



DELEGATED AUTHORITY REGISTER

2022/2023

Council to Chief Executive Officer &
Authorised Persons

we make it
happy

INTRODUCTION

The Delegations of Authority contained in this register are made to the Chief Executive Officer pursuant to section 5.42 of the *Local Government Act 1995* (the Act). Some functions are delegated by the Chief Executive Officer to Shire of Esperance employees pursuant to section 5.44 of the Act. These are detailed in the Delegated Authority Register – Council to Authorised Officers. All delegations made by Council must be by **absolute majority** decision.

Limitations

The following are decisions that cannot be delegated to the Chief Executive Officer as per s5.43 of the Act:

- (a) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) *the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) *any power or duty that requires the approval of the Minister or the Governor;*
- (i) *such other powers or duties as may be prescribed.*

Further to the above limitations the following cannot be delegated to the Chief Executive Officer as per r.18G of the *Local Government (Administration) Regulations 1996*:

Powers and duties of a local government exercised under the following provisions are prescribed under section 5.43(i) as powers and duties that a local government cannot delegate to a CEO —

- (a) *section 7.12A(2), (3)(a) or (4); and*
- (b) *regulations 18C and 18D.*

Record Keeping

If a person is exercising a delegated power or duty, r.19 of the *Local Government (Administration) Regulations 1996* requires records be kept relating to the exercise of the power or discharge of the duty. The written record is to contain:

- (a) *how the person exercised the power or discharged the duty; and*
- (b) *when the person exercised the power or discharged the duty; and*
- (c) *the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.*

Reading this Register

The aim of the Delegated Authority Register is to assist with improving the time taken to make decisions within the constraints allowed by the relevant legislation. This is consistent with the Shire's commitment to a strong customer service focus.

This Delegated Authority Register is reviewed annually in accordance with the Act.

EXAMPLE DELEGATION

Delegation Number & Title	
Function Performed	Description of authority being delegated. This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions listed in legislation and the delegation.
Power being Delegated	The express power or duty that is being delegated - The Legislation and Section <i>Head of Power (Act or Regulation)</i> s.# – Section Title
Power originally assigned to	Local Government (Local Government may be referred to as <i>Enforcement Agency or Permit Issuing Body</i> in some Legislation.)
Power to Delegate	The express power that allows a delegation to be made - The Legislation and Section <i>Head of Power (Act or Regulation)</i> s.# – Section Title
Power Delegated to	Chief Executive Officer or in some delegation's staff titles or a class of staff (eg. Rangers)
Council Conditions	Conditions placed on the delegation that are not already specified in Legislation, Regulation or Council Policy
Power to Sub-Delegate	The express power to sub-delegate the delegation to staff - The Legislation and Section <i>Head of Power (Act or Regulation)</i> s.# – Section Title In some cases, the Legislation expressly prohibits sub-delegation Not applicable – Sub-delegation is prohibited by s.# – Section Title The CEO can also choose to not sub-delegate authority that could be sub-delegated, in which case the following should be below the legislation. CEO has elected to not sub-delegate this role
Compliance Links	Documents relevant to the delegation should be listed here that provide further included but not limited to, other Acts, Regulations, Local Laws, Council Policy and Standard Operating Procedures.
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Date adopted, reviewed or amended and Council Resolution	6.
2.	7.
3.	8.
4.	9.
5.	

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PART 1 LOCAL GOVERNMENT ACT 1995

1.1 Expressions of Interest, Tenders and Pre-qualified Suppliers (s.3.57)	
Function Performed	Authority to undertake tendering, expressions of interest and prequalified supplier panels
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.57(1) – Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996</i> Division 2 - Tenders for providing goods or services Division 3 - Panels of pre-qualified suppliers
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	<ol style="list-style-type: none"> 1) Unique supplier exemption may only be approved where a record is retained that evidences rationale for why the supply is unique and cannot be sourced through other suppliers 2) Tenders may only be called where there is a budget allocation for the proposed goods or services 3) Subject to goods and services included in the Annual Budget, the delegation is limited to: <ol style="list-style-type: none"> a) Purchases utilising WALGA Preferred Suppliers, not exceeding a value of \$250,000 b) Quotes utilising a pre-qualified supplier who is part of a panel of pre-qualified suppliers, not exceeding a value of \$250,000 c) Tenders not exceeding a value as per the Regulations excluding schedule of rates Tenders 4) Council consider a minor variation before entering into a contract to be 10% of the contract sum 5) In accordance with Division 3 - Panels of pre-qualified suppliers, applicants may only be appointed to a panel by Council Decision
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.5.43 - Limitations on delegations to the CEO <i>Local Government (Functions and General) Regulations 1996</i> Part 4 — Provision of goods and services Council Policy COR 007: Procurement Policy
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – June 2019: Resolution # O0619-120	5.
2. Amended – May 2020, Resolution #O0520-148	6.
3. Reviewed – May 2021, Resolution #O0521-147	7.
4. Reviewed – May 2022, Resolution #O0522-112	8.

1.2 Agreement as to payment of rates and service charges (s.6.49)

Function Performed	Authority to accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.6.49 – Agreement as to payment of rates and service charges
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers and duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	Nil

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - May 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

1.3 Powers of entry (s3.28 & s3.34)

Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1. Confer powers of entry to allow staff performing the functions of the <i>Local Government Act 1995</i> to enter property following a notice being given under s.3.32. and; 2. Allow, in an emergency, entry to any land, premises or thing immediately and without notice to perform any Local Government function as considered appropriate to deal with the emergency.
<p><i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i></p>	
Power being Delegated	<p><i>Local Government Act 1995</i> s.3.28 - When this Subdivision applies (Subdivision 3 — Powers of entry) s.3.34 - Entry in emergency</p>
Power originally assigned to	Local Government
Power of Delegation	<p><i>Local Government Act 1995</i> s.5.42 – Delegation of some powers and duties to the CEO s.5.43 – Limitations on delegations to the CEO</p>
Power Delegated to	Chief Executive Officer
Council's Conditions on Delegation	Nil
Power to Sub-Delegate	<p><i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees</p>
Compliance Links	<p><i>Local Government Act 1995</i> s.3.32 - Notice of entry s.3.34 – Entry in emergency</p>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Amended – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Amended – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

1.4

Certain provisions about land (s.3.25, s3.26 & s.3.27)

Function Performed	<p>Authority to give an owner or occupier of land notice requiring them to do anything as prescribed in Schedule 3.1, Division 1 of the <i>Local Government Act 1995</i>.</p> <p>Following a failure to comply with the above notice, authority to take action that is considered necessary to achieve, so far as is practicable, the purpose for which the notice was given.</p> <p>Authority to recover cost of the above action as a debt due from the person who failed to comply.</p> <p>Authority to do any of the things prescribed in Schedule 3.2 to non-local government property, without consent, in the Local Government's capacity to undertake its general functions as outlined in s.3.27.</p>
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<p><i>Local Government Act 1995</i></p> <p>s.3.25 – Notices requiring certain things to be done by owner or occupier of land</p> <p>s.3.26 – Additional powers when notices given</p> <p>s.3.27 – Particular things local governments can do on land that is not local government property</p>
Power originally assigned to	Local Government
Power of Delegation	<p><i>Local Government Act 1995</i></p> <p>s.3.24 – Authorising persons under this Subdivision (Subdivision 2 — Certain provisions about land)</p> <p>s.5.42 – Delegation of some powers and duties to the CEO</p> <p>s.5.43 – Limitations on delegations to the CEO</p>
Power Delegated to	Chief Executive Officer
Council's Conditions on Delegation	Nil
Power to Sub-Delegate	<p><i>Local Government Act 1995</i></p> <p>s.5.44 – CEO may delegate powers and duties to other employees</p>
Compliance Links	<p><i>Local Government Act 1995</i></p> <p>Schedule 3.1 - Powers under notices to owners or occupiers of land</p> <p>Schedule 3.2 - Particular things local governments can do on land even though it is not local government property</p>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Reviewed – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Reviewed – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

