



DELEGATIONS REGISTER 2023

Adopted April 2023

Review		
Reviewed by	Date approved	Council decision number
Council	26 February 2013	C16.02.13
Council	25 February 2014	C17.02.14
Council	10 February 2015	C5.02.15
Council	9 February 2016	C9.02.16
Council	11 April 2017	C9.04.17
Council	13 February 2018	C28.02.18
Council	12 February 2019	C24.02.19
Council	10 March 2020	C25.03.20
Council	13 April 2021	C9.04.21
Council	10 May 2022	C10.05.22
Council	11 April 2023	C11.04.23

Introduction

The Delegations of Authority contained in this manual are made to the Chief Executive Officer pursuant to section 5.42 of the *Local Government Act 1995* (the Act) and to Committees pursuant to section 5.16. Where listed some of these functions are delegated by the Chief Executive Officer to Shire of Mundaring employees pursuant to section 5.44 of the Act. All delegations made by Council must be by **absolute majority** decision.

The Act provides that the following are decisions that cannot be delegated to the Chief Executive Officer (s. 5.43):

- Any power or duty that requires a decision of an absolute majority or 75% majority of the local government.
- Accepting a tender which exceeds an amount determined by the local government.
- Appointing an auditor.
- Acquiring or disposing of any property valued at an amount exceeding the amount determined by the local government.
- Any of the local government's powers under sections 5.98, 5.98A, 5.99, 5.99A and 5.100 of the Act.
- Borrowing money on behalf of the local government.
- Hearing or determining an objection of a kind referred to in section 9.5.
- The power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government.
- Any power or duty that requires the approval of the Minister or the Governor.
- Such other duties or powers as may be prescribed.

Furthermore the following regulations prescribe powers and duties which cannot be delegated to a CEO:

- Regulation 18G of the *Local Government (Administration) Regulations 1996* prohibits the delegation to a CEO of the powers and duties under:
 - (i) Sections 7.12A(2), 7.12A(3)(a) and 7.12A(4) of the *Local Government Act 1995* (relating to meetings with auditors); and
 - (ii) Regulations 18C and 18D (relating to the selection and appointment of CEOs and reviews of their performance).
- Regulation 6 of the *Local Government (Financial Management) Regulations 1996* prohibits the delegation of the duty to conduct an internal audit to an employee (including a CEO) who has been delegated the duty of maintaining the local government's day to day accounts or financial management operations.

The Act allows for the Chief Executive Officer to delegate any of their powers to another employee, this must be done in writing. These powers cannot, however, be further sub-delegated (s. 5.44). The Act also allows the delegator to place conditions on any delegations if required.

A register of delegations, being this manual, is to be kept and reviewed at least once every financial year.

If a person is exercising a power or duty that they have been delegated, the Act requires them to keep records relating to the exercise of the power or discharge of the duty. The written record is to contain:

- How and when the person exercised the power or discharged the duty; and

- The persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

Each instrument of delegation in this register describes the function being delegated and the relevant statutory reference which is the source of power for the exercise of the function. Also included is a reference to related documents such as policies of Council, which may provide guidance in the exercise of the delegation.

Contents

Corporate Services7

CE-1	Payments from Trust and Municipal Fund	7
CE-2	Investments.....	8
CE-74	Appointment of Authorised Persons	9
CE-117	Community Lease Agreements.....	10
CE-119	Appointment of Acting CEO	11
CE-125	Write Off Debt.....	12
CE-152	Commercial Lease Agreements	13
CE-153	Powers of Entry.....	15

Infrastructure Services16

CE-150	Performing Particular Things on Land which is not Local Government Property	16
CE-151	Expressions of Interest and Tenders	18
CE-154	<i>Graffiti Vandalism Act 2016</i>	22

Statutory Services.....23

CE-14	Noise Control – Environmental Protection Notice [s. 65(1)]	23
CE-15	Noise Control - Noise Management Plans [Reg. 13].....	24
CE-16	Noise Control - Noise Regulations	25
CE-84	Local Planning Scheme No. 4	26
CE-137	<i>Planning and Development Act 2005</i> – Illegal Development and Direction Notices	29
CE-155	Delegation of certain powers and functions of the Western Australian Planning Commission (WAPC) relating to the Metropolitan Region Scheme (MRS).....	31
CE-156	Delegation of certain powers and functions of the Western Australian Planning Commission relating to the <i>Strata Titles Act 1985</i>	39
CE-138	<i>Bush Fires Act 1954</i> Appointments	41
CE-139	<i>Building Act 2011</i> - Authorised Persons	45
CE-140	<i>Building Act 2011</i> – Permits, Certificates, Orders and Records	46
CE-141	Appointment of Authorised Officers – <i>Public Health Act 2016</i>	47
CE-142	<i>Food Act 2008</i>	48
CE-143	<i>Cat Act 2011</i>	49
CE-144	Appointment of Authorised and Approved Officers – <i>Health (Asbestos) Regulations 1992</i>	51
CE-147	<i>Dog Act 1976</i>	52

CE-148	Serving Notices Requiring Certain Things to be Done by Owner or Occupier of Land	54
CE-149	Additional Powers When Notice is Given to the Owner or Occupier of Land Under Section 3.25	56
	Delegations to Committees of Council	57
COM-46	Annual Meeting with Auditor	57

CE-1 Payments from Trust and Municipal Fund	
Date of adoption	22 July 1997
Function delegated	That Council delegates to the Chief Executive Officer the exercise of its power to make payments from the Trust Fund or Municipal Fund (this includes Reserves and Restricted Assets).
Statutory power delegated	<i>Local Government (Financial Management) Regulations 1996</i> r. 12(1)(a) Payments from municipal fund or trust fund
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Nil
Compliance links	<i>Local Government (Financial Management) Regulations 1996</i> r. 5 Financial management duties of the CEO r. 11 Payment of accounts r. 13 Lists of accounts Organisational Practice: OP-58 Corporate Purchasing Card Procedure: Admin-29 Issue and Use of Corporate Purchasing Cards
Conditions	Nil

CE-2 Investments	
Date of adoption	23 July 1996
Function delegated	That the Chief Executive Officer be delegated authority to invest money held in the municipal or trust fund that is not for the time being required for any other purpose with financial institutions approved by Council.
Statutory power delegated	<i>Local Government Act 1995</i> s. 6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996</i> r. 19 Management of investments
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Director Corporate Services Manager Finance and Governance
Compliance links	<i>Local Government Act 1995</i> s. 6.14(2)(a) Comply with regulations <i>Local Government (Financial Management) Regulations 1996</i> r.19C Investment of money <i>Trustees Act 1962 Part III Investments</i> Policy: FI-02 Investments Procedure: Admin-28 Investments
Conditions	Nil

CE-74 Appointment of Authorised Persons	
Date of adoption	25 February 2014
Function delegated	<p>Authority to appoint persons or classes of persons as authorised persons for the purpose of fulfilling prescribed functions within:</p> <ol style="list-style-type: none"> 1. the <i>Local Government Act 1995</i>; 2. the <i>Caravan Parks and Camping Grounds Act 1995</i>; 3. the <i>Cat Act 2011</i>; 4. the <i>Cemeteries Act 1986</i>; 5. the <i>Control of Vehicles (Off-road Areas) Act 1978</i>; 6. the <i>Dog Act 1976</i>; 7. subsidiary legislation made under the above Acts; and 8. the Shire's Local Laws made under those Acts.
Statutory power delegated	<p><i>Local Government Act 1995</i> s. 3.24 Authorising persons under this subdivision s. 9.10 Appointment of authorised persons</p>
Statutory power of delegation	<p><i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO</p>
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<p><i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees</p>
CEO's sub-delegation to	Nil
Compliance links	<p><i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i>: 1. r. 32A Excluded authorisations (Act s.9.2)</p>
Conditions	<ol style="list-style-type: none"> 1. The CEO may, at his discretion, refer any matter to Council for decision; and 2. Details of any prosecutions under a Local Law must be provided to Council.

