



Delegation of Authority Register

Current as at 2 January 2024

Foreward

This Delegation Register (Register) is an essential component of Council's broad governance framework.

The aim of delegated authority is to assist with efficiency by providing the means for quicker decision making.

The *Local Government Act 1995* (the Act) provides the power to directly delegate certain functions to the Chief Executive Officer (CEO). Other Acts administered by local governments also provide the powers of delegation and/or sub-delegation to the CEO or other employees.

This Register outlines the powers, duties and functions delegated to the CEO and in some cases other employees, where specific to particular legislation.

Sub-delegations from the CEO to other employees or persons are operational, and these are dealt with separately to the delegations detailed in this Register.

Review Requirements

In accordance with the requirements of s.5.46(2) of the Act, all delegations must be reviewed at least once every financial year. Absolute Majority is required for delegations.

Record Keeping

In accordance with the requirements of s.5.46(3) of the Act, 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.

Other legislation that is the subject of delegations in this Register also contains the same record keeping requirements.

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1.1. Determining applications under Local Laws and enforcement of Local Law provisions

Delegation No:	1.1
Delegation Subject:	Determining applications under Local Laws and enforcement of Local Law provisions
Act Reference:	Subdivision 2 of Division 2 of Part 3 <i>Local Government Act 1995</i> (the Act).
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To determine applications received by the Shire of Murray (Shire) in accordance with a Local Law made by the Shire in accordance with Subdivision 2 of Division 2 of Part 3 of the Act and to enforce the provisions of those local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in any local law made in accordance with Subdivision 2 of Division 2 of Part 3 of the Act.

Related Documents

For the purpose of this delegation, related documents include:

Shire of Murray Local Law relating to Dogs 2007;
Shire of Murray Meeting Procedures Local Law 2015;
Shire of Murray Pinjarra Cemetery Local Law 2006;
Shire of Murray Extractive Industries Local Law 2021;
Shire of Murray Consolidated Local Laws 1999;
Shire of Murray Parking and Parking Facilities Local Law 2008;
Shire of Murray Fencing Local Law 2012; and
Shire of Murray Health Local Law 2018.

1.2. Determining Applications in relation to the Access or Use of Shire Property

Delegation No: 1.2

Delegation Subject: Determining Applications in relation to the Access or Use of Shire Property

Act Reference: Division 3 of Part 3 *Local Government Act 1995* (the Act).

Delegator: Council

Delegate: Chief Executive Officer (CEO)

Power/Duty

To determine applications received by the Shire of Murray (Shire) to access, use or otherwise conduct activities on land or property that is owned by or vested with the Shire.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in any local law made in accordance with Division 3 of Part 3 of the Act.

1.3. Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given

Delegation No:	1.3
Delegation Subject:	Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given
Act Reference:	s.3.25(1), s.3.26(2) and s.3.26(3) of the <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under s.3.25(1), s.3.26(2) and s.3.26(3) of the Act.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in any local law made in accordance with Part 3 of the Act.

s.3.25(1)

A local government may give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a notice in writing relating to the land requiring the person to do anything specified in the notice that —

- (a) is prescribed in Schedule 3.1, Division 1; or*
- (b) is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.*

Explanatory note only - Schedule 3.1, Division 1

Things a notice may require to be done

- 1. Prevent water from dripping or running from a building on the land onto any other land.*
- 2. Place in a prominent position on the land a number to indicate the address.*
- 3. Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.*
- 4. (1) Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law —*
 - (a) is suitably enclosed to separate it from the public place; and*
 - (b) where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place.**(2) The notice cannot be given to an occupier who is not an owner.*

5. (1) *Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly.*
 (2) *In this item —*
“unsightly”, in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality.
 (3) *The notice cannot be given to an occupier who is not an owner.*
- 5A. (1) *Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy.*
 (2) *In this item —*
“disused material” includes disused motor vehicles, old motor vehicle bodies and old machinery.
6. *Take specified measures for preventing or minimising sand drifts on the land that are likely to adversely affect other land.*
7. *Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown.*
8. *Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government’s control or management and adjoins the land where the tree is situated.*
9. *Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.*
10. *Take specified measures for preventing or minimising —*
 (a) *danger to the public; or*
 (b) *damage to property, which might result from cyclonic activity.*
11. *Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.*
12. *Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired.*
13. *Take specific measures to prevent —*
 (a) *artificial light being emitted from the land; or*
 (b) *natural or artificial light being reflected from something on the land, creating a nuisance.*
14. (1) *Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised.*
 (2) *In this item —*
“private thoroughfare” has the same meaning as in Schedule 9.1 clause 7(1).

[Explanatory note only - Schedule 3.1, Division 2](#)

Provisions contraventions of which may lead to a notice requiring things to be done

1. *Regulations under Schedule 9.1, clause 3 (Obstructing or encroaching on public thoroughfare).*

- 1A. *Regulations under Schedule 9.1, clause 5(1) (Gates and other devices across public thoroughfares) requiring a person to remove a gate or other device from across a public thoroughfare when requested by a local government to do so.*
2. *Regulations under Schedule 9.1, clause 6 (Dangerous excavation in or near public thoroughfare).*
- 2A. *Regulations under Schedule 9.1, clause 7(2) (Crossings from public thoroughfares to private land or to private thoroughfares) that —*
 - (a) *prohibit a person from constructing a crossing; or*
 - (b) *by means of a notice in writing given to a person by the Commissioner of Main Roads require the person to bring a crossing into accordance with an approval by the Commissioner of Main Roads or to remove a crossing and restore the place where it was to its former condition.*
3. *Regulations under Schedule 9.1, clause 8(1) (Constructing private works on, over, or under public places).*
4. *Regulations under Schedule 9.1, clause 9 (Protection of watercourses, drains, tunnels and bridges).*
5. *Regulations under Schedule 9.1, clause 10 (Protection of thoroughfares from water damage).*
6. *Regulations under Schedule 9.1, clause 12 (Wind erosion and sand drifts).*

[*s.3.26\(2\)*](#)

*If the person who is given the notice ("**notice recipient**") fails to comply with it, the local government may do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.*

[*s.3.26\(3\)*](#)

The local government may recover the cost of anything it does under sub-section (2) as a debt due from the person who failed to comply with the notice.

1.4. General Procedure for Entering Property

Delegation No:	1.4
Delegation Subject:	General Procedure for Entering Property
Act Reference:	s.3.31(2) <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To authorise the CEO on behalf of the local government for the purposes of discharging the duties under s.3.31(2) of the Act.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

s.3.31(2)

If notice has been given under s.3.32, a person authorised by the local government to do so may lawfully enter the land, premises or thing without the consent of the owner or occupier unless the owner or occupier or a person authorised by the owner or occupier objects to the entry.

Explanatory note only – s.3.32

- (1) *A notice of an intended entry is to be given to the owner or occupier of the land, premises or thing that is to be entered.*
- (2) *The notice is to specify the purpose for which the entry is required and continues to have effect for so long as that requirement continues.*
- (3) *The notice is to be given not less than 24 hours before the power of entry is exercised.*
- (4) *Successive entries for the purpose specified in the notice are to be regarded as entries to which that notice relates.*

Conditions

As per s.3.32 of the Act.

1.5. Power to Remove and Impound Goods or Abandoned Vehicle Wreck

Delegation No:	1.5
Delegation Subject:	Power to Remove and Impound Goods or Abandoned Vehicle Wreck
Act Reference:	s.3.39(1), s.3.39(2) and s.3.40A(1) of the <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To authorise persons on behalf of the local government for the purposes of discharging the duties under s.3.39 and s.3.40A(1) of the Act.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

s.3.39

- (1) *An employee authorised by a local government for the purpose may remove and impound any goods that are involved in a contravention that can lead to impounding.*
- (2) *A person may use reasonable force to exercise the power given by sub-section (1).*

s.3.40A(1)

An employee authorised by a local government for the purpose may remove and impound a vehicle that, in the opinion of the local government, is an abandoned vehicle wreck.

Conditions

As per s3.39(1) and s.3.39(2) and s3.40A(1) of the Act.

1.6. Disposal of Uncollected Goods

Delegation No:	1.6
Delegation Subject:	Disposal of Uncollected Goods
Act Reference:	s.3.47(2) of the <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

Council delegates to the CEO the authority to discharge duties on behalf of the local government under s.3.47(2) of the Act to dispose of uncollected goods.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

Section 3.47(2)

The local government may sell or otherwise dispose of any vehicle that has not been collected within —

- (a) *2 months of a notice having been given under s.3.40(3); or*
- (b) *7 days of a declaration being made under s.3.40A(4) that the vehicle is an abandoned vehicle wreck.*

Explanatory note only

s.3.40(3)

If the person entitled to resume control of the vehicle is not present when the goods are unloaded or fails to resume control of the vehicle, the local government is to give notice to the person who is the holder of the requisite vehicle licence or permit under the Road Traffic (Vehicles) Act 2012 in respect of the vehicle, advising that the vehicle may be collected from a place specified during such hours as are specified.

Explanatory note only

s.3.40A(4)

If —

- (a) *after 7 days from the removal of a vehicle under sub-section (1), the owner of the vehicle has not been identified; or*
- (b) *after 7 days from being given notice under sub-section (2), the owner of the vehicle has not collected the vehicle, the local government may declare that the vehicle is an abandoned vehicle wreck.*

[Section 3.47\(2a\)](#)

The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in sub-section (2b) of —

- (a) a notice having been given under s.3.42(1)(b) or s.3.44; or*
- (b) being impounded if the local government has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.*

[Explanatory note only](#)

[s.3.47\(2b\)](#)

The period after which goods may be sold or otherwise disposed of under sub-section (2a) is —

- (a) for perishable goods — 3 days;*
- (b) for animals — 7 days;*
- (ca) for prescribed non-perishable goods — one month;*
- (c) for other non-perishable goods — 2 months.*

[Explanatory note only](#)

[s.3.42\(1\)\(b\)](#)

gives the alleged offender notice that the goods may be collected from a place specified during such hours as are specified.

[Explanatory note only](#)

[s.3.44](#)

Where non-perishable goods have been removed and impounded under s.3.39 and a prosecution is instituted, if the alleged offender —

- (a) is not convicted; or*
- (b) is convicted but the court does not order that the goods be confiscated,*

the local government is required to give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified.