1.5

Enforcement and legal proceedings (s.9.11, 9.13, 9.16, 9.19, 9.20 & 9.24)

Function Performed	Authority to exercise the powers and duties of a local government to administer and enforce the provisions of the Act.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<p><i>Local Government Act 1995</i></p> <p>s.9.11 – Persons found committing breach of Act to give name on demand</p> <p>s.9.13 – Onus of proof in vehicle offences may be shifted</p> <p>s.9.16 – Notice, giving of to alleged offender</p> <p>s.9.19 – Extension of time</p> <p>s.9.20 – Withdrawal of notice</p> <p>s.9.24 – Prosecutions, commencing</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>s.5.42 – Delegation of some powers and duties to the CEO</p> <p>s.5.43 – Limitations on delegations to the CEO</p>
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<p><i>Local Government Act 1995</i></p> <p>s.5.44 – CEO may delegate powers and duties to other employees</p>
Compliance Links	<i>Road Traffic (Vehicles) Act 2012</i>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Reviewed – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Amended – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

1.6

Closing certain thoroughfares to vehicles (s.3.50)

Function Performed	Authority to close a thoroughfare to vehicles wholly or partially, for a period not exceeding four weeks.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.50 – Closing certain thoroughfares to vehicles
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	Nil

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - May 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

1.7 Declaring a vehicle as an abandoned vehicle wreck (s.3.40A)

Function Performed	Authority to declare an impounded vehicle as an abandoned wreck.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.40A - Abandoned vehicle wreck may be taken
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.3.39 - Power to remove and impound s.3.46 – Goods may be withheld until costs paid s.3.47 – Confiscated or uncollected goods, disposal of

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted – March 2009, Resolution # O0309-1572	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - May 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Amended – May 2022, Resolution #O0522-112

1.8 Acting Chief Executive Officer (s.5.39)

Function Performed	Authority to appoint a Director as Acting Chief Executive Officer during periods of leave.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.5.39 – Contracts for CEO and senior employees
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	<ol style="list-style-type: none"> 1. The period that an appointment is made for will not exceed 5 weeks. 2. All Councillors will be notified in writing at the time of appointment.
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees CEO has elected to not sub-delegate this role
Compliance Links	Nil

DELEGATION ADMINISTRATION:

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Reviewed – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Reviewed – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

1.9

Disposing of confiscated or uncollected goods (s.3.47)

Function Performed	Authority to sell or otherwise dispose of confiscated or uncollected goods.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.47 – Confiscated or uncollected goods, disposal of
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers & duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.3.40 - Vehicle may be removed if goods to be impounded are in or on vehicle 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 confiscated s.3.46 - Goods may be withheld until costs paid s.3.58 - Disposing of Property

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - May 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Amended – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Amended – May 2022, Resolution #O0522-112

1.10 Disposing of property (s.3.58)

Function Performed	Authority to dispose of property surplus to the Shire's operational needs.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.58 - Disposing of Property
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	<ol style="list-style-type: none"> 1. Authority for the Disposal of land and/or building assets is limited to matters specified in the Annual Budget or Corporate Business Plan and in any other case, requires a specific resolution of Council. 2. The Chief Executive Officer is limited to determining disposals of property (including land assets) for any single project, or where not part of a project a single event, to an aggregated maximum material value of \$500,000. 3. Authority to determine the method of disposal: <ol style="list-style-type: none"> a. Where a public auction is determined as the method of disposal: <ol style="list-style-type: none"> i. a reserve price has been set through independent valuation; ii. where the reserve price is not achieved at auction negotiation may be undertaken to achieve the sale of the property at up to a 10% variation on the valuation price. b. Where a public tender is determined as the method of disposal and the tender does not achieve a reasonable price for the disposal of the property, then the CEO is to determine if better value could be achieved through another disposal method and if so, must determine not to accept any tender and use an alternative disposal method. c. Where a direct negotiation is determined [s.3.58(3)] as the method of disposal, authority to: <ol style="list-style-type: none"> i. negotiate the sale of the property up to a 10% variance below the valuation; and ii. consider any public submissions received and determine if to proceed with the disposal, ensuring that the reasons for such a determination are recorded.
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government Function and General Regulations 1996</i> r.30 - Dispositions of property excluded from Act s. 3.58 Council Policy COR 018: Asset Disposal

1.10 Disposing of property (s.3.58)

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted – May 2010, Resolution # O0510-1456	8. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	9. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - May 2012, Resolution # AP0412-005	10. Amended – June 2019: Resolution #O0619-120
4. Reviewed – December 2012, Resolution # O1212-062	11. Amended – May 2020, Resolution #O0520-148
5. Reviewed - June 2013, Resolution # O0613-012	12. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – May 2015, Resolution # O0515-026	13. Reviewed – May 2022, Resolution #O0522-112
7. Reviewed – July 2016, Resolution # O0716-032	

1.11 Investment of funds (s.6.14)	
Function Performed	Authority to invest money in the municipal fund or the trust fund that is not for the time being, required.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.6.14 – Power to invest
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government (Financial Management) Regulations 1996</i> s19 - Investments, control procedures for Council Policy COR 026: Investment

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Amended – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Amended – May 2022, Resolution #O0522-112

1.12 Local government may require lessee to pay rent (s.6.60)

Function Performed	Authority to require a lessee to pay rent to the Local Government in satisfaction of rates or service charges due and payable.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.6.60 – Local Government may require lessee to pay rent
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 CEO may delegate some powers & duties to other employees
Compliance Links	Nil

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

1.13 Local laws administration (s.3.18)

Function Performed	Authority to exercise the powers and duties and to administer and do all things necessary to enact the Shire of Esperance Local Laws.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.18 – Performing executive functions
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	<p>The following powers be reserved to the Council:</p> <p><u>Local Government Property Local Law 2009</u></p> <ul style="list-style-type: none"> i) make a determination under Part 2; ii) enter into an agreement with a permit holder in respect of ownership of materials in a building (clause 3.7); iii) restrict use of the airport through a designation under clause 5.10(2); iv) hear an objection under Part 7; v) appoint authorised persons who are not employees under section 9.10 of the <i>Local Government Act 1995</i>; and vi) Determine forms to be used in the administering of the Local Law. <p><u>Activities in Thoroughfares and Public Places and Trading Local Law 2016</u></p> <ul style="list-style-type: none"> i) require any person to fence land adjoining a public place or local government property at his/ her expense (see clause 2.16); ii) declare a thoroughfare to be a “flora road” under clause 5.3; iii) designate a thoroughfare or part of a thoroughfare as ‘a special environmental area’ under clause 5.7; iv) grant any exemptions under clause 6.7(3); v) adopt or vary policy containing conditions subject to which an application for a permit may be approved under clauses 7.2(1)(a) and 7.4; vi) hear an objection (see clause 8.1); vii) appoint authorised persons who are not Shire Of Esperance employees under section 9.10 of the <i>Local Government Act 1995</i>; and viii) Determine forms to be used in the administering of the Local Law. <p><u>Extractive Industries Local Law 2001</u></p> <ul style="list-style-type: none"> i) issue of refusal of a license under clause 3.1(2) of the Local Law; ii) determination of a license period under clause 3.1(3)(a) of the Local Law; iii) cancellation of a license under clause 4.2(1) of the Local Law; and iv) renewal or refusal to renew a license under clause 4.3(4) of the Local Law.

