



Shire of
Narrogin
Love the life

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REGISTER OF DELEGATIONS

AS AT 27 APRIL 2023



History Summary

Item	Date	Action	Description
1	12 July 2016	Establishment	Resolution 0714.107 - Delegations Register 2016/2017 – Adoption of Shire Delegations Register.
2	9 August 2016	Amendment	Resolution 0814.119 - Incorporation of: 4.3 Cats Local Law 2016; 4.5 Dogs Local Law 2016; 4.8 Parking Local Law 2016; and 7.1 Cemetery local Law 2016.
3	20 December 2016	Amendment	Resolution 1216.195 – Incorporation of: 10.5 Fencing Local Law 2016; and 11.3 Public Places and Local Government Property Local Law 2016.
4	23 May 2017	Nil	Resolution 0517.064 - Annual Review.
5	23 May 2018	Amendment	Resolution 0518.051 – Annual Review Delegation 3.1 Tenders..., the following text was replaced: <i>The CEO is delegated authority to accept tenders called where the value of the proposed purchase is less than the tender threshold stipulated by Regulations, without further reference to Council.</i> with: <i>All tenders and expressions of interest, equal to or above the threshold, are to be approved by Council.</i>
6	26/11/18	Editing	26/11/2018 – Preface incorporated, Appendix brought to front as 'Summary'. Certification page removed.
7	24/7/19	Annual Review	Resolution 0719.13 – Annual Review.
8	14/8/2019	Amendment	Addition of Summary of Delegations table prior to Section 1.
9	18 Dec 2019	Amendment	Resolution 1219.008 inserting Delegation 1.1 clause 2(l) for appointment of Waste Local Law authorised persons.
10	25 Feb 2020	Amendment	Resolution 0220.019 Incorporation of Delegation 6.5 Waste Local Law 2019.
11	26 May 2020	Annual Review	Resolution 0520.106 – Annual Review.
12	24 February 2021	Amendment	Resolution 0221.108 – 1.2 Acting CEO Appointment - repealed.
13	26 May 2021	Annual Review	Resolution 0521.010 - Annual Review
14	27 April 2022	Annual Review	Resolution 0427.012 – Annual review of Delegations
15	27 April 2023	Annual Review	Resolution 230426.006 Annual Review of Delegations

PREFACE

The Delegations Register is the compiled decisions of Council to the CEO, employees and other officers, authorising them to act on behalf of Council on specific matters. The power for Council to delegate is contained within the relevant Act.

Delegations are over-ridden by –

- Commonwealth and State legislation and regulations,
- the Local Planning Scheme
- Local Laws
- Council resolutions

Delegations override –

- Council Policy
- Executive Instructions
- Local Government Guidelines –
 - o although are not decisions of Council, close observance is strongly recommended
- administrative directions/instructions

The decisions can be made at any time, and may be varied at Council's discretion. Delegation is binding on employees and officers, unless discretion is stated. Delegated power is to be considered as Council's instructions.

The Local Government Act requires –

- delegations to be made by an absolute majority of Council
- annual review and resolution
- places restrictions and limitations.

Please bear in mind, that the Local Government Act cannot authorise a delegation made under other legislation, unless that legislation allows. A delegation must be made in accordance with its head of power, or it is invalid.

Within the Delegations Register is a detailed outline of –

- how delegations are to be made
- who they be made to
- the authority by which they are made
- limitations and restrictions etc.

The Delegation Functions, Conditions and Sub-Delegations Permitted are resolved by Council. Sub-Delegations by the CEO within the permissions approved by Council, are at the discretion of the CEO. All procedural or reference information may be amended or updated by the Chief Executive Officer if required.

ARRANGEMENT

PREFACE	3
ARRANGEMENT	4
CONTENTS	5
SUMMARY	7
Section 1 - Council / Governance.....	13
Section 2 - Administration / Organisation	17
Section 3 - Financial Management.....	22
Section 4 - Order / public safety	41
Section 5 - Fire Control	54
Section 6 - Environmental Health / Food.....	59
Section 7 - Community Services	69
Section 8 - Personnel.....	70
Section 9 - Occupational Safety & Health	73
Section 10 - Building / Development	74
Section 11 - Public Facilities	84
Section 12 - Transport (renamed)	89
Section 13 - Natural Resource Management	110
Former Section 14 – Plant / Equipment (transferred to Section 12).....	114
Former Section 15 – Natural Resources (renumbered as Section 13)	114
Former Section 16 – Unclassified (transferred to Section 12)	114
Former Section 17 – Building and Development (deleted)	114
Former Section 18 – Environmental Health / Food (transferred to Section 6).....	114
Former Section 19 – Fire Control (deleted or transferred to Section 5)	114

CONTENTS

PREFACE

ARRANGEMENT

CONTENTS

SUMMARY

- Statutory context
- Corporate context
- Definitions
- Guidelines No.17 – Delegations (Department of Local Government)
- Making, amending and revoking delegations
- Use of delegations
- Record of use of delegations
- Review of delegations
- Primary delegation
- Secondary delegation by CEO

Section 1 - Council / Governance

- 1.1 Appointment of authorised persons
- 1.2 Acting CEO – Appointment

Section 2 - Administration / Organisation

- 2.1 Common Seal – Execution of documents
- 2.2 Destruction of Records (Deleted)
- 2.3 Confidential records – Inspection

Section 3 - Financial Management

- 3.1 Tenders – power to set specifications, criteria, call, accept, vary
- 3.2 Contracts – Variations
- 3.3 Disposing of property, and impounded, confiscated or uncollected goods
- 3.4 Disposing of land – leases, rentals etc
- 3.5 Rates record, extensions and objections
- 3.6 Sundry and rate debtors – Recovery and agreements
- 3.7 Write off of sundry and rate debts
- 3.8 Municipal Fund – Incurring expenditure (Deleted)
- 3.9 Municipal Fund and Trust Fund – Payments from Bank Accounts
- 3.10 Investments
- 3.11 Donations/Sponsorship – Financial and In-kind Works / Services
- 3.12 Ex-Gratia Payments

Section 4 - Order / public safety

- 4.1 Disposal of sick or injured animals
- 4.2 Cat Act 2011
- 4.3 Cats Local Law 2016
- 4.4 Dog Act 1976
- 4.5 Dogs Local Law 2016
- 4.6 Impounding of vehicles and goods
- 4.7 Impounding of cattle etc
- 4.8 Parking Local Law 2016

Section 5 - Fire Control

- 5.1 Issue of burning permits – CEO
- 5.2 Fire Fighting – Emergency Plant Hire (Deleted)

5.3 Restricted burning periods – Variations

5.4 Prohibited burning periods – Variations

Section 6 - Environmental Health / Food

6.1 Control of environmental health matters

6.2 Health Local Law 2022

6.3 Amenity Local Law 2016 (Deleted)

6.4 Control of food matters

6.5 Waste Local Law 2019

6.6 Environmental Protection (Noise) Regulations 1997

Section 7 - Community Services

7.1 Cemetery Local Law 2016

Section 8 - Personnel

8.1 Designated senior employee – Vacancy

8.2 Long service leave

Section 9 - Occupational Safety & Health

Section 10 - Building / Development

10.1 Control of building matters

10.2 Illegal development

10.3 Control of planning matters

10.4 Applications for subdivision and amalgamations

10.5 Fencing Local Law 2016

Section 11 - Public Facilities

11.1 Liquor Control Act

11.2 Discount/waiver/subsidy of facility hire fees

11.3 Public Places and Local Government Property Local Law 2016

Section 12 - Transport (renamed)

12.1 Reserves under control of the local government

12.2 Things to be done on land not local government property

12.3 Works on land outside the district

12.4 Materials from land not under local government control

12.5 Notices requiring certain things to be done

12.6 Notice of local government works

12.7 Private works/infrastructure on, over or under public land

12.8 Events on roads

12.9 Temporary road closures

12.10 Restricted Access Vehicles on Shire Roads

12.11 Gates across roads / thoroughfares

Section 13 - Natural Resource Management

13.1 Control of Vehicles (Off-road Areas) Act 1978

13.2 Native flora and fauna

Former Section 14 – Plant / Equipment (transferred to Section 12)

Former Section 15 – Natural Resources (renumbered as Section 13)

Former Section 16 – Unclassified (transferred to Section 12)

Former Section 17 – Building and Development (deleted)

Former Section 18 – Environmental Health / Food (transferred to Section 6)

Former Section 19 – Fire Control (deleted or transferred to Section 5)

SUMMARY

This document records the compiled delegations made by Council under the authority of the Local Government Act 1995 and other legislative instruments as specified.

This register is the formal written record by which a delegation is made and conferred. Therefore, committees, the CEO and officers are provided with this document as their record of delegation/s made to them.

Statutory context

This Delegations Register has been prepared in accordance with –

Local Government Act 1995:

s.5.16 – Delegation of some powers and duties to certain committees

- Separate document as differing provisions apply

s.5.17 – Limits on delegations of powers and duties to certain committees

s.5.18 – Register of delegations to committees

s.5.42 – Delegation of some powers and duties to CEO

s.5.43 – Limits on delegations to CEO

s.5.44 – CEO may delegate powers and duties to other employees

s.7.1B – Delegation of some powers and duties to audit committees

Local Government (Administration) Regulations 1996 –

r.19 – Record to be kept by delegates

Other legislation includes, but is not limited to –

Building Act 2011

Bushfires Act 1954

Cat Act

Dog Act 1976

Food Act 2008

Health (Miscellaneous Provisions) Act 1911

Public Health Act 2016

Local Government (Miscellaneous Provisions) Act 1960

Planning and Development Act 2005

Local Government Local Laws, currently adopted –

Cat Local Law 2016 (amended)

Cemetery Local Law 2016 (amended)

Dog Local Law 2016 (amended)

Fencing Local Law 2016

Health Local Law 2022

Meeting Procedures Local Law 2016 (amended)

Parking Local Law 2016 (amended)

Public Places and Local Government Property Local Law 2016 (amended)

Local Planning Scheme

Revised Local Planning Scheme for the merged Shire of Narrogin is nearing completion

Unless stated otherwise, the Local Government Act 1995 section 5.42 is the fundamental statutory context for Council to make the delegations.

Local Government Act 1995 –

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under –
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

* *Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

Various other legislative instruments empower or require Council to make delegations. The legislative empowerment is stated within each delegation.

Council expects the CEO to apply the provisions of the Local Government Act s.5.44 and other legislation to delegate powers and duties to other employees, including s.5.44(3) powers and duties which have been delegated to the CEO under s5.42.

Corporate context

The Council is responsible for functions and activities under numerous Acts and other legislation, many of which permit Council to delegate responsibilities and authority to various officers, and to stipulate conditions, standards or methods of control and management.

This Delegations Register has been prepared to complement a range of obligations imposed by legislation including local laws, and various document adopted by Council.

The order of priority for compliance is –

1. Federal and State legislation and regulations,
2. The Local Planning Scheme,
3. A specific resolution of Council,
4. Delegations Register – being specific authorisations resolved by Council, and having a statutory context under the Local Government Act,
5. Local Planning Policy – as it is made under the authority of the Local Planning Scheme, by resolution of Council,
6. Council Policy – being instructions resolved by Council on how particular matters are to be dealt with,
7. Executive Instruction – standing instructions or procedures issued by the CEO,
8. Administrative directions or instructions.

Although not decisions of Council, and therefore not a requirement of staff, consideration should be given to the following as being best practice –

- DLGRD Guidelines
- WALGA Councillors Manual, Practice Notes etc.

Unless specifically resolved that a delegation is to be included in the Delegations Register, it is considered that it is for a specific matter, and is not a general or on-going Delegation.

There are some Delegations that have specific legislative provision, and these are noted in the individual Delegation.

Definitions

The LG Act has not defined the term “delegation” or “delegated power”. However:

s.5.16 refers to “... the exercise of any of its powers and duties ...”

s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The following terms used in this document apply insofar as they are consistent with enabling legislation.

authority means the permission or requirement for Council, a Committee or a person to act in accordance with:

- the Local Government Act, Regulation or other legislation,
- a delegation made by Council,
- a policy made by Council, or
- a specific decision by Council, or
- Standard Procedural Direction given or authorised by the CEO.

delegation means the authority for a Committee, the CEO or other person to exercise a power, or discharge a duty, as conferred by absolute majority decision of council under the provisions of the relevant legislation.

Council Policy is the standing instruction resolved by Council as to how a particular matter is to be implemented:

Executive Instruction means the requirement for a staff member to act in accordance with a direction given by the CEO.

Planning Policy is established under the Planning & Development Act 2005, and the local planning scheme, and has mandatory procedures to adopt, amend or revoke.

Guidelines No.17 – Delegations (Department of Local Government)

The Department of Local Government and Communities has published Guidelines for the formation of Delegations.

The Guidelines outline the concept of “delegation” and “acting through” in parts 3 and 4, particularly in paragraph 13 where it is stated –

... the key difference between a delegation and “acting through” is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the “acting through” concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

In effect, “acting through” is an action that could reasonably be expected to be carried out as the result of a decision by Council (e.g. advertising of a tender), or as a function reasonably expected of the position that a person holds.