1.7. Closing Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance

Delegation No:	1.7
Delegation Subject:	Closing Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance
LG Act Reference:	s.3.50(1), s.3.50(1a), s.3.50(4), s.3.50(6) and s.3.50A <i>Local Government Act 1995</i> (the Act) and r.6(3) <i>Local Government (Functions and General) Regulations 1996</i> (the Regulations)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under s.3.50(1), s.3.50(1a), s.3.50(4), s.3.50(6) and s.3.50A of the Act and r.6(3) of the Regulations.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in s.3.50(1), s.3.50(1a), s.3.50(4), s.3.50(6) and s.3.50A of the Act and r.6(3) of the Regulations.

s.3.50(1) of the Act

A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.

s.3.50(1a) of the Act

A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

s.3.50(4) of the Act

Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

- (a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;*
- (b) give written notice to each person who —*
 - (i) is prescribed for the purposes of this section; or*
 - (ii) owns land that is prescribed for the purposes of this section; and*
- (c) allow a reasonable time for submissions to be made and consider any submissions made.*

[*s.3.50\(6\) of the Act*](#)

An order under this Section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

[*s.3.50A of the Act*](#)

Despite s.3.50, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure —

- (a) is for the purpose of carrying out repairs or maintenance; and*
- (b) is unlikely to have a significant adverse effect on users of the thoroughfare.*

[*Functions and General r.6\(3\)*](#)

The local government may, by local public notice, order that the closure be revoked or that it be varied in such a way as to be less restrictive.

[Conditions](#)

As per s.3.50A of the Act and r.6(3) of the Regulations.

1.8. Deleted

1.9. *Dog Act 1976 – Administration*

Delegation No:	1.9
Act Reference:	<i>Dog Act 1976 – s.10AA</i>
Delegation Subject:	<i>Dog Act 1976 - Administration</i>
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Dog Act 1976*.

Power/Duty

The delegate is authorised to administer the provisions of the Act and subsidiary legislation, including but not limited to determining all applications, issuing declarations and the general enforcement of the Act.

Statutory Framework

Council is exercising its power of delegation under s.10AA of the Act.

Sub-delegation

The power to sub-delegate is expressly authorised.

Conditions

A delegate or sub-delegate may not –

- determine, vary or amend fees and charges payable under the Act or subsidiary legislation, or
 - make local laws; or
 - make determinations.
-

1.10. *Caravan Parks and Camping Grounds Act 1995*

Delegation No:	1.10
Delegation Subject:	<i>Caravan Parks and Camping Grounds Act 1995</i>
Act Reference:	s.17, s.18, s.22 and s.23 <i>Caravan Parks and Camping Grounds Act 1995</i>
Delegator:	Council
Delegates:	Chief Executive Officer (CEO) Director Planning and Sustainability Manager Planning and Environment Services Manager Building Services Manager Environmental Health Ranger/Bushfire Mitigation Officer Rangers Environmental Health Officers

For the purpose of this Delegation, the Act relates to the *Caravan Parks and Camping Grounds Act 1995*.

Power/Duty

Delegated officers are authorised persons, empowered to sign documents, enter and inspect a facility, caravan or camp, issue notices and modified penalties, extend the payment date for modified penalties, and initiate appropriate legal action on behalf of the Shire of Murray (Shire) when a breach of the Act and related legislation warrants such action.

The Director Planning and Sustainability is not authorised to issue modified penalties and they may withdraw modified penalties on written application and subject to assessment on a case by case basis.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the *Local Government Act 1995*. The CEO is exercising the power of delegation under s.5.44 of the *Local Government Act 1995* and s.17 of the Act.

Conditions

- The power to prosecute any person in a Court of competent jurisdiction is only exercised by the prior agreement of the CEO; and
- An Authorised Person who issues an infringement under s.23(2) must not withdraw the infringement under s.23(7).

s.18 of the Act

Powers of Entry

- (1) *An authorised person may, at all reasonable times, for the purposes of this Act—*
- (a) *enter and inspect a facility, other than a building in a facility that is used as a residence;*

- (b) enter and inspect any caravan or camp which is not in a facility;
- (c) after serving reasonable notice or with the consent of the occupier, enter and inspect a building in a facility that is used as a residence;
- (d) stop, enter, inspect or detain any vehicle in a caravan park or camping ground;
- (e) conduct such examinations and inquiries as the authorised person considers necessary to ascertain whether there has been compliance with this Act or any condition imposed under this Act;
- (f) require any person to state his or her name and principal place of residence; and
- (g) exercise such other powers as are prescribed for the purposes of this Act.

s.22 of the Act

Legal proceedings to be taken by authorised person

- (1) Every proceeding for an offence under this Act may be taken by an authorised person.
- (2) An authorised person is not personally responsible for any costs incurred by or awarded against an authorised person in connection with any proceeding for an offence under this Act.

s.23 of the Act

Infringement Notices

- (2) An authorised person who has reason to believe that a person has committed a prescribed offence against this Act may, within 21 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (3) An infringement notice is to be in the prescribed form and is in every case —
 - (a) to contain a description of the alleged offence;
 - (b) to advise that if the alleged offender does not wish to be prosecuted for the alleged offence in a court, the amount of money as specified in the notice as being the modified penalty for the offence may be paid to an authorised person within a period of 28 days after the giving of the notice; and
 - (c) to inform the alleged offender as to who are authorised persons for the purpose of receiving payment of modified penalties.
- (5) An authorised person 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.
- (7) An authorised person 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.
- (11) A local government may, in writing, appoint persons or classes of persons to be authorised persons for the purposes of subsection (2), (3), (5) or (7) or for the purposes of 2 or more of those subsections, but a person who is authorised to give infringement notices under subsection (2) is not eligible to be an authorised person for the purposes of any of the other subsections.
- (12) A local government is to issue to each person who is authorised to give infringement notices under this section a certificate stating that the person is so authorised, and the authorised person is to produce the certificate whenever required to do so by a person to whom he or she has given or is about to give an infringement notice.

1.11. Enforcement of *Food Act 2008*

Delegation No:	1.11
Delegation Subject:	Powers and functions under the <i>Food Act 2008</i>
Act Reference:	<i>Food Act 2008</i>
Delegator:	Council
Delegates:	Chief Executive Officer (CEO) Manager Environmental Health (MEH) Environmental Health Officers (EHO) Authorised Officers

For the purpose of this Delegation, the Act relates to the *Food Act 2008*.

Power/Duty

Authority to exercise and discharge all or any of its powers and functions under the Act and the regulations, local laws, and orders made thereunder.

Conditions

Authority to undertake legal proceedings and prosecutions for any breach or offence of the provisions of the Act is to be subject to the agreement by Director Planning and Development Services.

1. appoints all EHO's employed with the Shire of Murray (Shire) as 'Authorised Officers' for the purposes of the Act, under the provisions of s.38 and s.122(b) of the Act;
2. designates the Shire's 'Authorised Officers' to be 'Designated Officers' for the purposes of issuing 'infringement notices' under the provisions of s.126(2) and (3) of the Act;
3. delegates authority to the EHO's/Authorised Officer to issue 'prohibition notices';
4. designates the MEH to be responsible for Authorised Officers, to be a 'Designated Officer' to extend and revoke 'infringement notices' under the provisions of s.126(6) and s.126(7) of the Act and instigate prosecutions under the Act;
5. designates the Shire's CEO as the 'Designated Officer' to receive payment from 'infringement notices' under the provisions of s.126(3) and s.126(13).

Statutory Framework

Council is exercising its power of delegation under s.122 of the Act.

1.12. Deleted

1.13. Acquisition and Disposal of Property

Delegation No: 1.13

Delegation Subject:

1. Power to Dispose of Property, other than land with a market valued at less than \$20,000, or where the property that is disposed of as part of the consideration for other property that the local government is acquiring for a consideration where the total value of which is not more, or worth more, than \$75,000.
2. Disposal of Abandoned Vehicles
3. Disposal of Property, that is land, in certain circumstances.

Act Reference: s.5.42 – *Local Government Act 1995* (the Act)
Local Government (Functions and General) Regulations 1996 (the Regulations)

Delegator: Council

Delegate: Chief Executive Officer (CEO)

Power/Duty

That Council delegates to the CEO the authority to –

1. Dispose of Shire of Murray (Shire) property, other than land and to accept and determine offers, tenders and dispose of property where the market value of an item does not exceed \$20,000 (GST exclusive) or where the property that is being disposed of is part of the consideration for other property that the local government is acquiring for a consideration where the total value of which is not more, or worth more, than \$75,000.
2. accept and determine tenders and offers and acceptances for the disposal of abandoned vehicles, as required.
3. Dispose of Shire property, that is land, in certain circumstances in accordance with the conditions imposed by Council.

Conditions

Delegations 1 and 2 to be exercised in accordance with the schedules contained in Policy G12 – Disposal of Property.

Delegation 3 can only be exercised to dispose of office space in the Food Innovation Precinct Innovation Centre to facilitate the activation of the Food Innovation Precinct.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided in accordance with Subdivision 2 of Division 2 of Part 3 of the Act.

References

s3.58, s3.39, s.340A, s.3.45, s.3.47, s.5.42 and s.5.43 of the Act.

r.29A and r.30(3) of the Regulations.

1.14. Administration and Enforcement of the *Cat Act 2011*

Delegation No:	1.14
Delegation Subject:	Administration and enforcement of the <i>Cat Act 2011</i> and associated subsidiary legislation.
Act Reference:	s.44 of the <i>Cat Act 2011</i>
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Cat Act 2011*.

Power/Duty

The CEO is delegated all of the local government's responsibilities, functions and powers under the Act and any subsidiary legislation made under the Act.

Without limiting the generality of this delegation, this includes –

generally administering, enforcing and determining applications, permits, registrations, serving cat control or other notices, infringements, issue certificates, warrants or commence a prosecution in a Court under the Act and associated subsidiary legislation in the district.

Statutory Framework

Council is exercising its power of delegation under s.44 of the Act.

Exceptions

This delegation does not include the provisions contained in s.79 of the Act.