1.13 Local laws administration (s.3.18)

Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers & duties to other employees
Compliance Links	Shire of Esperance Local Laws

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Amended – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Amended – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

1.14 Objection to the rate record (s.6.76)

Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Extend the period of time for making the objection for such period as seen fit upon application by a person proposing to make an objection to the rate record. 2) Promptly consider any objection to the rate record and either disallow it or allow it, wholly or in part. 3) Serve upon the person by whom the objection was made written notice of its decision on the objection and a statement of its reason for that decision.
<p><i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i></p>	
Power being Delegated	<p><i>Local Government Act 1995</i> s.6.76 – Grounds of objection</p>
Power originally assigned to	<p>Local Government</p>
Power to Delegate	<p><i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO</p>
Power Delegated to	<p>Chief Executive Officer</p>
Council Conditions	<p>Nil</p>
Power to Sub-Delegate	<p><i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees CEO has elected to not sub-delegate this role</p>
Compliance Links	<p>Nil</p>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

1.15

Partial closure of thoroughfare for repairs and maintenance (s.3.50A.)

Function Performed	Authority to partially and temporarily close a thoroughfare, without giving local public notice, if the closure is: (a) for the purpose of carrying out repairs or maintenance; and (b) unlikely to have a significant adverse effect on users of the thoroughfare.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.50A. – Partial closure of thoroughfare for repairs or maintenance
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.3.50 - Closing certain thoroughfares to vehicles

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

1.16 Power to remove, impound goods and recover expenses (s.3.39 & s.3.48)	
Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Remove and impound any goods as per s.3.39 of the Act. 2) Recover from the convicted offender the expenses incurred by removing and impounding the goods and disposing of them, if goods were removed and impounded under s.3.39.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<p><i>Local Government Act 1995</i> s.3.39 – Power to remove and impound s.3.48 – Impounding expenses, recovery of</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO</p>
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<p><i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees</p>
Compliance Links	s.3.47 - Confiscated or uncollected goods, disposal of

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017, Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Amended – May 2022, Resolution #O0522-112

1.17 Power to write off debts (s.6.12)

Function Performed	Authority to write off money which is owed to the local government.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.6.12 – Power to defer, grant discounts, waive or write off debts
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Debts up to a value of \$1,000.00 may be written off, conditional upon all avenues of debt recovery action having been exhausted.
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	Council Policy COR 013: Debt Collection

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Amended – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Amended – May 2022, Resolution #O0522-112

1.18 Rates or service charges recoverable in court (s.6.56)

Function Performed	Authority to recover rates or service charges, as well as costs of proceedings for the recovery, in a court of competent jurisdiction.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.6.56. Rates or service charges recoverable in court
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 - CEO may delegate some powers and duties to other employees
Compliance Links	Council Policy COR 013: Debt Collection

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Amended – May 2022, Resolution #O0522-112

1.19 Disposal of sick or injured animals(s.3.47A)	
Function Performed	Authority to humanely destroy the animal and dispose of the carcass, if an impounded animal is ill or injured to such an extent that treating it is not practicable.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.3.47A – Sick or injured animals, disposal of
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	Nil

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted – July 2015, Resolution # O0715-017	5. Amended – June 2019: Resolution #O0619-120
2. Reviewed – July 2016, Resolution # O0716-032	6. Amended – May 2020, Resolution #O0520-148
3. Reviewed – June 2017 Resolution # O0617-133	7. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – May 2018, Resolution # O0518-098	8. Reviewed – May 2022, Resolution #O0522-112

PART 2 *BUILDING ACT 2011*

2.1 Appointment of Authorised Persons (s.96 & s.99)	
Function Performed	Authority to 1) Designate an employee as an authorised person under the Building Act 2011; and 2) Revoke or vary a condition of designation as an authorised person or give written notice to an authorised person limiting powers that may be exercised by that person.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Building Act 2011</i> s.96 - Authorised Person s.99 - Limitation on powers of authorised person
Power originally assigned to	Local Government
Power to Delegate	<i>Building Act 2011</i> s.96 – Authorised Person s.127 – Delegation: Special Permit Authorities and Local Governments
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees CEO has elected to not sub-delegate this role
Compliance Links	<i>Building Act 2011</i> s.97 - Identity cards
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – July 2012, Resolution # O0712-065	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Reviewed – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Amended – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Reviewed – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

2.2

Powers pursuant to the Building Act 2011

Function Performed	To undertake the powers of the Local Government for the following sections of the <i>Building Act 2011</i> .
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<p><i>Building Act 2011</i></p> <ul style="list-style-type: none"> s.18 Further Information s.19 Certificate of design compliance s.20 Grant of building permit s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.24 Notice of decision not to grant building or demolition permit s.27 Conditions imposed by permit authority s.32 Duration of building or demolition permit (consider application to extend time) s.55 Further information s.56 Certificate of construction compliance s.57 Certificate of building compliance s.58 Grant of occupancy permit, building approval certificate s.60 Notice of decision not grant occupancy permit or grant building approval certificate s.62 Conditions imposed by permit authority s.65 Extension of period of duration s.88 Finishes of walls close to boundaries s.100 Entry powers s.101 Powers after entry for compliance purposes s.102 Obtaining information and documents s.103 Use of force and assistance s.104 Directions generally s.110 Building orders s.111 Notice of proposed building order other than a building order (emergency) s.117 Revocation of building order s.118 Permit authority may give effect to building order if non-compliance s.131 Inspection, copies of building records
Power originally assigned to	Local Government
Power to Delegate	<p><i>Building Act 2011</i></p> <ul style="list-style-type: none"> s.127 – Delegation: Special Permit Authorities and Local Governments
Power Delegated to	Chief Executive Officer
Council Conditions	Nil

2.2**Powers pursuant to the Building Act 2011**

Power to Sub-Delegate	<i>Building Act 2011</i> s.127 – Delegation: Special Permit Authorities and Local Governments
Compliance Links	<i>Building Regulations 2012</i>

DELEGATION ADMINISTRATION:

Decision Reference	Decision Reference
1. Adopted – July 2012, Resolution # O0712-065	6. Reviewed – May 2018, Resolution # O0518-098
2. Reviewed – May 2015, Resolution # O0515-026	7. Amended – June 2019: Resolution #O0619-120
3. Reviewed – July 2015, Resolution # O0715-017	8. Reviewed – May 2020, Resolution #O0520-148
4. Reviewed – July 2016, Resolution # O0716-032	11. Amended – May 2021, Resolution #O0521-147
5. Reviewed – June 2017 Resolution # O0617-133	12. Amended – May 2022, Resolution #O0522-112

PART 3 PUBLIC HEALTH ACT 2016

3.1 Appointment of Environmental Health Officer (s.17)	
Function Performed	Authority to appoint suitably qualified employees as Environmental Health Officers
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Public Health Act 2016</i> s.17 – Appointment of Environmental Health Officers
Power is originally assigned to	Local Government
Power to Delegate	<i>Public Health Act 2016</i> s.21 – Enforcement agency may delegate
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Public Health Act 2016</i> s.21 – Enforcement agency may delegate CEO has elected to not sub-delegate this role
Compliance Links	<i>Public Health Act 2016</i> s.18 - Chief Health Officer to approve qualifications and experience required by environmental health officers
DELEGATION ADMINISTRATION:	
Decision Reference	Decision Reference
1. Reviewed – July 2017 Resolution # O0717-161	5. Reviewed – May 2021, Resolution #O0521-147
2. Reviewed – May 2018, Resolution # O0518-098	6. Reviewed – May 2022, Resolution #O0522-112
3. Amended – June 2019: Resolution #O0619-120	7.
4. Amended – May 2020, Resolution #O0520-148	8.