Not all matters which will be recorded in Policy are “acting through” matters. Similarly, not all “acting through” matters will be listed. Policy describes how that action or some other action is to be carried out.

Making, amending and revoking delegations

Delegations from Council may be made, amended or revoked at any time by an absolute majority of Council.

Where permitted by Council in the delegation, the CEO may authorise a secondary delegation at any time.

Delegations from the CEO to other employees are at the discretion of the CEO and do not require a Council resolution. The CEO can delegate a power or duty, the exercise or discharge of which has been delegated by a local government to the CEO, subject to any conditions imposed by the local government on its delegation to the CEO (s.5.44 (3)).

It is a requirement that the use of all delegated authority is recorded but it is not a requirement to report the use of delegated authority to Council.

Council may impose limitations on secondary delegation or the functions delegated as they see fit. The CEO is not obligated to delegate the whole or any delegation authorised by Council, but may choose not to or place further limitations on the delegation.

However, unless specifically resolved that the authority is to be included in the Delegations Register, the authority to act is for a specific matter, and is not a general or on-going delegation.

Use of delegations

Delegations are made to assist with the smooth operation of the organisations, and allow appropriate levels of authority to determine a wide range of matters.

There is no requirement for any authorised person to use a delegation. It is at the person's discretion whether or not to exercise a delegated authority, and they may refer the matter to a higher level at any time, should it appear in their judgement to be the best option.

Record of use of delegations

The Act requires that the use of each delegation is recorded, but does not require that the use is reported to Council, nor does it specify recording or listing the use in a particular format. Such requirements would result in an unwieldy volume of work that is unproductive.

However, in some instances, the use of the delegation is of sufficient importance that Council should be advised so as to be aware of the impact of the decision made.

In order to reduce the unnecessary paperwork burden as far as is possible, the formal record of use of a delegation is the document that is produced in the normal course of administration of the matter. This document may be a form approving or refusing an application, a letter, batch approval for payment of creditors, file note, email or similar.

All these satisfy the requirement of the State Records Office for recordkeeping.

Review of delegations

A delegation has effect for the period of time specified in the delegation or indefinitely if no period has been specified.

It is a requirement of the Local Government Act s5.18 and s.5.46 (1) that all delegations made under the authority of that Act be reviewed by the delegator at least once in each financial year.

Any decision to amend or revoke a delegation by a local government is to be by an absolute majority s.5.45 (1) (b).

Review of delegations from the Council to committees and the CEO will be carried out before the end of each financial year and preferably in conjunction with the annual review of Council policies.

The CEO will review delegations to staff as required on changeover of staff or change of staff functions and will review all delegations at least once in the financial year in accordance with the legislation.

Primary delegation

The primary delegation recipient includes the person acting in that position should the named recipient be absent from duty. This provision does not apply where the named person is on duty, but not present at the office at the time.

Secondary delegation by CEO

The CEO is expected and encouraged to further delegate to appropriate officers, subject to the limitations imposed by the Local Government Act, other enabling legislation, or the conditions of the delegation made by Council to the CEO –

- s.5.43 – limits on delegations to CEO
- s.5.44 (1) – does not permit the CEO to delegate the capacity to further delegate, and further stipulates that the delegation may only be to employees
 - o no such stipulation is made for delegations under other legislation
- s.5.46 – requires the CEO to review sub-delegations to other employees at least annually

The delegation by the CEO is to be –

- by signed document to the person,
- a copy to be retained by them.

SUMMARY OF DELEGATIONS as at 27April 2022		Council to:			CEO to:						
		SP	CBF CO	CEO	EM CCS	EM DRS	EM TRS	MCS	MEHO & REHO	MO	RBS & BS
1.1	Appointment of authorised persons			F	Not Permitted						
2.1	Common Seal – Execution of documents			F	Not Permitted						
2.3	Confidential records – Inspection			F	F						
3.1	Tenders – power to set specs, criteria, call, accept, vary			F	R	R	R				
3.2	Contracts – Variations			F	R	R	R				
3.3	Disposing of property, and impounded, confiscated or uncollected goods			F	R	R	R				
3.4	Disposing of land – leases, rentals etc			F							
3.5	Rates record, extensions and objections			F	F						
3.6	Sundry and rate debtors – Recovery and agreements			F	F						
3.7	Write off of sundry and rate debts			F	F						
3.9	Municipal Fund & Trust Fund – Payments from Bank Accs			F	R	R	R	R			
3.10	Investments			F	R	R	R	R			
3.11	Donations – Financial and In-kind Works / Services			F	Not Permitted						
3.12	Ex-Gratia Payments			F	Not Permitted						
4.1	Disposal of sick or injured animals			F	F	F	F				
4.2	Cat Act 2011			F	F	F					
4.3	Cats Local Law 2016			F	F	F					
4.4	Dog Act 1976			F	F	F					
4.5	Dogs Local Law 2016			F	F	F					
4.6	Impounding of vehicles and goods			F	F	F	F				
4.7	Impounding of cattle etc			F	F	F	F				
4.8	Parking Local Law 2016			F		F					
5.1	Issue of burning permits – CEO			F	Not Permitted						
5.3	Restricted burning periods – Variations			F	Not Permitted						
5.4	Prohibited burning periods – Variations	Jointly		Not Permitted							
6.1	Control of environmental health matters			F		F			R		
6.2	Health Local Law			F	F	F			R		
6.4	Control of food matters			F	Not Permitted						
6.5	Waste Local Law			F	F	F					
7.1	Cemetery Local Law 2016			F		F	F				
8.1	Designated senior employee – Vacancy			F	Not Permitted						
8.2	Long service leave			F	R						
10.1	Control of building matters			F		F					F
10.2	Illegal development			F		F					
10.3	Control of planning matters			F		F					
10.4	Applications for subdivision and amalgamations			F		F					
10.5	Fencing Local Law 2016			F		F					
11.1	Liquor Control Act			F		F					
11.2	Discount/waiver/subsidy of facility hire fees			F	F						
11.3	Public Places and Local Government Property Local Law			F	F	F	F				
12.1	Reserves under control of the local government			F	F	F	F				
12.2	Things to be done on land not local government property			F	F	F	F			R	
12.3	Works on land outside the district			F	F		F			R	
12.4	Materials from land not under local government control			F	F		F			R	
12.5	Notices requiring certain things to be done			F	F	F	F				
12.6	Notice of local government works			F	F	F	F				
12.7	Private works/infrastructure on, over or under public land			F			F				
12.8	Events on roads			F	F	F	F				
12.9	Temporary road closures			F	F	F	F			F	
12.10	Restricted Access Vehicles on Shire Roads			F			R				
12.11	Gates Across roads/thoroughfares			F		F					
13.1	Control of Vehicles (Off-road Areas) Act 1978			F	F	F	F				
13.2	Native flora and fauna			F			F				
		F=Full Delegation R=Restricted Delegation									

Section 1 - Council / Governance

1.1 Appointment of authorised persons

Statutory context

Local Government Act 1995 –

s.3.18 – local government to administer its local laws and perform its required functions under the Act

s.9.10 – Appointment of authorised persons

Criminal Procedure Act 2004 –

s.6 – Regulations to provide for the appointment of authorised persons to issue infringement notices and specified persons permitted to withdraw or extend time to pay infringement notices

Corporate context None

History

Last Reviewed 26 May 2021

Amended 26 May 2021

Reviewed and amended 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. Legislation

The CEO is delegated power to appoint employees and other persons as appropriate or necessary, to be authorised persons for the purposes of performing functions under the following Acts and associated Regulations –

- a) Local Government Act 1995, excluding –
 - s.5.37(1) – determination that an employee or class of employee is or is not designated; and
 - s.5.37(1) – appointment or termination of a person to a designated position without Council's consent
- b) Local Government (Miscellaneous Provisions) Act 1960;
- c) Health (Miscellaneous Provisions) Act 1911;
- d) Building Act 2011;
- e) Bush Fires Act 1954;
- f) Cat Act 2008;
- g) Cemeteries Act 1986;
- h) Dog Act 1976;
- i) Environmental Protection Act & Regulations 1986;
- j) Food Act 2008;
- k) Litter Act 1979;
- l) Planning and Development Act 2005;
- m) Control of Vehicles (Off-road Areas) Act 1978;
- n) Caravan Parks & Camping Grounds Act 1995; and
- o) Public Health Act 2016.

2. Local Laws

The CEO is delegated power to appoint employees and other persons as appropriate or necessary to be authorised persons for the purposes of performing functions under the following local laws –

- a) Bush Fire Brigades Local Law 2017;
- b) Cats Local Law 2016;
- c) Cemetery Local Law 2016;
- d) Dogs Local Law 2016;
- e) Extractive Industries Local Law 2017;

- f) Fencing Local Law 2016;
- g) Public Places and Local Government Property Local Law 2016;
- h) Parking Local Law 2016;
- i) Health Local Law 2022;
- j) *Deleted*
- k) *Deleted*
- l) Waste Local Law 2019.

3. Planning

The CEO is delegated power to appoint employees as authorised persons for the purposes of performing functions under –

- a) Local Planning Scheme; and
- b) Local Planning Policy.

4. Infringement Notices

The CEO is delegated power to appoint employees and other persons as appropriate or necessary with the power to issue infringement notices for the purposes of the *Criminal Procedure Act 2004* s.6(b) in accordance with the Local Government Act 1995 s.9.10, subject to –

- a) the power to withdraw any infringement notice or to extend the time to pay an infringement notice is restricted to the CEO as the person specified for this function, and may not be sub-delegated; and
- b) where the infringement notice is issued by the CEO, a request to withdraw any infringement notice or extend the time to pay an infringement notice is to be referred to Council.

Conditions on use of delegation

1. Appointments made by the CEO are to state the appointment is for –
 - a) the duration of employment by the Shire;
 - b) the duration of the contract with the Shire; or
 - c) specified time, event or purpose.
2. Appointment to a position by Council or CEO, in either a substantive or temporary capacity, includes the responsibility to administer and perform the functions delegated to that position, subject to –
 - a) any limitations specified in the relevant general delegation to the person or position; and
 - b) any specific limitations imposed by the Council or CEO in making the appointment.
3. All proposals to commence prosecution are to be referred to Council for decision, unless specifically provided for under delegated power or by specific decision.

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use	Authorised person's certificate of authorisation File copy of authorisation
File number	Personnel file Relevant subject file

Notes

No delegated power for –

- legislation not listed,
- Meeting Procedure Local Law – not required

Authorised persons exercise their authority directly from the Act, Regulation or local law that refers to “an authorised person”, and may be appointed directly by Council, or by the CEO under delegated power.

Where the Act, Regulation or local law refers to “local government” the function must be exercised through a formal delegation.

Where the Act, Regulation or local law refers to “Council”, it means the elected members in session.

Appointments of persons other than employees are to be referred to Council for determination.

Some appointments can be made independent of employment with the Shire, and unless revoked or otherwise limited, the appointment continues to remain valid. This is the case with Fire Control Officers, Authorised Dog Control Officers etc. Their appointment means –

- the community member is an officer of the local government,
- as an officer the local government, there is a duty of care to the person, as well as to the community, and must ensure that the person is adequately resourced for the task, including training, equipment etc, as necessary,
- as an officer of the local government, there is a legal responsibility for their actions, and in making the appointment there is an obligation to be satisfied that the person is appropriate and competent to exercise the authority.

As these appointments mean that the person is an officer of the local government for that specific purpose, they have the statutory authority to commit the local government to particular actions, initiate various proceedings etc, as listed in the authorising Act, and as permitted or limited by Council or the CEO.

When making an appointment, the CEO must be certain that the person appointed is capable of undertaking the role, is suitable, and provide the necessary resources for the role to be carried out such as training, equipment, etc.

This delegation does not apply to allocation of statutory functions made by the CEO to fulfil legislative requirements undertaken as a component of administrative tasks.

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

1.2 Acting CEO – Appointment

Statutory context

Corporate context

History

Last Reviewed	26 May 2021
Repealed	24 February 2021 by resolution of Council 0221.018 and replaced with Council Policy 2.1 – Senior Employees – Designation.

Section 2 - Administration / Organisation

2.1 Common Seal – Execution of documents

Statutory context

Local Government Act 1995 –

- s. 5.43(ha) – CEO cannot authorise a person to sign documents on behalf of the local government
- s.9.49A(1) – only affixed as authorised by Council
- s.9.49A(2) – only to documents as authorised by Council
- s.9.49A(3) – affixed in presence of President and CEO or senior employee authorised by CEO
- s.9.49A(4) – Council may authorise person to sign documents
- s.9.49A(5) – Document does not have legal status as a deed unless permitted and executed as a deed

Local Government (Functions & General) Regulations 1996 –

- r.34 – Common seal, unauthorised use of

Corporate context

Policy Manual –

- 1.11 – Common Seal

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to affix the Common Seal without prior approval by Council in specified circumstances,

Conditions on use of delegation

1. The CEO may exercise this delegation where the document is –
 - a) a renewal or extension of an original document, and there is no significant variation in clauses or conditions in the renewal;
 - b) an agreement to provide funding to the Shire and the project/item to be funded is disclosed in the budget or previously approved by Council.
2. Notwithstanding Conditions clause 1, the CEO may exercise this delegation to sign and make all necessary arrangements including lodgement, removal, withdrawal, surrender or modification to –
 - (a) Notifications, covenants and easements under the Transfer of Land Act 1893;
 - (b) reciprocal access and/or parking agreements;
 - (c) rights of carriageway agreements;
 - (d) caveats under the Transfer of Land Act 1893; and
 - (e) easements or deeds under the Land Administration Act 1997 or Strata Titles Act 1985.
3. Application of the Common Seal has no effect unless countersigned by the President.

