



SHIRE OF
COCOS
KEELING ISLANDS

DELEGATION REGISTER

Date reviewed – May 2020

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1	June 2019 – Adopted by Council at the Ordinary Meeting of Council on 26 June 2019
2	May 2020 – Adopted by Council at the Ordinary Meeting of Council on 20 May 2020
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1.1 Council to CEO

1.1.1 Appoint Authorised Persons

<p>Delegator: <i>Power / Duty assigned in legislation to:</i></p>	<p>Local Government</p>
<p>Express Power to Delegate: <i>Power that enables a delegation to be made</i></p>	<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> <p><i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government</p> <p><i>Cat Act 2011:</i> s.44 Delegation by local government</p> <p><i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations</p> <p><i>Planning and Development Act 2005:</i> Section 214(2), (3) and (5)</p>
<p>Express Power or Duty Delegated:</p>	<p><i>Local Government Act 1995:</i> s.3.24 Authorising persons under this subdivision [Part 3, Division 3, Subdivision 2 – Certain provisions about land] s.9.10 Appointment of authorised persons</p> <p><i>Building Act 2011:</i> s.96(3) authorised persons s.99(3) Limitation on powers of authorised person</p> <p><i>Cat Act 2011:</i> s. 48 Authorised persons</p> <p><i>Food Act 2008:</i> s.122(1) Appointment of authorised officers s.126(6), (7) and (13) Infringement Officers</p> <p><i>Planning and Development Act 2005:</i> Section 214(2), (3) and (5)</p>
<p>Delegate:</p>	<p>Chief Executive Officer</p>
<p>Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i></p>	<ol style="list-style-type: none"> 1. Authority to appoint persons or classes of persons as authorised persons for the purpose of fulfilling prescribed functions within the <u>Local Government Act 1995</u> and its subsidiary legislation, including Local Government Act Regulations, the <i>Local Government (Miscellaneous Provisions) Act 1960</i> and Local Laws made under the Local Government Act. [s.3.24 and s.9.10]. 2. Authority to appoint authorised person for the purposes of fulfilling the functions of an authorised person under the <u>Cat Act 2011, Building Act 2011 (refer Building Reg.5), Food Act 2008 and Planning and Development Act 2005.</u>

	<p>3. Authority to appoint 'authorised officers' under Regulation 70(2) of the Building Regulations 2012 and section 9.16 of the <i>Local Government Act 1995</i> for the purposes of issuing Building Act 2011 Infringement Notices in accordance with section 6(b) of the <i>Criminal Procedures Act 2004</i>.</p> <p>(Building Reg.70(2) prescribes s.9.10(1) of the <i>Local Government Act 1995</i> as the enabling power for appointment of 'authorised officers'.)</p>
<p>Council Conditions on this Delegation:</p>	<p>a. A register of Authorised Persons is to be maintained as a Local Government Record.</p> <p>b. Only persons who are appropriately qualified and trained may be appointed as Authorised persons.</p>
<p>Express Power to Sub-Delegate:</p>	<p><i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p>

2 Local Government Act 1995 Delegations

2.1 Council to CEO

2.1.1 Powers of Entry

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.28 When this Subdivision applies s.3.32 Notice of entry s.3.33 Entry under warrant s.3.34 Entry in an emergency s.3.36 Opening fences
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to exercise Powers of Entry to enter onto land to perform any of the local Government functions under this Act, other than entry under a Local Law [s.3.28]. 2. Authority to give notice of entry [s.3.32]. 3. Authority to seek and execute an entry under warrant [s.3.33]. 4. Authority to execute entry in an emergency, using such force as is reasonable [s.3.34(1) and (3)]. 5. Authority to give notice and effect entry by opening a fence [s.3.36].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Delegated authority may only be used where there is imminent or substantial risk to public safety or property.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.2 Declare Vehicle is Abandoned Vehicle Wreck