CE-117 Community Lease Agreements	
Date of adoption	25 February 2014
Function delegated	<p>Authority to</p> <ol style="list-style-type: none"> 1. Renew existing lease agreements with charitable, benevolent, religious, cultural, educational, recreational, sporting, environmental or other similar groups or government agencies for properties that are owned or under the care, control and management of the Shire of Mundaring; and 2. Negotiate new lease agreements with existing lessees whose lease has expired. 3. Renegotiate minor variations* to clauses of existing lease agreements. <p>* see definition below.</p>
Statutory power delegated	<i>Local Government Act 1995</i> s. 3.58 Disposing of property
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Nil
Compliance links	<i>Local Government (Functions and General) Regulations 1996</i> r. 30 Dispositions of property excluded from Act s. 3.58
Conditions	Delegated decision making must take into consideration Policy OR-24 "Community Leases".
Definition	<p>Minor variations includes but is not limited to:</p> <ul style="list-style-type: none"> • Change of group name • Change of control • Change to timeframes (excluding legislated requirements).

CE-119 Appointment of Acting CEO	
Date of adoption	22 May 2007
Function delegated	Authority to appoint an Acting Chief Executive Officer in accordance with Council policy AS-03 "Acting Chief Executive Officer" and for a period not exceeding three months.
Statutory power delegated	<i>Local Government Act 1995</i> 5.36(1)(a) Local government employees
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Nil
Compliance links	<i>Local Government (Administration) Regulations 1996</i> – r. 18A(1)(b) – acting term not to exceed one year. Policy AS-03 "Acting Chief Executive Officer"
Conditions	Appointment to be made in accordance with Policy AS-03 "Acting Chief Executive Officer"

CE-125 Write Off Debt	
Date of adoption	22 July 2008
Function delegated	<p>Authority to defer, waive, grant concession and conditions or write off any amount of money under section 6.12 of the <i>Local Government Act 1995</i> to a maximum of one thousand dollars (\$1,000).</p> <p><i>Note that s. 6.12(2) of the Local Government Act 1995 does not allow money owed to the Shire in respect of rates and service charges to be waived or for a concession in relation to such money to be granted.</i></p>
Statutory power delegated	<p><i>Local Government Act 1995</i> s. 6.12 Power to defer, grant discounts, waive or write off debts</p>
Statutory power of delegation	<p><i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO</p>
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<p><i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees</p>
CEO's sub-delegation to	<p>Director Corporate Services Manager Finance and Governance</p>
CEO's conditions on sub-delegation	<p>Director Corporate Services and Manager Finance and Governance are sub-delegated only to write off individual rate balances, which relate to penalty interest only, up to \$10 for administrative purposes.</p>
Compliance links	<p><i>Local Government Act 1995</i> s. 6.12 Power to defer, grant discounts, waive or write off debts</p>
Conditions	Nil

CE-152 Commercial Lease Agreements	
Date of adoption	13 April 2021
Function delegated	<p>Authority to:</p> <ol style="list-style-type: none"> 1. Extend existing lease agreements with commercial tenants in accordance with the extension options provided for in the lease; 2. Renegotiate minor variations* to clauses of existing lease agreements; 3. Enact potential landlord actions*; 4. Negotiate a new lease with existing commercial tenants. <p>* see definitions below.</p>
Statutory power delegated	<i>Local Government Act 1995</i> s. 3.58
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO s. 5.43 Limitations on delegations to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Council's conditions on delegation	<ol style="list-style-type: none"> 1. In accordance with s. 5.43 of the Act the maximum value of disposal by commercial lease is \$5,000,000 over the full term of any lease. 2. Any re-negotiated rent cannot be less than 90% of the previous rent. 3. A new lease negotiated with an existing tenant is limited to a maximum of a 10 year term including options.
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	n/a
CEO's conditions on sub-delegation	n/a
Compliance links	<i>Local Government Act 1995</i> s. 3.58. Council's adopted Investment Property Strategy.
Definition	<p>Minor variations includes but is not limited to:</p> <ul style="list-style-type: none"> • Change of business name • Change of control • Change to timeframes (excluding legislated requirements). <p>Landlord actions includes but is not limited to:</p>

	<ul style="list-style-type: none"> • approve assignment • issue notices • approve dealings on the land and sub leases • approve actions with lease financiers (when required)
--	---

CE-153 Powers of Entry	
Date of adoption	14 October 2014
Function delegated	<p>Authority to:</p> <ol style="list-style-type: none"> 1. Enter on to land to perform any function of the local government under Schedules 3.1 and 3.2 of the Act; 2. Give a notice of entry (s. 3.32); 3. Seek and execute an entry under warrant (s. 3.33); 4. Execute entry in an emergency (s. 3.34) 5. Give notice and effect entry by opening a fence (s. 3.36).
Statutory power delegated	<p><i>Local Government Act 1995</i> s. 3.32 Notice of entry s. 3.33 Entry under warrant s. 3.34 Entry in an emergency s. 3.36 Opening fences</p>
Statutory power of delegation	<p><i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO</p>
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<p><i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees</p>
CEO's sub-delegation to	<p>Directory Statutory Services Director Infrastructure Services Manager Planning & Environment Manager Building & Health Manager Community Safety and Emergency Management Manager Operations</p>
Compliance links	<p><i>Local Government Act 1995</i> Part 3 Division 3 Subdivision 3, and specifically s. 3.31 General procedure for entering property</p>
Conditions	Nil

CE-150 Performing Particular Things on Land which is not Local Government Property	
Date of adoption	28 January 2014
Function delegated	<p>The Chief Executive Officer is delegated the power to carry out things prescribed in Schedule 3.2 of the <i>Local Government Act 1995</i> even though the land is not local government property and the local government does not have consent to do it, as follows:</p> <ol style="list-style-type: none"> 1. Carry out works for the drainage of land; 2. Do earthworks or other works on land for preventing or reducing flooding; 3. Take from land any native growing or dead timber, earth, stone, sand or gravel that, in its opinion, the local government requires for making or repairing a thoroughfare, bridge, culvert, fence or gate; 4. Deposit and leave on land adjoining a thoroughfare any timber, earth, stone, sand, gravel, and other material that persons engaged in making or repairing a thoroughfare, bridge, culvert, fence or gate do not, in the opinion of the local government, require; 5. Make a temporary thoroughfare through land for use by the public as a detour while work is being done on a public thoroughfare; 6. Place on land signs to indicate the names of public thoroughfares; 7. Make safe a tree that presents serious and immediate danger, without having to give the owner the notice otherwise required by regulations.
Statutory power delegated	<i>Local Government Act 1995</i> s. 3.27 Particular things local governments can do on land that is not local government property
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i>

	s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Director Statutory Services Director Infrastructure Services Manager Planning & Environment Manager Building & Health Manager Community Safety and Emergency Management Manager Operations
Compliance links	<i>Local Government Act 1995</i> Schedule 3.2 Particular things local governments can do on land even though it is not local government property
Conditions	Nil

CE-151 Expressions of Interest and Tenders

Date of adoption	25 February 2014
Function delegated	<p>Authority to:</p> <ol style="list-style-type: none">1. invite tenders though not required to do so [F&G Reg. 13];2. determine the selection criteria for deciding which tender should be accepted [F&G Reg. 14(2a)];3. determine the information to be disclosed to those interested in submitting a tender [F&G Reg. 14(4)(a)];4. vary tender information after public notice of invitation to tender and before the close of tenders [F&G Reg. 14(5)];5. accept or reject tenders [F&G Reg. 18];6. accept the next most advantageous tender where within 6 months of accepting a tender a contract has not been entered into, or the successful tenderer agrees to terminate the contract [F&G Reg. 18 (6) and (7)];7. determine minor variations before entering into a contract [F&G Reg. 20];8. vary a contract that has been entered into with a successful tenderer, provided the variation(s) do not change the scope of the original contract or increase the contract value beyond 10% [F&G Reg. 21A(a)];9. exercise an extension option that was included in the original tender specification and contract in accordance with F&G Reg. 11(2)(j) [F&G Reg. 21A(b)];10. determine appropriate circumstances for seeking and inviting expressions of interest for the supply of goods or services [F&G Reg. 21];11. consider expressions of interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers [F&G Reg. 23]. <p>Authority to establish a panel of pre-qualified suppliers to supply particular goods or services in accordance with Part 4 Division 3 of the F&G Regulations.</p>
Statutory power delegated	<i>Local Government Act 1995</i>