Sub-delegation

The delegate may sub-delegate any power, duty or function under the Act to any employee, except the powers of appointing authorised persons.

References

s.44 of the Act.

1.15. Determination of Applications for Gates or Other Devices Across Thoroughfares

Delegation No:	1.15
Delegation Subject:	To determine applications to install gates or other devices across public thoroughfares.
Act Reference:	Schedule 9.1, 5 (1) – <i>Local Government Act 1995</i> (the Act) r.9 – <i>Local Government (Uniform) Local Provision Regulations 1996</i>
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

That Council delegates to the CEO the power to determine applications for gates or other devices across public thoroughfares, inclusive of revoking or vary existing approvals and the determination of associated conditions of approval.

Conditions

Nil

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties.

1.16. *Graffiti Vandalism Act 2016* – Administration, Service of Notices, Enforcement and Prosecutions

Delegation No:	1.16
Reference:	s.16 <i>Graffiti Vandalism Act 2016</i>
Delegation Subject:	<i>Graffiti Vandalism Act 2016</i> – Administration, Service of Notices, Enforcement and Prosecutions
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Graffiti Vandalism Act 2016*.

Power/Duty

Council delegates to the CEO its powers and the discharge of any of its duties under Part 3 of the Act, except the power of delegation expressed in s.16 of the Act or the consideration of objections lodged pursuant to the Division 3 of the Act.

Conditions

Nil

Sub-Delegation

The CEO may sub-delegate the powers and duties delegated by Council under Part 3 of the Act in accordance with s.17 to any employee and the sub-delegation approved may be subject to conditions or limitations.

Statutory Framework

Council is exercising its power of delegation under s.16 of the Act.

1.17. *Public Health Act 2016 – Appointment of Environmental Health Officers and Administration and Enforcement Agency Functions*

Delegation No:	1.17
Reference:	s.21 <i>Public Health Act 2016</i> and Subsidiary Legislation
Delegation Subject:	<i>Public Health Act 2016 – Appointment of Environmental Health Officers (EHO) and Administration of Enforcement Agency Functions</i>
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Public Health Act 2016*.

Power/Duty

Council as an Enforcement Agency under the Act delegates to the CEO any of its duties and power conferred by the Act.

Conditions

In the case of the appointment of an EHO or other class or designation of superiority of an EHO they shall be provided with an identity card and certificate of appointment and they shall be suitably qualified.

Sub-Delegation

The CEO may sub-delegate the powers and duties delegated under the Act to an EHO pursuant to s.21(4) and any sub-delegation approval is to be in writing and may be subject to conditions, limitations or restrictions.

Statutory Framework

Council is exercising its power of delegation under s.21 of the Act.

1.18. Establishment of Public Pounds

Delegation No:	1.18
Act Reference:	5.42 of the <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Establishment of Public Pounds
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

Council delegates the authority to the CEO to establish public pounds in the District, under s.449 of the *Local Government (Miscellaneous Provisions) Act 1960*.

Statutory Framework

s.5.42 of the Act.

1.19. Issue of Environmental Protection Noise Notices

Delegation No:	1.19
Act Reference:	<i>Environmental Protection Act 1986 – s.65</i>
Delegation Subject:	Issue of Environmental Protection Noise notices
Delegator:	Council
Delegates:	Manager Environmental Health (MEH) Environmental Health Officers

For the purpose of this Delegation, the Act relates to the *Environmental Protection Act 1986*.

For the purpose of this Delegation, the CEO relates to the Chief Executive Officer of the Department of Environment and Protection.

Power/Duty

To exercise the powers and discharge the duties of the local government under s.65 of the Act.

s.65 – Issue Environmental Protection Noise Notices

- (1a) *An environmental protection notice may require a person bound by it to do any one or more of the following —*
- (a) *investigate the extent and nature of —*
 - (i) *the emission and its consequences;*
 - (ii) *the pollution and its consequences; or*
 - (iii) *the environmental harm and its consequences;*
 - (b) *prepare and implement a plan for the prevention, control or abatement of —*
 - (i) *the emission;*
 - (ii) *the pollution; or*
 - (iii) *the environmental harm;*
 - (c) *take such measures as the CEO considers necessary to —*
 - (i) *prevent, control or abate the emission;*
 - (ii) *prevent, control or abate the pollution;*
 - (iii) *prevent, control or abate the environmental harm; or*
 - (iv) *comply with the standard;*
 - (c) *ensure that the amount of waste, noise, odour or electromagnetic radiation emitted from the premises, or the concentration of that waste, noise, odour or electromagnetic radiation when measured at a point specified in the environmental protection notice, does not exceed the limit specified in the notice;*
 - (e) *monitor the effectiveness of actions taken under paragraph (a), (b), (c) or (d);*
 - (f) *report to the CEO on any action taken under paragraph (a), (b), (c), (d) or (e) and its outcome.*

- (1b) *An environmental protection notice may require a person bound by it to do the matters referred to in sub-section (1a) in accordance with an approval, direction or requirement of a type specified in the notice by a person specified in the notice.*
- (2) *An environmental protection notice —*
- (a) *is to specify —*
- (i) the name and address of the person on whom it is served;*
 - (ii) the reason for which it is served;*
 - (iii) a description of the relevant premises and the location of the premises sufficient to identify both;*
 - (iv) the period within which the investigation is to be completed, the plan is to be prepared and the measures are to be taken; and*
 - (v) the frequency of information to be reported to the CEO;*
- and*
- (b) *is to describe —*
- (i) the form of the investigation to be undertaken;*
 - (ii) the form of the plan to be prepared and implemented;*
 - (iii) the measures to be taken;*
 - (iv) the form of the monitoring to be undertaken; and*
 - (v) the content and form of information to be reported to the CEO.*
- (3) *An environmental protection notice —*
- (a) *while it subsists, binds each owner or occupier to whom it is given; and*
- (b) *while it remains registered under s.66, binds each successive owner or occupier of the land to which the environmental protection notice relates.*
-

1.20. Authority to Enforce *Liquor Licensing Act 1988* and *Liquor Control Act 1988*

Delegation No: 1.20

Act Reference: *Liquor Licensing Act 1988*

Liquor Control Act 1988

Delegation Subject: Authority to Enforce *Liquor Licensing Act 1988* and *Liquor Control Act 1988*

Delegator: Council

Delegates: Chief Executive Officer
Director Planning and Sustainability
Manager Building Services
Manager Planning and Environment Services
Manager Environmental Health
Environmental Health Officers
Senior Place and Events Officer

Power/Duty

To enforce all local authority responsibilities under the *Liquor Licensing Act 1988* and *Liquor Control Act 1988* and issue certificates of Local Health Authority and Local Planning Authority pursuant to s.39 and s.40 of the *Liquor Control Act 1988*.

Conditions

The delegates can enforce the duties and responsibilities of the *Liquor Licensing Act 1988* and *Liquor Control Act 1988* only, subject to agreement by the Director Planning and Sustainability.

1.21. Powers and Functions under the *Public Health Act 2016* and the Regulations, Local Laws and Orders Made Thereunder

Delegation No:	1.21
Delegation Subject:	Powers and functions of an Enforcement Agency under the <i>Public Health Act 2016</i> and Regulations, Local Laws and Orders made thereunder
Act Reference:	s.21 of the <i>Public Health Act 2016</i>
Delegator:	Council
Delegates:	Chief Executive Officer Manager Environmental Health Environmental Health Officers

For the purpose of this Delegation, the Act relates to the *Public Health Act 2016*.

Power/Duty

Council, as the local government delegates the functions of an Enforcement Agency to the delegates to exercise and discharge all or any of its powers and functions under the Act, the Regulations, local laws or orders made thereunder.

Conditions

Authority to undertake legal proceedings and prosecutions for any breach or offence of the Act or associated regulations, local laws or in regard to orders made thereunder is to be subject to the prior agreement by Director Planning and Sustainability.

s.19 – Functions of enforcement agencies

An enforcement agency has the functions in relation to the administration of this Act that are conferred or imposed on the agency by or under this Act.

Statutory Framework

Council is exercising its power of delegation under s.21 of the Act.

1.22. Local Planning Scheme – Access to Land

Delegation No:	1.22
Delegation Subject:	Delegation of Functions – Local Planning Scheme
Legislation Reference:	Clause 13.2.3.1 – Shire of Murray Town Planning Scheme No: 4 (Local Planning Scheme)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

Without limiting or in derogation to any previous decisions of the Council of the Shire of Murray, the CEO is delegated the power to authorise employees (Planning or other Officers as necessary) the authority to enter any building or land in the district for the purpose of ascertaining whether the provisions of the Local Planning Scheme are being observed.

Conditions

Employees authorised to enter into any building or land in the district are to be issued appropriate identification.

1.23. Authority to Issue Certificates

Delegation No:	1.23
Act Reference:	s.55 Gaming and Wagering Commission Act 1987
Delegation Subject:	Authority to issue certificates
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Gaming and Wagering Commission Act 1987*.

Power/Duty

Authority to issue certificates pursuant to s.55 of the Act.