3.2 Designation of Authorised Officers (s.24)	
Function Performed	Authority to designate a person or class of persons as authorised officers under the <i>Public Health Act 2016</i> .
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Public Health Act 2016</i> s.24 – Designation of authorised officers
Power is originally assigned to	Local Government
Power to Delegate	<i>Public Health Act 2016</i> s.21 – Enforcement agency may delegate
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Public Health Act 2016</i> s.21 – Enforcement agency may delegate CEO has elected to not sub-delegate this role
Compliance Links	<i>Public Health Act 2016</i> s.25 - Certain authorised officers required to have qualifications and experience. s.26 - Further provisions relating to designations s.27 - Lists of authorised officers to be maintained s.28 - When designation as authorised officer ceases s.29 - Chief Health Officer may issue guidelines about qualifications and experience of authorised officers s.30 - Certificates of authority s.31 - Issuing and production of certificate of authority for purposes of other written laws s.32 - Certificate of authority to be returned. s.136 - Authorised officer to produce evidence of authority
DELEGATION ADMINISTRATION:	
Decision Reference	Decision Reference
1. Reviewed – July 2017 Resolution # O0717-161	5. Reviewed – May 2021, Resolution #O0521-147
2. Reviewed – May 2018, Resolution # O0518-098	6. Reviewed – May 2022, Resolution #O0522-112
3. Amended – June 2019: Resolution #O0619-120	7.
4. Amended – May 2020, Resolution #O0520-148	8.

4.1 General administration powers

Function Performed	<p>Unless the specific power may only be exercised by the Council itself (or is not permitted to be delegated under the provisions of the <i>Local Government Act 1995</i>), the Council hereby delegates authority under Clause 82 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> to the Chief Executive Officer¹ to administer the Scheme and exercise discretionary powers to conditionally or unconditionally approve (or recommend approval for) the following subject to the delegate/s actions being in accordance with the <i>Planning and Development Act 2005</i>, the Local Planning Scheme No. 24, the Acceptable Development requirements of the Residential Design Codes and variations that satisfy the Objectives and Performance Criteria of the Codes, State Planning Policies, relevant Local Laws and adopted Planning Strategies or Policies:</p> <p>a) Except for new buildings in the Commercial zone unless under a value of \$2,000,000 development² and land use applications:</p> <ul style="list-style-type: none"> • where advertising is not necessary; • for which advertising is necessary and there are no objections; • for which advertising is necessary and any comments can be resolved through negotiation with the applicant or appropriately conditioned on the planning consent; • for which advertising is necessary and objections are received which are determined to be frivolous or vexatious by the Chief Executive Officer; • for which comments have been sought from any Government instrumentalities and those recommendations have been satisfactorily addressed or appropriately conditioned on the planning consent. <p>b) Unless the specific power may only be exercised by the Council itself (or is not permitted to be delegated under the provisions of the <i>Local Government Act 1995</i>), the Council hereby delegates authority under Clause 82 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> to the Chief Executive Officer³ to administer the Scheme and exercise discretionary powers to refuse (or recommend refusal for) the following subject to the delegate/s actions being in accordance with the <i>Planning and Development Act 2005</i>, the Local Planning Scheme No. 24, the Acceptable Development requirements of the Residential Design Codes, State Planning Policies and variations that satisfy the Objectives and Performance Criteria of the Codes, relevant Local Laws and adopted Planning Strategies or Policies:</p> <ul style="list-style-type: none"> • Where a planning application is received that is classified as “X” or non-permitted under the provisions of Local Planning Scheme No. 24. • Where a request for further information has not been responded to in accordance with Policy EXT 005 Refusal of Planning Applications.
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¹ A list of delegated authority approvals for development and subdivision applications is to be included in each monthly agenda of the Ordinary Council Meeting.

² The *Planning and Development Act 2005* (as amended) defines ‘development’ as follows:

‘development’ means the development or use of any land, including—

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;
- (b) the carrying out on the land of any excavation or other works;
- (c) in the case of a place to which a Conservation Order made under section 59 of the *Heritage of Western Australia Act 1990* applies, any act or thing that—
 - (i) is likely to change the character of that place or the external appearance of any building; or
 - (ii) would constitute an irreversible alteration of the fabric of any building;

³ A list of delegated authority approvals for development and subdivision applications is to be included in each monthly agenda of the Ordinary Council Meeting.

- Where a planning application is received that is not mentioned in the Zoning and Land Use Table and is not consistent with the objectives of the particular zone.
 - Where a planning application is received that is not consistent with an adopted Local Planning Policy.
- c) Commence advertising of any proposal where so required by the Local Planning Scheme No. 24 or other related legislation and inform or consult with any affected person or statutory authority prior to the application being determined by or on behalf of Council.
- d) Development on reserved land that is consistent with the gazetted purpose of the reserve, the Local Planning Scheme No. 24 and leasing arrangements subject to prior consultation with the reserve manager or the Crown if not under Council control.
- e) Concurrently advertise and subsequently approve or renew planning applications for:
- extractive industries under the Local Planning Scheme No. 24 and Extractive Industries Local Law.⁴
 - kennels under the Local Planning Scheme No. 24 and Dogs Local Law⁵.
- f) Make recommendations to the Western Australian Planning Commission (WAPC) for:
- approval of subdivisions, amalgamations, strata and survey-strata plans, and variations to such applications that comply with the Local Planning Scheme No. 24, any adopted Structure Plan and the adopted Local Planning Strategy;
 - refusal of subdivisions, amalgamations, strata and survey strata plans, and variations to such applications that do not comply with the Local Planning Scheme No. 24, any adopted Structure Plan and the adopted Local Planning Strategy; and
 - clearance of subdivision conditions that comply with the WAPC preliminary approval and Council's applicable development standards including authorization of receipt or refund of bonds, cash (includes cleared cheque) or bank guarantees for associated works.
- g) Administer the State Planning Policies that are referenced into the Local Planning Scheme No. 24.
- h) Determine that a revised plan is considered to contain modifications that are minor and do not amount to a significantly different proposal, do not breach any of the conditions of the approval and do not materially affect the decision given by, or on behalf of, Council or the WAPC.
- i) Determine whether there is compelling evidence to warrant reconsideration of a Council decision whether the decision was made by, or on behalf of Council.
- j) Amend or cancel development approval at the request of the owner.
- k) Respond, defend and otherwise deal with legal proceedings arising from planning decisions made by, or on behalf of, Council.⁶

⁴ Development Approval would normally be issued subject to a condition that an extractive industry licence be obtained under the Extractive Industries Local Law and renewed annually. Therefore, if the use is substantially commenced during the term of the initial planning consent, the use could be continued subject to annual renewal in accordance with the Local Laws.

⁵ Development Approval would normally be issued subject to a condition that a kennel licence be obtained under the Dogs Local Law and renewed annually. Therefore, if the use is substantially commenced during the term of the initial planning consent, the use could be continued subject to annual renewal in accordance with the Local Laws.

⁶ Council to be kept informed of any actions that may entail legal representation in Court or in an insurance claim being made against Council.