	<p>s. 3.57 Tenders for providing goods and services</p> <p><i>Local Government (Functions and General) Regulations 1996</i></p> <p>r. 11 When tenders have to be publicly invited</p> <p>r. 13 Requirements when local government invites tenders though not required to do so</p> <p>r. 14(2a) and (5) Publicly inviting tenders, requirements for</p> <p>r. 18 Rejecting and accepting tenders</p> <p>r. 20 Variation of requirements before entry into contract</p> <p>r. 21A Varying a contract for the supply of goods and services</p> <p>r. 21 Limiting who can tender, procedure for</p> <p>r. 23 Rejecting and accepting expressions of interest to be acceptable tendered</p> <p>Division 3 Establish panels of pre-qualified suppliers</p>
Statutory power of delegation	<p><i>Local Government Act 1995</i></p> <p>s. 5.42 Delegation of some powers or duties to the CEO</p> <p>s. 5.43 Limitations on delegations to the CEO</p>
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Council's conditions on delegation	<p>Delegation to CEO:</p> <p>Selection Criteria [F&G Reg. 14(2a)];</p> <ol style="list-style-type: none"> 1. Selection criteria must be stated in the Request for Tender document and comply with the requirements of the regulations. 2. Where the selection criteria has been determined by the CEO, Council is to accept or reject the tender. <p>Accepting or Rejecting Tenders [F&G Reg. 18]</p> <ol style="list-style-type: none"> 3. Regular supply tenders* and tenders for plant and vehicles: may accept the most advantageous tender for all items identified in the adopted Annual Budget; 4. Other tenders: may only accept a tender where the consideration under the resulting contract is \$375,000 (excluding GST) or less and the item is identified in the adopted Annual Budget. <p>* see definition below.</p>
Statutory power to sub-delegate	<p><i>Local Government Act 1995</i></p> <p>s. 5.44 CEO may delegate some powers and duties to other employees</p>
CEO's sub-delegation to	<p>Director Infrastructure Services (DIS)</p> <p>Director Corporate Services (DCS)</p>

	Manager of Operations Manager of Building Assets Manager of Information Technology
CEO's conditions on sub-delegation	<p>Sub-delegation to DIS and DCS includes all function delegated to the CEO.</p> <p>Conditions include:</p> <ol style="list-style-type: none"> 1. Tender must be relevant to DIS's or DCS's area of responsibility. <p>Selection Criteria [F&G Reg. 14(2a)];</p> <ol style="list-style-type: none"> 2. Selection criteria must be stated in the Request for Tender document and comply with the requirements of the regulations. 3. Where the selection criteria has been determined by DIS or DCS, the CEO is to accept or reject the tender. <p>Accepting or Rejecting Tenders [F&G Reg. 18]</p> <ol style="list-style-type: none"> 4. Regular supply tenders* and tenders for plant and vehicles: may accept the most advantageous tender for all items identified in the adopted Annual Budget; 5. Other tenders: may only accept a tender where the consideration under the resulting contract is \$250,000 (excluding GST) or less and the item is identified in the adopted Annual Budget. 6. Selection criteria must be recorded in the appropriate record and comply with the requirements of the regulations. Where the selection criteria has been approved by DIS or DCS, the CEO is to accept or reject the tender. <p>* see definition below.</p> <p>Sub-delegation to Manager of Operations, Manager of Building Assets or Manager of Information Technology limited to:</p> <p>Selection Criteria [F&G Reg. 14(2a)];</p> <ol style="list-style-type: none"> 1. Tender must be relevant to Manager of Operations, Manager of Building Assets or Manager of Information Technology area of responsibility. 2. Selection criteria must be stated in the Request for Tender document and comply with the requirements of the regulations. 3. Where the selection criteria has been approved by Manager of Operations, Manager of Building Assets or Manager of Information

	Technology, DIS, DCS or the CEO is to accept or reject the tender.
Compliance links	<p><i>Local Government (Functions and General) Regulations 1996 – Part 4 Division 2</i></p> <p><i>Local Government (Functions and General) Regulations 1996</i> r. 31 Anti-avoidance provision for Act s. 3.58</p> <p>Policy AS-04 Purchasing Policy Procedure Admin-30 Ordering and Payment of Goods and Services Procedure Admin-31 Quotations for Purchase of Goods and Services</p>
Definition	<p>* Regular supply tenders means:</p> <ul style="list-style-type: none"> • Waste and Recycling Services • Utilities – Energy, Gas and Water • Civil Engineering and Construction Services • Cleaning and Building Maintenance Services • Surveyor Services • Infrastructure Design and Investigation Services • Parks and Horticultural Services • Telecommunications • Information Technology Services • Recruitment Services

CE-154 <i>Graffiti Vandalism Act 2016</i>	
Date of adoption	13 April 2021
Function delegated	All powers, duties and functions of a local government under the <i>Graffiti Vandalism Act 2016</i> .
Statutory power delegated	All powers, duties and functions of a local government under the <i>Graffiti Vandalism Act 2016</i> .
Statutory power of delegation	<i>Graffiti Vandalism Act 2016</i> s. 16 – delegation by local government
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Graffiti Vandalism Act 2016</i> s. 17 – delegation by CEO of local government
CEO's sub-delegation to	Director Infrastructure Services
Compliance links	<i>Local Government Act 1995</i> Part 9 – Divisions 1 and 2
Conditions	Nil

CE-14 Noise Control – Environmental Protection Notice [s. 65(1)]

ENVIRONMENTAL PROTECTION ACT 1986
Section 20

DELEGATION No. 52

Pursuant to section 20 of the *Environmental Protection Act 1986*, the Chief Executive Officer hereby delegates as follows—

Powers and duties delegated—

All the powers and duties of the Chief Executive Officer, where any noise is being or is likely to be emitted from any premises not being premises licensed under the Act, to serve an environmental protection notice under section 65(1) in respect of those premises, and where an environmental protection notice is so served in such a case, all the powers and duties of the Chief Executive Officer under Part V of the Act in respect of that environmental protection notice.

Persons to whom delegation made—

This delegation is made to any person for the time being holding or acting in the office of Chief Executive Officer under the *Local Government Act 1995*.

Pursuant to section 59(1)(e) of the *Interpretations Act 1984*, Delegation No. 32, dated 4 February 2000 is hereby revoked.

Dated this 9th day of January 2004.

Approved—

FERDINAND TROMP, A/Chief Executive Officer.
Dr JUDY EDWARDS MLA, Minister for the Environment.

Government Gazette 19 March 2004 – page 919.

CE-15 Noise Control - Noise Management Plans [Reg. 13]

EV401*

ENVIRONMENTAL PROTECTION ACT 1986

DELEGATION NO. 119

I, Jason Banks, in my capacity as Acting Chief Executive Officer of the Department responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to the holder for the time being of the offices of —

- (a) Chief Executive Officer under the *Local Government Act 1995*; and
- (b) to any employee of a local government under the *Local Government Act 1995* who is appointed as an Authorised Person under section 87 of the Act,

all my powers and duties in relation to noise management plans under regulation 13 of the *Environmental Protection (Noise) Regulations 1997* other than this power of delegation.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 111, gazetted 20 December 2013, is hereby revoked.

Dated the 1st day of May 2014.

JASON BANKS, Acting Chief Executive Officer.

Approved by —

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

CE-16 Noise Control - Noise Regulations

ENVIRONMENTAL PROTECTION ACT 1986

DELEGATION NO. 112

I, Jason Banks, in my capacity as Acting Chief Executive Officer of the Department of Environment Regulation responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to any person for the time being holding or acting in the office of a Chief Executive Officer under the *Local Government Act 1995*, my powers and duties under the *Environmental Protection (Noise) Regulations 1997*, other than this power of delegation, in relation to —

- (a) waste collection and other works—noise management plans relating to specified works under regulation 14A or 14B;
- (b) bellringing or amplified calls to worship—the keeping of a log of bellringing or amplified calls to worship requested under regulation 15(3)(c)(vi);
- (c) community activities—noise control notices in respect of community noise under regulation 16;
- (d) motor sport venues—noise management plans in relation to motor sport venues under Part 2 Division 3;
- (e) shooting venues—noise management plans in relation to shooting venues under Part 2 Division 4;
- (f) calibration results—requesting, under regulation 23(b), details of calibration results undertaken and obtained under Schedule 4;
- (g) sporting, cultural and entertainment events—approval of events or venues for sporting, cultural and entertainment purposes under Part 2 Division 7, subject to the following limitation—
 - (i) Subregulation 18(13)(b) is not delegated.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 68, gazetted 22 June 2007 is hereby revoked.

Dated the 12th day of December 2013.

JASON BANKS, Acting Chief Executive Officer.

Approved by —

JOHN DAY, Acting Minister for Environment; Heritage.