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.40A(4) Abandoned vehicle wreck may be taken
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Declare that an impounded vehicle is an abandoned vehicle wreck [s.3.40A(4)].
Council Conditions on this Delegation:	a. Disposal of a declared abandoned vehicle wreck to be undertaken in accordance with Delegated Authority 1.2.6 Disposing of Confiscated or Uncollected Goods or alternatively, referred for Council decision.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.3 Confiscated or Uncollected Goods

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.46 Goods May be withheld until costs paid s.3.47 Confiscated or uncollected goods, disposal of s.3.48 Impounding expenses, recovery of
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to refuse to allow goods impounded under s.3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid to the local government. [s.3.46] 2. Authority to sell or otherwise dispose of confiscated or uncollected goods or vehicles that have been ordered to be confiscated under s.3.43 [s.3.47] 3. Authority to recover expenses incurred for removing, impounding, and disposing of confiscated or uncollected goods [s.3.48].
Council Conditions on this Delegation:	a. Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may, in accordance with Functions and General Regulation 30, be disposed of by any means considered to provide best value, provided the process is transparent and accountable.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.4 Disposal of Sick or Injured Animals

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.47A Sick or injured animals, disposal of s.3.48 Impounding expenses, recovery of
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine when an impounded animal is ill or injured, that treating it is not practicable, and to humanely destroy the animal and dispose of the carcass [s.3.47A(1)].
Council Conditions on this Delegation:	a. Delegation only to be used where the Delegate's reasonable efforts to identify and contact an owner have failed.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.5 Close Thoroughfares to Vehicles

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfare for repairs or maintenance s.3.51 Affected owners to be notified of certain proposals
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to close a thoroughfare (wholly or partially) to vehicles or particular classes of vehicles for a period not exceeding 4-weeks [s.3.50(1)]. 2. Authority to partially and temporarily close a thoroughfare without public notice for repairs or maintenance, where it is unlikely to have significant adverse effect on users of the thoroughfare [s.3.50A] 3.
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Give local public notice and notify local residents and/or landowners if possible. If, under s.3.50(1), a thoroughfare is closed without giving local public notice, local public notice is to be given as soon as practicable after the thoroughfare is closed [s.3.50(8)]. b.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.6 Expressions of Interest for Goods and Services

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.21 Limiting who can tender, procedure for r.23 Rejecting and accepting expressions of interest to be acceptable tenderer
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine when to seek Expressions of Interest and to invite Expressions of Interest for the supply of goods or services [F&G r.21]. 2. Authority to consider Expressions of Interest which have not been rejected and determine those which are capable of satisfactorily providing the goods or services, for listing as acceptable tenderers [F&G r.23].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Expressions of Interest may only be called where there is an adopted budget for the proposed goods or services.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.7 Tenders for Goods and Services

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11 When tenders have to be publicly invited r.13 Requirements when local government invites tenders though not required to do so r.14 Publicly inviting tenders, requirements for r.18 Rejecting and accepting tenders r.20 Variation of requirements before entry into contract r.21A Varying a contract for the supply of goods or services
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to call tenders [F&G r.11(1)]. 2. Authority to, because of the unique nature of the goods or services or for any other reason it is unlikely that there is more than one supplier, determine a sole supplier arrangement [F&G r.11(f)]. 3. Authority to invite tenders although not required to do so [F&G r.13]. 5. Authority to determine in writing, before tenders are called, the criteria for acceptance of tenders [F&G r.14(2a)]. 6. Authority to determine the information that is to be disclosed to those interested in submitting a tender [F&G r.14(4)(a)]. 7. Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation [F&G r.14(5)]. 8. Authority to evaluate tenders, by written evaluation [F&G r.18(4)], and recommend to Council which is the most advantageous, noting that Council may resolve to choose an alternative tender to one recommended. 9. Authority to determine that a variation proposed is minor in context of the total goods or services sought through the invitation to tender, subject to a maximum 10% variation or in any case, variation of a contract must not exceed \$10,000 and to then negotiate minor variations with the successful tenderer <u>before</u> entering into a contract [F&G r.20(1) and (3)]. 11. Authority to seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)].

