



# Shire of Mukinbudin

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## Register of Delegations

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Originally Adopted: 23 August 2000  
Reviewed 26 May 2023

## **Local Government Act 1995 - Powers of delegation**

### **To Committees**

Delegation of some powers and duties to certain **committees**

- 5.16 (1) Absolute majority required to delegate: cannot delegate power of delegation.  
(2) To be in writing and may be general or conditional.  
(3) Can be for a period of time or indefinite.  
(4) Doesn't prevent Council acting through another.

5.17 Limits on delegations to committees.

5.18 Register of Delegations to be kept and reviewed annually.

### **To CEO**

Delegation of some powers and duties to **CEO**

- 5.42 (1) Absolute majority required to delegate.  
(2) To be in writing and may be general or conditional.

5.43 Limits on delegations to CEO

5.44 CEO may delegate to others, but not the power of delegation.

- 5.45 (1) (a) Can be for a period of time or indefinite.  
(b) Absolute majority required to amend or revoke.  
(2) Doesn't prevent Council or CEO acting through another.

### **Records to be kept**

- 5.46 (1) & (2) Register of Delegations to be kept and reviewed annually.  
(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

### **Admin Reg 19.**

"Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty had been delegated is to keep a written record of -

- (a) how the person exercised the power or discharged the duty;  
(b) when the person exercised the power or discharged the duty;  
(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"

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## **PART 1 – DELEGATIONS BY THE COUNCIL**

### Arrangement

#### **LOCAL GOVERNMENT ACT 1995 DELEGATIONS**

1. Implementation of the Budget
2. Exercise of Powers - Under Part 9
3. Exercise of Powers - Under Part 3
4. Investment of Surplus Funds
5. Make Payments from the Municipal Fund and Trust Fund
6. Contract Variations
7. Rate Notice – Extension of Time to Object
8. Payment of Rates and Service Charges
9. Temporary Road Closures
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11. Variation of CRC Fees and Charges

#### **BUILDING ACT 2011 DELEGATIONS**

20. Building Act 2011 Functions
- 20A. Grant of Building Permit
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- 20D. Grant of Occupancy Permits – Strata, Building Approval Certificate – Strata
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### **BUSH FIRES ACT 1954 DELEGATIONS**

- 30. Variation of prohibited and restricted burning times
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- 44. Cat Act 2011 Functions

# Local Government Act 1995 Delegations

## No. 1: IMPLEMENTATION OF THE BUDGET

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

- (1) Following the adoption of the budget, the CEO is delegated authority to use management discretion in:
- (a) implementing expenditure programs contained in the budget the details of which has been finalised and endorsed by Council;
  - (b) the appointment of consultants and contractors to enable the proper administration of the Council's business within the budget allocations;
  - (c) prioritising work, unless otherwise directed by the Council;
  - (d) determining whether or not to call tenders or sell by tender or auction where an obligation does not exist to do so under the Act;
  - (e) initiating arrangements for loans subject to referral to Council for adoption;
  - (f) authorising overtime for staff within the budget parameters;
  - (g) engaging temporary staff within the budget parameters;
  - (h) pursuing the payment of all unpaid debtor accounts including unpaid infringement notices.

### PROVISOS

- 1.a That costs are contained within budget allocations.
- 1.b That budget variations are brought to the attention of council in an exceptions manner for the purpose of monitoring and amending the budget as deemed necessary for accurate financial management.
- 2. Subject to compliance with the Act Regulations and Council's policies.
- 3 That Council authorise the CEO to issue purchase orders for the supply of goods or services in accordance with the adopted budget document excluding those goods or services requiring public tender/s which are to be referred to Council for formal consideration and awarding.