Government Gazette 20 December 2013 - page 6282.

CE-84 Local Planning Scheme No. 4	
Date of adoption	13 April 2021
Function delegated	<p>Authority to exercise all powers and discharge all duties under:</p> <ol style="list-style-type: none"> 1. the Deemed Provisions (Schedule 2) of the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> and Local Planning Scheme No. 4 (LPS4); 2. Clause 30 and clause 31 of the Metropolitan Region Scheme (WAPC reference: DEL 2017/02); 3. <i>State Administrative Tribunal Act 2004</i> section 31.
Statutory power delegated	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i> – Schedule 2 Deemed Provisions for local planning schemes; and</p> <p>Local Planning Scheme No. 4.</p>
Statutory power of delegation	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i> – Schedule 2 Deemed Provisions for local planning schemes - regulation 82.</p> <p>Shire of Mundaring Local Planning Scheme No. 4 Clause 11.3.1.</p>
Delegator	Council
Delegate	Chief Executive Officer
Council's conditions on delegation	<p>Delegated employees -</p> <ol style="list-style-type: none"> 1. cannot: <ol style="list-style-type: none"> 1. prepare, amend or revoke Local Planning Policies (cl. 3 – 6 Deemed Provisions and Part 2 of LPS4), unless the amendment is of an administrative nature only; 2. cannot determine applications involving: <ol style="list-style-type: none"> 2. the demolition of a building or structure listed on the Shire's Heritage List or on the State Register of Heritage Places (as amended); 3. Extractive Industry uses; 4. telecommunications infrastructure unless the proposal is a minor addition to an existing telecommunications installation;

	<p>5. applications that propose an extension or expansion to a non-conforming use;</p> <p>6. modifications to an existing approval issued by Council that would be inconsistent with the intent of Council's original decision;</p> <p>7. provide formal referral responses to the Western Australian Planning Commission for proposed Structure Plans involving 35 or more lots;</p> <p>8. a request from the State Administrative Tribunal for reconsideration of a Council decision under section 31 of the <i>State Administrative Tribunal Act 2004</i>;</p> <p>9. an application where an objection/s received during the advertising period, in the opinion of the Manager of Planning and Environment, remains relevant and may not be satisfactorily resolved by modifications or conditions.</p> <p>3. can refuse applications, where:</p> <p>a) an 'X' use is proposed;</p> <p>b) a habitable building is proposed with an unacceptable exposure to bushfire risk (either Bushfire Attack Level 40 or Flamezone) where, in the opinion of the Manager of Planning and Environment, alternative and safer siting and design options exist;</p> <p>c) clearing of Local Natural Area identified as 'Protection' category is proposed and where, in the opinion of the Manager of Planning and Environment, it has not been sufficiently demonstrated that all alternative locations on the lot outside of any Local Natural Area are unviable, impractical or environmentally unsuitable;</p> <p>d) an oversized outbuilding where individual and/or total area is exceeded;</p> <p>e) third party advertising is proposed.</p> <p>Decisions under delegated authority cannot be made unless:</p> <ul style="list-style-type: none"> all councillors are notified of any proposals involving an 'A' use;
--	--

	<ul style="list-style-type: none"> all councillors are informed of any 'Complex Development Applications' as defined within the <i>Shire's Advertising Planning Proposals Local Planning Policy PS-01</i>; <p>Decisions made under delegated authority must be reported to elected members on a monthly basis.</p>
Statutory power to sub-delegate	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 Deemed Provisions for local planning schemes - regulation 83.</i></p> <p>Shire of Mundaring Local Planning Scheme No. 4 Clause 11.3.2.</p>
CEO's sub-delegation to	<p>Director Statutory Services Manager Planning & Environment Coordinator Statutory Planning Coordinator Strategic Planning Planning Officer Planning Compliance Officer</p>
CEO's conditions on sub-delegation	<p>Council's conditions on delegation to the CEO, as above, apply.</p>
Compliance links	<p>All delegated planning decisions must be consistent with the intent of Council's adopted Local Planning Strategy and Local Planning Scheme and applicable Local Planning Policies.</p>

CE-137 <i>Planning and Development Act 2005 – Illegal Development and Direction Notices</i>	
Date of adoption	13 April 2021
Function delegated	<ul style="list-style-type: none"> • Give a written direction or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements; • Give a written direction to the owner or any other person who undertook an unauthorised development: <ul style="list-style-type: none"> 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. • Give a written direction to the person whose duty it is to execute work, to execute that work where it appears that delay in the execution of the work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order.
Statutory power delegated	<i>Planning and Development Act 2005</i> Section 214(2), (3) and (5)
Statutory power of delegation	<i>Local Government Act 1995</i> Section 5.42 – Delegation of some powers and duties to the CEO
Delegator	Council
Delegate	Chief Executive Officer
Council's conditions on delegation	Any expenses incurred by the Shire in carrying out the works specified in a direction notice, shall be recovered from the person to whom the direction was given.
Statutory power to sub-delegate	<i>Local Government Act 1995</i> Section 5.44 – CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Director Statutory Services Manager Planning and Environment
CEO's conditions on sub-delegation	Any expenses incurred by the Shire in carrying out the works specified in a direction notice, shall be recovered from the person to whom the direction was given.

Compliance links	Part 13 of the <i>Planning and Development Act 2005</i>
-------------------------	---

**CE-155 Delegation of certain powers and functions of the
Western Australian Planning Commission (WAPC)
relating to the Metropolitan Region Scheme (MRS)**

DEL 2017/02

As gazetted on 30 May 2017 and as amended. Current as at January 2021.

PLANNING AND DEVELOPMENT ACT 2005

INSTRUMENT OF DELEGATION

**Del 2017/02 Powers of Local Governments and Department of Transport
Metropolitan Region Scheme**

**Delegation of certain powers and functions of the Western Australian Planning
Commission relating to the Metropolitan Region Scheme**

Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function to an officer of a public authority or to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or conferred upon the WAPC by the Act or any other written law as the case requires.

Resolution under section 16 of the Act (delegation)

On 24 May 2017, pursuant to section 16 of the Act, the WAPC resolved –

1. To delegate to local governments, and to members and officers of those local governments, its functions in respect of the determination, in accordance with Part IV of the Metropolitan Region Scheme, of applications for approval to commence and carry out development specified in clauses 1 and 2 of Section A, within their respective districts, subject to the conditions set out in clauses 1 to 4 of Section B.
2. To delegate to the Managing Director, Policy, Planning and Investment – Transport, of the Department of Transport, and the person or persons from time to time holding or acting in that office, its functions in respect of the determination, in accordance with Part IV of the Metropolitan Region Scheme (MRS), of applications for approval to commence and carry out development specified in clause 3, Section A, subject to the conditions set out in clause 5 of Section B.
3. To revoke its delegation of powers and functions to local governments and the Department of Transport as detailed in the notice entitled “DEL 2015/02 Powers of local governments and Department of Transport (MRS)” published in the *Government Gazette* on 18 December 2015, to give effect to this delegation.

PLANNING AND DEVELOPMENT ACT 2005
INSTRUMENT OF DELEGATION

SECTION A – Types of Development

1. Development on zoned land

Applications for development on land zoned under the MRS except –

- a) where the land is subject to a resolution under clause 32 of the MRS; or
- b) where the land is subject to the declaration of a planning control area under Section 112 of the *Planning and Development Act 2005*; or
- c) where that land is partly within the development control area described in section 10 of the *Swan and Canning Rivers Management Act 2006* or is outside the development control area but abuts waters within the development control area; or
- d) where the local government is of the opinion that the application should be determined by the WAPC on the grounds that the proposal is of State or regional importance or is in the public interest; or
- e) in respect of public works undertaken by public authorities.

2. Development on regional road reservations

Applications for developments on or abutting land that is reserved in the MRS for the purpose of a regional road.

SECTION B – Conditions

1. Referral requirements for development on land within or abutting a regional road reservation

The following applications for development on land that abuts or is fully or partly reserved as regional road reservation (classified as Category 1, 2 and 3) shall be referred to Main Roads WA (MRWA) or the Department of Planning (DoP) as applicable, for transport planning related comments and recommendations before being determined by the local government subject to the process explained in clause 4, Section B.