Sub-delegation permitted to

Not permitted under the Local Government Act section 9.49A.

Delegation by CEO to other employees

Not permitted

References

Formal record of use	File copy of document executed Common Seal – Register of Use Relevant subject file
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File number	Various according to subject
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Notes

Most contracts for supply of services, including contracts of employment, do not legally require the Common Seal to be affixed, although its use may be usual practice.

2.2 Destruction of Records (Deleted)

2.3 Confidential records – Inspection

Statutory context

Local Government Act 1995 –

- s.5.92 – Council or committee members may access confidential information only if, and to the extent necessary, to fulfil their function
- s.5.93 – penalties if Council or committee member, or employee misuses information
- s.5.94 – public inspection of information permitted, with some restrictions
- s.5.94(1) to (3) – information that is required to remain confidential
- s.5.95(1) to (6) and (8) – exclusions from public inspection
- s.5.95(7) – some previously confidential information may be made available in some circumstances

Administration Regulations 1996 –

- r.29A – limits on confidential information that may be inspected

Rules of Conduct Regulations 2007 –

- r.6 – use of information, including confidential information, by council members
- r.7 – prohibition on improper use, for personal advantage or to someone's detriment
- r.8 – misuse of local government resources

Corporate context

Shire of Narrogin Record Keeping Plan

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to make available information determined by Council or the CEO to be confidential, and not available for public inspection.

Conditions on use of delegation

1. Prior to making a decision, the CEO is to determine –
 - (a) whether or not the information should remain confidential or public inspection permitted;
 - (b) the extent of information that may be released.
2. The CEO is to use discretion in exercising this delegation, taking note that –
 - (a) there is no compulsion to release confidential information,
 - (b) some information is required to remain confidential.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate and Community Services**
In full

References

Formal record of use File copy of written request and decision by CEO

File number 16.3.1 / 16.3.2

Notes

Examples of information that is required to remain confidential includes –

- (a) employee details, conditions, negotiations etc
- (b) supplier's bank information;
- (c) details required by legislation to be omitted from electoral roll;
- (d) information regarding debts owed to the Shire

CEO may consider some information to remain confidential, due to –

- (a) commercial in confidence;
- (b) potential for misuse;
- (c) insufficient reasons/justification to access the information.

Note – refusal of access does not prevent application being made under the Freedom of Information Act.

Section 3 - Financial Management

3.1 Tenders – power to set specifications, criteria, call, accept, vary

Statutory context

Local Government Act 1995 –

s.3.57– Tenders for providing goods or services

s.3.58 – Disposing of property

s.5.43(b) – Limits on delegation to accept tenders

Local Government (Functions and General) Regulations 1996 –

Part 4 – provision of goods and services

Division 1 – Purchasing policies for local government

r.11A – requirement for a purchasing policy

r.11 – when tenders have to be publicly invited and exemptions from inviting

Division 2 – Tenders for providing goods and services, specifically –

r.14(2a) – criteria for deciding on tender to be determined in writing prior

r.14(4) – information to be disclosed, specifications, own tender to be determined prior

r.14(5) – vary information disclosed subject to all being informed

r.20 – Minor variation of requirements before entry into contract

r.23 – Rejecting and accepting expressions of interest

Division 3 – Panels of pre-qualified suppliers, specifically –

r.24AD(2a) – requirements to join panel of pre-qualified suppliers

Part 4A – Regional Price Preference

Part 6 - Miscellaneous

s.30 (3) – exempt disposition of property

Corporate context

Delegation Register –

3.8 – Municipal Fund – Incurring expenditure

Policy Manual –

3.1 – Purchasing

3.2 – Local Price Preference

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power, subject to prior budget provision having been made or to give effect to a Council decision, to –
 - (a) prepare and finalise specifications for calling all tenders, expressions of interest and panels for pre-qualified suppliers in accordance with Budget provision and at the appropriate time;
 - (b) determine the criteria for assessment of all tenders, expressions of interest and panels for pre-qualified suppliers;
 - (c) invite all tenders, expressions of interest and applications for panels of pre-qualified suppliers; or
 - (d) approve a minor variation to a tender prior to acceptance, provided the intentions and purposes of the tender are not substantially altered, and where the effect on the total contract is a –
 - (i) reduction;
 - (ii) increase in cost to a cumulative total of \$25,000 ex GST or 5% whichever is the greater, where the adjusted total remuneration remains within Budget provision; or
 - (iii) reasonable and unforeseen increase in duration of the contract.

Conditions on use of delegation

1. Acceptance of tenders and expressions of interest, equal to or above the threshold, are to be by Council, unless prior delegation had been resolved.
2. Acceptance and variation of tenders is limited to the CEO only.
3. Variation of a tender after acceptance of the tender is not permitted unless provided for in the accepted tender. This is not to be construed that a contract entered into as a result of a Tender, cannot be varied, pursuant to Delegation 3.2 Contract Variations.
4. All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to –
 - a) any prior directions of Council, and
 - b) Delegations 3.3 and 3.4.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) Executive Manager Corporate & Community Services**
To set specifications and criteria, and to call within Corporate & Community Services division
- b) Executive Manager Technical & Rural Services**
To set specifications and criteria, and to call within Technical a& Rural Services division
- c) Executive Manager Development & Regulatory Services**
To set specifications and criteria, and to call within Development & Regulatory Services division

References

Formal record of use Report to Council via monthly briefing papers
Tender register and documentation on file

File number 1.2.1

Notes:

Expression of interest is not a quote – refer Functions & General Regulations r.21(3). The mandatory requirements are equivalent to those for a tender.

This delegation applies to all tenders – whether acquisition or disposal.

3.2 Contracts – Variations

Statutory context

Local Government (Functions and General) Regulations 1996 –

- r.11 – when tenders have to be invited and exemptions from inviting
- r.21A – Varying a contract with a tenderer for the supply of goods or services
- r.24AJ – Contracts with pre-qualified suppliers

Corporate context

Policy Manual –

- 3.1 - Purchasing

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to vary a contract.

Conditions on use of delegation

1. The exercise of this delegation is subject to –
 - a) prior budget provision having been made, or
 - b) being in order to give effect to a Council decision to accept a variation of a contract entered into, or
 - c) the intentions and purposes of the contract are not substantially altered, and
 - d) where the effect on the total contract is –
 - i) a reduction;
 - ii) the cumulative value remains below the tender threshold;
 - iii) increase in cost to a cumulative total of \$40,000 ex GST or 10% whichever is the greater, where the adjusted total contract payment remains within Budget provision; or
 - iv) is a reasonable and unforeseen increase in duration of the contract.

Sub-delegation permitted

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
To a maximum value of \$10,000 or 5% within Corporate & Community Services division
- b) **Executive Manager Technical & Rural Services**
To a maximum value of \$10,000 or 5% within Technical & Rural Services division
- c) **Executive Manager Development & Regulatory Services**
To a maximum value of \$10,000 or 5% within Development & Regulatory Services division

References

Formal record of use	File copy of approved variation
File number	Various according to subject matter

Notes

3.3 Disposing of property, and impounded, confiscated or uncollected goods

Statutory context

Local Government Act 1995 –

- s.3.39 – Power to remove an impound
- s.3.40 – Vehicle may be removed if goods to be impounded are in or on it
- s.3.40A – Abandoned vehicle wreck – disposal
- s.3.41 – Impounded perishable goods
- s.3.42 – Impounded non-perishable goods
- s.3.43 – Impounded non-perishable goods, court may confiscate
- s.3.44 – Notice to collect goods if not confiscate
- s.3.47(1) – Confiscated or uncollected goods, disposal of
- s.3.47(2b) – Periods of retention before disposal
- s.3.48 – Impounding expenses, recovery of
- s.3.58 – Disposing of property

Local Government (Functions and General) Regulations 1996 –

- r.29A – Abandoned vehicle wrecks, value etc. prescribed for
- r.30 – Disposition of property excluded from Act s.3.58
- r.31 – Anti-avoidance provision for Act s.3.58

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Function/s to be performed

The CEO is delegated power to dispose of a vehicle considered to be an abandoned vehicle wreck under section 3.40A(3).

The CEO is delegated power to dispose of goods confiscated under section 3.43.

The CEO is delegated power to take all appropriate action under section 3.48 that may be necessary to recover the costs of impounding good or vehicles.

The CEO is delegated power to dispose of property under section 3.58.

Conditions on use of delegation

1. This delegated power –
 - (a) is subject to the operation of Delegation 3.1 Tenders.
 - (b) applies to property other than land and buildings;
 - (c) applies to property less than \$20,000 ex GST (individually or collective of associated similar items), unless prior authorisation given by Council specifically or by reference (such as trade-in vehicle or replacement vehicle disclosed in the annual Budget);
 - (d) applies to property that is surplus to requirements, unlikely to be used, damaged, or impounded;
 - (e) is to be exercised ensuring disposal of assets is by offering them for public sale by any fair means, or to an appropriate not-for-profit community group;
2. Restrictions –
 - (a) Where the “income” from the asset being disposed of is to be used as part of consideration for the acquisition of a new asset, both disposal and acquisition must be disclosed in Budget;

- (b) If required, transfer of the property is subject to the asset not being available to the purchaser until such time as the replacement asset is available for Shire use;
- (c) And price offered is paid.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
Matters within Corporate & Community Services division
- b) **Executive Manager Technical & Rural Services**
Matters within Technical & Rural Services division
- c) **Executive Manager Development & Regulatory Services**
Matters within Development & Regulatory Services division

References

Formal record of use Acceptance of offer on disposal file

File number 23.4.1

Notes

All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council.

3.4 Disposing of land – leases, rentals etc

Statutory context

Local Government Act 1995 –

s.3.58 – disposition of assets

Residential Tenancies Act 1987

Caravan Parks and Camping Grounds Act 1985

Commercial Tenancy (Retail Shops) Agreements Act 1985

Local Government (Function and General) Regulations 1996 –

r.30 – limited exemption for disposition of assets

Corporate context

None

History

Last Reviewed 26 May 2021

Amended 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to determine leases, licences or rental of land or property for periods of 2 years or less, in accordance with any policy, guidelines or conditions as set by Council from time to time.

Conditions on use of delegation

1. This delegation applies where the consideration is less than \$50,000 ex GST, for the term of the lease, unless prior authorisation given by Council specifically or by reference.
2. All leasing or rental of property for more than 2 years to be referred to Council for decision, except for staff in Shire owned housing.
3. Periodic leases of Caravan Site Bays at the Narrogin Caravan Park for long stay tenants permitted.
4. All sale of land requires authorisation by Council resolution.

Sub-delegation permitted to

- a) Executive Manager Corporate and Community Services
- b) Executive Manager Technical & Rural Services with respect to the Narrogin Caravan Park Long Stay Tenancies

Delegation by CEO to other employees

Nil

References

Formal record of use File copy of notice

File number 5.1.5

Notes

Dept of Local Government and Communities considers leasing and rentals to be disposal of land under LG Act s.3.58 as it is a grant of exclusive right for the period agreed.

Functions and General Regulations r.30 has different exemptions and different values for land and other property.