4. That the sub-delegation limit for the following two staffing categories:

Teir 1 – Senior Employees have sub-delegated authority to issue purchase orders up to the value of \$10,000 (inc GST) per order, in relation to all goods and services designated within the annual budget. As at 2023/24 these positions include the following members of staff:

- Manager of Works and Services
- Manager of Finance
- Manager of Corporate and Community Services
- Senior Finance Officer

Teir 2 – Other Employees have sub-delegated authority to issue purchase orders up to the value of \$2,500 (inc GST) per order in relation to all goods and services designated within the annual budget. As at 2023/24 these positions include the following members of staff:

- Administration Officer
- CRC Coordinator
- Customer Liaison Officer
- Customer Service Officer

## Purpose

To clarify the management role of the CEO in implementing and controlling the budget, to determine levels of accountability to Council and to set the limits for sub-delegations to nominated staff.

## Complementary Legislation

*Local Government Act 1995 Sections 5.42 to 5.45*

*Local Government (Functions and General) Regulations 1996, Regs 18 (4) and 18 (5).*

### **LOCAL GOVERNMENT ACT 1995 - SECT 5.43**

#### **5.43 . Limits on delegations to CEO**

*A local government cannot delegate to a CEO any of the following powers or duties —*

- (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.*

*[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]*

**5.44 . CEO may delegate powers and duties to other employees**

(1) *A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.*

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



(3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —

(a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and

(b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.

(4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.

(5) In subsections (3) and (4) —

**conditions** includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

## No. 2: EXERCISE OF POWERS UNDER PART 9

File Reference:

Date Made:

Review Date: 26 May 2023

### The Delegation

That the CEO be delegated power to appoint appropriate employees to be authorised for the purposes of performing particular functions contained in Division 2 of Part 9 of the *Local Government Act 1995*.

### Purpose

To enable the CEO to properly manage the affairs of the local government and assign responsibilities to employees.

### Power or Duty Delegated

*Local Government Act 1995* section 9.10 –

#### ***“9.10.Appointment of authorised persons***

- (1) The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.
- (2) The local government is to issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person.”

## No. 3: EXERCISE OF POWERS UNDER PART 3

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

That the CEO be delegated power to appoint appropriate employees for the purpose of exercising particular functions under Part 3 of the *Local Government Act 1995*.

### Purpose

To put in place appropriate authorisations to ensure that powers contained in Part 3 of the Act can be exercised promptly as occasion requires.

### The Power of Duty Delegated

The powers concerned are identified below –

S3.24 The powers given to a local government by this subdivision can only be exercised on behalf of the local government by a person expressly authorised by it to exercise those powers.

The powers concerned are:

S3.25 Giving notices to owners/occupiers requiring them to do certain things on their land if included in Schedule 3.1, e.g. make safe a tree which poses a danger.

S3.27 Doing the things prescribed in Schedule 3.2 on land that is not Local Government property e.g. take gravel for road works.

Part 3 – Div 3. Subdivision 3:- exercise powers of entry, where entry is required to perform a function under the Act, other than under a local law.

S3.39 (1) remove and impound any goods involved in a contravention that can lead to impounding.

## No. 4: INVESTMENT OF SURPLUS FUNDS

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

The CEO is delegated authority to invest surplus funds with the following institutions -

- Westpac Bank
- BankWest Bank
- Bendigo Bank

(see also Policy No 3.4 Investment Policy - Surplus funds)

### Purpose

To provide accountability when dealing with the investment of surplus funds.

### The Power or Duty Delegated

*Local Government Act 1995* section 6.14 -

#### **“Power to invest**

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

(2A) A local government is to comply with the regulations when investing money referred to in subsection (1).

(2) Regulations in relation to investments by local governments may —

(a) make provision in respect of the investment of money referred to in subsection (1); and

*[(b) deleted]*

(c) prescribe circumstances in which a local government is required to invest money held by it; and

(d) provide for the application of investment earnings; and

(e) generally provide for the management of those investments.

*[Section 6.14 amended by No. 49 of 2004 s. 58; No. 17 of 2009 s. 36; No. 2 of 2012 s. 19.]*

## No. 5: MAKE PAYMENTS FROM THE MUNICIPAL FUND AND TRUST FUND

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

That the Council delegate to the CEO the power to make payments from the municipal fund or trust fund (see Policy No 3.6 Payments and Investments).