Type of regional road reservation in the MRS	Classification on plans SP 693 (PRR) and SP 694 (ORR)	Referral Agency
Primary Regional Road (PRR)	Category 1, 2 and 3	Main Roads WA
Other Regional Road (ORR)	Category 1, 2 and 3	Department of Planning

The regional road network (PRR and ORR) changes periodically with amendments to the MRS. This clause relates to all regional road reservations in the MRS as amended from time to time. Regional roads subject to this notice and the relevant

agency that is responsible for their planning are shown on accompanying editions of plans SP 693 (PRR, MRWA) and SP 694 (ORR, WAPC).

The road categories shown on plans SP 693 (PRR) and SP 694 (ORR) classify the regional roads based on –

- a) the permissible vehicular access arrangements to the subject land via the regional road frontage
 - **Category 1 road** means that frontage access is not allowed (control of access);
 - **Category 2 road** means that frontage access may be allowed subject to approval; and
- b) the legibility and statutory powers of current road land requirements defined for the purpose of regional road reservation in the MRS
 - **Category 3 road** means that the subject regional road reservation is not accurately defined or is subject to a review by the agency that is responsible for planning of the regional road.

“Category 1 road” applies where regional roads –

- a) are constructed or planned to a fully controlled and grade separated freeway standard; or
- b) are constructed or planned to an access controlled arterial standard, i.e. functioning as Primary Distributor or Integrator Arterial (District Distributor) road with widely spaced signalised intersections or roundabouts, and a few, if any, direct access points to individual sites or local streets.

“Category 2 road” applies where regional roads –

- a) are constructed or planned to a partially access controlled arterial standard, (i.e. a primary or district distributor road with direct connections to local streets and driveways to larger sites, but with some restriction of direct frontage access to individual properties); or
- b) have direct frontage access to abutting properties due to historic development of the road and properties.

“Category 3 road” applies where regional road reservation is not accurately defined or is under review.

For enquiries and assistance regarding –

- a) PRR Category 1, 2 and 3 – call Main Roads WA on 138 138.
- b) ORR Category 1, 2 and 3 – call Department of Planning on (08) 6551 9000.

Tables 1, 2 and 3 below outline the category of the regional road reservation and the criteria for referring development applications to agencies in accordance with this instrument of delegation.

Table 1 – Referral process of development applications with respect to Category 1 (PRR or ORR reservations in the MRS)

Respective referral agency (as per Section B)	
Referral is required in these instances	Referral is not required in these instances
<p>1. Where a development application has one or more of the following characteristics –</p> <ul style="list-style-type: none"> a) Development, including earthworks and drainage, which encroaches or impacts upon the road reservation; or b) Development with potential for a significant increase in traffic using any access, either directly or indirectly, onto the road reservation; or c) Development, which involves direct vehicle access to and/or from the regional road reservation. 	<p>1. Where the local government first decided to refuse the application under the MRS; or</p> <p>2. Under circumstances where the application is for an ancillary and incidental addition or modification to an existing authorised development, which does not encroach upon the road reservation and has no intention to alter existing access arrangements.</p>

Table 2 – Referral process of development applications with respect to Category 2 (PRR or ORR reservations in the MRS)

Respective referral agency (as per Section B)	
Referral is required in these instances	Referral is not required in these instances
<p>1. Where a development application has one or more of the following characteristics –</p> <ul style="list-style-type: none"> a) Development, including earthworks and drainage, which encroaches or impacts upon the road reservation; or b) Development with potential for a significant increase in traffic using any access, either directly or indirectly, onto the road reservation; or c) Development, which involves the retention of more than one existing access; or additional, relocated or new access between the subject land and the road reservation; or 	<p>1. Where the local government first decided to refuse the application under the MRS; or</p> <p>2. Under circumstances where the application is for an ancillary and incidental addition or modification to an existing authorised development, which does not encroach upon the road reservation and has no intention to alter existing access arrangements.</p>

<p>d) Development, which proposed retention of an existing access between the subject land and the road reservation, where alternative access is or could be made available from side or rear streets or from rights of way at rear; or</p> <p>e) Development on a lot affected by the regional road reservation where –</p> <ul style="list-style-type: none"> • all or part of the proposed development is within the regional road reservation; and • has a construction value greater than \$20 000; or <p>f) Development on a lot affected by the regional road reservation where –</p> <ul style="list-style-type: none"> • none of the proposed development is within the road reservation; and • has a construction value greater than \$150 000. 	
---	--

Table 3 – Referral process of development applications with respect to Category 3 (PRR or ORR reservation in the MRS)

Respective referral agency (as per Section B)	
Referral is required in these instances	Referral is not required in these instances
9. All development applications, other than those where local government first decides to refuse it.	2. Where the local government first decides to refuse the application under the MRS.

Notes –

- 1) Copies of plans SP 693 (PRR) and SP 694 (ORR) are available from the WAPC's website: "Resolutions and instruments of delegation – WAPC Powers of local governments (MRS)". (<http://www.planning.wa.gov.au/1212.asp>)
- 2) In determining applications under this delegation, local governments shall have due regard to relevant WAPC and MRWA policy and guidelines, including but not limited to the Commission's DC Policy – *5.1 Regional Roads (Vehicular Access)*, the Transport Impact Assessment Guidelines, and MRWA *Driveways Policy*, which set out the principles and requirements to be applied when considering proposals for vehicle access to or from developments abutting certain categories of regional roads. (<http://www.planning.wa.gov.au/publications/812.asp>; and

<https://www.mainroads.wa.gov.au/BuildingRoads/StandardsTechnical/RoadandTrafficEngineering/GuidetoRoadDesign/Pages/Driveways.aspx>)

- 3) Local governments shall ensure that sufficient transport information accompanies the development application to assist the referral agency in assessing the transport implications of the proposal. This information should be provided in accordance with the WAPC's *Transport Impact Assessment Guidelines*. <http://www.planning.wa.gov.au/publications/1197.asp>.
- 4) With regard to proposals for new noise-sensitive developments, the local government shall have due regard to the provisions of the Commission's *State Planning Policy – 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning*. (<http://www.planning.wa.gov.au/publications/1182.asp>)
- 5) With regard to development application for the display of advertisements on land reserved under the MRS local government should have regard to the Commission's *DC Policy 5.4 Advertising on Reserved Land*. (<http://www.planning.wa.gov.au/publications/825.asp>)

1. Referral requirements for development on land abutting the Swan River Trust Development Control Area

Applications for development on land that is outside the development control area but abutting land that is in the development control area, or which in the opinion of the local government are likely to affect waters in the development control area, shall be referred to the Swan River Trust for comment and recommendation before being determined by the local government.

2. Referral requirements for development on land abutting other reservations

Applications for development on land abutting land reserved in the MRS for purposes other than regional roads or Parks and Recreation (where the reservation corresponds with the Swan River Trust development control area and is covered by Clause 2, Section B of this notice) shall be referred to the public authority responsible for that reserved land for comment and recommendation before being determined by the local government.

In the case of land reserved for the purpose of Parks and Recreation, which is not vested or owned by another public authority, the applications shall be referred to the Department of Planning before being determined by the local government.

3. For the purpose of this Instrument of Delegation

1. Where an application is referred by the local government to a public authority for comment and recommendation, the public authority shall provide comment and recommendation, if any, within 30 days of receipt of the application. If no comment or recommendation is received within that 30 day period the local government may determine the application on the available information.
2. Where the recommendation provided by the public authority specified in the delegation notice is not acceptable to the local government the application, together with the recommendations provided by all public authorities consulted and the reasons why the recommendation is not acceptable to

the local government, shall be referred immediately to the WAPC for determination.

3. The powers delegated to a member or officer of a local government may only be exercised by a member or officer who has been delegated power from the local government to consider and determine applications for approval to commence and carry out development within the local government district under the local government's local planning scheme.