	<p>14. Authority to:</p> <ul style="list-style-type: none"> i. 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%. ii. Exercise an extension option that was included in the original tender specification and contract in accordance with r.11(2)(j). [F&G r.21A].
<p>Council Conditions on this Delegation:</p>	<ul style="list-style-type: none"> a. Sole supplier arrangements may only be approved where a record is retained that evidences: <ul style="list-style-type: none"> i. A detailed specification; ii. The outcomes of market testing of the specification; iii. The reasons why market testing has not met the requirements of the specification; and iv. Rationale for why the supply is unique and cannot be sourced through other suppliers; b. Tenders may only be called where there is an adopted budget for the proposed goods or services.
<p>Express Power to Sub-Delegate:</p>	<p><i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p>

2.1.8 Panels of Pre-Qualified Suppliers for Goods and Services

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government (Functions and General) Regulation 1996:</i> r.24AB Local government may establish panels of pre-qualified suppliers r.24AC(1)(b) Requirements before establishing panels of pre-qualified suppliers r.24AD(3) & (6) Requirements when inviting persons to apply to join panel of pre-qualified suppliers r.24AH(2), (3), (4) and (5) Rejecting and accepting applications to join panel of pre-qualified suppliers
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to determine that there is a continuing need for the goods or services proposed to be provided by a panel of pre-qualified suppliers [F&G r.24AC(1)(b)]. 2. Authority to, before inviting submissions, determine the written criteria for deciding which application should be for inclusion in a panel of pre-qualified suppliers should be accepted [F&G r.24AD(3)]. 3. Authority to vary panel of pre-qualified supplier information after public notice inviting submissions has been given, taking reasonable steps to each person who has enquired or submitted an application is provided notice of the variation [F&G r.24AD(6)]. 4. Authority to reject an application without considering its merits, where it was submitted at a place and within the time specified, but fails to comply with any other requirement specified in the invitation [F&G r.24AH(2)]. 5. Authority to assess applications, by written evaluation of the extent to which the submission satisfies the criteria for deciding which applicants to accept, and decide which applications to accept as most advantageous [F&G r.24AH(3)]. 6. Authority to request clarification of information provided in a submission by an applicant [F&G r.24AH(4)]. 7. Authority to decline to accept any application [F&G r.24AH(5)]. 8. Authority to enter into contract, or contracts, for the supply of goods or services with a pre-qualified supplier, as part of a panel of pre-qualified suppliers for those particular goods or services [F&G r.24AJ(1)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. In accordance with s.5.43, panels of pre-qualified suppliers may only be established, where the total consideration

	under the resulting contract is \$200,000 or less and the expense is included in the adopted Annual Budget.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.9 Disposing of Property

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.3.58(2) & (3) Disposing of Property
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to dispose of property to: <ol style="list-style-type: none"> (a) to the highest bidder at public auction [s.3.58(2)(a)]. (b) to the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tenders [s.3.58(2)(b)] 2. Authority to dispose of property by private treaty only in accordance with section 3.58(3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. Disposal of land or building assets is limited to matters specified in the Annual Budget and in any other case, a Council resolution is required. b. Where the market value of the property (other than land or building assets) is determined as being less than \$10,000 disposal may be undertaken: <ul style="list-style-type: none"> • Without reference to Council for resolution; and • Must ensure that the best value return is achieved; and • Where the property is determined as having a nil market value, then the disposal must ensure environmentally responsible disposal. <p>Note – In accordance with F&G Reg.30 disposal of property valued less than \$20,000 is excluded from compliance with s.3.58.</p>
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.10 Payments from the Municipal or Trust Funds

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government (Financial Management) Regulations 1996:</i> r.12(1)(a) Payments from municipal fund or trust fund, restrictions on making
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to make payments from the municipal or trust funds [r.12(1)(a)].
Council Conditions on this Delegation:	a. Authority to make payments is subject to annual budget limitations.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.11 Defer, Grant Discounts, Waive or Write Off Debts