Final decision is made by the Gaming and Wagering Commission. However, this delegation grants the power for the CEO to provide a report to the Commission.

s.55 – Approved premises

- (3) *The Commission may in relation to any premises require an applicant for the grant of approval or the holder of the approval to produce to the Commission —*
- (a) *a report from the local government of the district in which the premises are situated, certifying that those premises conform, or if not conforming in what respect they do not conform, to the Public Health Act 2016, to the relevant Act relating to sewerage and drainage and to any subsidiary legislation made under those Acts or the Local Government Act 1995;*
 - (b) *a report from the authority responsible for local planning matters affecting the premises certifying—*
 - (i) *that the proposed or actual use does not contravene any written law relating to local planning; or*
 - (ii) *where a proposed use will not contravene such a written law only if a specified consent be given, whether or not that consent will be given and as to any conditions relating to that consent;*
 - (c) *a report from the Commissioner of Police, or of an officer appointed by him with the approval of the Commission for that purpose, certifying that the premises are not in his opinion unsuitable for use as premises where permitted gaming of the kind proposed or to which the approval for the time being refers may occur; and*
 - (d) *evidence satisfactory to the Commission as to the charges proposed or made for the use of the premises for permitted gaming.*
- (4) *Where the owner or occupier of any approved premises objects or changes, or for any other reason the Commission is satisfied that the circumstances so require, the Commission may in its discretion revoke its approval of the premises, or amend the conditions imposed in relation to any approval.*

- (5) *The revocation, or amendment of the conditions imposed, shall take effect —*
- (a) on the day on which written notice of the decision of the Commission is given to the registered holder of the approval; or*
- (b) on such later day as is specified in that notice,*
- subject to sub-section (6).*
- (6) *Where for any reason notice of a decision of the Commission cannot in the opinion of the Commission be conveniently given to the registered holder of the approval in relation to any premises, that notice may in default be given to any person appearing to be an occupier of the premises and be posted in a conspicuous position on the premises, and effect shall thereupon be given to the revocation or amendment in accordance with the tenor of that notice.*
- (7) *An approval of premises granted by the Commission subsists in favour of the holder to whom or which the approval was first granted, or an assignee acceptable to the Commission entered in the register as the registered holder of that approval, and until —*
- (a) the term for which it was granted expires;*
- (b) its operation is suspended pursuant to an amendment; or*
- (c) it is revoked under sub-section (4),*
- whichever is the sooner.*
- (8) *Where the Commission proposes to revoke the approval granted in relation to any premises, or to amend the conditions imposed, the Commission shall take such steps as it considers reasonable in the circumstances to afford the registered holder of the approval and, where practicable, the owner and any other occupier who in the opinion of the Commission may be thereby prejudicially affected an opportunity to make submissions to the Commission in relation to the matter.*
- (9) *Any assignment of the grant of approval by the registered holder proposed by him to the Commission shall not unreasonably be refused.*
- (10) *Any assignment which is acceptable, and any revocation or amendment under this Section shall be noted in the register.*

Statutory Framework

Pursuant to s.5.42 of the *Local Government Act 1995*.

2.1. Signing of Written Agreements

Delegation No:	2.1
Act Reference:	s.5.44 <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Signing of Written Agreements
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To sign written agreements on behalf of the CEO, including but not limited to signing on behalf of the CEO when the Common Seal of the Shire of Murray (the Shire) is affixed to an agreement, in relation to agreements of the following types:

1. agreements entered into pursuant to or in furtherance of conditions of subdivision approval or strata subdivision approval issued by the Western Australian Planning Commission (or any replacement or other relevant statutory body with authority to issue these approvals);
2. agreements entered into pursuant to or in furtherance of conditions of approval issued by or on behalf of the Shire under the Shire of Murray Town Planning Scheme No 4 or any replacement or other town planning scheme operative within the district of the Shire.

For the purpose of this delegation of authority an agreement includes any easement, restrictive covenant, s.70A notification, application, or any other Department of Land Information document.

Conditions

In accordance with the schedules contained in Policy G1 – Execution of Documents.

2.2. Variation of Requirements Before entry into Contract

Delegation No:	2.2
Delegation Subject:	Variation of Requirements before Entry into Contract
Act Reference:	r.20 and r.20(2) <i>Local Government (Functions and General) Regulations 1996</i> (the Regulations)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under r.20 and specifically r.20(2).

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the *Local Government Act 1995* (the Act) to delegate to the CEO the discharge of its powers and duties provided for in r.20 and specifically r.20(2) of the Regulations.

r.20

- (1) *If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.*
- (2) *If —*
 - (a) *the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or*
 - (b) *the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement, that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.*
- (3) *In subregulation (1) —*

“minor variation” means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

2.3. Provision of Urgent Legal Services

Delegation No:	2.3
Delegation Subject:	Provision of Urgent Legal Services
Act Reference:	s.5.42 <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer

Power/Duty

To provide authorisation in accordance with Council policy “Legal Representation – Costs Indemnification” for urgent legal services to a maximum of \$10,000.

Conditions

In accordance with Council Policy G8 – Legal Representation.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

2.4. Organisational Structure

Delegation No:	2.4
Delegation Subject:	Organisational Structure
Act Reference:	s.5.2 – <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under s.5.2 of the Act.

1. Implement an appropriate structure to ensure the efficient, effective and orderly administration in accordance with the strategic direction of the Council and within budget allowances, including;
 - (a) reviewing and renewing fixed term employment contracts;
 - (b) creating new position;
 - (c) determining the remuneration and functions of new and existing positions.
2. Undertaking performance appraisals of all staff;
3. Terminating existing positions, including making existing staff redundant;
4. The CEO must provide timely and relevant information to ensure that Council is kept appropriately informed of significant organisational structural changes and renewals of Directors employment contracts.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in s.5.2.

s.5.2

The Council of a local government is to ensure that there is an appropriate structure for administering the local government.

2.5. Caveats

Delegation No:	2.5
Delegation Subject:	Caveats
Act Reference:	s.5.42 of the <i>Local Government Act 1995</i> (the Act)
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under s.5.42 of the Act.

Council delegates authority to the CEO to withdraw a caveat that has been lodged on a property, where the purpose for which the caveat was lodged has been satisfied, or the temporary withdrawal and re-lodging of a caveat to allow dealings on a title.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

2.6. Representing Local Government in Court

Delegation No:	2.6
Act Reference:	s.9.29(2) of the <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Representing Local Government in Court
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To represent the local government in proceedings either generally or in a particular case.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

s.9.29 – Representing local government in court

(2) *In proceedings a person who is—*

- (a) *the CEO; or*
- (b) *an employee of the local government appointed in writing signed by the CEO to represent the local government generally or in a particular case,*

may represent the local government in all respects as though the person were the local government.

Conditions

Any staff member must first receive approval in writing from the CEO as per s.9.29 of the Act before it can represent the local government in Court.

2.7. Determining Tender Criteria

Delegation No: 2.7

Delegation Subject: Determine the criteria to assess tenders for projects and the supply of goods and services up to \$500,000.

Act Reference: s.3.57 *Local Government Act 1995* (the Act), r.14(2a) *Local Government (Functions and General) Regulations 1996*

Delegator: Council

Delegate: Chief Executive Officer (CEO)

Power/Duty

That Council delegate to the CEO the authority to determine the criteria to decide which tender should be accepted, where a tender is to be invited. The value of the tender is not to exceed \$500,000 and funds are required to have been allocated in budget.

Conditions

Where a tender may exceed the determined value, Council is to determine the criteria to decide which tender should be accepted prior to a tender being invited.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties.

3.1. Payments from Municipal Fund and Trust Fund

Delegation No: 3.1

Act Reference: s.6.10 *Local Government Act 1995* (the Act) r.12 *Local Government (Financial Management) Regulations 1996* (the Regulations).

Delegation Subject: Payments from Municipal Fund and Trust Fund

Delegator: Council

Delegate: Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government in accordance with r.12 of the Regulations, in relation to s.6.10 of the Act.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

s.6.10 of the Act

Financial management regulations

Regulations may provide for —

- (d) *the general management of, and the authorisation of payments out of —*
 - (i) *the municipal fund; and*
 - (ii) *the trust fund,**of a local government.*

Financial Management r.12

Payments from municipal fund or trust fund, restrictions on making

- (1) *A payment may only be made from the municipal fund or the trust fund —*
 - (a) *if the local government has delegated to the Chief Executive Officer the exercise of its power to make payments from those funds — by the Chief Executive Officer.*

3.2. Power to Write Off Debts

Delegation No:	3.2
Act Reference:	s.6.12(1)(b), s.6.12(1)(c), s.6.12(2) and s.6.12(3) of the <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Power to Write Off Debts
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under s.6.12(1)(b), s.6.12(1)(c) and s.6.12(3) of the Act.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in s.6.12(1)(b), s.6.12(1)(c), s.6.12(2) and s.6.12(3) of the Act.

s.6.12(1) of the Act

Subject to sub-section (2) and any other written law, a local government may —

- (b) waive or grant concessions in relation to any amount of money; or*
- (c) write off any amount of money, which is owed to the local government.*

Explanatory note only

s.6.12(2) of the Act

Sub-section (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

s.6.12(3) of the Act

The grant of a concession under sub-section (1)(b) may be subject to any conditions determined by the local government.

Conditions:

1. This delegation is subject to the amount of \$1,000 or less.
2. Whenever a concession is granted, or a waiver occurs or an amount of money owed to the local government, up to the prescribed amount is written off, a written rationale for each decision is to be documented and recorded in the Shire's record management system.

3.3. Rates and Services Charges

Delegation No:	3.3
Act Reference:	s.6.49, s.6.50(1), s.6.50(2), s.6.56, s.6.60(2), s.6.60(3), s.6.60(4), s.6.64(1), s.6.64(3), s.6.71(1), s.6.74(1), s.6.76(4) and s.6.76(5) Schedule 6.2 clause 1(1), Schedule 6.3 clauses 1(4) and 4(1) of the <i>Local Government Act 1995</i> (the Act).
Delegation Subject:	Rates and Services Charges
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To exercise the powers and discharge the duties of the local government under s.6.49, s.6.50(1), s.6.50(2), s.6.56(1), s.6.60(2), s.6.60(3), s.6.60(4), s.6.64(1), s.6.64(3), s.6.71(1), s.6.74(1), s.6.76(4) and s.6.76(5), schedule 6.2 clause 1(1) and schedule 6.3 clauses 1(4) and 4(1) of the Act.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act to delegate to the CEO the discharge of its powers and duties provided for in the following sections - s.6.49, s.6.50(1), s.6.50(2), s.6.56(1), s.6.60(2), s.6.60(3), s.6.60(4), s.6.64(1), s.6.64(3), s.6.71(1), s.6.74(1), s.6.76(4) and s.6.76(5), schedule 6.2 clause 1(1) and schedule 6.3 clauses 1(4) and 4(1) of the Act:-

s.6.49

A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

s.6.50(1)

Subject to —

- (a) sub-sections (2) and (3);*
- (b) any concession granted under s.6.47; and*
- (c) the Rates and Charges (Rebates and Deferments) Act 1992,*

a rate or service charge becomes due and payable on such date as is determined by the local government.

Explanatory note only

s.6.50(2)

The date determined by a local government under sub-section (1) is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued.

Explanatory note only

s.6.50(3)

Where a person elects to pay a rate or service charge by instalments the second and each subsequent instalment does not become due and payable at intervals of less than 2 months.