Interpretation

In this Instrument of Delegation, unless the context otherwise requires –

- A reference to a 'position' or 'classification' contemplates and includes a reference to its successor in title.
- "access" means both entry and exit from either a road or abutting development by a vehicle.
- "Commission" or "WAPC" means the "Western Australian Planning Commission".
- "development" has the same meaning given to it in and for the purposes of the *Planning and Development Act 2005* or "*development means the development or use of any land including –*
 - 1. *any demolition, erection, construction, alteration of or addition to any building or structure on the land;*
 - 2. *the carrying out on the land of any excavation or other works;*
 - 3. *in the case of a place to which a Conservation Order made under section 59 of the Heritage of Western Australia Act 1990 applies, any act or thing that –*
 - i. *is likely to change the character of that place or the external appearance of any building; or*
 - ii. *would constitute an irreversible alteration of the fabric of any building*".
- "DoT" means the Department of Transport.
- "local road" means a public road other than a private road or a road subject of reservation under Part II of the MRS.
- "not acceptable" means that the local government wishes to determine the application, as a delegate of the WAPC, in a manner that is inconsistent with the recommendation received from the public agency to which the local government was required to consult under this Notice of Delegation.
- Main Roads WA means Main Roads Western Australia.
- "regional road" means any road under the region Scheme as follows –
 - a) land coloured red in the Scheme Map – Primary Regional Roads; and
 - b) land coloured dark blue in the Scheme Map – Other Regional Roads.
- "reserved land" means land reserved under Part II of the MRS.
- "road reservation" means land reserved for the purposes of a regional road in the MRS.

- “significant increase in traffic” means generating more than 100 vehicle trips in the peak hour and would therefore require a transport assessment to accompany the development application. Refer to the Commission’s *Transport Impact Assessment Guidelines*.

Delegator	Council
Delegate	Chief Executive Officer
CEO’s sub-delegation to	Director Statutory Services Manager Planning & Environment

**CE-156 Delegation of certain powers and functions of the
Western Australian Planning Commission relating to
the *Strata Titles Act 1985***

DEL 2020/01

As gazetted on 29 January 2021 and as amended.

PLANNING AND DEVELOPMENT ACT 2005

INSTRUMENT OF DELEGATION

Del 2020/01 Powers of Local Governments

Delegation to local governments of certain powers and functions of the Western Australian Planning Commission relating to certain applications under the *Strata Titles Act 1985*.

Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function under the Act or any other written law to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or imposed on the WAPC by the Act or any other written law as the case requires.

Resolution under section 16 of the Act (delegation)

On 19 March 2020, pursuant to section 16 of the Act, the WAPC RESOLVED –

- A. TO DELEGATE to local governments, and to members and officers of those local governments, its powers and functions under section 15 of the *Strata Titles Act 1985* as set out in clause 1 of the Schedule, within their respective districts, subject to the conditions set out in clause 23 of Schedule 1;
- B. TO DELEGATE to local governments and to members and officers of those local governments, its powers and functions under sections 21 and 22 of the *Strata Titles Act 1985* as set out in clause 2 of Schedule 1, within their respective districts, subject to the conditions set out in clause 3 of Schedule 1;
- ~~C.~~ TO AMEND “Del 2020/01 – Powers of Local Governments” to give effect to its resolution and to publish an updated, consolidated instrument.

SAM FAGAN, Secretary,
Western Australian Planning Commission.

Schedule 1

1. Applications made under section 15 of the *Strata Titles Act 1985*

Power to determine applications under section 15 of the *Strata Titles Act 1985*, except those applications that –

- a) propose the creation of a vacant lot;
- b) propose vacant air stratas in multi-tiered strata scheme developments;
- c) propose the creation or postponement of a leasehold scheme;
- d) propose a type 1 (a) subdivision or a type 2 subdivision (as defined in section 3 of the *Strata Titles Act 1985*);
- e) in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing, relate to –
 - i. a type of development; and/or
 - ii. land within an area,which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

2. Applications under sections 21 and 22 of the *Strata Titles Act 1985*

Power to determine applications under –

- (a) section 21 of the *Strata Titles Act 1985*;
- (b) section 22 of the *Strata Titles Act 1985* where the amendment or repeal of scheme by-laws requires the approval of the WAPC.

3. Reporting requirements

A local government that exercises the power referred to in clause 1 and/or clause 2 is to provide WAPC with data on all applications determined under this Instrument of Delegation. This must be provided at the conclusion of each financial year in the format prescribed by the WAPC.

Delegator	Council
Delegate	Chief Executive Officer
CEO's sub-delegation to	Director Statutory Services Manager Planning & Environment

CE-138 *Bush Fires Act 1954 Appointments*

Date of adoption	9 August 2011
Function delegated	<p>1. That pursuant to the provisions of Section 48 of the <i>Bush Fires Act 1954</i>, Council delegates to the Chief Executive Officer the performance of its functions under the Act as detailed in ATTACHMENT 3 entitled "Delegations to Chief Executive Officer under the <i>Bush Fires Act 1954</i>";</p> <p>2. That pursuant to Section 59(3) and 59A of the <i>Bushfires Act 1954</i> the Manager Community Safety and Emergency Management, Coordinator Community Safety and Emergency Management and any person appointed to the position of Community Safety Ranger, Fire Protection Officer and Fire Hazard Inspection Officer are appointed to consider allegations of offences alleged to have been committed against the Act in the Shire of Mundaring and if the delegate thinks fit to institute and carry on proceedings in the name of the Shire of Mundaring against any person alleged to have committed those offences;</p> <p>3. That pursuant to Section 17(10) of the <i>Bush Fires Act 1954</i> the Shire President and Chief Bush Fire Control Officer jointly are delegated to:</p> <p>(A) Vary the prohibited burning times in the whole of, or part of the Shire of Mundaring by shortening, extending, suspending, reimposing a period of prohibited burning times or by imposing a further period of prohibited burning times.</p> <p>(B) Rescind or modify the variation upon receipt of a notice by the Shire of Mundaring from the Minister directing the Shire to rescind or modify such variation.</p>
Statutory power delegated	<i>Bush Fires Act 1954</i>
Statutory power of delegation	<i>Bush Fires Act 1954</i> s. 48, s. 17 and s. 18
Delegator	Council of the Shire of Mundaring
Delegate	As specified above: Chief Executive Officer Manager Community Safety and Emergency Management Coordinator Community Safety and Emergency Management Community Safety Rangers Fire Protection Officers Fire Hazard Inspection Officers

	Shire President & Chief Bush Fire Control Officer jointly
Statutory power to sub-delegate	No statutory power to sub-delegate is provided in the <i>Bush Fires Act 1954</i>
CEO's sub-delegation to	Nil
Compliance links	<i>Bush Fires Act 1954</i> <i>Bush Fires Regulations 1954</i> <i>Bush Fires (Infringements) Regulations 1978</i>

CE-138 Attachment 3

Delegations to the CEO under the <i>Bush Fires Act 1954</i> and the <i>Bush Fires Regulations 1954</i>	
Section 13 (4)	Authorise bush fire liaison officer or another person to take control of all operations in relation to a fire.
Section 18 (5)	Declare and vary restricted burning times and conditions.
Section 18 (10A)	Declare when and by whom bush may be burnt.
Section 18 (10B)	Determine date by which applications to set fire to bush are to be submitted and allocate day or days on which burning may take place.
Section 18 (10C)	Vary the notice required in relation to burning permitted under 10B.
Section 22 (6)	Arrange with the occupier of exempt land and the occupier of land adjoining exempt land to co-operate in burning firebreaks on the respective lands.
Section 22 (7)	Specify the dimensions of firebreaks required in association with burning to be conducted as per s. 22 (6).
Section 23 (1) (b)	During prohibited burning times permit the owner or occupier of land to burn bush on a road reserve adjoining his land or to burn bush on any of his land that is grass land, for the purpose of protecting pasture or crop growing on his land from damage by fire.
Section 24F (2) (b) (ii)	Give written permission during limited burning times to burn garden refuse in an incinerator where there is no inflammable material within 2 metres of the incinerator, a person is present until the fire is extinguished and when the fire is no longer required, it is completely extinguished by the application of water or earth.
Section 24G (2)	Prohibit or restrict the burning of garden refuse by notice published in the Gazette and a newspaper circulating in the district.