### Purpose

To facilitate payment of accounts due to creditors.

### Power or Duty Delegated

*Local Government (Financial Management) Regulations - Reg 12:*

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

(1) A payment may only be made from the municipal fund or the trust fund —

(a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or

(b) otherwise, if the payment is authorised in advance by a resolution of the council.

(2) The council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to the council.

*[Regulation 12 inserted in Gazette 20 Jun 1997 p. 2838.]*

## No. 6: CONTRACT VARIATIONS

File Reference:

Date Made:

Review Date: 26 May 2023

### The Delegation

That the Chief Executive Officer is delegated authority to approve minor variations to contracts entered into by Council, subject to the funds required to meet the cost of the variations being contained within the amount set aside in the budget adopted by council and details of the variation approved being reported to council for information.

### Purpose

To enable the CEO to use management discretion in negotiating minor variations

### The Power or Duty Delegated

*Local Government (Functions and General) Regulations - reg 20:*

#### **20. Variation of requirements before entry into contract**

(1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.

(2) If —

(a) the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or

(b) the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

(3) In subregulation (1) —

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

## No. 7: RATE NOTICE – EXTENSION OF TIME TO OBJECT

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

The CEO is delegated power to extend the time for making an objection under Section 6.76(4) of the *Local Government Act 1995*.

### Purpose

To enable a person proposing to make an objection to adequately establish the grounds

### The Power or Duty Delegated

*Local Government Act 1995* –

S.6.76 (4) The local government may, on application by a person proposing to make an objection, extend the time for making the objection for such period as it thinks fit.

### Complementary Legislation

S.6.76 (1) provides that a person can object on the ground of –

- (i) ownership or occupancy;
- (ii) unrateability;
- (iii) characteristics of the land as the basis of a differential rate.

(2) provides an objection is to be made within 42 days of service of the rate notice (unless extended).

S.6.81 The making of an objection or an appeal under this subdivision does not affect the liability to pay any rate or service charge imposed under this Act pending determination of the objection or appeal.

## No. 8: PAYMENT OF RATES AND SERVICE CHARGES

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

- (1) That the CEO be authorised to make an agreement with a person as to payment of rates and service charges but subject to the imposition of appropriate additional and interest rate charges, having regard to policies adopted by Council in the annual budget.
- (2) That in extenuating circumstances, where the CEO believes there may be cause to make an agreement for the payment of rates and service charges without the imposition of additional or interest rate charges, the matter be referred to Council for consideration.

### Purpose

To recognise the rate collection task as essentially a management function.

### Statutory Power or Duty / Agencies

*Local Government Act 1995*- section 6.49 –

**“Agreement as to payment of rates and service charges**

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

For additional and interest rate charges, see –

Section 6.45 (3)  
FM Regs 67 - 71



## No. 9: TEMPORARY ROAD CLOSURES

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

The Chief Executive Officer is authorised to approve the temporary closure of streets provided that an alternative route is available for traffic which might otherwise use the section of road to be temporarily closed, or the closure is of such short duration that no great inconvenience would be suffered.

### Purpose

To facilitate the closure of streets in the event of emergency, e.g. heavy rain, or to enable road works.

### The Power or Duty Delegated

*Local Government Act 1995 –S3.50(1)*

3.50(1) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles.

Local Government (Functions and General) Regulations - reg 4

ss (2)(3)(4)(5)(6)(7)(8)(9) and section 3.51 — contain procedures, etc.

3.50 A Despite section 3.50, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure –

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

## No. 10: WRITE-OFF OF DEBTS

**File Reference:**

**Date Made:** 21 February 2007

**Review Date:** 26 May 2023

### The Delegation

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to approve the writing off of debts in accordance with Section 6.12 (1) (c) of the *Local Government Act 1995*

Any Debt written off under this delegation must be:-

- (a) up to \$500 only, or
- (b) where the debt occurred due to an error or oversight by Officers.

In all cases where a debt is to be written off, a separate report is to be submitted to Council for consideration.

The Chief Executive Officer delegates this authority to the Manager of Finance.