[Explanatory note only](#)

[s.6.47](#)

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.*

** Absolute majority required.*

[s.6.50\(2\)](#)

The date determined by a local government under sub-section (1) is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued.

[s.6.56\(1\)](#)

If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

[s.6.60\(2\)](#)

If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.

[s.6.60\(3\)](#)

The local government is to give to the lessor a copy of the notice with an endorsement that the original of it has been given to the lessee.

[s.6.60\(4\)](#)

The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.

[s.6.64\(1\)](#)

If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —

- (a) from time to time lease the land;*
- (b) sell the land;*
- (c) cause the land to be transferred to the Crown; or*
- (d) cause the land to be transferred to itself.*

[s.6.64\(3\)](#)

Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

[s.6.71\(1\)](#)

If under this subdivision land is offered for sale but at the expiration of 12 months a contract for the sale of the land has not been entered into by the local government, it may by transfer, where the land is subject to the provisions of the Transfer of Land Act 1893, and by deed, where the land is not subject to the provisions of that Act, transfer or convey the estate in fee simple in the land to —

- (a) the Crown in right of the State; or*

- (b) *the local government.*

[s.6.74\(1\)](#)

If land is —

- (a) *rateable land;*
- (b) *vacant land; and*
- (c) *land in respect of which any rates or service charges have been unpaid for a period of at least 3 years, the local government in whose district the land is situated may apply in the form and manner prescribed to the Minister to have the land re-vested in the Crown in right of the State.*

[s.6.76\(4\)](#)

The local government may, on application by a person proposing to make an objection, extend the time for making the objection for such period as it thinks fit.

[s.6.76\(5\)](#)

The local government is to promptly consider any objection and may either disallow it or allow it, wholly or in part.

[Schedule 6.2, Clause 1\(1\)](#)

Form of Lease

The local government —

- (a) *may lease the land for such term, not exceeding 7 years at one time, as it thinks fit; and*
- (b) *may make such reservations and such exceptions, covenants and conditions in the lease, except a covenant for renewal of the term of the lease if the renewal would extend the term beyond 7 years, as it thinks fit.*

[Schedule 6.3, Clause 1\(4\)](#)

Conditions for Exercise of Power for Sale of Land

The local government is to appoint a time not less than 3 months and not more than 12 months from the service of the notices required by this clause as the time at which the land may be offered for sale by public auction.

[Schedule 6.3, Clause 4\(1\)](#)

Power of local government to transfer or convey land

A local government exercising the power of sale of any land has power —

- (a) *by transfer, where the land is under the Transfer of Land Act 1893; and*
- (b) *by deed or transfer, where the land is not under that Act, to transfer or convey to the purchaser an indefeasible estate in fee simple subject only to the encumbrances specified in s.6.75(1)(c), (d) or (e).*

[Explanatory note only](#)

[s.6.75\(1\)](#)

Where, at the expiration of 12 years from the taking of possession of any rateable land by a local government under s.6.64 —

by operation of this Section the fee simple in the land is to be transferred to the local government subject to —

- (c) *easements in favour of the public which affect the land;*
 - (d) *the rights of the Crown in right of the State or Commonwealth or a department, agency, or instrumentality of the Crown in right of the State or Commonwealth; and*
 - (e) *rates and taxes (other than local government rates and service charges) due on the land,*
- but free from other encumbrances.*
-

3.4 Power to Invest

Delegation No:	3.4
Delegation Subject:	Power to Invest
Act Reference:	s.6.14(1) of the <i>Local Government Act 1995</i> (the Act). r.19 <i>Local Government (Financial Management) Regulations 1997</i> .
Delegator:	Council
Delegate:	Chief Executive Officer

Power/Duty

To invest surplus funds from the Municipal and Trust funds for the maximisation of Council's funds.

Statutory Framework

Council is exercising its power of delegation under s.5.42 of the Act.

s.6.14 of the Act states that;

- (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested in accordance with Part 3 of the Trustees Act 1962.*

Conditions

Subject to Councils Investment of Funds Policy F2.

3.5. Waive, Reduce or Refund Application Fees

Delegation No:	3.5
Act Reference:	6.12(1)(b)(c) <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Waive, reduce or refund application fees
Delegator:	Council
Delegate:	Chief Executive Officer

Power/Duty

Authority to waiver, reduce or refund application fees.

s.6.12 - Power to defer, grant discounts, waive or write off debts

- (1) *a local government may—*
- (b) waive or grant concessions in relation to any amount of money; or*
 - (c) write off any amount of money,*
- which is owed to the local government.*

Statutory Framework

Pursuant to s.5.42 of the Act.

4.1 Prohibited and Restricted Burning Times (Variations)

Delegation No:	4.1
Act Reference:	s.17(7), s.17(8) and s.18(5)(a): <i>Bush Fires Act, 1954</i>
Delegation Subject:	Prohibited and Restricted Burning Times (Variations)
Delegator:	Council
Delegate:	Shire President and Chief Bush Fire Control Officer

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates the powers conferred in s.17(7) and s.17(8) of the Act jointly to the Shire President and Chief Bush Fire Control Officer for –
 - (a) *shortening, extending, suspending or re-imposing a period of prohibited/restricted burning times; or*
 - (b) *imposing a further period of prohibited/restricted burning times.*

Conditions

The local Officer in charge of the Department of Parks and Wildlife is to be consulted before the authority under this delegation is exercised.

A notice signed by the Chief Executive Officer is to be published in accordance with the Act for all variations.

Statutory Framework

s.17(10) of the Act.

4.2 Emergency Services

Delegation No:	4.2
Act Reference:	s.5.42 <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Emergency Services
Delegator:	Council
Delegate:	Chief Executive Officer
Sub-Delegates:	Nil

Power/Duty

1. To assist emergency organisations to render assistance in the event of a disaster or emergency.
2. Engaging contractors on behalf of the Shire in relation to or in response to a major disaster or emergency event in the district.

Statutory Framework

Pursuant to s.5.42 of the Act.

4.3 Appointment of Fire Control Officers

Delegation No:	4.3
Act Reference:	s.38(1) of the <i>Bush Fires Act 1954</i>
Delegation Subject:	Appointment of Fire Control Officers
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates the power to the CEO to appoint from time to time such persons as necessary to be its bush fire control officers under and for the purposes of the Act, and;
2. To appoint a Chief Bush Fire Control Officer and up to two Deputy Chief Bush Fire Control Officers who shall be first and second in seniority after the Chief Bush Fire Control Officer, and other Fire Control Officers, and subject thereto may determine the respective seniority of the other Bush Fire Control Officers appointed.

Statutory Framework

s.48 of the Act.

4.4. Publication of Fire Control Officers Appointments

Delegation No:	4.4
Act Reference:	s.38(2A) of the <i>Bush Fires Act 1954</i>
Delegation Subject:	Publication of Appointments
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates the powers to the CEO to cause a notice of an appointment made under the provisions of s.38(1) of the Act to be published in accordance with the Act.

Statutory Framework

s.48 of the Act.

4.5. Issue Directions to a Bush Fire Brigade

Delegation No:	4.5
Act Reference:	s.38(4) and s.38(5A) <i>Bush Fires Act 1954</i>
Delegation Subject:	Issue Directions to a Bush Fire Brigade or Fire Control Officer
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates the power to the CEO to issue directions to a registered bush fire brigade regarding burning bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the local government; and,
2. to give direction to bush fire control officers appointed under the provisions of the Act.

Statutory Framework

s.48 of the Act.

4.6. Appointment of Fire Weather Officer and Defining Areas

Delegation No:	4.6
Act Reference:	s.38(8) and s.38(10) <i>Bush Fires Act 1954</i>
Delegation Subject:	Appointment of Fire Weather Officers and define areas
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates the authority to the CEO to appoint fire control officers to the office of fire weather officers and deputy weather officers and includes the power to determine districts and seniority.
2. Where more than one fire weather officer is appointed, the CEO is delegated the authority to define a part of its district in which each fire weather officer shall have the exclusive right to exercise the powers conferred in s.36(6)(h) of the Act.

Condition

As the Shire is an approved local government, advice of appointments is to be provided to the Department of Fire and Emergency Services to ensure publication in the Government Gazette.

Statutory Framework

s.48 of the Act.

4.7. Publication of Appointments - Fire Weather Officers

Delegation No:	4.7
Act Reference:	s.38(13) of the <i>Bush Fires Act 1954</i>
Delegation Subject:	Publication of Appointments Fire Weather Officers
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates the authority to the CEO to provide advice to the Fire and Emergency Services Commissioner to publish the appointments of fire weather officers made under the Act in a newspaper circulating in the district.

Statutory Framework

s.48 of the Act.

4.8 *Bush Fires Act 1954 – Prosecution of Offences*

Delegation No:	4.8
Act Reference:	s.59(3) of the <i>Bush Fires Act 1954</i>
Delegation Subject:	Prosecution of Offences
Delegator:	Council
Delegate:	Chief Executive Officer (CEO) Director Corporate Services Manager Ranger and Community Safety Ranger/Bushfire Mitigation Officer Rangers

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

1. Council delegates to the CEO, Director Corporate Services, Manager Ranger and Community Safety, Ranger/Bushfire Mitigation Officer and the persons appointed as Rangers the authority to consider allegations of offences alleged to have been committed against the Act in the district of the local government and, to institute and carry on proceedings in the name of the local government in a Court of competent jurisdiction, against any person alleged to have committed any of those offences in the district.
2. The Manager Ranger and Community Safety and/or Director Corporate Services are authorised to consider and determine written requests received for the withdrawal of an infringement notice issued, subject to internal review.

Conditions:

Prior to the persons appointed as Ranger/Bushfire Mitigation Officer and Rangers instigating proceedings in a Court of competent jurisdiction the section Manager is to be consulted.

Statutory Framework

s.59(3) of the Act.

4.9. Direction to Undertake Works on Land

Delegation No:	4.9
Act Reference:	s.33(6) <i>Bush Fires Act 1954</i>
Delegation Subject:	Direction to Undertake Work – Fire hazard reduction by burning
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

Council delegates the power to the CEO to endorse applications submitted for hazard reduction by burning on any land in the district, at the request of the owner or occupier of the land.