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.12 Power to defer, grant discounts, waive or write off debts
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Waive a debt or fee which is owed to the Shire. [s.6.12(1)(b)]. 2. Grant a concession in relation to money which is owed to the Shire. [s.6.12(1)(b)]. 3. Write of an amount of money which is owed to the Shire. [s.6.12(1)(c)]
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. This Delegation does not apply to debts, which are prescribed as debts that are taken to be a rate or service charge. b. A debt may only be waived for charitable or not for profit community groups to a limit of \$1000 to assist a not for profit community group or charitable entity in fulfilling a service, social or cultural outcome within the Shire. c. A concession may only be granted for charitable or not for profit community groups to a limit of \$1000 to assist a not for profit community group or charitable entity in fulfilling a service, social or cultural outcome within the Shire. d. A debt may only be written off where all necessary measures have been taken to locate / contact the debtor and where costs associated with continued action to recover the debt will outweigh the net value of the debt if recovered by the Shire. <ol style="list-style-type: none"> i. Limited to individual debts valued below \$1000 or cumulative debts of a debtor valued below \$1000 Write off of debts greater than these values must be referred for Council decision.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.12 Power to Invest and Manage Investments

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996:</i> r.19 Investments, control procedures for
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to invest money held in the municipal fund or trust fund that is not, for the time being, required for any other purpose [s.6.14(1)]. 2. Authority to establish and document internal control procedures to be followed in the investment and management of investments [FM r.19].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. All investment activity must comply with the Financial Management Regulation 19C and Council's Investment Policy. b. A report detailing the investment portfolio's performance, exposures and changes since last reporting, is to be provided as part of the Monthly Financial Reports. c. Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan, and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles. d. Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once within every 3 financial years. [Audit r.17]
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.13 Rate Record Amendment

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.39(2)(b) Rate record
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine any requirement to amend the rate record for the 5-years preceding the current financial year [s.6.39(2)(b)].
Council Conditions on this Delegation:	a. Delegates must comply with the requirements of s.6.40 of the Act. b. All requests for amendments must be made in writing and include supporting documentary evidence supporting the request.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.14 Recovery of Rates or Service Charges

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.56 Rates or service charges recoverable in court
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to recover rates or service charges, as well as costs of proceedings for the recovery, in a court of competent jurisdiction [s.6.56(1)].
Council Conditions on this Delegation:	a. Council is to be notified prior to the commencement of any legal action to recover rates or charges.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

2.1.15 Agreement as to Payment of Rates and Service Charges

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<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
Express Power or Duty Delegated:	<i>Local Government Act 1995:</i> s.6.49 Agreement as to payment of rates and service charges
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to make an agreement with a person for the payment of rates or service charges [s.6.49].
Council Conditions on this Delegation:	a. Agreements must be in writing and must ensure acquittal of the rates or service charge debt before the next annual rates or service charges are levied.
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

3 Building Act 2011 Delegations

3.1 Council to CEO

3.1.1 Building Permits

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.18 Further Information s.20 Grant of building permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit <i>Building Regulations 2012:</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required to determine a building permit application [s.18(1)]. 2. Authority to grant or refuse to grant a building permit [s.20(1) & (2) and s.22]. 3. Authority to impose, vary or revoke conditions on a building permit [s.27(1) and(3)]. 4. Authority to determine an application to extend time during which a building permit has effect [r.23]. <ol style="list-style-type: none"> i. Subject to being satisfied that work for which the building permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] ii. Authority to impose any condition on the building permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

3.1.2 Demolition Permits

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.18 Further Information s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit <i>Building Regulations 2012</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required to determine a demolition permit application [s.18(1)]. 2. Authority to grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.20(1) & (2) and s.22]. 3. Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and(3)]. 4. Authority to determine an application to extend time during which a demolition permit has effect [r.23]. <ol style="list-style-type: none"> i. Subject to being satisfied that work for which the demolition permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)] ii. Authority to impose any condition on the demolition permit extension that could have been imposed under s.27 [r.24(2)]. 5. Authority to approve, or refuse to approve, an application for a new responsible person for a demolition permit [r.26].
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