The delegation shall remain in force indefinitely.

This delegation is pursuant to Section 5.42 & 5.44 of the *Local Government Act 1995*.

#### **6.12. Power to defer, grant discounts, waive or write off debts**

(1) Subject to subsection (2) and any other written law, a local government may —

(a) when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or

(b) waive or grant concessions in relation to any amount of money; or

(c) write off any amount of money,

which is owed to the local government.

\* *Absolute majority required.*

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

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

(4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

[Section 6.12 amended by No. 64 of 1998 s. 39.]

## **No. 11: VARIATION OF CRC FEES AND CHARGES**

**File Reference:**

**Date Made:** 18 May 2023

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to use management discretion to determine individual fees and charges to participants of events/courses/workshops programmed at the Mukinbudin CRC.

In determining these variations, the CEO will pay due regard to the community benefit of participation rather than profit and loss assumptions for the event.

### **Purpose**

The purpose of this delegation is to provide some flexibility in setting fees and charges for specific events being facilitated by Council through the operations of the CRC and its management. It will ensure that participant numbers are maximised for each event at a reasonable fee.

### **The Power or Duty Delegated**

This delegation is pursuant to Section 5.42 & 5.44 of the *Local Government Act 1995*.

# Building Act 2011 Delegations

## No. 20: BUILDING ACT 2011 FUNCTIONS

File Reference:

Date Made:

Review Date: 26 May 2023

### Authorised Persons

- Chief Executive Officer Mr Dirk Sellenger and
- Environments Health Officer/Building Surveyor as contracted

## **No. 20A: GRANT OF BUILDING PERMIT**

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to grant or refuse to grant building permits under the *Building Act 2011* Section 20.

### **Sub Delegation**

The CEO delegates to the Principal Building Surveyor to grant or refuse to grant building permits under the *Building Act 2011*.

## **No. 20B: GRANT OF DEMOLITION PERMIT**

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to grant or refuse to grant demolition permits under the *Building Act 2011* Section 21.

### **Sub Delegation**

The CEO delegates to the Principal Building Surveyor to grant or refuse to grant demolition permits under the *Building Act 2011*.

## **No. 20C: NOT TO GRANT A PERMIT**

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to refuse to grant Building Permits or Demolition Permits if it appears:

1. There appears to be an error in the documents or information provided in the application; or
2. If an application is inconsistent with:
  - i) A function that the Permit Authority has underwritten law; or
  - ii) An agreement between the Permit Authority and the applicant.

under the *Building Act 2011* Section 22.

### **Sub Delegation**

The CEO delegates to the Principal Building Surveyor to refuse to grant Building Permits or Demolition Permits if it appears:

1. There appears to be an error in the documents or information provided in the application; or
2. If an application is inconsistent with:
  - i) A function that the Permit Authority has underwritten law; or
  - ii) An agreement between the Permit Authority and the applicant.

## **No. 20D: GRANT OF OCCUPANCY PERMITS – STRATA, BUILDING APPROVAL CERTIFICATE - STRATA**

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to grant, modify or refuse to grant Occupancy Permits or Building Approval Certificates under the *Building Act 2011* Section 50.

### **Sub Delegation**

The CEO delegates to the Principal Building Surveyor to grant modify or refuse to grant Occupancy Permits or Building Approval Certificates under the *Building Act 2011* Section 50.



## **No. 20E: GRANT OF OCCUPANCY PERMITS, BUILDING APPROVAL CERTIFICATE**

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to grant, modify or refuse to grant Occupancy Permits or Building Approval Certificates under the *Building Act 2011* Section 58.

### **Sub Delegation**

The CEO delegates to the Principal Building Surveyor Authority to grant modify or refuse to grant Occupancy Permits or Building Approval Certificates under the *Building Act 2011* Section 58.