Statutory Framework

s.48 of the Act.

4.10. Issue of Special Works Orders

Delegation No:	4.10
Act Reference:	s.33 of the <i>Bush Fires Act 1954</i>
Delegation Subject:	Special Works Orders
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

For the purpose of this Delegation, the Act relates to the *Bush Fires Act 1954*.

Power/Duty

Council delegates the power to the (CEO) to issue a notice in the form of a Special Works Order (Order) to any owner or occupier of land in the district.

The purpose of an Order, if issued, is to direct an owner and occupier of particular land to undertake further hazard removal and/or reduction work with respect to anything upon the land, where in the opinion of an Authorised Officer it is likely things on, or the land itself is conducive to the outbreak and/or the extension of a bush (as contemplated by s.33(1)(a) of the Act), as means to prevent the outbreak of a bush fire, or for preventing the spread or extension of a bush fire, which may occur.

An Orders requirements are in addition to the normal preventative, preparedness activities specified for land in the district in the annual Firebreak Notice issued to land owners and occupiers, pursuant to s.33 of the Act.

Statutory Framework

Delegation – s.48(1). Acting through is provided in s.48(4) of the Act.

Acting Through

The Manager Ranger and Community Safety, Director Corporate Services and officers appointed as Ranger/Bushfire Mitigation Officer and Rangers act through the CEO when issuing a Special Works Order to individual owners or occupier of land in the district.

Note: An Authorised Officer in this delegation is defined in the Shire of Murray Firebreak Notice published pursuant to the Act.

5.1. Reciprocal Works

Delegation No:	5.1
Act Reference:	s.5.42 <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Reciprocal Works
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

To enter into an agreement with local landowners to complete reciprocal or private works in exchange for material or other works, whilst undertaking council or private works.

Conditions

1. Ensure that reciprocal works are completed in exchange for material or works will be a lesser cost than alternative arrangements.
2. Reciprocal works should not affect scheduled works.
3. An exchange of letters indicating clearly the extent of the reciprocal works and services be signed by the CEO and the landowner concerned prior to any works commencing.
4. Reciprocal works should not be at a value of more than \$20,000 (exc. GST).

Statutory Framework

Pursuant to s.5.42 of the Act.

5.2. Management of Reserves Created Under s.152 of the Planning and Development Act 2005

Delegation No:	5.2
Act Reference:	s.5.42 <i>Local Government Act 1995</i> .
Delegation Subject:	Management of Reserves Created Under s.152 of the <i>Planning and Development Act 2005</i> .
Delegator:	Council
Delegate:	Chief Executive Officer
<u>Power/Duty</u>	

To accept responsibility for the Management and Reserves created under s.152 of the *Planning and Development Act 2005*, as a result of subdivisional development within the Shire of Murray.

Planning and Development Act 2005 – s.152

Certain land to vest in the Crown

- (1) *If the Commission has approved a subdivision of land subject to a condition that one or more portions of land shown on a diagram or plan of survey relating to the subdivision or a plan under the Strata Titles Act 1985 are to vest in the Crown for any one or more of the following purposes —*
 - (a) *conservation or protection of the environment;*
 - (b) *an artificial waterway;*
 - (c) *a pedestrian accessway;*
 - (d) *a right-of-way;*
 - (e) *a reserve for water supply, sewerage, drainage, foreshore management, waterway management or recreation;*
 - (f) *a public purpose specified in the condition and related to the subdivision,*
then, subject to the encumbrances referred to in sub-section (5), the land subject to the condition vests in the Crown by force of this Section without any conveyance, transfer or assignment or the payment of any fee.
- (2) *Land vested under sub-section (1) is vested —*
 - (a) *in the case of a plan lodged for registration under the Strata Titles Act 1985, at the time the Registrar of Titles registers the plan under that Act; and*
 - (b) *in any other case, at the time the new certificate, or if more than one, all the new certificates, for the land the subject of the diagram or plan of survey, has or have been registered under the Transfer of Land Act 1893.*
- (3) *Land vested under sub-section (1) —*
 - (a) *is Crown land;*
 - (b) *does not form part of a parcel comprised in a plan that is registered under the Strata Titles Act 1985;*

- (c) *is to be taken to be reserved under s.41 of the Land Administration Act 1997 for the purpose set out in the condition; and*
 - (d) *may be dealt with in accordance with the Land Administration Act 1997.*
- (4) *The Registrar of Titles is to do all things necessary to give effect to this Section.*
- (5) *Land vested under this Section is to be vested subject to —*
 - (a) *any easement on that land created for the purposes of the subdivision, shown on the diagram or plan of survey and referred to in s.167;*
 - (b) *any easement on that land created under Part IVA of the Transfer of Land Act 1893 for the purposes of the subdivision and shown on the diagram or plan of survey;*
 - (c) *any existing encumbrance specified in a direction of the Minister responsible for the administration of the Land Administration Act 1997, or a person authorised in writing by that Minister for the purposes of this Section, lodged with the Registrar of Titles on or before the vesting; and*
 - (d) *any encumbrance prescribed, or of a class prescribed, by the regulations.*

Statutory Framework

Pursuant to s.5.42 of the *Local Government Act 1995*.

6.1. Appointment of Authorised Persons – *Building Act 2011*

Delegation No:	6.1
Act Reference:	s.96 & s.99 <i>Building Act 2011</i>
Delegation Subject:	<i>Building Act 2011</i>
Power of Delegation:	s.127 <i>Building Act 2011</i>
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

The CEO is delegated the authority to designate persons employed by the local government under s.5.36 of the *Local Government Act 1995*, as an authorised person for the purposes of the *Building Act 2011* and *Building Regulations 2012*.

Conditions

- (a) Appointments are to be in writing and an appropriate identity card in accordance with s.97 of the *Building Act 2011* is to be issued.
- (b) Consideration will be given to the qualifications or experience of a person prior to appointment.

Authorised Persons

The persons in the positions identified are authorised persons for the purposes of the *Building Act 2011* and associated subsidiary legislation generally, and in relation to buildings and incidental structures located or proposed to be located in the district of Shire of Murray.

- Manager Building Services
- Manager Environmental Health
- Senior Building Maintenance Officer
- Building Approvals Coordinator

Notwithstanding that a person or position is not named above does not limit delegates ability to appoint other persons as authorised persons, subject to the conditions specified.

Power, Duty, Conditions and Limitations

The duties, powers, limitations or conditions placed on authorised persons are specified in Delegations 6.2, to 6.7 inclusive.

Record Keeping

Records of appointments are to be recorded as required by the *Local Government Act 1995* or Regulations or as determined by the CEO from time to time.

Compliance Links

- *Building Act 2011*

- *Building Regulations 2012*
- Building Code of Australia

Review

Appointments are to be reviewed bi-annually by the CEO.

6.2. Building and Demolition Permits – *Building Act 2011*

Delegation No:	6.2
Act Reference:	s.18, s.20, s.21 and s.27 <i>Building Act 2011</i> r.23, r.24 and r.26 <i>Building Regulations 2012</i>
Delegation Subject:	Building Act 2011
Power of Delegation:	s.127 <i>Building Act 2011</i>
Delegator:	Council
Delegates:	Authorised Persons – Reference Delegation 6.1

Power/Duty

The authorised persons (as detailed) functions and duties under the *Building Act 2011* and *Building Regulations 2012*, are –

Manager Building Services and Manager Environmental Health.

1. Refer an uncertified application to a building surveyor [in circumstances set out in s.17(1)].
2. Require the applicant to provide any document or information that it requires to determine the application and to verify the information by statutory declaration [s.18(1)].
3. Refuse to consider an application [s.18(2)].
4. Grant a building permit [ss.20 and 23].
5. Refuse to grant a building permit [ss.20 and 23, including in the circumstances in ss.22(1) and (2)].
6. Grant a demolition permit [ss.21 and 23].
7. Refuse to grant a demolition permit [ss.20 and 23, including in the circumstances in ss.22(1) and (2)].
8. Refund the fee that accompanied an application to the applicant if no decision is made within the time mentioned in ss.23(1) and (2) [ss.23 (4)].
9. Record the grounds on which a decision to refuse to grant a building permit or demolition permit is based on and the reasons for the decision and give to the person to whom the decision relates written notice of the decision together with those grounds and reasons and the person's right of review [s.24].
10. Impose conditions on the grant of a permit in addition to any provided for in the Regulations, including specifying the way in which an outward facing side of a particular close wall must be finished [ss.27(1) and 88(3)].
11. Add, vary or revoke conditions imposed on a permit before the building work or demolition work is completed [ss.27(3)].
12. Refuse to accept an application to extend the time during which a permit has effect made after the expiry day for the permit [r.23(3)].
13. Extend the time during which a permit has effect and impose conditions on the extended permits [s.32, rr.24(1) and (2)].
14. Refuse to extend the time during which a permit has effect [r.24(1)].

Manager Building Services, Manager Environmental Health, Building Approvals Coordinator and Coordinator Planning Administration.

1. Refund the fee that accompanied an application to the applicant if no decision is made within the time mentioned in ss.23(1) and (2) [ss.23 (4)].
2. Record the grounds on which a decision to refuse to grant a building permit or demolition permit is based on and the reasons for the decision and give to the person to whom the decision relates written notice of the decision together with those grounds and reasons and the person's right of review [s.24].
3. Approve a new person to be named as the builder on the building permit and amend the details set out in the permit accordingly [r.26(3) and (4)].
4. Approve a new person to be named as the demolition contractor on the demolition permit and amend the details set out in the permit accordingly [r.26 (3) and (4)].
5. Grant a building permit [ss.20 and 23].
6. Grant a demolition permit [ss.21 and 23].

Conditions

Nil

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the Chief Executive Officer from time to time.

Compliance Links

- *Building Act 2011*
 - *Building Regulations 2012*
 - Building Code of Australia
-

6.3. Occupancy Permits and Building Approval Certificates – *Building Act 2011*

Delegation No:	6.3
Act Reference:	s.55, s.58, s.62 & s.65 <i>Building Act 2011</i> r.40 <i>Building Regulations 2012</i>
Delegation Subject:	<i>Building Act 2011</i>
Power of Delegation:	s.127 <i>Building Act 2011</i>
Delegator:	Council
Delegates:	Authorised Persons – Reference Delegation 6.1

Power/Duty

The authorised persons (as detailed) functions and duties under *the Building Act 2011* and *Building Regulations 2012*, are –

Manager Building Services and Manager Environmental Health.

