	<ul style="list-style-type: none"> • Not applicable.

EA9 DEVELOPMENT APPLICATIONS MADE UNDER THE AUSPICES OF THE PLANNING AND DEVELOPMENT ACT 2005 (PDA): <i>Development Applications</i>	
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services
Conditions	<ul style="list-style-type: none"> • <i>In accordance with the functions and conditions placed upon this Statutory Delegation.</i>
Appointment of Authorised Officers / Authorised Persons <input checked="" type="checkbox"/> <i>Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • <i>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</i> • <i>Refer to the Statement of Intent.</i>
Adoption Date:	Department of Lands Director General Correspondence - ICR38764.
Review Date(s):	28 June 2023

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 <i>BIOSECURITY & AGRICULTURAL MANAGEMENT ACT 2007</i>.	
Management Practice:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Shire of Toodyay Health Local Law; and • Shire of Toodyay Pest Plants Local Law.
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.

EA10 DELEGATION TO RANGERS, POUND KEEPERS/AUTHORISED PERSONS REGARDING THE <i>BIOSECURITY & AGRICULTURAL MANAGEMENT ACT 2007.</i>	
Legislative References:	<i>Health (Miscellaneous Provisions) Act 1911</i> <i>Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013</i>
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	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons <i><input checked="" type="checkbox"/> Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent
Adoption Date:	22 May 2018
Review Date(s):	28 June 2023

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 WAPC) may, by resolution published in the Government Gazette, delegate any function under the Act or any other written law to a local government, a committee established under the 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*

- 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 it is 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 WAPC.

Refer to Delegation ES1 in terms of authorised persons.

EA11 Delegation to Local Government Officers under the <i>Strata Titles Act 1985</i>	
Management Practice:	<ul style="list-style-type: none"> Not applicable.
Local Law(s):	<ul style="list-style-type: none"> Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> Not applicable.
Legislative References:	Strata Titles Act 1985
Other Relevant References:	<ul style="list-style-type: none"> Government Gazette dated 29 Jan 2021, page 449 and 450
Record Keeping Refer to Section 1, Clause 8	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> Not applicable
Conditions	<ul style="list-style-type: none"> In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> Refer to the Statement of Intent
Adoption Date:	22 June 2021
Review Date(s):	28 June 2023

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 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:	<ul style="list-style-type: none"> • Not applicable.
Local Law(s):	<ul style="list-style-type: none"> • Not applicable.
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.
Legislative References:	<ul style="list-style-type: none"> • <i>Environmental Protection Act 1986</i>
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	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Not applicable
Conditions	<ul style="list-style-type: none"> • In accordance with the conditions noted above.
Appointment of Authorised Officers / Authorised Persons <i><input checked="" type="checkbox"/> Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • Refer to the Statement of Intent
Adoption Date:	8 May 2023
Review Date(s):	28 June 2023

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.

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 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.
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.

EA13 Single House Development made under the auspices of the Planning and Development Act 2005	
Management Practice:	• Not applicable.
Local Law(s):	• Not applicable.

EA13 Single House Development made under the auspices of the Planning and Development Act 2005	
Relevant Council Policy:	<ul style="list-style-type: none"> • Not applicable.
Legislative References:	<ul style="list-style-type: none"> • <i>Planning and Development (Local Planning Schemes) Regulations 2015 (the LPS Regulations)</i> • <u>Planning and Development (Local Planning Schemes) Amendment (Single House Development) Regulations 2024</u> (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	<ul style="list-style-type: none"> • Not applicable.
Sub-Delegation made by the CEO to other employees	<ul style="list-style-type: none"> • Executive Manager Planning and Regulatory Services.
Conditions	<ul style="list-style-type: none"> • <i>In accordance with the functions and conditions placed upon this Statutory Delegation.</i>
Appointment of Authorised Officers / Authorised Persons <i>☒ Not suitable for Acting Through</i>	<ul style="list-style-type: none"> • <i>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.</i> • 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