- l) Exercise discretion on behalf of Council to reach determination, where appropriate, of Appeals processed by mediation under the State Administrative Tribunal.
- m) Exercise discretion on behalf of Council in relation to the Arbitration provisions of the Scheme.
- n) Make modifications to Scheme Amendments in accordance with directions from the Minister for Transport; Planning providing that any such modification:
 - does not substantially alter the intent of the Council in adopting the amendment; or
 - is required because the proposed text is not lawful.
- o) Agree to accept management orders for reserves provided they have been created under Section 152 of the *Planning and Development Act 2005*.
- p) Extend time for a planning consent when there has been no proposed change to the Local Planning Scheme No. 24 or supporting planning strategies and policies that would affect the previous approval and any change to the proposed plans is relatively minor.
- q) Comment on mineral exploration licenses.
- r) Issue Liquor Licensing Act Section 40 Certificates regarding compliance with relevant planning laws.
- s) Enter land or buildings for the purposes of administering the Local Planning Scheme No. 24 in accordance with Schedule 2, section 79 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- t) Allow appropriate selection of road names by developers from the Council/Geographic Names Committee approved reserved name list subject to developers being given the opportunity to submit alternative selections to Council
- u) Determine that a use is consistent or not consistent with the objectives of a zone and determine an application under Section 18.(4) of the Local Planning Scheme No. 24.
- v) Determine a cash-in-lieu payment for parking spaces in accordance with Schedule 1 Section 12.(b) of the Local Planning Scheme No. 24.
- w) Issue a written direction under Section 214(2) of the *Planning and Development Act 2005* to any person undertaking a development that contravenes a Planning Scheme or planning Control Area requirements, to stop and not recommence, the development or part of the development that is undertaken in contravention of the planning scheme or planning control area requirements.
- x) Issue a written direction under Section 214(3) of the *Planning and Development Act 2005* if a development has been undertaken in contravention of a planning scheme or interim development order or in contravention of planning control area requirements;
 - to remove, pull down, take up, or alter the development; and
 - to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.

This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.

4.1 General administration powers

Power being Delegated	<p><i>Local Government Act 1995</i> <i>Planning and Development Act 2005</i> <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Shire of Esperance Local Planning Scheme No 24 Shire of Esperance Extractive Industries Local Law Shire of Esperance Dogs Local Law</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule.2, Part 10, cl.82</p>
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<p><i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> Schedule.2, Part 10, cl.83</p>
Compliance Links	Part 10 of Schedule 2, <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted – February 2004, Resolution # O0204-0769	9. Reviewed – June 2017 Resolution # O0617-133
2. Amended– February 2011, Res # O0211-1575 & O0211-1573	10. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	11. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	12. Amended – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	13. Amended – July 2020, Resolution #O0720-240
6. Amended – November 2015, Resolution # O1115-030	14. Amended – May 2021, Resolution #O0521-147
7. Reviewed – July 2016, Resolution # O0716-032	15. Amended – March 2022, Resolution #O0322-059
8. Review – Sept 2016, Resolution # O0916-026	16. Reviewed – May 2022, Resolution #O0522-112

PART 5 BUSH FIRES ACT 1954

5.1 Appointment of Bush Fire Control Officers (s.38)	
Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Appoint persons to be Bush Fire Control Officers for the purposes of the <i>Bush Fires Act 1954</i>; and <ol style="list-style-type: none"> a) Of those Officers, appoint 2 as the Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer; and b) Determine the respective seniority of the other Bush Fire Officers so appointed. 2) Issue directions to a Bush Fire Control Officer to burn on or at the margins of a road reserve under the care, control and management of the Shire.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Bush Fires Act 1954</i> s.38 - Local government may appoint bush fire control officers.
Power originally assigned to	Local Government
Power to Delegate	<i>Bush Fires Act 1954</i> s.48 - Delegation by local governments
Power Delegated to	Chief Executive Officer
Council Conditions	The appointment is subject to the CEO being satisfied that the person to be authorised as a bush fire control officer has the appropriate qualifications and experience to perform the functions under the <i>Bush Fires Act 1954</i> .
Power to Sub-Delegate	Not applicable – Sub-delegation is prohibited by s.48 - Delegation by local governments
Compliance Links	<i>Bush Fire Brigades Local Law</i> Council Policy EXT 022: Fire Management – Roadside Burning EXT 024: Bushfire Management
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - Sept 2015, Resolution # O0915-024	5. Amended – June 2019: Resolution #O0619-120
2. Reviewed – July 2016, Resolution # O0716-032	6. Amended – May 2020, Resolution #O0520-148
3. Reviewed – June 2017 Resolution # O0617-133	7. Amended – May 2022, Resolution #O0522-112
4. Reviewed – May 2018, Resolution # O0518-098	8.

5.2 Fire break maintenance (s.33)	
Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Give written notice to an owner or occupier of land or all owners or occupiers of land within the District, requiring, to the satisfaction of the Shire: <ol style="list-style-type: none"> a) clearing of firebreaks as determined necessary and specified in the notice; and b) act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and c) as a separate or coordinated action with any other person carry out similar actions. 2) Direct a Bush Fire Control Officer or any other Officer to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with, with such servants, workmen, or contractors, and with such vehicles, machinery, appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.. 3) Recover any costs and expenses incurred in doing the acts, matters or things required to carry out the requisitions of the notice.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Bush Fires Act 1954</i> s.33 – Local Government may require occupier of land to plough or clear fire-break
Power originally assigned to	Local Government
Power to Delegate	<i>Bush Fires Act 1954</i> s.48 - Delegation by local governments
Power Delegated to	Chief Executive Officer
Council Conditions	<ol style="list-style-type: none"> 1. Written direction is to be given to a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with. 2. The Bush Fire Control Officer or other Officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matter and things as may be necessary to carry out the requisitions of the notice.
Power to Sub-Delegate	Not applicable – Sub-delegation is prohibited by s.48 - Delegation by local governments
Compliance Links	Council Policy EXT 022: Fire Management – Roadside Burning EXT 024: Bushfire Management Annual Firebreaks Notice
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - Sept 2015, Resolution # O0915-024	6. Reviewed – May 2018, Resolution # O0518-098

5.2**Fire break maintenance (s.33)**

2. Reviewed – July 2016, Resolution # O0716-032	7. Amended – June 2019: Resolution #O0619-120
3. Reviewed – Sept 2016, Resolution #O0916-026	8. Amended – May 2020, Resolution #O0520-148
4. Reviewed – February 2017, Resolution #O0217-032	9. Reviewed – May 2021, Resolution #O0521-147
5. Reviewed – June 2017 Resolution # O0617-133	10. Reviewed – May 2022, Resolution #O0522-112

5.3 Offences and infringements (s.59 & s.59A)	
Function Performed	Authority to 1) Institute and carry on proceedings against a person for an offence alleged to be committed against this Act. 2) Serve an infringement notice for an offence against this Act.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Bush Fires Act 1954</i> s.59 - Prosecution of offences s.59A - Alternative procedure – infringement notices
Power originally assigned to	Local Government
Power to Delegate	<i>Bush Fires Act 1954</i> s.48 - Delegation by local governments s.59 - Prosecution of offences
Power Delegated to	Shire Ranger Team Leader Shire Ranger Chief Executive Officer Director External Services Manager Development & Statutory Services Coordinator Compliance & Enforcement
Council Conditions	Nil
Power to Sub-Delegate	Not applicable – Sub-delegation is prohibited by s.48 - Delegation by local governments
Compliance Links	<i>Bush Fires (Infringements) Regulations 1978</i> Council Policy EXT 022: Fire Management – Roadside Burning EXT 024: Bushfire Management
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – June 2019: Resolution #O0619-120	5. Reviewed – April 2023, Resolution #O0423-071
2. Amended – May 2020, Resolution #O0520-148	6.
3. Amended – May 2021, Resolution #O0521-147	7.
4. Reviewed – May 2022, Resolution #O0522-112	8.