1. Require the applicant of an occupancy permit or building approval certificate to provide any document or information that it requires to determine the application and to verify the information by statutory declaration [s.55(1)].
2. Refuse to consider an application [s.55(2)].
3. Grant or modify the occupancy permit or grant the building approval certificate [s.58(1) and 59].
4. Refuse to grant or modify the occupancy permit or grant the building approval certificate [including in the circumstances set out in s.58(2) and (3)].
5. Record the grounds on which a decision to refuse to grant or modify an occupancy permit or grant a building approval certificate is based, and the reasons for the decision and give the person to whom the decision relates written notice of the decision together with those grounds and reasons and the person's right to review [s.60].
6. Impose conditions on the occupancy permit or modification or building approval certificate in addition to any provided for in the Regulations [s.62 (1)].
7. Add, vary or revoke conditions while the occupancy permit or building approval certificate has effect [s.62(3)].
8. Give written notice of the addition, variation or revocation of a condition and ensure that the notice informs the person of the person's right of review [s.62 (4) and (5)].
9. Extend the period in which the occupancy permit or modification or the building approval certificate has effect [s.65 (4)].
10. Refuse to extend the time during which an occupancy permit or a building approval certificate has effect or extend the permit or certificate for shorter period than requested by the applicant and, if so, record the grounds on which a decision is based and the reasons for the decision, and give written notice of the decision together with those grounds and reasons, and the person's right of review [s.65, r.40 (5)].
11. Refuse to accept an application to extend the time during which an occupancy permit or a building approval certificate has effect [r.40 (2)].

Conditions

Nil

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the Chief Executive Officer from time to time.

Compliance Links

- *Building Act 2011*
 - *Building Regulations 2012*
 - Building Code of Australia
-

6.4. Building Orders – *Building Act 2011*

Delegation No:	6.4
Act Reference:	s.110, s.117 & s118 <i>Building Act 2011</i>
Delegation Subject:	Building Orders - <i>Building Act 2011</i>
Power of Delegation:	s.127 <i>Building Act 2011</i>
Delegator:	Council
Delegates:	Authorised Persons – Reference Delegation 6.1

The authorised persons (as detailed) functions and duties under the *Building Act 2011* and *Building Regulations 2012*, are –

Manager Building Services and Manager Environmental Health.

1. Make an order in respect of one or more of the following –
 - (a) particular building work;
 - (b) particular demolition work;
 - (c) a particular building or incidental structure, whether completed before or after commencement day [s.110(1)].
2. Specify the way in which an outward facing side of a particular close wall must be finished [s.88(3)].
3. Before making a building order, give each person to whom the order is proposed to be directed written notice of the terms of the proposed order and reasons for it and advise each person of time in which they may make submissions and consider each submission received [s.111(1)].
4. Serve a copy of the order on each person to whom the order is directed in accordance with s.76 of the *Interpretation Act 1994* [s.114(1)].
5. Revoke a building order at any time [s.1147(1)].
6. Decide on whether the building order has been fully complied with and either revoke the building order or inform each person to whom the order is directed that the building order remains in effect, within 28 days of receiving a notification under s.112(3)(c) [s.117(2)].
7. Cause an authorised person to –
 - (a) take any action specified in the order; or
 - (b) to commence or complete any work specified in the order; or
 - (c) if any specified action was required by the order to cease, to take such steps as are reasonable in the circumstances to cause the action to cease [s.118(2)].
8. Recover as a debt from a person who has been served with a copy of a building order the reasonable costs and expenses incurred in doing anything under s.118(2) [s.118(3)].

Conditions

Nil

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the Chief Executive Officer from time to time.

Compliance Links

- *Building Act 2011*
 - *Building Regulations 2012*
 - Building Code of Australia
-

6.5. Building Information – *Building Act 2011*

Delegation No:	6.5
Act Reference:	s.131 of the <i>Building Act 2011</i> r.14 <i>Building Regulations 2012</i>
Delegation Subject:	Building Information - <i>Building Act 2011</i>
Power of Delegation:	s.127 of the <i>Building Act 2011</i>
Delegator:	Council
Delegates:	Authorised Persons – Reference Delegation 6.1

The authorised persons (as detailed) functions and duties under the *Building Act 2011* and *Building Regulations 2012*, are –

Manager Building Services, Manager Environmental Health, Building Approvals Coordinator and Coordinator Planning Administration.

9. Keep a register of all building permits, demolition permits, occupancy permits and building approval certificates granted by it, and all building orders made by it, in an approved manner and form [s.128(1), (2)].
10. Amend the register to reflect the variation or revocation of a condition of, or any other change reflecting to that effect of, a building permit, a demolition permit, an occupancy permit, a building approval certificate of a building order resulting from a decision of the permit authority or information given to the permit authority [s.128(3)].
11. Make the register available for inspection by members of the public during normal office hours [s.128(3)].
12. On application by any person and on payment of the prescribed fee, if any, provide to the person a copy of a building permit, a demolition permit, an occupancy permit, a building approval certificate or a building order that is kept in the register [s.129(2)].
13. Keep in the manner and for the prescribed period such of the prescribed documents that comprise, accompany, are provided for in, are issued as a result of, or otherwise relate to the building or incidental structure that is the subject of –
 - a) an application for a building permit or demolition permit; or
 - b) an application of a kind mentioned in Part 4 Division 2; or
 - c) an inspection of a prescribed kind [d.130].
14. Allow an interested person to inspect the building record and provide to the interested person a copy of the building record [s.131(2)].

Manager Building Service

15. Give the Building Commissioner prescribed information for inclusion in the annual report submitted under the *Financial Management Act 2006* Part 5 by the accountable authority [s.132(1)] and provide a record or information requested by the Building Commissioner [s.132(3), r.14]

Conditions

Nil

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the Chief Executive Officer from time to time.

Compliance Links

- *Building Act 2011*
 - *Building Regulations 2012*
 - Building Code of Australia
-

6.6. Swimming Pools – *Building Act 2011*

Delegation No:	6.6
Act Reference:	s.131 of the <i>Building Act 2011</i> r.14 <i>Building Regulations 2012</i>
Delegation Subject:	Building Information - <i>Building Act 2011</i>
Power of Delegation:	s.127 of the <i>Building Act 2011</i>
Delegator:	Council
Delegates:	Authorised Persons – Reference Delegation 6.1

The authorised persons (as detailed) functions and duties under the *Building Act 2011* and *Building Regulations 2012*, are –

Manager Building Services and Manager Environmental Health.

1. Approve alternative requirements to r.50(4)(b) if satisfied that the alternative requirements will restrict access by young children to the swimming pool as effectively as if there were compliance with Australian Standards AS 1926.1 [r.51(2)].
2. Approve a door for the purposes of r.50(4)(c)(ii) if the door is in accordance with the requirements of Australian Standard AS 1926.1 and the conditions in r.51(3) are satisfied [r.51(3)].
3. Arrange for an authorised person to inspect the enclosures of private swimming pools in the district at intervals of no more than 4 years for the purpose of monitoring whether the provisions in r.50 and 52 the Regulations are complied with [r.50, 52 and 53(1)].

The Manager Building Services, Senior Building Maintenance/Surveyor, Building Maintenance Officer or other Authorised Person appointed under s.96 of the *Building Act 2011* are authorised to –

- conduct inspection of the enclosures of private swimming pools in the district at intervals of no more than 4 years for the purpose of monitoring whether the provisions in r.50 and 52 the Regulations are complied with [r.50, 52 and 53(1)].

Conditions

Nil

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the Chief Executive Officer from time to time.

Compliance Links

- *Building Act 2011*
- *Building Regulations 2012*
- *Building Code of Australia*

6.7. Smoke Alarms – *Building Act 2011*

Delegation No:	6.7
Act Reference:	r. 60 <i>Building Regulations 2012</i>
Delegation Subject:	Building Information - <i>Building Act 2011</i>
Power of Delegation:	s.127 of the <i>Building Act 2011</i>
Delegator:	Council
Delegates:	Authorised Persons – Reference Delegation 6.1

The authorised persons (as detailed) functions and duties under the *Building Act 2011* and *Building Regulations 2012*, are –

Manager Building Services and Manager Environmental Health.

1. Approve of the use, in a dwelling or in part of the dwelling, of a battery powered smoke alarm and to give approval in relation to an alarm that was installed before the approval is to be given. r.60(1) and (2).

Conditions

Nil

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the Chief Executive Officer from time to time.

Compliance Links

- *Building Act 2011*
 - *Building Regulations 2012*
 - *Building Code of Australia*
-

6.8. Deleted

6.9. Deleted

6.10. Planning Approvals and Associated Decisions

Delegation No:	6.10
Reference:	s.82(1) of the <i>Planning and Development (Local Planning Scheme's) Regulations 2015</i> (the Regulations).
Delegation Subject:	Planning Approvals and Associated Decisions
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

Powers and duties under the Regulations including authority to determine applications for development approval, including applications for land use, home occupations, building envelope variations, the exercise of discretion under the Scheme and the Residential Design Codes, authority to amend or cancel development approval, authority to determine the period in any 12 month period which temporary uses and development do not require development approval, all decisions arising from the imposition of conditions and in relation to Local Planning Policies, Structure Plans, Outline Development Plans; Detailed Areas Plans and authority to enter and inspect buildings or land;

Conditions

- Decisions relating to Local Planning Policies, Structure Plans, Outline Development Plans and Detailed Areas Plans may only be determined by the CEO or Director Planning and Sustainability.
- Decisions relating to the adoption of Local Planning Policies are to be determined by the Council;
- Where a public objection has been received after the application has been advertised for comment the application may only be determined by the CEO or Director Planning and Sustainability; and
- Where a Council Member has requested in writing that a particular matter be referred to Council for determination then that matter is to be determined by the Council.

Statutory Framework

Council is exercising its power of delegation under the Regulations.