3.5 Rates record, extensions and objections

Statutory context

Local Government Act 1995 –

- s.6.39 (2) – amend rate records for up to 5 years
- s.6.40 (3) – refund of rates after overpayment
- s.6.76 (4) – extension of time to make objection to rate record
- s.6.76 (5) – determination of objection to rate record

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to –
 - a) amend rate records for the past five years preceding the current year,
 - b) refund of rates overpaid following an adjustment to the rate record if requested,
 - c) extend the time for making the objection for such period as the CEO thinks fit, on application by a person proposing to make an objection to the rate record
 - d) consider any objection to the rate record and may either disallow it or allow it, wholly or in part.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full

References

Formal record of use File copy of rates notice, payment, agreement or determination

File number 25.3.1
Property / Assessment file

Notes

3.6 Sundry and rate debtors – Recovery and agreements

Statutory context

Local Government Act 1995 –

- s.6.49 – Agreement as to payment of rates and service charges
- s.6.56 (1) – recovery of rates by complaint or action
- s.6.60 (2) – recovery of rates by requiring payment of rent to Shire

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to negotiate an agreement for the payment of rates, service charge and sundry debts, together with the costs of proceedings, if any, for that recovery, subject to any administrative or instalment charges, penalty interest etc being incorporated into the agreement.
2. The CEO is delegated power to recover unpaid rates or service charges after becoming due and payable, together with the costs of proceedings, if any, for that recovery –
 - a) by use of a debt collection agency;
 - b) in a court of competent jurisdiction;
 - c) by serving notice on a tenant to pay rent to the Shire; and
 - d) other such means as is provided for and appropriate.
3. The CEO is delegated power to recover unpaid sundry debtors, together with the costs of proceedings, if any, for that recovery –
 - a) by use of a debt collection agency;
 - b) in a court of competent jurisdiction; and
 - c) other such means as is provided for and appropriate.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full

References

Formal record of use	File copy of instruction to court or debt collection agency etc, written agreement with debtor, notice tenant etc
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File number	12.7.1 / 25.5.2 / Property file
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Notes

3.7 Write off of sundry and rate debts

Statutory context

Local Government Act 1995 –

s.5.95 – information that is required to remain confidential

s.6.12(1)(c) – Power to write off any amount of money

Local Government (Financial Management) Regulations 1996 –

r.42(2)(d) – total amount of money written off for each rate or service charge etc, to be included in the annual report

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to write off small amounts to a maximum of \$100.00 ex GST per individual debt for –
 - a) sundry debtors and any interest, charges and associated cost where the debtor can no longer be traced, or recovery is deemed unlikely;
 - b) rates or service charges, interest on rates or service charges, or rate instalment charge where there is satisfactory evidence of attempt to pay by the required date –
 - (i) where as a result of daily interest calculations, the rates were intended to be paid in full, but an error occurred, or the payment was received by mail after the calculation was made; or
 - (ii) on transfer of the property from one owner to the next; and
 - (iii) the value of the debt makes recovery attempts uneconomical.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full

References

Formal record of use

Listing of debts written off to be signed by CEO

Report to Council via monthly briefing papers of the number of debts and total amount only

Value of rates and service charges written off to be included in the annual report

File number

12.7.1

Notes

Where a write-off is intended for rates or service charges, there must be evidence that reasonable attempts were made to pay the amount by the date of calculation, unless the value of the debt makes recovery attempts uneconomical.

Debt information is to be kept confidential under the Local Government Act s.5.95(2), and therefore no identifying details should be in public documents such as Agendas or Minutes. Debt information includes rate debts as well as sundry debts.

3.8 Municipal Fund – Incurring expenditure (Deleted)

3.9 Municipal Fund and Trust Fund – Payments from Bank Accounts

Statutory context

Local Government Act 1995 –

s.6.8 – expenditure from Municipal Fund

s.6.8(1)(c) – Payment in an emergency

Local Government (Financial Management) Regulations 1996 –

r.5 – CEO's duties as to financial management

r.11 – Payments, procedures for making etc

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

r.13 – Duties of CEO

Local Government (Audit) Regulations

r.16 – CEO to review certain systems and procedures

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to make payments from the Municipal Bank Account and Trust Bank Account.

Conditions on use of delegation

1. The exercise of this delegation is subject to –
 - (a) being in accordance with the adopted Budget;
 - (b) being approved by a resolution of Council;
 - (c) disbursement as authorised, of funds lodged to the Trust Account; or
 - (d) being authorised emergency expenditure.
2. The CEO is to ensure –
 - (a) systems and procedures required by FM Reg. r.5 are in place;
 - (b) compliance with procedures developed in accordance with FM Reg r.11;
 - (c) constant review of procedures in accordance with Audit Reg. r.17.
3. All transactions are to have the approved signatures or secure electronic passwords by any two of the following approved persons, jointly –

Position	Authorising Signature / Electronic Password	
	Initial	Secondary
CEO	All	All
EMCCS	All	All
EMDRS	All	All
EMTRS	All	All
MCS	All	All

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

d) Manager Corporate Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
Restricted, as specified in Delegation Conditions
- b) **Executive Manager Technical & Rural Services**
Restricted, as specified in Delegation Conditions
- c) **Executive Manager Development & Regulatory Services**
Restricted, as specified in Delegation Conditions
- d) **Manager Corporate Services**
Restricted, as specified in Delegation Conditions

References

Formal record of use	Copy of approval, authorisation, payment of invoice etc. with financial transaction Monthly report to Council Meeting
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File number	Not applicable
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Notes

This delegation is not for the issue of purchase orders, use of credit cards, store cards or fuel cards, or procedures for the processing of creditors invoice.

3.10 Investments

Statutory context

Local Government Act 1995 –
s.6.14 – Power to invest

Local Government (Financial Management) Regulations
r.19 – Investments, control procedure for
r.19C – Investments of money, restrictions on

Corporate context

Policy Manual –
3.7 – Investments

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to invest money that is not required for immediate use, provided that sufficient working funds are retained at all times.

Conditions on use of delegation

1. All transactions are to have two approved signatures or secure electronic passwords, at least one of whom must be –
 - a) CEO;
 - b) Executive Manager Corporate & Community Services; or
 - c) Manager Corporate Services.
2. Second signatories may be –
 - a) Executive Manager Development & Regulatory Services
 - b) Executive Manager Technical & Rural Services

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services
- d) Manager Corporate Services

Delegation by CEO to other employees

To –

- a) Executive Manager Corporate & Community Services**
Restricted, as specified in Delegation Conditions
- b) Executive Manager Technical & Rural Services**
Restricted, as specified in Delegation Conditions
- c) Executive Manager Development & Regulatory Services**
Restricted, as specified in Delegation Conditions
- d) Manager Corporate Services**
Restricted, as specified in Delegation Conditions

References

Formal record of use Record of lodgement of funds for investment, and instructions given

File number 12.3.2

Notes

FM Reg r.19C imposes limits on institutions, duration of investment, type etc.

3.11 Donations/Sponsorship – Financial and In-kind Works / Services

Statutory context	Local Government Act 1995
Corporate context	Delegations Register – 11.2 – Discount/waiver/subsidy of facility hire fees Annual Budget
History	
Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

The CEO is delegated power to make financial donations and approve donations of works or services.

Conditions on use of delegation

1. Financial

Where a donation/sponsorship is provided for by name in the adopted Budget, the CEO may make payment at the appropriate time or on application by the recipient.

Financial donations/sponsorship within the non-specified amount in the adopted Budget may be made by the CEO where –

- a) the amount does not exceed \$500 ex GST in any financial year; and
- b) the recipient is a community group, sporting club or non-profit organisation; or
- c) the recipient is based locally, or the purpose has particular benefit or application to the district.

Financial and works/service in-kind donations/sponsorship will not be considered for –

- a) businesses,
- b) individuals;
- c) recipients of funding from the “Community Chest” annual Budget allocation.

Donations/sponsorship for specific appeals such as a crisis appeal, will be considered individually by Council.

2. In-kind works and services

In-kind works or services may be approved by the CEO where –

- a) the amount does not exceed \$500 ex GST in any financial year;
- b) the recipient is a community group, sporting club or non-profit organisation;
- c) the recipient is based locally, or the purpose has particular benefit or application to the district.

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use	Office copy of approval / authorisation in Register of Grants, Discounts, Sponsorship, Waivers & Donations Paid
File reference	2.10.1
Form	FCCS031 (Donations)

Notes

3.12 Ex-Gratia Payments

Statutory context

Local Government Act 1995

Corporate context

Policy Manual –
3.4 – Ex-gratia payments

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to determine ex-gratia payment claims made on the Shire if the claim –
 - a) complies with the conditions stipulated in Council Policy 3.4 – Ex-Gratia Payments,
 - b) is less than the relevant insurance policy excess.

Conditions on use of delegations

1. Should the claim be declined by the CEO, the matter is to be referred to Council if requested by the claimant.

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use	Office copy of letters on subject file
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File reference	2.10.1
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Notes

Section 4 - Order / public safety

4.1 Disposal of sick or injured animals

Statutory context Local Government Act 1995 –
s.3.47A – Sick or injured animals, disposal of

Corporate context None

History

Last Reviewed 26 May 2021
Reviewed 27 April 2022
Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to arrange for an impounded animal that is ill or injured to an extent that treatment is not practical, to be humanely destroyed.
2. The CEO is delegated power to take all appropriate action that may be necessary to recover the costs of destroying the animal.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Development & Regulatory Services
- c) Executive Manager Technical & Rural Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of written instruction or record of destruction

File number 19.1.3

Notes

4.2 Cat Act 2011

Statutory context	Cat Act 2011 – s.44 – Council may delegate to CEO s.45 – CEO may delegate to any employee s.70 – dealing with objections – to be by Council s.73(1) – Prosecutions under the Act Local Government Act 1995 – s.9.10 – Appointment of authorised persons
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Corporate context	None
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History

Last Reviewed	26 May 2021
Amended	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to exercise all discretionary matters in the Cat Act 2011, including –
 - (a) issue of all notices and infringements etc;
 - (b) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake receipting, impounding and enforcement activities including the issuing of infringements, licences and renewals.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use	File copy of notice, approval etc.
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File number 19.7.5

Notes

The Act (e.g. s.63, s.64, s.65) restricts some matters to CEO.

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

4.3 Cats Local Law 2016

Statutory context

Cats Act 2011

- s.44 – Council may delegate to CEO
- s.45 – CEO may delegate to any employee
- s.73(2) – Prosecutions under a local law

Local Government Act 1995 –

- s.9.6 – Dealing with objection – to be by council

Shire of Narrogin Cats Local Law 2016

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Cats Local Law 2016 including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake receipting, impounding and enforcement activities including the issuing of infringements, licences and renewals.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services
- b) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of approval of discretionary use

File number 19.7.5

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

4.4 Dog Act 1976

Statutory context

Dog Act 1976 –

- s.10AA – delegations must be to CEO, who may delegate functions
- s.11 – appointment of dog registration officer
- s.11A – appointment of authorised person to perform functions under Act
- s.33F – dealing with objections (dangerous dogs)
- s.44(2)(b) – enforcement proceedings by an authorised person

Local Government Act 1995 –

- s.9.10 – Appointment of authorised persons

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to exercise all discretionary matters in the Dog Act 1976, including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake receipting, impounding and enforcement activities including the issuing of infringements, licences and renewals.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.
3. The CEO may waive the registration fee for a maximum of 12 months where a dog is rescued from impoundment by a new owner.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services
- b) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Development & Regulatory Services**

In full

References

Formal record of use File copy of notice

File number 19.7.4

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

4.5 Dogs Local Law 2016

Statutory context

Dogs Act 2016 –

- s.10AA – delegations must be to CEO, who may delegate functions
- s.11A – appointment of authorised person to perform functions under Act
- s.44(2)(b) – enforcement proceedings by an authorised person

Local Government Act 1995 –

- s.9.6 – Dealing with objection – to be by council

Shire of Narrogin Dogs Local Law 2016 –

- cl.4.15 – dealing with objections – to be by Council

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Dogs Local Law 2016 including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services
- b) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of approval of discretionary use

File number 19.7.4

Notes

For the purposes of the local law and this delegation, a person under contract is considered to be an employee.

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

4.6 Impounding of vehicles and goods

Statutory context

Local Government Act 1995 –

Part 3, Division 3, Subdivision 4 – Impounding abandoned vehicles wreck and goods involved in certain contraventions

s.3.37 to s.3.48

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to remove and impound goods from a public place if –
 - (a) the goods or vehicle present a hazard to public safety;
 - (b) the goods or vehicle obstruct the lawful use of any place; and
 - (c) the goods or vehicle have been, or appear to have been abandoned.
2. The CEO is delegated power to take all appropriate action that may be necessary to recover the costs of impounding vehicles and goods.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of notice

File number 19.4.2

Notes

Disposal of impounded vehicles or goods is covered by Delegation 3.2

4.7 Impounding of cattle etc

Statutory context

Local Government (Miscellaneous Provisions) Act 1960 –

- s.458 – power to impound trespassing cattle
- s.459 – power to destroy cattle in certain circumstances
- s.460 – impounding in other than a public pound
- s.462 – fees for impounded cattle
- s.463 – damage by trespassing cattle
- s.464 – local government may vary fees of Sch.2, 3, 4 after notice in Government Gazette

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1960, and Regulations, including the authorising of officers to undertake enforcement activities such as the issuing of infringements.
2. The CEO is to make appropriate arrangements for the custody and care of cattle, either within a designated pound, or by written arrangement with a land holder, including any costs or charges the landholder may incur or impose
3. The CEO is to recover the costs and charges imposed by the landholder from the owner of the cattle.
4. The CEO is delegated power to take all appropriate action that may be necessary to recover the costs of impounding the animal.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use Impounding register

File number 19.1.3

Notes

Although “cattle” is not defined, the Local Govt (Miscellaneous Provisions) Act provides for charges for various animals, that include sheep impounded—

- Schedule 2 – Ranger’s fees
- Schedule 3 – Poundage and sustenance charges
- Schedule 4 – rates for damage by trespass by cattle

Animals listed in the Schedules include in various combinations of descriptions –