Section 24G (5)	Vary or cancel a notice issued under 24G (2).
Section 25 (1) (a)	Approve in writing the lighting of a fire for the purpose of camping or cooking at a time when the fire danger is catastrophic, extreme, severe or very high.
Section 25 (1) (b)	Approve the lighting of a fire in the restricted or prohibited burning times for the conversion of bush into charcoal or in or about a lime kiln.
Section 25 (1a)	Prohibit the lighting of fires in the open air for the purpose of camping or cooking during the prohibited burning times by notice published in the Government Gazette and in a newspaper circulating in the district.
Section 25A (5)	Notwithstanding any provision of this section issue a notice in writing on a person to whom a ministerial exemption has been granted prohibiting that person from lighting a fire to which the exemption relates.
Section 27 (2)	Permit the use of tractors the exhaust pipes of which are not vertical, so long as the other requirements specified in respect of a tractor in paragraph a) of subsection (1) and any notice under subsection (3) are complied with.
Section 27 (3)	Prohibit the operation of any tractor or self-propelled harvester that is not equipped with a fire extinguisher, by notice in a newspaper circulating in the district and by radio broadcast with coverage to the district and by display of such notice in prominent positions in the district.
Section 27 (4)	Vary or cancel a notice issued as per subsection (3).
Section 28 (5)	Recover the expenses of the local government incurred in extinguishing a fire where the occupier of the land on which the fire is situated has failed to take measures to extinguish it.
Section 33 (1)	Give notice to an owner or occupier of land by publishing a notice in the Government Gazette and in a newspaper circulating in the district requiring the installation and maintenance of fire breaks and to take other specified actions in relation to anything on the land which is conducive to the outbreak of a bush fire or the spread or extension of a bush fire.
Section 33 (4)	Direct a bush fire control officer, or any officer of the local government with required workmen or contractors to enter upon the land of an owner or occupier who fails or neglects to comply with the notice issued as per subsection (1) to carry out the works required.

Section 33 (5)	Ascertain and fix the amount of any costs incurred in carrying out works as per (4) and recover same in a court of competent jurisdiction as a debt due from the owner.
Section 33 (6)	At the request of the owner or occupier of land within its district, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of a fire danger, and recover the amount of the expense, if not paid on demand, from the owner or occupier in a court of competent jurisdiction.
Section 38 (1) and (2A)	Appoint such persons as considered necessary to be bush fire control officers including a Chief Bush Fire Control Officer and a Deputy Chief Bush Fire Control Officer and cause notice of such appointments to be published at least once in a newspaper circulating in the district.
Section 38 (5A)	Issue directions to a bush fire control officer or to an officer of a bush fire brigade to burn, subject to the provisions of the Act, bush on, or at the margins of, streets, roads, and ways, under the care, control and management of the Shire.
Section 38 (8) and (9)	Subject to DFES declaring the Shire an approved local government, appoint such numbers of senior bush fire control officers to the office of fire weather officer and define the part of the district in which each fire weather officer may exercise the powers conferred by the Act.
Section 38 (10)	Appoint one or more persons to be deputies of a fire weather officer appointed under (8) and (9).
Section 46	Prohibit or postpone the lighting of a fire where it is considered that the fire if lit would be or become a source of danger by escaping from the land on which it is proposed to be lit.
Regulation 20	Prohibit the issue of a permit to burn subterranean coal if such burning may be a source of danger to lands adjoining the land on which the proposed burning is to take place.

CE-139 <i>Building Act 2011 - Authorised Persons</i>	
Date of adoption	13 December 2011
Function delegated	Authority to 1. Designate an employee as an authorised person under s. 96(3) of the <i>Building Act 2011</i> ; and 2. Limit the powers of an authorised person by imposing conditions on a person's instrument of designation or by written notice and at any time revoke or vary such condition or notice.
Statutory power delegated	<i>Building Act 2011</i> s. 96(3) Authorised persons s. 99 Limitation on powers of authorised person
Statutory power of delegation	<i>Building Act 2011</i> s. 127 Delegation: special permit authorities and local governments
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Building Act 2011</i> s. 127(6A) Delegation: special permit authorities and local governments – power to sub-delegate is limited to CEO's
CEO's sub-delegation to	n/a
Compliance links	<i>Building Act 2011</i> <i>Building Regulations 2012</i> National Construction Code
Conditions	CEO to be satisfied that authorised person is suitably qualified in accordance with s. 5.36(3) of the <i>Local Government Act 1995</i> .

CE-140 <i>Building Act 2011 – Permits, Certificates, Orders and Records</i>	
Date of adoption	13 December 2011
Function delegated	<p>Authority for suitably qualified persons who, in the opinion of the Chief Executive Officer have the qualifications to undertake the roles and functions of a building surveyor, to administer <i>Building Act 2011</i> sections:</p> <p>20 - Grant of building permit 21 - Grant of demolition permit 22 - Further grounds for not granting an application 27 - Conditions imposed by permit authority 55 - Occupancy permits and building approval certificates, further information 58 - Grant of occupancy permit, building approval certificate 62 - Conditions imposed by permit authority 65 - Extension of period of duration 110 - Building orders 117 - Revocation of building order 118 - Permit authority may give effect to building order if non-compliance; and 131 - Inspection, copies of building records.</p>
Statutory power delegated	<i>Building Act 2011</i> s. 20, 21, 22, 27, 55, 58, 62, 65, 110, 117, 118 and 131
Statutory power of delegation	<i>Building Act 2011</i> s. 127 Delegation: special permit authorities and local governments
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Building Act 2011</i> s. 127(6A) Delegation: special permit authorities and local governments – power to sub-delegate is limited to CEO's
CEO's sub-delegation to	Manager Building and Health Senior Building Surveyor Building Surveyor
Compliance links	<i>Building Act 2011</i> <i>Building Regulations 2012</i> National Construction Code
Conditions	Nil.

CE-141 Appointment of Authorised Officers – <i>Public Health Act 2016</i>	
Date of adoption	13 December 2016
Function delegated	Authority to designate a person or class of persons as Authorised Officers for the purpose of fulfilling prescribed functions of the <i>Public Health Act 2016</i> . Authority to issue Certificates of Authority to persons designated as Authorised Officers.
Statutory power delegated	<i>Public Health Act 2016</i> s. 24 Designation of authorised officers s. 30 Certificates of authority
Statutory power of delegation	<i>Public Health Act 2016</i> s. 21 Enforcement agency may delegate
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	N/A
CEO's sub-delegation to	N/A
Compliance links	N/A
Conditions	1. The CEO may, at his discretion, refer any matter to Council for decision.

CE-142 <i>Food Act 2008</i>	
Date of adoption	9 October 2012
Function delegated	<p>That Council:</p> <ol style="list-style-type: none"> 1. Delegates to the Chief Executive Officer the following powers: <ul style="list-style-type: none"> - Appointment of authorised officers under s. 122 of the Act; - Issue of certificates of authority under s. 123 of the Act; - Appointment of designated officers under s. 126(2), (6) and (7) of the Act to issue, extend time for payment or withdraw infringement notices. 2. Delegates to the Director Statutory Services and the Manager Building and Health the following powers: <ul style="list-style-type: none"> - Issue a prohibition order, issue a certificate of clearance; provide written notification not to issue a certificate of clearance approval under s. 65, 66 and 67 of the Act. 3. Delegates to the Director Statutory Services, the Manager Building and Health and the Senior Environmental Health Officer the following powers: <ul style="list-style-type: none"> - Grant, apply conditions, refuse, vary or cancel registration of a food business under s. 110 and 112 of the Act.
Statutory power delegated	<i>Food Act 2008</i> s. 65, 66, 67, 110 and 112 s. 122, 123 and 126
Statutory power of delegation	<i>Food Act 2008 s. 118</i>
Delegator	Council of the Shire of Mundaring
Delegate	As specified above: Chief Executive Officer Director Statutory Services Manager Building and Health Senior Environmental Health Officer
Statutory power to sub-delegate	Nil. The <i>Food Regulations 2009</i> do not provide the power to sub-delegate.
CEO's sub-delegation to	n/a
Compliance links	<i>Food Act 2008</i> and <i>Food Regulations 2009</i>

CE-143 <i>Cat Act 2011</i>	
Date of adoption	12 November 2013
Function delegated	Council delegates to the Chief Executive Officer all the powers and duties of the local government under the <i>Cat Act 2011</i> , except the power to deal with an objection (s. 70).
Statutory power delegated	<i>Cat Act 2011</i> – refer to Schedule A
Statutory power of delegation	<i>Cat Act 2011 s. 44</i>
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Cat Act 2011 s. 45</i>
CEO's sub-delegation to	refer to Schedule A
Compliance links	<i>Cat Act 2011</i> <i>Cat Regulations 2012</i> Shire of Mundaring "Keeping of Cats" Local Law
Conditions	Nil

CE-143: Schedule A

On-delegation reference	Function	Delegated to	On-delegated to
SS - 48	<i>Cat Act 2011 – s. 9</i> Refuse to grant or refuse to renew a cat registration.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 51	<i>Cat Act 2011 – s. 10(b)</i> Cancel the registration of a cat where the cat owner has been convicted of offences as prescribed.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 54	<i>Cat Act 2011 – s. 13</i> On refusal to grant or renew a registration of a cat or cancel a registration of a cat, notify the owner within seven (7) days of making the decision.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 55	<i>Cat Act 2011 – s. 26</i> Issue a cat control notice.	CEO	Community Safety Ranger Coordinator Community Safety and Emergency Management