5.4 Withdrawal of infringements (s.59A)

Function Performed	Authority to withdraw an infringement notice for an offence against this Act.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Bush Fires Act 1954</i> s.59A - Alternative procedure – infringement notices
Power originally assigned to	Local Government
Power to Delegate	<i>Bush Fires Act 1954</i> s.48 - Delegation by local governments
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	Not applicable – Sub-delegation is prohibited by s.48 - Delegation by local governments
Compliance Links	<i>Bush Fires (Infringements) Regulations 1978</i> <i>Bush Fires Act 1954:</i> s.65 - Proof of certain matters s.66 - Proof of ownership or occupancy

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted – June 2019: Resolution #O0619-120	5.
2. Amended – May 2020, Resolution #O0520-148	6.
3. Reviewed – May 2021, Resolution #O0521-147	7.
4. Reviewed – May 2022, Resolution #O0522-112	8.

5.5 Varying prohibited burning times (s.17)

Function Delegated	Joint authority, where seasonal conditions warrant it, to determine a variation of the prohibited burning times, after consultation with an authorised CALM Act officer.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Bush Fires Act 1954:</i> s.17 - Prohibited burning times may be declared by Minister
Power originally assigned to	Local Government
Power to Delegate	<i>Bush Fires Act 1954</i> s.48 - Delegation by local governments s.17(10) – Prohibited burning times may be declared by Minister
Power Delegated to	Shire President and Chief Bush Fire Control Officer (jointly)
Council Conditions	<ol style="list-style-type: none"> 1. Decisions under s.17(7) must be undertaken jointly by both the Shire President and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) and (8). 2. The Community Emergency Services Coordinator must be consulted before a decision is made.
Power to Sub-Delegate	Not applicable – Sub-delegation is prohibited by s.48 - Delegation by local governments
Compliance Links	<i>Bush Fire Regulations 1954</i> r.15 - Permit to burn (Act s.18), form of and apply for after refusal etc. r.38C - Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times r.39B - Crop dusters etc., use of in restricted or prohibited burning times

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted – February 2020: Resolution #O0220-049	5.
2. Amended – May 2020, Resolution #O0520-148	6.
3. Reviewed – May 2021, Resolution #O0521-147	7.
4. Amended – May 2022, Resolution #O0522-112	8.

PART 6 FOOD ACT 2008

6.1 Appoint Authorised Officers (s.122 & s.126)	
Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i>. 2) Appoint an Authorised Officer under s.122(2) of this Act or s.24(1) of the <i>Public Health Act 2016</i> to be a Designated Officer for the purposes of issuing Infringement Notices under <i>Food Act 2008</i>. 3) Appoint an Authorised Officer to be a Designated Officer for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7).]
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<p><i>Food Act 2008</i> s.122 Appointment of Authorised Officers s.126 Infringement Notices</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Food Act 2008</i> s.118 - Functions of enforcement agencies and delegation</p>
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	Nil - <i>Food Regulations 2009</i> do not provide for sub-delegation.
Compliance Links	<p><i>Food Act 2008</i> s.122 - Appointment of authorised officers s.123 - Certificates of authority</p> <p>Department of Health Guidelines: Appointment of Authorised Officers as Meat Inspectors Appointment of Authorised Officers Appointment of Authorised Officers - Designated Officers only (section 126) Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an authorised officer.</p>
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Amended – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Amended – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

6.2 Prohibition orders (s.65, s.66 & s.67)

Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Serve a Prohibition order on the proprietor of a food business in accordance with s.65 of the <i>Food Act 2008</i>. 2) Give a Certificate of clearance, where inspection demonstrates compliance with a Prohibition order and any Improvement Notices. 3) Give written notice to proprietor of a food business on whom a Prohibition Order has been served of the decision not to give a certificate of clearance after an inspection.
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This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.

Power being Delegated	<p><i>Food Act 2008</i> s.65 - Prohibition order s.66 - Certificate of clearance to be given in certain circumstances s.67 - Request for re-inspection</p>
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Power originally assigned to	Local Government
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Power to Delegate	<p><i>Food Act 2008</i> s.118 - Functions of enforcement agencies and delegation</p>
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Power Delegated to	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Chief Executive Officer Director External Services Manager Development & Statutory Services</td> <td style="width: 40%; text-align: right;">Coordinator Environmental Health Environmental Health Officer</td> </tr> </table>	Chief Executive Officer Director External Services Manager Development & Statutory Services	Coordinator Environmental Health Environmental Health Officer
Chief Executive Officer Director External Services Manager Development & Statutory Services	Coordinator Environmental Health Environmental Health Officer		

Council Conditions	Nil
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Power to Sub-Delegate	Nil - <i>Food Regulations 2009</i> do not provide for sub-delegation.
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Compliance Links	<p><i>Food Act 2008</i> s.62 - Grounds for serving improvement notice s.63 - Improvement notice may require certain action to be taken</p> <p><i>Food Regulations 2009</i> Department of Health</p> <p><i>Food Act 2008</i> Regulatory Guideline No.1: Introduction of Regulatory Food Safety Auditing in WA</p> <p>Food Unit Fact Sheet 8: Guide to Regulatory Guideline No.1: WA Priority Classification System</p> <p><i>Food Act 2008</i> Verification of Food Safety Program Guideline</p>
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DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	7. Reviewed – May 2018, Resolution # O0518-098
2. Reviewed – May 2015, Resolution # O0515-026	8. Amended – June 2019: Resolution #O0619-120
3. Amended – March 2016, Resolution # O0316-023	9. Reviewed – May 2020, Resolution #O0520-148
4. Reviewed – July 2016, Resolution # O0716-032	10. Reviewed – May 2021, Resolution #O0521-147
5. Reviewed – Sept 2017, Resolution # O0916-026	11. Amended – May 2022, Resolution #O0522-112

6. Reviewed – June 2017 Resolution # O0617-133

6.3 Registration of food business (s.110 & s.112)

Function Performed	<p>Authority to</p> <ol style="list-style-type: none"> 1) Consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration. 2) Vary the conditions or cancel the registration of a food business.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<p><i>Food Act 2008</i> s.110 - Registration of food business s.112 - Variation of conditions or cancellation of registration of food businesses</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Food Act 2008</i> s.118 - Functions of enforcement agencies and delegation</p>
Power Delegated to	<p>Chief Executive Officer Director External Services Manager Development & Statutory Services Coordinator Environmental Health Environmental Health Officer</p>
Council Conditions	Nil
Power to Sub-Delegate	Nil - <i>Food Regulations 2009</i> do not provide for sub-delegation.
Compliance Links	<p><i>Food Act 2008</i> <i>Food Regulations 2009</i> Department of Health <i>Food Act 2008</i> Regulatory Guideline No.1: Introduction of Regulatory Food Safety Auditing in WA Food Unit Fact Sheet 8: Guide to Regulatory Guideline No.1: WA Priority Classification System <i>Food Act 2008</i> Verification of Food Safety Program Guideline</p>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	7. Reviewed – May 2018, Resolution # O0518-098
2. Reviewed – May 2015, Resolution # O0515-026	8. Amended – June 2019: Resolution #O0619-120
3. Amended – March 2016 Resolution # O0316-023	9. Reviewed – May 2020, Resolution #O0520-148
4. Reviewed – July 2016, Resolution # O0716-032	10. Reviewed – May 2021, Resolution #O0521-147
5. Reviewed – Sept 2016, Resolution #O0916-026	11. Reviewed – May 2022, Resolution #O0522-112

6.4 Prosecutions (s.125)

Function Performed	Authority to institute proceedings for an offence under the <i>Food Act 2008</i> .
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Food Act 2008</i> s.125 - Institution of proceedings
Power originally assigned to	Local Government
Power to Delegate	<i>Food Act 2008</i> s.118 - Functions of enforcement agencies and delegation
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	Nil - <i>Food Regulations 2009</i> do not provide for sub-delegation.
Compliance Links	<i>Food Act 2008</i> <i>Food Regulations 2009</i> Department of Health Compliance and Enforcement Policy

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Reviewed – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Reviewed – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

PART 7 DOG ACT 1976

7.1 Appoint Registration Officers (s.3)	
Function Performed	Authority to Appoint Registration Officers to exercise the powers and duties conferred on a Registration Officer by this Act.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Dog Act 1976</i> s.3 - Terms Used
Power originally assigned to	Local Government
Power to Delegate	<i>Dog Act 1976</i> s.10AA - Delegation of local government powers and duties
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Dog Act 1976</i> s.10AA - Delegation of local government powers and duties CEO has elected to not sub-delegate this role
Compliance Links	<i>Dog Act 1976</i> s.3 - Terms used
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – June 2019: Resolution #O0619-120	5.
2. Reviewed – May 2020, Resolution #O0520-148	6.
3. Amended – May 2021, Resolution #O0521-147	7.
4. Reviewed – May 2022, Resolution #O0522-112	8.