- (1) Entire horses, mules, asses, camels, bulls or boars above or apparently above the age of 2 years
- (2) Entire horses, mules, asses, camels, bulls or boars under the age of 2 years
- (3) Mares, geldings, colts, fillies, foals, oxen, cows, steers, heifers, calves, rams or pigs
- (4) Pigs of any description
- (5) Rams, wethers, ewes, lambs, goats
- (6) Sheep of any description
- (7) Goats

4.8 Parking Local Law 2016

Statutory context Shire of Narrogin Parking Local Law 2016

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Parking Local Law 2016 including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**

In full

References

Formal record of use File copy of approval of discretionary use

File number 19.7.3

Notes

Section 5 - Fire Control

5.1 Issue of burning permits – CEO

Statutory context

Bush Fires Act 1954 –

s.18 – Restricted burning times

- (1) – nothing in this section permits burning in prohibited period
- (2) – prohibited & restricted times to be published in Government Gazette
- (5) – Local government may vary burning periods after consultation
- (5B) – variation for maximum of 14 days
- (5C) – burning period restrictions apply to variation period
- (6) – permit required to set fire to bush from either FCO or CEO
- (7) – person issuing permit may apply requirements or conditions
- (8) – permit holder to comply with conditions
- (9) – permit may authorise burning of bush on adjoining road reserve
- (10A) – local government may adopt enforceable schedule for burning
- (11) – if fire escapes etc expenses up to \$10,000 may be recouped
- (12) – penalty on first breach \$4,500, subsequent breaches \$10,000

s.23(2)(a)(iv) – road verge burning between constructed portion of road and established fire break only

s.24A – clover may be burnt in prohibited burning period with permit

s.48(1) – power to delegate to CEO

s.48(3) – no power of sub-delegation

Bush Fire Regulations 1954 –

r.15(1) – Permit to burn as per section 18 of the Act

r.15(2) – If request to burn is conditional or refused, review is only by the local government or Chief BFCO

r.15A – Chief BFCO to comply with directions of local government

r.15B – Permit holder to comply with permit conditions

r.15C – Local Government may prohibit burning on certain days

r.16 – CEO or specifically authorised person may permit burning of clover in prohibited period

r.17 – permit required to burn clover

r.18 – 7 days' notice of clover burn required, under specified restrictions

r.19A – duties of clover burning permit holder

r.20 – local government may prohibit issue of clover burn permits

r.21A – permit holder may be required to advertise clover burn

r.21B – FCO may postpone clover burn

Shire of Narrogin Public Places and Local Government Property Local Law 2016
activities on land under Council management and control including roads

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to issue, vary or prohibit burning permits in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.15(1).

2. The CEO is delegated power, in consultation with the Chief Bush Fire Control Officer and the issuing FCO is possible, to review or vary the conditions of a permit issued, or issue a permit if refused.
3. The CEO is delegated power to issue, vary or prohibit permits to burn clover in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.16.
4. The CEO is delegated power to approve applications to burn a road verge vested in the care, control and management of the Shire, in accordance with the Bush Fires Act 1954 s.18(9), subject to the applicant obtaining the approval of the Dept of Parks and Wildlife.
5. The CEO is delegated power, in consultation with the Chief Bush Fire Control Officer, to issue instructions, restrictions or conditions relating to burning permits to apply generally throughout the Shire.

Conditions on use of delegation

None

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use	Duplicate copy of permit issued
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File number	Not applicable
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Notes

The Act s.16(6)(a) stipulates

...obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer ...

Refer also Delegation 5.4.

Issue of burning permits may be done by an authorised person – see Delegation 1.1.

5.2 Fire Fighting – Emergency Plant Hire (Deleted)

5.3 Restricted burning periods – Variations

Statutory context

Bush Fires Act, 1954 –

- s.18(5) – power to vary restricted burning time
- s.18(5B) – time may not be varied by more than 14 days
- s.18(5C) – compliance requirements as per s.17(8),(9),(10),(11)
- s.48(1) – power to delegate to CEO
- s.48(3) – no power of sub-delegation

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power under the Bush Fires Act 1954 s.18(5) to vary restricted burning periods,

Conditions on use of delegation

1. Prior to advertising the variation, the CEO is to consult with –
 - the Dept of Parks and Wildlife in accordance with s.18(5), and
 - the Chief BFCO if available, or Deputy Chief BFCO if Chief BFCO is unavailable.

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use File copy of variations approved

File number 9.2.1

Notes

5.4 Prohibited burning periods – Variations

Statutory context

Bush Fires Act, 1954 –

- s.17(7) – power to vary prohibited burning time
- s.17(7B) – time may not be varied by more than 14 days
- s.17(8) – requirements to give various notice, and Minister may rescind or modify the variation
- s.17(9) – publication requirements
- s.17(10) – local government may delegate to President and Chief BFCO jointly
- s.17(11) – Local government may rescind delegation or vary any delegated decision

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to President and Chief Bushfire Control Officer jointly

Functions to be performed

1. The Shire President and Chief Bush Fire Control Officer are delegated power to jointly exercise the powers of Council under the Bush Fires Act 1954 s.17 (7), (8), (10) – prohibited burning periods.

Conditions on use of delegation

1. Should the Shire President be unavailable or hold joint office as Chief BFCO, the Deputy Shire President is deemed to be Acting Shire President in relation to this matter.
2. If the Chief BFCO is unavailable, the Deputy Chief BFCO is deemed to be Acting Chief BFCO.
3. The CEO is to be advised in order that public notification may be arranged.

Sub-delegation permitted to

Not permitted

Delegation by President and CBFCO to other officers

Not permitted

References

Formal record of use Written advice to CEO

File number 9.2.1

Notes

Section 6 - Environmental Health / Food

6.1 Control of environmental health matters

Statutory context

Public Health Act 2016

- s.4(2) – authorised officer
- s.21 – power to delegate to CEO
- s.24 – authorised person must be qualified
- s.25 – authorised person must have acceptable qualifications or be an EHO

Health (Miscellaneous Provisions) Act 1911 –

- s.344(2) – regulations or local laws may be made so as to delegate or confer a discretionary authority to specified persons or class of person

Government Gazette 24 Jan 2017 – Designation of Health Authorised Officers

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed and amended	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to exercise and discharge all or any of the powers and functions of the local government with regard to the Public Health Act 2016 and Regulations.
2. The CEO is delegated power to exercise and discharge all or any of the powers and functions of the local government with regard to the Health (Miscellaneous Provisions) Act 1911 and Regulations, including but not limited to –
 - (a) Part IV Sanitary Provisions,
 - (b) Part V Dwellings;
 - (c) Part VI Public Buildings;
 - (d) Part VII Nuisances and Offensive Trades;
 - (e) Part IX Infectious Diseases;
 - (f) Part XV Miscellaneous Provisions;
 - (g) Regulations made under the above parts of the Health (Miscellaneous Provisions) Act 1911, and in particular the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974; and
 - (h) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. Where approvals are required, compliance with the Public Health Act and Regulations, Health (Miscellaneous Provisions) Act and Regulations, the Building Code of Australia, the Local Planning Scheme and Local Planning Policies is mandatory.
2. Any application not complying is to be refused, unless there is a discretion, in which case it is to be referred to Council for decision.
3. The delegation excludes –
 - (a) determination of any fee or charge;
 - (b) dealing with an objection,
4. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.
5. Any prosecution proposed is to be referred to Council for decision to proceed.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services
- b) Environmental Health Officers

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**
In full
- b) **Environmental Health Officers**
Restricted, as specified in Delegation Conditions

References

Formal record of use Report to Council via monthly briefing papers
File copy of notice

File number 11.1.1

Notes

It should be noted that in some instances the EHO may be required to act without reference to Council or CEO, and regardless of Council's or CEO's wishes.

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

The Public Health Act 2016 –

21. Enforcement agency may delegate

- (1) A power or duty conferred or imposed on an enforcement agency may be delegated —
 - (a) if the enforcement agency is the Chief Health Officer, in accordance with section 9; or
 - (b) if the enforcement agency is a local government, to —
 - (i) the chief executive officer of the local government; or
 - (ii) an authorised officer designated by the local government;

The effect of the delegation is that the CEO is to cause various actions to be taken by an authorised person.

Authorised person must be either –

- a) an EHO in the employ of the Shire at the time of the Public Health Act 2016 coming into force, or
- b) hold an appropriate qualification as published in the Government Gazette of 24 January 2017.

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

6.2 Health Local Law 2022

Statutory context

Shire of Narrogin Health Local Law 2022

Corporate context None

History

Adopted 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Health Local Law 2022 including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising persons to undertake inspection and enforcement activities including the issuing of infringements, licences and renewals.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of approval of discretionary use

File number

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

6.3 Amenity Local Law 2016 (Deleted)

6.4 Control of food matters

Statutory context

Food Act 2008 –

- s.118 – power to delegate functions and obligations to qualified authorised person
- s.122(1)(b) – authorised person must hold office as an environmental health officer under the *Health Act 1911*
- s.122 – designated officers for infringement notices

Food Regulations 2009 –

- s.5 – a local government is an appropriate enforcement agency for the purposes of certain food businesses, animal processing premises and retail pet meat shops

Public Health Act 2016

- s.4(2) – authorised officer
- s.24 – authorised person must be qualified
- s.25 – authorised person must have acceptable qualifications or be an EHO

Government Gazette 24 Jan 2017 – Designation of Health Authorised Officers

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to exercise and discharge the powers and functions of the local government with regard to the Food Act 2008, including but not limited to –
 - a) powers of entry to premises;
 - b) taking of food samples for analysis;
 - c) formal warnings;
 - d) improvement notices;
 - e) prohibition orders;
 - f) infringement notices; and
 - g) authorising or designating officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. Where required by the Act to be carried out by an appropriately qualified person, the CEO may direct the function to be performed, but the discharge of that function is at the discretion of the qualified person.
2. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
3. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.
4. Any prosecution proposed is to be referred to Council for decision to proceed.

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use File copy of notice, record of inspection etc

File number 19.6.4 / 24.3.1 / 24.3.2 / Property file

Notes

Council may appoint a person as an authorised person who is not an employee.

CEO may appoint a person as an authorised person who is an employee under Delegation 1.1

It should be noted that under the Act, an EHO may be required to prosecute, regardless of Council's direction or wishes.

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

6.5 Waste Local Law 2019

Statutory context Shire of Narrogin Waste Local Law 2019

Corporate context None

History

Adopted	25 February 2020
Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to exercise all discretionary matters in the Shire of Narrogin Waste Local Law 2019, including –
 - (a) issue of all notices and infringements etc;
 - (b) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake receipting, impounding and enforcement activities including the issuing of infringements, licences and renewals.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services, excluding clause 1(d) & (f)
- b) Executive Manager Development & Regulatory Services, excluding clause 1(d) & (f).

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services, excluding clause 1(d) & (f)
- b) Executive Manager Development & Regulatory Services, excluding clause 1(d) & (f).

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of notice, record of inspection etc

File number

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

6.6 Environmental Protection (Noise) Regulations 1997

Statutory context

Environmental Protection Act 1986 –
Delegation No.112

Corporate context None

History

Adopted 26 April 2023

Delegation from Council to CEO

Functions to be performed

2. The CEO is delegated power to approve all discretionary matters in the Environmental Protection (Noise) Regulations 1997 including –
- (g) waste collection and other works – noise management plans relating to specified works under regulation 14A or 14B;
 - (h) 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);
 - (i) community activities – noise control notices in respect of community noise under regulation 16;
 - (j) motor sport venues – noise management plans in relation to motor sport venues under Part 2 Division 3;
 - (k) shooting venues – noise management plans in relation to shooting venues under Part 2 Division 4;
 - (l) calibration results – requesting, under regulation 23(b), details of calibration results undertaken and obtained under Schedule 4;
 - (m) 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.

Conditions on use of delegation

3. The delegation excludes –
- (c) determination of any fee or charge; and
 - (d) dealing with an objection.

References

Formal record of use File copy of approval of discretionary use

File number

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

Section 7 - Community Services

7.1 Cemetery Local Law 2016

Statutory context Cemetery Local Law 2016

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Cemetery Local Law 2016 including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Technical & Rural Services**

In full

References

Formal record of use File copy of approval of grant of right of burial, pre-need certificate, notice etc
Duplicate copy of infringement etc

File number 24.7.1

Notes

Section 8 - Personnel

Applying to all matters in relation to personnel and employment –

Local Government Act 1995 –

s.5.41 Functions of CEO

The CEO's functions are to –

....

(a) manage the day to day operations of the local government; and

....

(g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and

....

Policy 1.1 – Code of Conduct

(Adopted in accordance with the Local Government (Model Code of Conduct) Regulations 2021)

Schedule 1.1 –

20. Relationship with local government employees

(1) In this clause –

local government employee means a person –

(a) employed by a local government under section 5.36(1) of the Act; or

(b) engaged by a local government under a contract for services.

(2) A council member or candidate must not –

(a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or

(b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or

(c) act in an abusive or threatening manner towards a local government employee.

....