## No. 20F: AUTHORISED PERSONS

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to appoint authorised persons for the purpose of the *Building Act 2011 Section 96*

## No. 20G: BUILDING ORDERS

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to issue Building Orders in relation to:

- Stop work, demolish/remove a building, alter a building or evacuate a building, where there is a contravention of a provision of the *Building Act 2011*;
- Take specific action to prevent contravention of the Act;
- Finish an outward facing side of a wall; Buildings which are considered as being unsafe or not fit for human habitation.

for the purpose of the *Building Act 2011 Section 110*

### **Sub Delegation**

The CEO delegates to the Principal Building Surveyor Authority to issue Building Orders in relation to:

- Stop work, demolish/remove a building, alter a building or evacuate a building, where there is a contravention of a provision of the *Building Act*;
- Take specific action to prevent contravention of the Act;
- Finish an outward facing side of a wall; Buildings which are considered as being unsafe or not fit for human habitation.

for the purpose of the *Building Act 2011 Section 110*

## **No. 20H: PRESUMPTIONS ABOUT AUTHORITY TO DO CERTAIN THINGS**

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### **The Delegation**

The Council of the Shire of Mukinbudin hereby delegates authority to the Chief Executive Officer, to commence prosecution for the purpose of the *Building Act 2011 Section 139*

# Bush Fires Act 1954 Delegations

## No. 30: VARIATION OF PROHIBITED AND RESTRICTED BURNING TIMES

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

- (1) That pursuant to Section 17(10) and 18(5)(c) of the *Bush Fires Act 1954*, the President and the Chief Bush Fire Control Officer are delegated jointly the Council's powers and duties under of the Bush Fires Act in respect to varying the prohibited and restricted burning times.
- (2) Such variation to be reported to the following Council meeting and communicated to all fire control officers as soon as practicable.

### Purpose

To enable the prohibited and restricted burning times to be varied on account of seasonal conditions.

### The Power or Duty Delegated

#### ***Bush Fires Act 1954 – S.17 Prohibited burning times may be declared by Minister***

- (10) A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8).
- (7) Subject to subsection (7B), in any year in which a local government considers that seasonal conditions warrant a variation of the prohibited burning times in its district the local government may, after consultation with an authorised CALM Act officer if forest land is situated in the district, vary the prohibited burning times in respect of that year in the district or a part of the district by—
  - (a) shortening, extending, suspending or reimposing a period of prohibited burning times; or
  - (b) imposing a further period of prohibited burning times.
- (7B) A variation of prohibited burning times shall not be made under subsection (7) if that variation would have the effect of shortening or suspending those prohibited burning times by, or for, more than 14 successive days.
- (8) Where, under subsection (7), a local government makes a variation to the prohibited burning times in respect of its district or a part of its district the following provisions shall apply—
  - (a) the local government—
    - (i) shall, by the quickest means available to it and not later than 2 days before the first day affected by the variation, give notice of the variation to any local government whose district adjoins that district;
    - (ii) shall, by the quickest means available to it, give particulars of the variation to the FES Commissioner and to any Government department or instrumentality which has land in that district under its care, control and management and which has requested the local government to notify it of all variations made from time to time by the local government under this section or section 18;

- (iii) shall, as soon as is practicable publish particulars of the variation in that district;
- (b) the Minister, on the recommendation of the FES Commissioner, may give notice in writing to the local government directing it —
  - (i) to rescind the variation; or
  - (ii) to modify the variation in such manner as is specified in the notice;
- (c) on receipt of a notice given under paragraph (b) the local government shall forthwith —
  - (i) rescind or modify the variation as directed in the notice; and
  - (ii) publish in that district notice of the rescission or particulars of the modification, as the case may require.

***Bush Fires Act 1954 -S18. Restricted burning times may be declared by FES Commissioner***

- (5) Subject to subsection (5B) in any year in which a local government considers that seasonal conditions so warrant the local government may, after consultation with an authorised CALM Act officer if forest land is situated in its district —
  - (a) vary the restricted burning times in respect of that year in the district or a part of the district by —
    - (i) shortening, extending, suspending or reimposing a period of restricted burning times; or
    - (ii) imposing a further period of restricted burning times;
  - or
  - (b) vary the prescribed conditions by modifying or suspending all or any of those conditions.
- (5B) A variation shall not be made under subsection (5) if that variation would have the effect of —
  - (a) shortening the restricted burning times by; or
  - (b) suspending the restricted burning times, or any prescribed condition, for,  
more than 14 successive days during a period that would, in the absence of the variation under subsection (5), be part of the restricted burning times for that zone in that year.