7.2 Keeping of dogs (number of) (s.26)

Function Performed	Authority to grant exemptions to the number of dogs that may be kept in or on premises.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Dog Act 1976</i> s.26 – Limitation as to numbers
Power originally assigned to	Local Government
Power to Delegate	<i>Dog Act 1976</i> s.10AA – Delegation of local government powers and duties
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Dog Act 1976</i> s.10AA – Delegation of local government powers and duties
Compliance Links	Dogs Local Law

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - November 2014, Resolution # O1114-015	5. Amended – June 2019: Resolution #O0619-120
2. Reviewed – July 2016, Resolution # O0716-032	6. Amended – May 2020, Resolution #O0520-148
3. Reviewed – June 2017 Resolution # O0617-133	7. Amended – May 2021, Resolution #O0521-147
4. Reviewed – May 2018, Resolution # O0518-098	8. Reviewed – May 2022, Resolution #O0522-112

**PART 9 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1960**

9.1 Establishing pounds and appointing poundkeepers and Rangers (s.449)	
Function Performed	Authority to 1) Establish pounds 2) Appoint fit and proper persons to be pound keepers and Rangers
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government (Miscellaneous Provisions) Act 1960</i> s.449 - Pounds, establishing; poundkeepers and rangers, appointing
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 -CEO may delegate powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i>

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Amended – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Reviewed – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

PART 10 LAND ADMINISTRATION ACT 1997

10.1 Care, control and management of Reserves (s.46(2))	
Function Performed	To allow requests to be made regarding the care, control and management of Shire managed reserve in accordance with Section 46.(2) <i>Land Administration Act 1997</i>
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Statutory Power being Delegated:	<i>Land Administration Act 1997</i> s.46.(2) – Care, control and management of reserves
Power is originally assigned to:	Local Government
Statutory Power of Delegation	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers or duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to:	Chief Executive Officer
Conditions on Delegation:	Limited to giving consent of the management body of reserve (being limited to the Shire of Esperance).
Statutory Power to Sub-Delegate:	<i>Local Government Act 1995</i> s.5.44 - CEO may delegate powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> <i>Land Administration Act 1997</i>
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - February 2017, Resolution # O0217-032	5. Amended – May 2020, Resolution #O0520-148
2. Reviewed – June 2017 Resolution # O0617-133	6. Reviewed – May 2021, Resolution #O0521-147
3. Reviewed – May 2018, Resolution # O0518-098	7. Reviewed – May 2022, Resolution #O0522-112
4. Amended – June 2019: Resolution #O0619-120	8.

**PART 11 LOCAL GOVERNMENT (FINANCIAL MANAGEMENT)
REGULATIONS 1996**

11.1 Donations (r.12) – Removed June 2022 O0622-148

11.2 Payment of accounts (r.12)

Function Performed	Authority to make payments from the municipal or trust funds.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government (Financial Management) Regulations 1996</i> r.12 Payments from municipal fund or trust fund, restrictions on making
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	<i>Local Government (Financial Management) Regulations 1996</i> r.13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc. <i>Local Government Act 1995</i> s.6.5 – Accounts and records

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – May 2018, Resolution # O0518-098
2. Reviewed - February 2010, Resolution # O0210-1400	8. Amended – June 2019: Resolution #O0619-120
3. Reviewed - June 2013, Resolution # O0613-012	9. Reviewed – May 2020, Resolution #O0520-148
4. Reviewed – May 2015, Resolution # O0515-026	10. Reviewed – May 2021, Resolution #O0521-147
5. Reviewed – July 2016, Resolution # O0716-032	11. Reviewed – May 2022, Resolution #O0522-112
6. Reviewed – June 2017 Resolution # O0617-133	

**PART 12 LOCAL GOVERNMENT (UNIFORM LOCAL PROVISIONS)
REGULATIONS 1996**

12.1 Permission to have gate across public thoroughfare (r.9)	
Function Performed	Authority to assess and approve applications to construct a gate or other device across a public thoroughfare managed by the Local Government, that enables motor traffic to pass across the public thoroughfare and prevents livestock from straying.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r.9 - Permission to have gate across public thoroughfare — Sch. 9.1 cl. 5(1)
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.9.60 & Sch.9.1 cl.5(1)
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - June 2013, Resolution # O0613-012	6. Amended – June 2019: Resolution #O0619-120
2. Reviewed – May 2015, Resolution # O0515-026	7. Reviewed – May 2020, Resolution #O0520-148
3. Reviewed – July 2016, Resolution # O0716-032	8. Reviewed – May 2021, Resolution #O0521-147
4. Reviewed – June 2017 Resolution # O0617-133	9. Reviewed – May 2022, Resolution #O0522-112
5. Reviewed – May 2018, Resolution # O0518-098	

12.2 Private works on, over, or under public places (r.17)	
Function Performed	Authority to grant permission to construct anything on, over or under a public thoroughfare or other public place that is local government property.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r.17 - Private works on, over, or under public places — Sch. 9.1 cl.8
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.9.60 - Regulations that operate as local laws Sch 9.1 Cl.8 Private works on, over, or under public places

DELEGATION ADMINISTRATION

Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

12.3 Requirement to construct and repair crossing (r.13)	
Function Performed	Authority to <ol style="list-style-type: none"> 1. Give notice to an owner or occupier of land requiring the person to construct or repair a crossing. 2. Construct or repair the crossing if the person fails to comply with the notice, and recover 50% of the cost as a debt due from the person.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r.13 - Requirement to construct or repair crossing — Sch. 9.1 cl. 7(3)
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> s.9.60(4) – Regulations that operate as local laws Schedule 9.1 cl 7 Council Policy ASS 023: Crossover Construction
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	7. Reviewed – June 2017 Resolution # O0617-133
2. Reviewed - February 2011, Resolution # O0211-1575	8. Reviewed – May 2018, Resolution # O0518-098
3. Reviewed - April 2012, Resolution # AP0412-005	9. Amended – June 2019: Resolution #O0619-120
4. Reviewed - June 2013, Resolution # O0613-012	10. Reviewed – May 2020, Resolution #O0520-148
5. Reviewed – May 2015, Resolution # O0515-026	11. Reviewed – May 2021, Resolution #O0521-147
6. Reviewed – July 2016, Resolution # O0716-032	12. Reviewed – May 2022, Resolution #O0522-112