For clarification regarding appointment, management and direction of employees –

Employee class	Council involvement	Elected member / Committee involvement	CEO involvement
CEO	<u>Required</u> . May delegate selection and interview to a Committee. Appointment must be by Council resolution.	<u>Permitted</u> – to interview and recommend to Council. <u>Prohibited</u> – to appoint, manage or direct.	As directed by Council, usually limited to process, research and reporting on an applicant.
Designated staff LG Act s.3.57	<u>Required</u> – to consent to appointment or dismissal. <u>Permitted</u> – Interview & recommendation can be done by CEO alone or with elected member input. <u>Prohibited</u> – management or direction.	<u>Permitted</u> – to interview and recommend to Council. <u>Prohibited</u> – to appoint, manage or direct.	<u>Required</u> to initiate / consent to appointment or dismissal. <u>Statutory function</u> – to manage and direct.
EHO	If designated senior officer – as above, otherwise – <u>In all cases</u> – qualification must comply with Public Health Act 2016 s.17.		
Other staff (non-designated)	<u>Prohibited</u> – Involvement in appointment, management or direction.	<u>Prohibited</u> – involvement in appointment, management or direction.	<u>Statutory function</u> – to appoint, manage, direct etc.

8.1 Designated senior employee – Vacancy

Statutory context Local Government Act 1995 –
s.5.37 (3) – advertising of designated senior positions

Corporate context None

History

Last Reviewed 26 May 2021
Reviewed 27 April 2022
Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to determine an appropriate employment package for designated senior staff other than CEO, with consideration to include but not limited to –
 - (a) Salary;
 - (b) salary sacrifice options;
 - (c) removal expenses;
 - (d) accommodation arrangements;
 - (e) private use of vehicle etc; and
 - (f) any associated FBT implications.
2. The CEO is delegated power to advertise the vacancy when, as and for an appropriate period.

Conditions on use of delegation

None

Sub-delegation permitted to

Not permitted

Delegation by CEO to other employees

Not permitted

References

Formal record of use Report to Council recommending appointment
File copy of finalised Information Package

File number Personnel file

Notes

This delegation does not extend to –

- the appointment of a person to the vacancy without Council consent.
- determining the remuneration package for a CEO.

Information Package for a vacancy to include –

- remuneration range;
- other benefits available;
- selection criteria or key position requirements;
- closing date and application submission requirements; and
- any additional information appropriate.

8.2 Long service leave

Statutory context

Local Government Act 1995 –

s.5.48 – Long service leave benefits for employees

Local Government (Long Service Leave Regulations)

r.6A – long service leave on half pay

r.6B – long service leave on double pay

r.7 – taking of long service leave

r.8(2) – Payment for or in lieu of leave

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve –
 - (a) applications for long service leave at half pay;
 - (b) applications for long service leave at double pay;
 - (c) appropriate period or period for taking of long service leave;
 - (d) on application of the employee, to defer taking of long service leave beyond 6 months of becoming entitled subject, subject to the employee's agreement to –
 - (i) deferral being for not more than 2 years; and
 - (ii) rate of pay shall not exceed that applicable to the employee at the end of 6 months of becoming entitled.

Conditions on use of delegation

1. On application, the CEO is to advise the employee that deferral of long service leave beyond six months of becoming due may be approved however when the leave is taken it will be paid at the hourly rate earned by the employee at the anniversary of the 10th year plus six months.
2. Applications that are to be referred to Council –
 - (a) deferment of long service leave for more than 2 years;
 - (b) request for payment at a rate greater than the rate applicable at 6 months after becoming entitled;
 - (c) payment at the higher rate, where long service leave has been deferred at the request of the CEO.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**

All employees other than CEO or Executive Managers

References

Formal record of use Personnel file copy of letter to employee advising of decision

File number Personnel file

Notes

Section 9 - Occupational Safety & Health

This section is currently empty

Section 10 - Building / Development

10.1 Control of building matters

Statutory context

Local Government Act 1995 –

s.5.36 – Local government employees

Building Act 2011 –

s.3 – authorised person to be designated under s.96

s.96(3) – the local government may designate a person to be authorised

s.127(3) – delegation by a local government must be to an employee

s.127(6A) – further delegation of power given to CEO

Building Regulations 2012

Building Services (Registration) Act 2011

s.17 – registration of building service practitioners

Building Services (Registration) Regulations 2011 –

r.4 – prescribed levels for building surveying

Part 3A – Building surveyors

Corporate context

Delegations Register –

1.1 Appointment of Authorised Persons

(4) – restrictions on issue, withdrawal and extension of time to pay infringements

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to determine matters under the *Building Act 2011* including but not limited to
 - (a) sections 18, 20, 22, 23, 24 – Building permits
 - (b) sections 21, 22, 23, 24 – Demolition permits
 - (c) section 27 – Conditions for building permit or demolition permit
 - (d) section 32 – Duration of building permit or demolition permit
 - (e) sections 58, 59, 60 – occupancy permit
 - (f) section 62 – conditions of occupancy permit
 - (g) section 65 – duration of occupancy permit
 - (h) sections 110, 111, 112 – Issue of notices and building orders
 - (i) section 117 – Revocation of building orders
 - (j) section 118 – giving effect to building order if non-compliance
 - (k) section 131 – inspection and copies of building records
- 1A. The CEO is delegated power to determine matters under the *Building Regulations 2012* including but not limited to –
 - (a) regulation 51 – approvals for variations to private swimming pool barrier fencing
 - (b) regulation 61 – approval of battery powered smoke alarms

2. The CEO only is permitted to withdraw or extend time to pay an infringement in accordance with Delegation 1.1 clause 4.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of matter requiring a registered building surveyor
2. The CEO is to be consulted prior to use of any sub-delegation in relation to Functions clause 1 items (b), (h), (i) and (j).
3. A building permit may be issued if –
 - (a) a valid Certificate of Design Compliance is presented;
 - (b) compliance with requirements for bush fire prone areas;
 - (c) all buildings where permitted in accordance with the Building Act 2011; and
 - (d) the information required by the Regulations is provided.
4. A building permit is not to be issued unless payment has been received for –
 - (a) the assessed building permit fees
 - (b) Building Services Levy
 - (c) Building and Construction Industry Training Fund levy, or production of evidence of payment or exemption where applicable
5. The following matters are to be referred to Council for decision –
 - (a) s.192 – Dangerous Buildings
 - (b) s.193 – Removal of Neglected Building
6. The CEO only is permitted to withdraw or extend time to pay an infringement in accordance with Delegation 1.1 clause 4.
7. Any prosecution proposed is to be referred to Council for decision to proceed.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services
- b) Regional Building Surveyor / Building Surveyor

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**
In full
- b) **Regional Building Surveyor / Building Surveyor**
In full

References

Formal record of use	Report to Council via monthly briefing papers – Functions clause 1 items (a), (b), (h), (i) File copy of permit, notice etc issued
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File number	Property file
--------------------	---------------

Notes

Building permits are separate from Local Planning Scheme functions, but are governed by them.

Any authorised person can issue a permit or notice etc – certifications can only be issued by a Registered Building Surveyor

For the purposes of this delegation, a Registered Building Surveyor under contract is considered to be an employee.

The Building Act 2011 requires response –

- within 10 days of lodgment, if a valid CDC is presented, as all assessment and preparation is done prior to lodgment in order to obtain the CDC, accordingly there is no reason that the CEO and other appropriate persons cannot be authorised to approve applications.
- for Class 1 and 10 buildings only, within 25 days of lodgment if a valid CDC is not presented, and the local government is required to source/provide the CDC.

With the Building Act 2011, the functions separated are –

- (a) Issue of permits, notices etc –
 - o does not require a registered person (Registered Building Surveyor), since the Certificate of Design Compliance has to be signed by a registered person
 - o the decision is on the basis of whether all the requirements of CDC have been met, and any appropriate person can do that if authorised
 - o delegation to issue permits can be made under this amended delegation
- (b) Building inspection and certification of plans still requires a registered person –
 - o who is registered as per the Act and Regulations and holding appropriate qualifications
 - o to provide a building certification service

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

10.2 Illegal development

Statutory context

Local Government Act 1995 –

s.5.42(1)(b) – Delegation to CEO of powers under the Planning and Development Act 2005 s.214(2), (3) and (5)

Planning and Development Act 2005 –

s.214 – development in contravention of planning scheme or interim development order

(2) – power to order stop work

(3) – power to remove, alter etc and restore land to original condition

(5) – if delay interferes with scheme operation, power to order work to be undertaken

Town of Narrogin Town Planning Scheme No. 2 –

Part VI – Planning Consent

Shire of Narrogin Town Planning Scheme No. 2 –

Part 6 – Use and Development of Land

Corporate context

Shire of Narrogin Local Planning Policies

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to issue notices in relation to illegal or delayed works in accordance with the Planning and Development Act 2005 s 214(2), (3) and (5).

Conditions on use of delegation

1. Where a notice is not complied with, the CEO may commence prosecution without reference to Council.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**

In full

References

Formal record of use

Report to Council via monthly briefing papers

File copy of notice

File number

Property file

Notes

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

10.3 Control of planning matters

Statutory context

Planning and Development Act 2005 –

Part 5 – Local planning schemes

s.68 – Town planning schemes continued as local planning schemes

s.72 – Local government may prepare or adopt scheme

s.73 – Provisions of a local planning scheme

s.214 (2)(3)(5) – development works not in compliance may have written stop work or remedial action order issued

Town of Narrogin Town Planning Scheme No. 2 –

Part VI – Planning Consent

Shire of Narrogin Town Planning Scheme No. 2 –

Part 6 – Use and Development of Land

Corporate context

Shire of Narrogin Local Planning Policies

History

Last Reviewed 26 May 2021

Reviewed and amended 27 April 2022

Reviewed and amended 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to administer all planning matters or functions for the Shire of Narrogin, subject to compliance with –
 - a) Planning and Development Act;
 - b) Planning Regulations;
 - c) Residential R Codes;
 - d) Local Planning Scheme; and
 - e) Local Planning Policies.
2. The CEO is delegated power to respond to –
 - a) any appeal against a discretionary decision of the local government in accordance with the local government's decision on the matter to which the appeal or request for reconsideration relates; and
 - b) Development Assessment Panel requirements.

Conditions on use of delegation

1. Any proposal that is not compliant, where discretionary approval by the local government may be considered, is to be referred to Council for decision.
2. Any proposal requiring a decision but which has been refused is to be notified to Council for information.
3. Where a planning approval is not complied with, the CEO may commence prosecution without reference to Council.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**

In full

References

Formal record of use Office copy of notice

File reference Property file

Notes

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

10.4 Applications for subdivision and amalgamations

Statutory context

Planning and Development Act 2005 –

s.4 – Subdivision includes amalgamation

s.135 – subdivision (and amalgamation) not permitted without WA Planning Commission approval

s.138(2) – Commission to have due regard to local planning scheme

s.142 – Commission to seek local government's comments, objections, recommendations

Town of Narrogin Town Planning Scheme No. 2 –

Shire of Narrogin Town Planning Scheme No. 2 –

Corporate context

Shire of Narrogin Local Planning Policies

History

Last Reviewed 26 May 2021

Reviewed and amended 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power in respect to an application received from the *Western Australian Planning Commission (WAPC)* to subdivide, re-subdivide or amalgamate land contained within the local government and to recommend to the WAPC –
 - (a) No objection to the granting of approval of an application to amalgamate or subdivide involving five (5) lots or less (including lots forming part of any strata-title scheme), unless prior planning consent has been granted to a co-ordinated development over the land;
 - (b) No objection to the granting of approval of an application to rationalise or reconfigure existing allotments where there is no net increase in lots created, and the new lot sizes will conform with the relevant requirements of the local planning scheme and their policies, and policies adopted in accordance with the Planning and Development Act s.26 relating to State planning policies; and
 - (c) the imposition of relevant conditions on any approval proposed to be granted by the WAPC, considered necessary to secure the objectives of the local planning scheme, and any land use plan or strategy adopted by Council.
2. The CEO is delegated power to certify to the WAPC compliance with conditions imposed on an approval to subdivide, re-subdivide or amalgamate land have been completed to the satisfaction of the Shire.

Conditions on use of delegation

1. Standard conditions of subdivision approval as endorsed by the WA Planning Commission are to be used where possible.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**

In full

References

Formal record of use File copy of advice of decision to applicant, developer etc

File number 18.6.4

Notes

Refer Planning Policy.