## No. 31: PROSECUTION OF OFFENCES

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

- (1) The CEO, in consultation with the Chief Fire Control Officer, is delegated power to institute and carry on proceedings against a person for an offence alleged to be committed against the *Bush Fires Act 1954*.
- (2) The power conferred under statement (1) above includes the issue of an infringement notice under section 59A.

### Purpose

So that the CEO can co-operate with the CFCO and through him, the Brigades, and take such measures as deemed appropriate to deter people from acting contrary to the *Bush Fires Act 1954*.

### The Power or Duty Delegated:

#### ***Bush Fires Act 1954 - 59. Prosecution of offences***

- (1) A person authorised by the Minister, a person employed in the Department for the purposes of this Act, an authorised CALM Act officer, a member of the Police Force, or a local government, may institute and carry on proceedings against a person for an offence alleged to be committed against this Act.
- (2) The person instituting and carrying on the proceedings shall be reimbursed out of the funds of the local government within whose district the alleged offence is committed, all costs and expenses which he may incur or be put to in or about the proceedings.
- (3) A local government may, by written instrument of delegation, delegate authority generally, or in any class of case, or in any particular case, to its bush fire control officer, or other officer, to consider allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district, and may pay out of its funds any costs and expenses incurred in or about the proceedings.
- (4) A local government may by written instrument cancel, or from time to time vary, any instrument of delegation conferred under subsection (3).
- (5) Notwithstanding that a local government has under subsection (3) conferred authority on a delegate, the local government is not precluded from exercising but may itself exercise the authority.

[Section 59 amended by No. 35 of 1957 s. 10; No. 11 of 1963 s. 25; No. 65 of 1977 s. 41; No. 14 of 1996 s. 4; No. 42 of 1998 s. 16; No. 38 of 2002 s. 36 and 40(1); No. 59 of 2004 s. 141; No. 19 of 2010 s. 52(4); No. 22 of 2012 s. 67.]

# Health Act 1911 Delegations

## No. 40: EXERCISE OF HEALTH ACT FUNCTIONS-BY PEHO

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

- (1) That pursuant to section 26 of the *Health Act 1911* Council appoints and authorises its PEHO to be its deputy, and in that capacity, subject to statement (2) below, to exercise and discharge all or any of the powers and functions of the local government to –
  - (a) serve notices and/or prosecute under S26 of the Health Act relating to breaches of the Health Act any Regulations or any Local Laws under the Health Act;
  - (b) approve and refuse applications for and renewals of Eating House, Offensive Trade or Lodging House licences and/or registrations as required;
  - (c) approve applications for and renewals of Stable Licences, and
  - (d) approve and refuse applications for the construction or installation of apparatus used for the treatment of sewage and disposal of liquid waste.
- (2) The Council's endorsement will be sought before proceeding with legal action.

### Conditions Attaching to Delegation

Compliance with the requirements of written law.

### Purpose

To enable the PEHO to act promptly to enforce compliance with public health standards and to expedite the approval of applications.

### The Power or Duty Delegated

*Health Act 1911* –

#### **“26. Powers of local government**

Every local government is hereby authorized and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made thereunder:

Provided that a local government may appoint and authorize any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or functions.”



## No. 41: EXERCISE OF HEALTH ACT FUNCTIONS- BY CEO

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

That pursuant to section 26 of the *Health Act 1911* Council appoints and authorises its CEO to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government to –

- (a) serve notices and/or prosecute under S26 of the Health Act relating to breaches of the Health Act any Regulations or any Local Laws under the Health Act;
- (b) approve and refuse applications for and renewals of Eating House, Offensive Trade or Lodging House licences and/or registrations as required;
- (c) approve applications for and renewals of Stable Licences, and
- (d) approve and refuse applications for the construction or installation of apparatus used for the treatment of sewage and disposal of liquid waste.