12.4 Dangerous excavation in or near public thoroughfare (r.11)	
Function Performed	<ol style="list-style-type: none"> 1. Authority to determine if an excavation in or on land adjoining a public thoroughfare is dangerous and take action to fill it in or fence it or request the owner / occupier in writing to fill in or securely fence the excavation [ULP r.11(1)]. 2. Authority to determine to give permission or refuse to give permission to make or make and leave an excavation in a public thoroughfare or land adjoining a public thoroughfare [ULP r.11(4)]. 3. Authority to impose conditions on granting permission [ULP r.11(6)]. 4. Authority to renew a permission granted or vary at any time, any condition imposed on a permission granted [ULP r.11(8)].
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r.11 – Dangerous excavation in or near public thoroughfare Sch. 9.1 cl. 6
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 - Delegation of some powers or duties to the CEO s.5.43 - Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	<ol style="list-style-type: none"> a. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996. b. Permission may only be granted where, the proponent has: <ol style="list-style-type: none"> i. Where appropriate, obtained written permission from or entered into a legal agreement with, each owner of adjoining or adjacent property which may be impacted by the proposed works. ii. Provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good the public assets at the completion of works. iii. Provided evidence of sufficient Public Liability Insurance. iv. Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> Sch.9.1(6)
DELEGATION ADMINISTRATION	

12.4

Dangerous excavation in or near public thoroughfare (r.11)

Decision Reference	Decision Reference
1. Adopted – May 2021, Resolution #O0521-147	6.
2. Amended – May 2022, Resolution #O0522-112	7.
3.	8.
4.	9.
5.	

12.5

Obstruction of footpaths and thoroughfares (r.5, r.6, r.7A & r.7)

Function Performed	<ol style="list-style-type: none"> 1. Authority to determine, by written notice served on a person who is carrying out plastering, painting or decorating operations (the work) over or near a footpath on land that is local government property, to require the person to cover the footpath during the period specified in the notice so as to: <ol style="list-style-type: none"> a. prevent damage to the footpath; or b. prevent inconvenience to the public or danger from falling materials [ULP r.5(2)]. 2. Authority to provide permission including imposing appropriate conditions or to refuse to provide permission, for a person to place on a specified part of a public thoroughfare one or more specified things that may obstruct the public thoroughfare. [ULP r.6(2) and (4)]. 3. Authority to renew permission to obstruct a thoroughfare and to vary any condition imposed on the permission effective at the time written notice is given to the person to whom permission is granted [ULP r.6(6)]. 4. Authority to require an owner or occupier of land to remove any thing that has fallen from the land or from anything on the land, which is obstructing a public thoroughfare [ULP r.7A]. 5. Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare [ULP r.7].
Power being Delegated	<p>Local Government (Uniform Local Provisions) Regulations 1996</p> <p>r.5(2) Interfering with, or taking from, local government land</p> <p>r.6 Obstruction of public thoroughfare by things placed and left - Sch. 9.1 cl. 3(1)(a)</p> <p>r.7A Obstruction of public thoroughfare by fallen things – Sch.9.1 cl.3(1)(b)</p> <p>r.7 Encroaching on public thoroughfare – Sch.9.1. cl.3(2)</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Local Government Act 1995</i></p> <p>s.5.42 - Delegation of some powers or duties to the CEO</p> <p>s.5.43 - Limitations on delegations to the CEO</p>
Power Delegated to	Chief Executive Officer
Council Conditions	<ol style="list-style-type: none"> a. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996. b. Permission may only be granted where, the proponent has: <ol style="list-style-type: none"> i. Where appropriate, obtained written permission from each owner of adjoining or adjacent property which may be impacted by the proposed obstruction. ii. Provided a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good public assets damaged by the obstruction at the completion of works. iii. Provided evidence of sufficient Public Liability Insurance. iv. Provided pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.

12.5 Obstruction of footpaths and thoroughfares (r.5, r.6, r.7A & r.7)	
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate some powers and duties to other employees
Compliance Links	<i>Local Government Act 1995</i> Sch.9.1(3) Determination of Bond Value and Conditions are specified in Delegation 12.6 of the Delegated Authority Manual: Obstruction of public thoroughfare by things placed and left. Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the <i>Local Government Act 1995</i> .
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – May 2021, Resolution #O0521-147	6.
2. Amended – May 2022, Resolution #O0522-112	7.
3.	8.
4.	9.
5.	

PART 14 HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

14.1 Appointment of Deputies (s.26)		
Function Delegated	Officers are appointed as Deputies to carry out the powers and functions of the Local Government under the <i>Health (Miscellaneous Provisions) Act 1911</i> .	
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>		
Power being Delegated	<i>Health (Miscellaneous Provisions) Act 1911</i> s.26 - Powers of local government	
Power originally assigned to	Local Government	
Power to Delegate	<i>Health (Miscellaneous Provisions) Act 1911</i> s.26 - Powers of local government	
Power Delegated to	Chief Executive Officer Director External Services	Manager Development & Statutory Services Coordinator Environmental Health
Council Conditions	Nil	
Power to Sub-Delegate	N/A	
Compliance Links	Nil	
DELEGATION ADMINISTRATION		
Decision Reference		Decision Reference
1. Adopted – August 2019, Resolution #O0819-170		5.
2. Amended – May 2020, Resolution #O0520-148		6.
3. Reviewed – May 2021, Resolution #O0521-147		7.
4. Reviewed – May 2022, Resolution #O0522-112		8.

PART 15 HEALTH (ASBESTOS) REGULATIONS 1992

15.1 Appoint Authorised and Approved Officers (r.15D)	
Function Delegated	<p>Authority to:</p> <ol style="list-style-type: none"> 1) Appoint Officers as Authorised Officers for the purpose of the <i>Criminal Procedure Act 2004</i> to issue infringements under the <i>Health (Asbestos) Regulations 1992</i>. 2) Manage infringements issued under the <i>Health (Asbestos) Regulations 1992</i> as an Approved Officer for the purpose of the <i>Criminal Procedure Act 2004</i>.
<p><i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i></p>	
Power being Delegated	<p><i>Health (Asbestos) Regulations 1992</i> r.15D – Infringement Notices</p>
Power originally assigned to	Local Government
Power to Delegate	<p><i>Health (Asbestos) Regulations 1992</i> r.15D – Infringement Notices</p>
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	Nil
Compliance Links	<p><i>Criminal Procedure Act 2004</i> Part 2 - Dealing with alleged offenders without prosecuting them</p>
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – August 2019, Resolution #O0819-170	5.
2. Reviewed – May 2020, Resolution #O0520-148	6.
3. Reviewed – May 2021, Resolution #O0521-147	7.
4. Reviewed – May 2022, Resolution #O0522-112	8.

PART 16 BUILDING REGULATIONS 2012

16.1 Appoint Approved and Authorised Officers (r.70)	
Function Delegated	<p>Authority:</p> <ol style="list-style-type: none"> 1) To appoint Authorised Officers for the purpose of the <i>Criminal Procedure Act 2004</i> to issue infringements under the <i>Building Regulations 2012</i> 2) As an Approved Officer for the purpose of the <i>Criminal Procedure Act 2004</i> to withdraw infringements under the <i>Building Regulations 2012</i>
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Building Regulations 2012</i> r.70 – Approved Officers and Authorised Officers
Power originally assigned to	Local Government
Power to Delegate	<i>Building Regulations 2012</i> r.70 – Approved Officers and Authorised Officers
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	N/A
Compliance Links	<p><i>Criminal Procedure Act 2004</i> Part 2 - Dealing with alleged offenders without prosecuting them s.6(a) s.6(b)</p> <p><i>Local Government Act 1995</i> 9.10 - Appointment of authorised persons 9.16 - Notice, giving of to alleged offender 9.19 – Extension of time 9.20 – Withdrawal of notice</p>
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted – May 2020, Resolution #O0520-148	5.
2. Amended – May 2021, Resolution #O0521-147	6.
3. Amended – May 2022, Resolution #O0522-112	7.
4. Amended – August 2022, Resolution #O0822-186	8.