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

10.5 Fencing Local Law 2016

Statutory context

Fencing Local Law 2016

cl.7.1 – dealing with objections – to be by Council

Town of Narrogin Town Planning Scheme No. 2 –
Part VI – Planning Consent

Shire of Narrogin Town Planning Scheme No. 2 –
Part 6 – Use and Development of Land

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Fencing Local Law 2016 including –
 - (a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - (b) issue of all notices and infringements etc;
 - (c) extending the time period within which infringement notices may be paid;
 - (d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (e) carrying out of works in default of a duly served notice; and
 - (f) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge; and
 - (b) dealing with an objection.
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of advice of decision to applicant, developer etc

File number Property file

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

Section 11 - Public Facilities

11.1 Liquor Control Act

Statutory context

Liquor Control Act 1988 –

- s.39 – Certificate of local government of compliance with laws
- s.40 – Certificate of planning authority of compliance with planning laws
- s.156 – Local governments, functions of

Town of Narrogin Town Planning Scheme No. 2 –
Part VI – Planning Consent

Shire of Narrogin Town Planning Scheme No. 2 –
Part 6 – Use and Development of Land

Corporate context

Shire of Narrogin Local Planning Policies

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

The CEO is delegated power to –

- (a) s.39 – Issue Certificates advising compliance with Food, Health and Local Government laws;
- (b) s.40 – Issue Certificates of the Local Planning Authority;
- (c) s.66 (1)(d) and (2) – Respond to applications for Extended Trading Permits;
- (d) s.69 (8) – Make submissions on health grounds regarding a license;
- (e) s.153 (2) – Request copies of reports produced by the Liquor Licensing Authority; and
- (f) s.156 – Report to the Liquor Licensing Authority any offences committed by a licensee and ensure appropriate assistance is given to the Authority if requested.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of notice

File number 3.2.3

Notes

Shire of Narrogin Local Planning Scheme No.3 is expected to be published in the Government Gazette in July 2023. Statutory references will change accordingly.

11.2 Discount/waiver/subsidy of facility hire fees

Statutory context

Local Government Act 1995 –

s.6.12(1)(b) – Power to defer, grant discounts etc

Corporate context

Delegations Register –

3.11 – Donations – Financial and In-Kind Works and Services

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve reduction in fees and charges of local government owned facilities, subject to –
 - a) the request is from a local community, charitable or not-for-profit organisation;
 - b) the event is for the specific benefit of the local community;
 - c) each request of the organisation does not exceed \$500 ex GST; and
 - d) cleaning cost of the venue hire is not to be discounted.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full

References

Formal record of use Copy of approval of written request

File number 12.15.3

Notes

11.3 Public Places and Local Government Property Local Law 2016

Statutory context

Shire of Narrogin Public Places and Local Government Property Local Law 2016

Corporate context

None

History

Last reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve all discretionary matters in the Shire of Narrogin Public Places and Local Government Property Local Law 2016 including –
 - (a) hire of facilities, including issue of permit for consumption/sale of alcohol;
 - (b) granting, refusal, cancellation and setting conditions of approval to conduct activities in public places or on local government property;
 - (c) issue of all notices and infringements etc;
 - (d) extending the time period within which infringement notices may be paid;
 - (e) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - (f) carrying out of works in default of a duly served notice; and
 - (g) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. The delegation excludes the following clauses of the Public Places and Local Government Property Local Law 2016 –
 - cl.1.5 – setting of any fee or charge
 - cl.2.1 – making of a Determination;
 - cl.2.6 – amending or revoking a Determination;
 - cl.4.1 – Activities requiring a licence on local government property for the following –
 - (c) erect a structure for amusement in excess of 28 days;
 - (m) erect a building or refuelling site;
 - (o) erect or install a structure for water, power, sewer, communication, television or similar service;
 - cl.6.9 – giving notice of crossover in unsafe location;
 - cl.11.1 – dealing with an objection;
2. On written application made under cl.3.3, the CEO may give permission to hirers of premises or land under the control and management of the local government to consume and sell liquor on the premises or land, under such conditions and in such areas as considered appropriate.
3. Every permit issued for consumption/sale of alcohol is to be advised to Narrogin Police.
4. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of hire, approval, notice, etc
File copy of advice of decision to applicant, developer etc
Duplicate copy of infringement etc

File number Property file
Facility hire record, diary, receipt etc
Local government property file

Notes

Refer Delegation 11.2 – Discount/waiver/subsidy of facility hire fees

Refer Delegation 13.2 – Native flora and Fauna

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

Former Section 12 – Tourism replaced

Section 12 - Transport (renamed)

12.1 Reserves under control of the local government

Statutory context

Local Government Act 1995 –

s.3.54(1) – Reserves under control of a Local Government

Land Administration Act 1997

Corporate context

Policy Manual –

12.1 – Standard Crossovers

12.2 – Roads – Developer Conditions

12.3 – Roads – Access to Lots / Locations without Road Frontage

12.4 – Road Reserves – Stormwater Discharge

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to do anything on land vested or under the control and management of Council
 - a) subject to prior budget provision having been made; or
 - b) to give effect to a Council decision.

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of decision on written application

File number 21.4.2

Notes

12.2 Things to be done on land not local government property

Statutory context

Local Government Act 1995 –

s.3.24 – Authorising person under this subdivision

s.3.27 – Particular things local government can do on land that is not local government property

s.3.33 – Entry under warrant

s.3.34(2) – Entry in an emergency

Sch.3.2 – Particular things local governments can do on land even though it is not local government property

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Function to be performed

1. The CEO is delegated power to carry out work on land that is not local government property.

Conditions on use of delegation

1. The exercise of this delegation is subject to –
 - a) prior budget provision having been made,
 - b) to give effect to a Council decision;
 - c) if the matter is considered to be an emergency;
 - d) the consent is obtained of –
 - the owner of the land;
 - if the land is occupied, the occupier of the land; and
 - if the land is under the control or management of any other person, that other person.
 - e) compensation agreed for the functions is provided for within the adopted Budget or is specifically approved.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Executive Manager Development & Regulatory Services
- d) Manager Operations

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full
- d) **Manager Operations**
Restricted as specified in Delegation Conditions to works currently in progress

References

Formal record of use File copy of notice

File number Property file

Notes

The delegation applies to land not under local government control that is within the district, and is in relation to things being done on the land, not taken from the land.

12.3 Works on land outside the district

Statutory context

Local Government Act 1995 –

s.3.20 – performing function outside the district

s.3.21 – duties when performing functions

s.3.22 - compensation

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to undertake necessary executive functions on land outside the district that is not property of the Shire.

Conditions on use of delegation

1. The exercise of this delegation is subject to –
 - a) the consent is obtained of –
 - the owner of the land;
 - if the land is occupied, the occupier of the land; and
 - if the land is under the control or management of any other person, that other person.
 - b) compensation agreed for the functions is provided for within the adopted Budget or is specifically approved.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Manager Operations

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**

In full

- b) **Executive Manager Technical & Rural Services**

In full

- c) **Manager Operations**

Restricted as specified in Delegation Conditions to works currently in progress

References

Formal record of use File copy of agreement, consent etc

File number 28.4.2

Notes

Executive functions does not include private works requested of the Shire by an individual or other local government, but does apply to sourcing of roadmaking materials and water.

The delegation applies to land not under local government control that is outside the district, and is in relation to things being done on the land, not taken from the land.

12.4 Materials from land not under local government control

Statutory context

Local Government Act 1995 –

s.3.21 – Duties when performing functions

s.3.22 – Compensation for materials, damage, access etc

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to negotiate with land owners and/or occupiers for access to materials required for local government functions, principally –
 - a) extraction of gravel, sand or other materials from land;
 - b) water, etc.
2. The CEO is delegated power to apply to the Department of Environmental Regulation for permits to clear vegetation as applicable.

Conditions on use of delegation

1. The agreement reached with the land owner/occupier is to –
 - a) state a specific duration, that it is indefinite or otherwise provide for termination;
 - b) provide for mutually agreed compensation;
 - c) specify rehabilitation responsibilities if appropriate; and
 - d) within the budget provision.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Manager Operations

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Manager Operations**
Restricted as specified in Delegation Conditions to works currently in progress

References

Formal record of use Written agreement with land owner/occupier

File number 28.4.2
Property file where the land is within the district

Notes

The delegation applies to land not under local government control that that may be either within or outside the district, and is in relation to materials to be taken from the land, not things being done on the land.

Until such time as agreement is signed, or compulsory notice of acquisition is given under the Act, employees should not access the materials.

12.5 Notices requiring certain things to be done

Statutory context

Local Government Act 1995 –

- s.3.24 – Authorising person under this subdivision
- s.3.25(1) – Notices requiring certain things to be done by owner or occupier of land
- s.3.26(2) – Additional powers when notice is given
- s.3.33 – Entry under warrant
- s.3.34(2) – Entry in an emergency
- s.9.60 – Regulations that operate as local laws
- Sch.3.1 – Powers under notices to owners or occupiers of land
- Sch 9.1(6) – dangerous excavations in or near public thoroughfare
- Sch.9.1(7) – Matters for which regulations under s.9.60 may be made

Local Government (Uniform Local Provisions) Regulations 1996 –

- r.11 – dangerous excavation in or near public thoroughfare
- 13 – Requirement to construct or repair crossing

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Function/s to be performed

1. The CEO is delegated power to issue notices requiring certain things to be done by the owner or occupier of land.
2. The CEO is delegated power to take any necessary action to achieve the purpose for which the notice was given in the event of non-compliance of the notice recipient.
3. The CEO is delegated power to seek a warrant for entry to carry out the works of a notice where the owner or occupier of land has not complied with the notice in the time specified.

Conditions on use of delegation

1. Any prosecution proposed resulting from non-compliance with a notice is to be referred to Council for decision to proceed.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of notice

File number Property file

Notes

Under LG Act s.9.6(1) an objection to a notice must be dealt with by Council and cannot be delegated.

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

12.6 Notice of local government works

Statutory context

Local Government Act 1995 –

s.3.51(3) – notice to adjoining owners affected by works

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to give the required public notice and individual notice to landowners and occupiers adjoining proposed works to –
 - a) fix or alter the levels, or the alignment of a public thoroughfare; or
 - b) drain water from a public thoroughfare or public place onto adjoining land

Conditions on use of delegation

None

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of notice

File number Advertisement records – 16.2.2 / 16.2.4
Property file

Notes

12.7 Private works/infrastructure on, over or under public land

Statutory context

Local Government Act 1995 –

s.3.37 – Contraventions that can lead to impounding

s.9.60 – Regulations that operate as local laws

Sch.9.1(8) – Private works/infrastructure on, over, or under public places

Sch.9.2(5) – gates across public thoroughfares

Local Government (Uniform Local Provisions) Regulations 1996 –

r.9 – gates across a public thoroughfare

r.17 – Private works on, over, or under public places

Shire of Narrogin Public Places and Local Government Property Local Law 2016

activities on land under local government management and control including roads

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve private works/infrastructure on, over or under public places.

Conditions on use of delegation

1. The exercise of this delegation is subject to –
 - (a) written application being made;
 - (b) the applicant accepts all liability for every part and aspect of the works/infrastructure;
 - (c) impose conditions, such as –
 - building permit, structural engineering certification, environmental assessment etc, where appropriate;
 - any damage or interference to public assets to be made good to the satisfaction of CEO (roadway, fence, other structure etc)
 - traffic management plan to be approved
 - (d) where deemed appropriate, an insurance certificate indemnifying the Shire while works are underway, or for any structure, is to be provided;
 - (e) estimated value of works does not exceed \$25,000 ex GST.
2. The CEO may enter into an agreement with the applicant to carry out the works/infrastructure as a private works.
3. Any prosecution proposed for non-compliance is to be referred to Council for decision to proceed.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Technical & Rural Services**

In full

References

Formal record of use Report to Council via monthly briefing papers if significant infrastructure
File copy of written approval

File number Property file of applicant
Copy on road/reserve/local government property file

Notes

Local Government (Uniform Local Provisions) Regulations 1996 –

r.17 – Private works on, over, or under public places

(4) – approval of local government required

(5) – conditions may be imposed

(6) – mandatory conditions – no permanent impairment of public use, public safety to be ensured, damaged to be fully repaired

(7) – penalty for non-compliance is \$5,000 and \$500 daily

(8) – person constructing is responsible for maintenance, and must insure structure, specifically indemnifying the local government against any claim

(9) – unauthorised constructions, or contravention of approval/conditions can lead to impounding

If insurance indemnity is required, a certificate is to be provided to the Shire annually. It is to be a condition of approval, that a lapse of insurance means automatic withdrawal of approval, and removal of the previously insured structure is required within 14 days.

This delegation includes minor works on the road such as –

- drilling for soil testing;
- pressure or gravity pipe from a water tank or windmill to a stock trough;
- farm drainage.

12.8 Events on roads

Statutory context

Road Traffic Act 1974 –

- s.81C(2) – Making order for road closure for event
- s.81D – Road closure, how effected by local government

Road Traffic (Administration) Act 2008 –

- s.139(2) – Temporary suspension of road law

Road Traffic (Events on Roads) Regulations 1991 –

- r.4 – local government approval and payment of fee required
- r.9 – Erection of barriers, signs and other equipment

Shire of Narrogin Public Places and Local Government Property Local Law 2016

activities on land under local government management and control including roads

Corporate context None

History

Last Reviewed	26 May 2021
Reviewed	27 April 2022
Reviewed	26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power –
 - (a) in consultation with the President, to approve with or without conditions or refuse to approve, an event or function on a thoroughfare in accordance with section 81C of the *Road Traffic Act 1974*;
 - (b) in consultation with the President, to approve with or without conditions, or refuse to approve, the temporary suspension of written law in accordance with section 83 of the *Road Traffic Act 1974*; and
 - (c) make all necessary arrangement to comply with Road Traffic (Events on Roads) Regulations r.9.
2. The CEO is delegated power, in consultation with the President, to respond to any request for information made under section 7(1) of the *Public Order in Streets Act 1984*.