### Conditions Attaching to Delegation

Compliance with the requirements of written law.

### Purpose

To enable the CEO to act promptly to enforce compliance with public health standards and to expedite the approval of applications.

### The Power or Duty Delegated

*Health Act 1911* –

#### **“26. Powers of local government**

Every local government is hereby authorized and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made there under:

Provided that a local government may appoint and authorize any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or functions.”

# Food Act 2008 Delegations

## No. 42: FOOD ACT 2008 FUNCTION

**File Reference:**

**Date Made:**

**Review Date:** 26 May 2023

### The Delegation

That pursuant to section 118 of Division 2 of The *Food Act 2008* and *Food Regulations 2009*, Council appoints and authorises the Chief Executive Officer to be delegated the administration of the functions of the Shire of Mukinbudin as “enforcement agency”, pursuant to the *Food Act 2008* and the *Food Regulations 2009*. These functions include, but are not limited to, the authorising of Environmental Health Officers as authorised persons, the issuing of food business registrations and the annual reporting requirements described in the act.

The Chief Executive Officer, in exercising authority under Section 5.44 of the *Local Government Act, 1995*, has delegated this power/duty to the Principal Environmental Health Officer.

### Conditions Attaching to Delegation

#### Purpose

To enable the Principal Environmental Health Officer to act promptly to enforce compliance with the *Food Act 2008* and *Food Regulations 2009*.

#### The Power or Duty Delegated

*Food Act 2008* – Food Act Functions – Division 2 Section 118

#### Powers of Local Government

Every local government is hereby authorised and directed to carry out within its district the provisions of this Act and the regulations, local laws, and orders made there under:

Provided that a local government may appoint and authorise any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local government itself of any power or functions.

# Dog Act 1976 Delegations

## No. 43: Dog Act 1976

**File Reference:**

**Date Made:** 19 October 2016

**Review Date:** 26 May 2023

### The Delegation

- (1) That pursuant to Section 10.a.a of the Dog Act 1976 Council appoints and authorises its Chief Executive Officer to be delegated any power or duty of the Shire of Mukinbudin under this Act including the power to sub delegate.

This delegation to the Chief Executive Officer allows for the authorisation of Registration Officers & Authorised Officers as defined under Section 3.1 – Interpretation “Authorised person means a person who is appointed by a local government, to exercise powers on behalf of the local government, under Section 29(1) – Power to seize Dogs”

“Registration Officer means a person authorised by the local government to effect the registration of dogs pursuant to this Act.

### Sub delegation

- (a) The Chief Executive Officer delegates to the administration staff the power to effect registrations of dogs pursuant to this Act.
- (b) The Chief Executive Officer delegates to the contractor Ranger Service and its officers the designation of Authorised Officers and the powers to seize dogs under the provisions of Section 29 of this Act.
- (c) The Chief Executive Officer delegates to the Manager of Works, Manager of Corporate Services and the Supervisor Parks & Gardens the designation of Authorised Officer and the powers to seize dogs under the provisions of Section 29 of this Act.

# Cat Act 2011 Delegations

## No. 44: Cat Act 2011

**File Reference:**

**Date Made:** 19 October 2016

**Review Date:** 26 May 2023

### The Delegation

That pursuant to Division 2, Section 44 of the Cat Act 2011 Council appoints and authorises its Chief Executive Officer to be delegated the exercise of any of its power or the discharge of any of its duties under another provision of this Act including the power to sub delegate.

### Sub delegation

- (a) The Chief Executive Officer delegates to the administration staff to be registration officers under the provisions of this Act.
- (b) The Chief Executive Officer delegates the designation of "Authorised Officer" under Division 2 & 3 of the Act to the contracted Ranger service officers, Manager of Works, Manager of Corporate Services and the Supervisor Parks & Gardens.

"Authorised person" means

- (a) A Police Officer
- (b) A person appointed under Section 48.1