6.11. Subdivision of Land

Delegation No:	6.11
Act Reference:	s.3.1 of the <i>Local Government Act 1995</i> (the Act)
Delegation Subject:	Subdivision of Land
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

Authority for all matters relating to the performance of Council's functions with regard to subdivision (including strata and survey strata) applications.

Conditions

This delegation is approved only where recommendations would be consistent with the objectives of the Town Planning Scheme No. 4 or a relevant structure plan, outline development plan, policy or strategy.

Where the delegate is intending to not support the application all Council Members must first be notified in writing of the application and the rationale for the intension to not support the application and give at least three business days for Council Members to consider whether or not to request the application be referred to Council for consideration.

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the CEO from time to time.

Statutory Framework

Pursuant to s.5.42 of the *Local Government Act 1995*.

6.12 Unauthorised Development

Delegation No:	6.12
Act Reference:	s.214, s.2.15 and s.2.55 of the <i>Planning & Development Act 2005</i>
Delegation Subject:	Unauthorised Development
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

The CEO has the authority to give written direction regarding unauthorised development and remove or alter unauthorised development pursuant to s.214, s.215 and s.255 of the *Planning and Development Act 2005*.

s.214 - Directions by responsible authority regarding unauthorised development

- (1) *For the purposes of sub-sections (2) and (3) —*
 - (a) *a development is undertaken in contravention of a planning scheme or an interim development order if the development —*
 - (i) *is required to comply with the planning scheme or interim development order; and*
 - (ii) *is commenced, continued or carried out otherwise than in accordance with the planning scheme or interim development order or otherwise than in accordance with any condition imposed with respect to that development by the responsible authority pursuant to its powers under that planning scheme or interim development order;*
 - (b) *a development is undertaken in contravention of planning control area requirements if the development —*
 - (i) *is commenced, continued or carried out in a planning control area without the prior approval of that development obtained under s.116; or*
 - (ii) *is commenced, continued or carried out otherwise than in accordance with the approval referred to in subparagraph (i) or otherwise than in accordance with the conditions, if any, subject to which that approval is given.*
- (2) *If a development, or any part of a development, is undertaken in contravention of a planning scheme or an interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person undertaking that development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements.*
- (3) *If a development has been undertaken in contravention of a planning scheme or interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person who undertook the development —*
 - (a) *to remove, pull down, take up, or alter the development; and*

- (b) *to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.*
- (4) *The responsible authority may give directions under sub-sections (2) and (3)(a) and (b) in respect of the same development and in the same instrument.*
- (5) *If it appears to a responsible authority that delay in the execution of any 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, the responsible authority may give a written direction to the person whose duty it is to execute the work to execute that work.*

s.215 - Responsible authority may remove or alter unauthorised development

- (1) *If —*
 - (a) *a notice is served on a person under s.214(2), (3) or (5) and that person fails to —*
 - (i) *carry out the directions within the time specified in the notice; or*
 - (ii) *apply under s.255 for a review of any direction contained in the notice;*
 - or*
 - (b) *on an application by that person for a review of any direction contained in the notice, the direction is confirmed or varied and the owner fails to carry out the direction as confirmed or varied within the time specified by the State Administrative Tribunal in the notice given under s.255(2),*

the responsible authority may itself remove, pull down, take up or alter the development, restore the land as nearly as practicable to its condition immediately before the development started, or execute that work, as it directed that person.
- (2) *Any expenses incurred by a responsible authority under sub-section (1) may be recovered from the person to whom the direction was given as a debt due in a court of competent jurisdiction.*

s.255. Direction given under s. 214

- (1) *A person to whom a direction is given under s.214 may apply to the State Administrative Tribunal for a review, in accordance with this Part, of the decision to give the direction.*
- (2) *If the State Administrative Tribunal confirms or varies the direction, it may, by written notice served on the person to whom the direction was given, direct the owner to comply with the direction as so confirmed or varied, within a period of not less than 40 days after service of the notice, as is specified in the notice.*
- (3) *Nothing in subsection (2) limits the functions of the State Administrative Tribunal under the State Administrative Tribunal Act 2004.*

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the CEO from time to time.

Statutory Framework

Pursuant to s.5.42 of the *Local Government Act 1995*.

6.13 Appointment of Authorised Officers and Specified Employees – *Building Act 2011 Infringement Notices*

Delegation No:	6.13
Act References:	s.127(1) and s.127(3) <i>Building Act 2011</i> r.70(1A) and r.70(2) <i>Building Regulations 2012</i> s.5.44, s.9.10, s.9.16, s.9.19 and s.9.20 <i>Local Government Act 1995</i> s.6(a) and s.6(b) <i>Criminal Procedure Act 2004</i>
Delegation Subject:	<i>Building Act 2011 Infringement Notices</i>
Delegator:	Council
Delegate:	Chief Executive Officer (CEO)

Power/Duty

Council delegates the authority to the CEO to –

1. appoint Authorised Officers, as necessary to issue Infringement Notice for prescribed offences under the *Building Act 2011* and the *Building Regulations 2012* and any subsequent subsidiary legislation;
2. to appoint specified employees to –
 - consider extensions of time to pay *Building Act 2011 Infringement Notices* issued; and,
 - consider and determine applications made to withdraw *Building Act 2011 Infringement Notices*.

Conditions

Appointments of Authorised Officers are to be in writing. Specified Employees cannot be appointed as Authorised Officers.

Record Keeping

Records of the delegations enacted are to be recorded as required by the *Local Government Act 1995* or Regulation or as determined by the CEO from time to time.

Statutory Framework

Pursuant to s.5.44 of the *Local Government Act 1995*.

ORIGINAL ADOPTION: Ordinary Council Meeting April 30, 2009 (OCM 09/067)

Date	Committee Resolution	Council Resolution Reference Number
April 2010	CCS10/048	OCM10/060
May 2010	BFAC10/016	OCM10/082
October 2010	CCD10/215	OCM10/214
November 2010	BFA10/019	OCM10/225
December 2010	CCD10/246	OCM10/284
June 2011	CCD11/082	OCM11/096
June 2011 (Delegation 1.19)		OCM11/097
September 2011 (6.2 to 6.8 and 6.12 deleted)	PD11/061	OCM11/140
February 2012 (Delegation 1.20)	PPS12/01	OCM12/013
July 2012	PPS12/098	OCM12/148
July 2013 – Annual Review	PPS13/088	OCM13/123
November 2013 – CEO Review of Sub-Delegations D13/55797	N/A	N/A
August 2014 – Annual Review	PPS14/095	OCM14/110
January 2015 – CEO Review of Sub- Delegations	N/A	D15/1464
9 July 2015 – Annual Review	N/A	OCM15/174
January 2016 – CEO Review of Sub- Delegations	N/A	D16/1558
24 November 2016 – Delegation 1.24 added	N/A	OCM16/272
1 December 2016 – Sub-Delegation 1.24.1 added	N/A	D16/68411
December 2016 – CEO Review of Sub-Delegations	N/A	D16/69113
15 December 2016 – Annual Review of Delegations. Delegation 1.25 added, Delegation 6.14 and Sub- Delegation 6.14.1 amended, Change of in Title in Section 6	N/A	OCM16/297
28 November 2017 – CEO Review of Sub-Delegations	N/A	D17/74636
Item 11.7 – 28 June 2018 – Comprehensive Review	N/A	OCM18/121
Item 11.7 – 26 September 2019 – Delegation 3.2 amended	N/A	OCM19/185

Date	Committee Resolution	Council Resolution Reference Number
Item 11.6 – 19 December 2019 – Annual Review of Delegations. New delegation 6.13 added.	N/A	OCM19/271
Item 5.2 – Special Council Meeting – 9 April 2020 (Point 17). Amendment to Delegation 6.10	N/A	SCM20/050
Item 11.4 - OCM 17 December 2020 - Annual Delegation Review. Delete Delegation 1.8, Title amendment to Delegation 1.9 and various text amendments, Text amendments to Delegation 1.10, Delete Delegation 1.12, Text amendments to Delegation 1.14 and Title amendment to Delegation 1.18, plus text amendments.	N/A	OCM20/215
Item 11.2 - 16 December 2021 - Annual Review Delegation of Authority Register	N/A	OCM21/215
Item 12.2 - 15 December 2022 - Annual Review Delegation of Authority Register. 1.13 Value increased to \$75,000 to align with legislation. 6.8 Delete delegation, as the transitional provisions have now expired. 6.9 Delete delegation. The former Strata Titles Act 1985 has a head of power in s.23. A new Act is now in force and the delegated functions are no longer required. 6.10 Legislation updated to reflect the Planning and Development (Local Planning Scheme's) Regulations 2015 (the "Regulations"). 6.13 Change in Delegation Title to reflect Building Act 2011. Corrections to legislative references.	N/A	OCM22/167
Item 12.3 27 April 2023 Updates to Register of Delegated Authority. That Council adopts the changes to the Register of Delegated Authority as identified at Appendix 1. Delegation 1.10 and 1.20 Title Change. Manager Planning Services to Manager Planning and Environment Services.	N/A	OCM23/039
Item 12.5 27 July 2023 Review Delegation 1.13	N/A	OCM23/099
Item 12.5 21 December 2023 Review Delegation 1.10. Addition of Ranger/Bushfire Mitigation Officer and rename Shire Rangers to Rangers	N/A	OCM23/195
Item 12.5 21 December 2023 Review Delegation 1.19. Remove (EHO) from the position title of Environmental Health Officers.	N/A	OCM23/195
Item 12.5 21 December 2023 Review Delegation 4.8. Addition of Ranger/Bushfire Mitigation Officer and rename Shire Rangers to Rangers	N/A	OCM23/195
Item 12.5 21 December 2023 Review Delegation 4.10. Addition of Ranger/Bushfire Mitigation Officer and rename Shire Rangers to Rangers	N/A	OCM23/195

Item 12.5 21 December 2023 Review Delegation 6.1. Corrected legislative reference for issuing of an identity card.	N/A	OCM23/195
Item 12.5 21 December 2023 Review Delegation 6.6. Corrected legislative reference for appointing authorised persons as it incorrectly referenced the <i>Local Government Acts 1995</i> , not the <i>Building Act 2011</i> .	N/A	OCM23/195

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