			Manager Community Safety and Emergency Management Director Statutory Services
SS – 56	<i>Cat Act 2011 – s. 37(1) & (2)</i> <i>Cat Regulations 2012 – r. 22</i> Grant, refuse to grant, renew or refuse to renew an application to breed cats.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 57	<i>Cat Act 2011 – s. 37(3) & (4)</i> Require an applicant to provide documents or information, within a specified time of not more than 21 days, required to determine a breeder application and require the applicant to verify the information by statutory declaration.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 58	<i>Cat Act 2011 – s. 38</i> Cancel an approval to breed.	CEO	Manager Community Safety and Emergency Management Director Statutory Services
SS – 59	<i>Cat Act 2011 – s. 39</i> Issue a certificate to an approved breeder.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 60	<i>Cat Act 2011 – s. 40</i> Notify the applicant of the decision to approve or decline the registration or approve or decline the breeder's application in writing within seven (7) days of making the decision.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services
SS – 61	<i>Cat Act 2011 – s. 49(3)</i> Recover the costs associated with the destruction of a cat in a court of competent jurisdiction.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety and Emergency Management Director Statutory Services

CE-144 Appointment of Authorised and Approved Officers – <i>Health (Asbestos) Regulations 1992</i>	
Date of adoption	14 February 2017
Function delegated	Authority to appoint persons or classes of persons as Authorised or Approved Officers for the purpose of issuing and managing infringement notices under the <i>Health (Asbestos) Regulations 1992</i> .
Statutory power delegated	<i>Health (Asbestos) Regulations 1992</i> reg. 15D(5) – Infringement notices
Statutory power of delegation	<i>Health (Asbestos) Regulations 1992</i> reg. 15D(7)
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	N/A
CEO's sub-delegation to	N/A
Compliance links	N/A
Conditions	Nil

CE-147 <i>Dog Act 1976</i>	
Date of adoption	28 January 2014
Function delegated	Council delegates to the Chief Executive Officer all the powers and duties of the local government under the <i>Dog Act 1976</i> and authorises the Chief Executive Officer to further delegate the powers and duties.
Statutory power delegated	<i>Dog Act 1976</i> <i>Dog Regulations 2013</i>
Statutory power of delegation	<i>Dog Act 1976</i> s. 10AA Delegation of local government powers and duties
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Dog Act 1976</i> s. 10AA(3)
CEO's sub-delegation to	refer to Schedule A
Compliance links	<i>Dog Act 1976</i> <i>Dog Regulations 2013</i>
Conditions	Nil

CE-147: Schedule A

On-delegation reference	Function	Delegated to	On-delegated to
SS - 62	<i>Dog Act 1976 – s. 10A</i> Pay and direct a vet to sterilise a dog owned by an eligible person.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety & Emergency Management Director Statutory Services
SS – 63	<i>Dog Act 1976 – s. 11</i> Appoint person(s) to administer dog management facilities.	CEO	Manager Community Safety & Emergency Management Director Statutory Services
SS – 65	<i>Dog Act 1976 – s. 15</i> Discount or waive the registration fee for an individual dog or any class of dogs, except dangerous dogs.	CEO	No sub-delegation
SS – 66	<i>Dog Act 1976 – s. 16</i> Refuse to effect, refuse to renew, cancel a dog	CEO	Coordinator Community Safety and Emergency Management

	registration in the prescribed circumstances and notify the applicant forthwith of the grounds upon which the decision was made. .		Manager Community Safety & Emergency Management Director Statutory Services
SS – 68	<i>Dog Act 1976 – s. 17A</i> If no application for registration has been made, give written notice to the owner that a dog cannot be registered because of any of the prescribed reasons and inform the owner of right of review.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety & Emergency Management Director Statutory Services
SS – 70	<i>Dog Act 1976 – s. 26(3)</i> Grant an exemption from the limit imposed on the number of dogs that can be kept.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety & Emergency Management Director Statutory Services
SS – 71	<i>Dog Act 1976 – s. 27</i> Grant or cancel a kennel licence.	CEO	Coordinator Community Safety and Emergency Management Manager Community Safety & Emergency Management Director Statutory Services
SS – 72	<i>Dog Act 1976 – s. 33H</i> Revoke a dangerous dog declaration or proposal to destroy a dangerous dog.	CEO	Director Statutory Services

CE-148 Serving Notices Requiring Certain Things to be Done by Owner or Occupier of Land	
Date of adoption	28 January 2014
Function delegated	<p>The Chief Executive Officer is delegated the power to issue a notice in writing relating to the land requiring the person to do anything specified in Schedule 3.1, Division 1 of the <i>Local Government Act 1995</i> or for the purpose of remedying or mitigating the effects of any offence prescribed in Schedule 3.1, Division 2 including the following:</p> <ol style="list-style-type: none"> 1. prevent water from dripping or running from a building; 2. placing a number on a property to indicate an address; 3. repair a public thoroughfare; 4. ensure that land that adjoins a public thoroughfare is suitably enclosed; 5. ensure unsightly land is enclosed; 5A. ensure overgrown vegetation, rubbish or disused material is removed from land; 6. take measures to prevent movement of sand, rocks etc; 7. ensure that land adjoining a public thoroughfare is not overgrown; 8. removing a tree or part that is obstructing a thoroughfare; 9. ensuring that a tree that endangers any person is made safe (dangerous tree); 10. taking specified measures to prevent damage to the public or property from cyclonic activity; 11. remove bees that are a danger or a nuisance; 12. ensure that unsightly, dilapidated or dangerous fence is modified or repaired; 13. take measures to prevent artificial light or other light being omitted or reflected to remove a nuisance; 14. make safe anything that is obstructing a private thoroughfare.
Statutory power delegated	<i>Local Government Act 1995</i>

	s. 3.25 Notices requiring certain things to be done by owner or occupier of land
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Director Infrastructure Services Director Statutory Services Director Corporate Services Director Strategic and Community Services
Compliance links	<i>Local Government Act 1995</i> Schedule 3.1 Powers under notices to owners or occupiers of land
Conditions	Nil

CE-149 Additional Powers When Notice is Given to the Owner or Occupier of Land Under Section 3.25	
Date of adoption	28 January 2014
Function delegated	The Chief Executive Officer is delegated the power to do anything considered necessary to achieve, so far as is practicable, the purpose for which a notice under section 3.25 of the <i>Local Government Act 1995</i> was given, including recovering the cost of anything done as a debt due from the person who failed to comply with the notice.
Statutory power delegated	<i>Local Government Act 1995</i> s. 3.26 Additional powers when notices given
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.42 Delegation of some powers or duties to the CEO
Delegator	Council of the Shire of Mundaring
Delegate	Chief Executive Officer
Statutory power to sub-delegate	<i>Local Government Act 1995</i> s. 5.44 CEO may delegate some powers and duties to other employees
CEO's sub-delegation to	Director Infrastructure Services Director Statutory Services Director Corporate Services Director Strategic and Community Services
Compliance links	<i>Local Government Act 1995</i> s. 3.25 Notices requiring certain things to be done by owner or occupier of land Schedule 3.1 Powers under notices to owners or occupiers of land
Conditions	Nil

Delegations to Committees of Council

COM-46 Annual Meeting with Auditor	
Date of adoption	26 September 2006
Function delegated	That Council delegates authority to the Audit and Risk Committee to meet with the auditor of the Shire of Mundaring at least once in every year to satisfy the requirement of s. 7.12A(2) of the <i>Local Government Act 1995</i> .
Statutory power delegated	<i>Local Government Act 1995</i> s. 7.12A(2) Duties of local government with respect to audits
Statutory power of delegation	<i>Local Government Act 1995</i> s. 5.16 Delegation of some powers and duties to certain committees s. 7.1B Delegation of some powers and duties to audit committees
Delegator	Council of the Shire of Mundaring
Delegate	Audit and Risk Committee
Statutory power to sub-delegate	Nil
CEO's sub-delegation to	Nil
Compliance links	Department of Local Government and Communities Operational Guideline No. 9 – Audit in Local Government
Conditions	Nil. Sub-delegation is prohibited by s. 7.1B