Conditions on use of delegation

1. In considering any application, the CEO is to have regard to Police and Main Roads WA guidelines.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services
- b) Executive Manager Corporate & Community Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full

References

Formal record of use File copy of decision on written application

File number 28.7.1

Notes

See Road Traffic (Administration) Act –

135. Protection from liability for wrongdoing

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under a road law.
- (3) A local government is also relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1) in relation to a function of a local government under section 11, 139 or 141.

141. Closure of roads

- (2) A local government may cause a road in its district to be closed for such period that the local government considers necessary if the local government considers that the road is unsafe for traffic but the road cannot be closed by the local government for more than one month without with the Minister's written approval to do so.

See Events on Roads Regulations –

9. Erection of barriers, signs and other equipment

- (1) A road closure ordered by the Commissioner of Police under Part VA of the Act shall be effected by the erection and maintenance by the local government for the district within which the road concerned is situated of —
 - (a) barriers, being free standing posts and rails, or other barriers which are substantial and uniform in construction;
 - (b) signs, being substantial and uniform in design, with the words "Road Closed" or similar, clearly printed in black letters upon a reflective background; and
 - (c) such other equipment as the local government considers is reasonably necessary to effect the road closure.
- (2) The costs of erecting, maintaining and removing barriers, signs and other equipment to effect a road closure are payable to the local government by the person or body who applied for the order for that road closure.
- (3) A local government may waive the payment of all or any of the costs referred to in subregulation (2).
- (4) Any costs payable to a local government under subregulation (2) may be recovered as a debt due to that local government in a court of competent jurisdiction.

Main Roads WA – Traffic Management for Events on Roads: "Code of Practice"

12.9 Temporary road closures

Statutory context

Local Government Act 1995 –

s.3.50 – closing to vehicles

s.3.50A – closure for repairs or maintenance

Road Traffic Act 1974

s.81D – how a road is to be closed

s.92 – power to close unsafe roads

Shire of Narrogin Public Places and Local Government Property Local Law 2016 –

cl.5.2 – no entry to closed local government property

cl.6.13 – no driving on closed thoroughfare

Corporate context None

History

Last reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to –
 - a) temporarily close a thoroughfare or a portion of a street for a period not exceeding 28 days (without providing local public notice) if of the opinion –
 - a thoroughfare is likely to be damaged by the passage of traffic generally or traffic of any particular class;
 - that the thoroughfare is unsafe for use.
 - b) temporarily close a road or portion of a road for repairs and maintenance;
 - c) temporarily close a thoroughfare for a period in excess of 28 days by providing local public notice.

Conditions on use of delegation

1. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) is of such severity that the action is appropriate; or
 - b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services
- d) Manager Operations

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**
In full
- d) **Manager Operations**
In full

References

Formal record of use File copy of public notice, instruction to staff etc

File number 28.7.1

Notes

12.10 Restricted Access Vehicles on Shire Roads

Statutory context

Local Government Act 1995

Land Administration Act 1997 –

s.56(2) – road reserves under the control of the local government

Public Works Act 1902 –

s.86(2) – Governor may declare roads to be under the control of the local government

Road Traffic (Vehicle Standards) Regulations 2002

Public Places and Local Government Property Local Law 2016

Corporate context

Policy Manual –

12.12 Restricted Access Vehicles on Shire Roads

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to determine any application referred from Main Roads WA to use heavy haulage vehicles (Restricted Access Vehicles) on any local road within the district, recommending approval or refusal–
 - a) in accordance with Council Policy 12.12 Restricted Access Vehicles on Shire Roads;
 - b) where the estimated volume is 50,000 tonnes per year or less;
 - c) if the road has already been assessed by Main Roads WA as being suitable for the configuration proposed by the applicant;
 - d) recommending CA07 conditions on roads where deemed necessary to manage RAV access in order to preserve the condition of the road and avoid heavy vehicle damage; and
 - e) written agreement of the application accepting liability for damage to the roads that exceeds fair use.

Conditions on use of delegation

1. All other applications are to be referred to Council.
2. Where the CEO declines an application, the applicant has the right to lodge a written appeal which will be presented to Council for consideration.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Technical & Rural Services**

Negotiations for all matters prior to signing of agreement

References

Formal record of use File copy of decision on written application

File number 3.2.2

Notes

12.11 Gates across roads / thoroughfares

Statutory context

Local Government Act 1995

Schedule 9.1 cl.5 – Governor may make regulations concerning gates across public thoroughfares

Schedule 9.3 cl.38 – gates across thoroughfares in cities or towns

Local Government (Uniform Local Provisions) 1996

r.9 – Permission to have gate across public thoroughfare

r.9(8) – Register of Gates

Environmental Protection Act 1986

s.3(1) – definition of “native vegetation” includes dead vegetation

s.51A – definitions of “clearing” and “clearing principles”

Sch.5 – Principles for clearing native vegetation

Environmental Protection (Clearing of Native Vegetation) Regulations 2004

r.5 – Prescribed clearing s.51C

Sch.2 – Clearing for maintenance in existing transport corridors

Shire of Narrogin Public Places and Local Government Property Local Law 2016

activities on land under local government management and control including roads

Corporate context

Delegation Register –

13.2 – Native flora and fauna

Policy Manual –

12.7 – Private works / infrastructure on, over or under public land

13.1 – Road reserves – clearing

History

Adopted 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve gates or other devices on roads for the purpose of enabling motor traffic or pedestrians to pass across the thoroughfare and prevents stock from straying, including any associated fencing necessary.

Conditions on use of delegation

1. The delegation excludes –
 - (a) determination of any fee or charge;
 - (b) dealing with an objection.
2. The CEO is to have regard to –
 - (a) whether or not the road is a through road;
 - (b) the opinions of any other landowners or occupiers adjacent to the affected portion of the road;
 - (c) likely traffic volume other than that of the applicant.
3. The exercise of this delegation is subject to –
 - (a) written application being made;
 - (b) payment of any fee for initial approval and subsequent annual approval;

- (c) details of position and construction of the gate or other device and any associated fencing being provided;
 - (d) the applicant accepting all liability for every part and aspect of the gate or other device, and associated fencing;
 - (e) accepting responsibility for maintenance of the gated section of road / thoroughfare in a safe and adequate condition;
 - (f) approval for a maximum 12 month period, ending 30 June annually, and may be renewed upon application;
 - (g) imposition of standard conditions, and any further condition considered appropriate by the CEO.
4. The following standard conditions apply to approval of all gates or other devices across roads / thoroughfares –
 - a) the applicant is to maintain the gated section of road / thoroughfare, the gate and any associated fencing in good order;
 - b) the construction of the gates will be to the satisfaction of the Chief Executive Officer;
 - c) the gates cannot be locked;
 - d) the applicant understands that the installation of gates does not prevent access to the road reserve by any person;
 - e) all associated costs for the gates including purchase, signage, installation and maintenance are to be met by the applicant;
 - f) reflective signage, to the satisfaction of the Chief Executive Officer, is to be secured to the gates and kept in good visual condition at all times by the applicant;
 - g) pruning of vegetation is limited to that permitted by the Environment Protection (Clearing of Native Vegetation) Regulations 2004 Schedule 2;
 - h) clearing of vegetation is not permitted without prior Shire approval, and will not be considered unless in compliance with Policy 13.1;
 - i) the gated section of road / thoroughfare, the gate and any associated fencing may be inspected by an authorised person at any time.
 5. CEO may apply additional conditions if considered appropriate.
 6. If the relevant portion of the road, gate or fencing is not maintained in a safe and adequate standard, or the conditions imposed are not met –
 - a) notice may be issued specifying the remedial action required and the time in which such action is to be completed;
 - b) the approval for the gate may be revoked, and the gate and fencing required to be removed within a specified period;
 - c) the Shire may carry out removal or remedial works, and the applicant charged the cost of removal, maintenance or repairs at private works rates as adopted by Council.
 7. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - (a) is of such severity that the action is appropriate; or
 - (b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Technical & Rural Services**

In full, excluding Conditions clause 7.

References

Formal record of use

File copy of notice, record of inspection etc
Register of Gates to be maintained in Corporate records

File number

Notes

Objections and review are those matters refused under delegated power which the applicant requests Council to reconsider.

Plant / Equipment

Section 13 - Natural Resource Management

13.1 Control of Vehicles (Off-road Areas) Act 1978

Statutory context

Control of Vehicles (Off-road Areas) Act 1978 –

s.5(1) – Duty of local government to administer and enforce the Act

s.38(3) – appointment of authorised persons

Local Government Act 1995 –

s.9.10 – Appointment of authorised persons

Corporate context None

History

Last Reviewed 26 May 2021

Amended 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to exercise all discretionary matters in the Control of Vehicles (Off-road Areas) Act 1978, including –
 - a) granting, refusal, cancellation and setting conditions of approval to conduct activities;
 - b) issue of all notices and infringements etc;
 - c) extending the time period within which infringement notices may be paid;
 - d) withdrawal of an infringement notice issued by an authorised person, following consideration of any submissions of special circumstances relating to it received from the authorised person, the notice recipient or other persons;
 - e) carrying out of works in default of a duly served notice; and
 - f) authorising officers to undertake enforcement activities such as the issuing of infringements.

Conditions on use of delegation

1. The delegation excludes –
 - a) determination of any fee or charge
2. Commencement of prosecution is restricted to the CEO, who may instigate action where the offence –
 - a) is of such severity that the action is appropriate or
 - b) an infringement notice remains unpaid after reasonable attempts to obtain payment.

Sub-delegation permitted to

- a) Executive Manager Corporate & Community Services
- b) Executive Manager Technical & Rural Services
- c) Executive Manager Development & Regulatory Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Corporate & Community Services**
In full
- b) **Executive Manager Technical & Rural Services**
In full
- c) **Executive Manager Development & Regulatory Services**

In full

References

Formal record of use File copy of notice

File reference 19.6.5

Notes

13.2 Native flora and fauna

Statutory context

Environmental Protection Act 1986 –

s.51C – Unauthorised clearing of native vegetation

Wildlife Conservation Act 1950 –

s.14 – Protection of fauna

s.23C – Licences to take protected flora

s.23D – Taking and sales of protected flora on private land

Wildlife Conservation Regulations 1970

Public Places and Local Government Property Local Law 2016 –

cl.4.4(2) – Written authority of local government required to remove, damage, interfere with any flora on local government property

Corporate context None

History

Last Reviewed 26 May 2021

Reviewed 27 April 2022

Reviewed 26 April 2023

Delegation from Council to CEO

Functions to be performed

1. The CEO is delegated power to approve a request for permission to pick wildflowers and / or collect seed on lands under Council's control, under the following conditions –
 - (a) written application is to be made;
 - (b) it is for their own domestic or hobby use;
 - (c) permission is given for a period not exceeding one week;
 - (d) the area of picking and/or collection is strictly limited;
 - (e) not more than one collector is permitted in any one location; and
 - (f) a maximum of 10% of seed only to be taken in any one area.

Conditions on use of delegation

1. All applications for commercial picking of wildflowers or collection of seed are to be referred to Council for consideration, and required details include –
 - (a) collector's credentials and purpose (collector includes the permit holder and up to 2 assistants);
 - (b) duration of approval, if any;
 - (c) the area of picking and/or collection;
 - (d) not more than one collector being permitted in any one location; and
 - (e) a maximum of 25% of seed only to be taken in any one area.
2. All applications for the collection of animals, reptiles, amphibians and birds from lands under Council's control, are to be referred to Council for consideration.
3. All applications to collect flora or fauna are to provide the following information at minimum –
 - (a) collector's credentials, including any person acting on the collector's behalf;
 - (b) purpose of collection – domestic, hobby, display, educational, commercial;
 - (c) flora/fauna to be collected – rarity, locality, need for preservation etc;
 - (d) locality of collection – ease of access, likelihood of general public-knowledge or access; and
 - (e) period or duration sought.
4. Where Council has previously permitted an application, the CEO may issue permission in subsequent consecutive years under identical terms and conditions, without further reference to Council.
5. The following statement is to be included in every approval by the CEO –

The approval of the Department of Parks and Wildlife is mandatory, and Shire permission is invalid without the Department's written consent accompanying Shire approval.

Sub-delegation permitted to

- a) Executive Manager Technical & Rural Services

Delegation by CEO to other employees

To –

- a) **Executive Manager Technical & Rural Services**

In full

References

Formal record of use File copy of notice of approval

File number 11.3.1

Notes

Dept of Biodiversity, Conservation and Attractions –

- may issue a permit for a maximum of one year;
- is to be provided a copy of every approved application.

Former Section 14 – Plant / Equipment (transferred to Section 12)

Former Section 15 – Natural Resources (renumbered as Section 13)

Former Section 16 – Unclassified (transferred to Section 12)

Former Section 17 – Building and Development (deleted)

Former Section 18 – Environmental Health / Food (transferred to Section 6)

Former Section 19 – Fire Control (deleted or transferred to Section 5)