3.1.3 Occupancy Permits or Building Approval Certificates

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.55 Further information s.58 Grant of occupancy permit, building approval certificate s.62(1) and (3) Conditions imposed by permit authority s.65(4) Extension of period of duration <i>Building Regulations 2012</i> r.40 Extension of period of duration of time limited occupancy permit or building approval certificate (s.65)
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to require an applicant to provide any documentation or information required in order to determine an application [s.55]. 2. Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58]. 3. Authority to impose, add, vary or revoke conditions on an occupancy permit [s.62(1) and (3)]. 4. Authority to extend, or refuse to extend, the period in which an occupancy permit or modification or building approval certificate has effect [s.65(4) and r.40].
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

3.1.4 Inspection and Copies of Building Records

Delegator: <i>Power / Duty assigned in legislation to:</i>	Permit Authority (Local Government)
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.131(2) Inspection, copies of building records
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	1. Authority to determine an application from an interested person to inspect and copy a building record [s.131(2)].
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

3.1.5 Appoint approved officers and authorised officers

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Regulations 2012:</i> r.70 Approved officers and authorised officers
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to appoint an approved officer for the purposes of section 6(a) of the <i>Criminal Procedure Act 2004</i>, in accordance with Building Regulation 70(1) and (1A). 2. Authority to appoint an authorised officer for the purposes of section 6(b) of the <i>Criminal Procedure Act 2004</i>, in accordance with regulation 70(2).
Council Conditions on this Delegation:	<p>a. <<Council has discretion to determine any conditions / limitations applicable to the use of delegated powers or duties>></p> <p><i>NOTE: Only employees that also have CEO delegated power under sections 9.19 or 9.20 of the Local Government Act 1995 may be appointed as “approved officers”.</i></p> <p><i>NOTE: Only employees that are also appointed as authorised persons in accordance with s 9.10 of the Local Government Act 1995 for the purpose of performing functions under s 9.16 of that Act may be appointed as “authorised officers”.</i></p>
Express Power to Sub-Delegate:	<i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

4 Cat Act 2011 Delegations

4.1 Council to CEO

4.1.1 Cat Registrations

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Cat Act 2011:</i> s.44 Delegation by local government
Express Power or Duty Delegated:	<i>Cat Act 2011:</i> s.9 Registration s.10 Cancellation of registration s.11 Registration numbers, certificates and tags <i>Cat Regulations 2012</i> Schedule 3, cl.1(4) Fees Payable
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to grant, or refuse to grant, a cat registration or renewal of a cat registration [s.9(1)]. 2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.9(6)]. 3. Authority to cancel a cat registration [s.10]. 4. Authority to give the cat owner a new registration certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.11(2)]. 5. Authority to reduce or waive a registration or approval to breed fee, in respect of any individual cat or any class of cats within the Shire's District [Regs. Sch. 3 cl.1(4)].
Council Conditions on this Delegation:	a. Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the <i>Cat Act 2011</i> .
Express Power to Sub-Delegate:	<i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

5 Food Act 2008 Delegations

5.1 Council to CEO

5.1.1 Food Business Registrations

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express Power or Duty Delegated:	<i>Food Act 2008:</i> s.110(1) and (5) Registration of food business s.112 Variation of conditions or cancellation of registration of food businesses
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [s.110(1) and (5)]. 2. Authority to vary the conditions or cancel the registration of a food business [s.112].
Council Conditions on this Delegation:	<ol style="list-style-type: none"> a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: <ul style="list-style-type: none"> • Food Act 2008 Regulatory Guideline No.1 Introduction of Regulatory Food Safety Auditing in WA • Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No.1 • WA Priority Classification System • Verification of Food Safety Program Guideline
Express Power to Sub-Delegate:	NIL – Food Regulations 2009 do not provide for sub-delegation.

6 Planning and Development Act 2005 Delegations

6.1 Council to CEO

6.1.1 Illegal Development

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42(b) Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Planning and Development Act 2005:</i> Section 214(2), (3) and (5)
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Give a written direction to the owner or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements; 2. Give a written direction to the owner or any other person who undertook an unauthorised development: <ol 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. 3. 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.
Council Conditions on this Delegation:	a. <<Council has discretion to determine any conditions / limitations applicable to the use of delegated powers or duties>>
Express Power to Sub-Delegate:	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees