



Shire of Morawa

DELEGATION OF AUTHORITY REGISTER

July 2023

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INTRODUCTION

Purpose of Delegating Authority

The aim of delegated authority 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. The register details the related document(s) where the power to delegate is derived from, including legislation and policies of the Council. This enables easier cross-referencing. This delegated authority register will be reviewed in accordance with the *Local Government Act 1995* (the Act) on an annual basis. The co-ordination of the review will be performed through the office of the Chief Executive Officer.

Legislation

The Act allows for a local government to delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under the Act except those listed in s. 5 4 3. All delegations made by the Council must be by absolute majority decision. {s.5.42 (1)}.

Associated Legislation

Legislation other than the Act, its regulations and the local government's local laws created under the Act where delegations or authorisations may occur are as follows: -

- *Planning and Development Act 2005 including regulations, and adopted policies:*
- *Dog Act 1976* and regulations;
- *Cat Act 2011* and regulations;
- *Bush Fires Act 1954*, regulations and local laws created under that Act;
- *Health Act 1911* (as amended) regulations and local law created under that Act;
- *Freedom of Information Act 1992*;
- *Land Administration Act 1997*, as amended and regulations;
- *Litter Act 1979* and regulations;
- *Local Government (Miscellaneous Provisions) Act 1960* as amended;
- *Caravan Parks and Camping Grounds Act 1995*;
- *Control of Vehicles (Off-Road Areas) Act 1978* and regulations;
- *Strata Titles Act 1985*;
- *Food Act 2008*;
- *Environmental Protection Act 2005*;
- *Building Act 2011 and Building Regulations 2012*

Some legislation provides for authorisation of Local Government officers to have powers as are necessary in order for them to perform their required duties as a specific function of the local government. These duties are carried out as "acting through" functions under s.5.45 (2) of the Act and applies only to functions under the Act.

When dealing with functions under other legislation, one of the following may apply:

- Delegation, where that legislation includes express powers to delegate and those powers are capable of being used by Local Government Authorisation, where that legislation includes express powers to appoint authorised persons, and those powers are capable of being used by Local Government Implied Authorisation, where the function requires discretion and the parliament in drafting the legislation did not intend for the power to only be exercised by the office in which it is vested and the function is undertaken so frequently so as to be administratively unreasonable for it only to be exercised by the office in which it is vested.
- The *Planning and Development Act 2005* recognises the WA Planning Commission to delegate under S16(1) and (3)(e) "any function of the Commission under this Act or any other written law, except this power of delegation, a local government, a committee established under the Act or an employee of a local government."
- Section 14(a) (iii) "Functions" of the *Planning and Development Act* recognises the functions of the Commission to advise the Minister on legislation and delegations associated with local planning schemes. This includes Council's Town Planning Scheme No.3.

- Section 5.42 of the *Local Government Act 1995* provides power for Local Governments to delegate s.214 (2), (3) or (5) of the Planning and Development Act.

Delegation by the Chief Executive Officer

The *Act* allows for the Chief Executive Officer to delegate certain powers under that Act, to another Employee. {S5.44 (1)}. This must be done in writing. {S5.44 (2)} The Act allows for the Chief Executive Officer to place conditions on any delegations if desired.

{S 5.44 (4)}

A register of delegations relevant to the Chief Executive Officer and other employees is to be kept and reviewed at least once every financial year. {S.5.46 (1) and (2)}. If a person is exercising a power or duty that they have been delegated, the Act requires that records be kept whenever the delegated authority is used. {S 5.46 (3)}

The record is to contain the following information:

- how the person exercised the power or discharged the duty;
- when the person exercised the power or discharged the duty; and
- the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty. {Local Government (Administration) Regulations 1996 Regulation 19.}

All areas of the Shire responsible for work process are to ensure that data is captured, and records managed in accordance with all legislation, as well as preparing reports to Council where required under a specific delegation. This includes recording of delegated authority of the Chief Executive Officer where applicable, once approved through a signed authority by the Chief Executive Officer.

A person to whom a power is delegated under the *Act* is considered to be a 'designated employee' under s.5.74(b) of the *Act* and is required to complete a primary and annual return each year. There is no power for a person other than the Chief Executive Officer to delegate a power. {S 5.44 (1)}.

Acting through another person

Local Government Act 1995 – Section 5.45 (2)

Nothing in this Division (Division 4 - Local Government Employees) is to be read as preventing –

- a local government from performing any of its functions by acting through a person other than the Chief Executive Officer; or
- a Chief Executive Officer from performing any of his or her functions by acting through another person.

The key difference between a delegation and “acting through” is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the “acting through” concept.

Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

The difference between a delegated authority to exercise a discretion on behalf of the Shire and acting through another person to undertake a function on behalf of the Shire where no discretion exists is reinforced by Section 56 of the Interpretation Act 1984 which states:–

56. “May” imports a discretion, “shall” is imperative

Where in a written law the word “may” is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion.

Where in a written law the word “shall” is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed.

1. COUNCIL DELEGATIONS TO COMMITTEES

1.1. MORAWA SINOSTEEL FUTURE FUND

Delegated Function to be performed	Manage the Morawa Sinosteel Future Fund
Delegation to	Morawa Sinosteel Future Fund Committee
Legislative Power or duty delegated	As per the Deed of Agreement
Legislative power to delegate	<i>Local Government Act 1995</i> s5.16 Delegation of some powers and duties to certain committees s5.17 Limits on delegation of powers and duties to certain committees
Delegation of Duty	To implement the resolutions of the Morawa Sinosteel Future Fund Committee (without requiring a resolution of Council)
Conditions and Exceptions	As per Sinosteel Midwest Corporation Limited/Shire of Morawa – Deed of Agreement for the Future.
Reporting Requirements	Confirmed Committee Minutes
Date Reviewed	20 July 2023

2. COUNCIL DELEGATIONS TO CHIEF EXECUTIVE OFFICER

2.1 APPOINTMENT OF AUTHORISED PERSONS

Delegated Function to be performed	<p>A local government may, in writing, appoint persons or classes of persons to be authorised for the purpose of performing particular functions of an authorised person prescribed in the following legislation inclusive of subsidiary legislation made under each Act i.e. Regulations:</p> <p>Local Government Act 1995 and its subsidiary legislation, including Local Government Act Regulations, the Local Government (Miscellaneous Provision Act 1960 and Local Laws made under the Local Government Act.</p> <p>a) <i>Caravan Parks and Camping Grounds Act 1995</i> b) <i>Control of Vehicles (off-road Areas) Act 1978</i> c) <i>Litter Act 1979</i> d) <i>Criminal Procedures Act 2004</i> e) <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> f) <i>Cemeteries Act 1986</i> g) <i>Building Act 2011</i></p>
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i> S9.10 Appointment of authorised persons S 3.24 Authorising persons under this subdivision</p>
Legislative power to delegate	<p><i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	Only persons who are appropriately qualified and trained may be appointed as Authorised persons in accordance with each relevant legislation as per the Legislative Power to Delegate (above).
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.2 LOCAL LAWS – SHIRE OF MORAWA - ADMINISTRATION

Delegated Function to be performed	A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i> Division 2 Legislative functions of local governments Subdivision 1 Local laws made under this Act Subdivision 2 Local laws made under any Act S3.67 Inconsistency between regional and other local laws.</p> <p>Powers of the local government as prescribed in:</p> <p><i>Shire of Morawa Cemeteries 2018 - Local Law</i> <i>Shire of Morawa Dogs 2018 - Local Law</i> <i>Shire of Morawa Extractive Industries 2018 - Local Law</i> <i>Shire of Morawa Fencing 2018 Local Law</i> <i>Shire of Morawa Health 2004 - Local Law</i> <i>Shire of Morawa Public Places and Local Government Property 2018 - Local Law</i> <i>Shire of Morawa Meeting Procedures 2012 - Local Law</i> <i>Shire of Morawa Waste 2018 - Local Law</i></p>
Legislative power to delegate	<p><i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO s5.44 CEO may delegate powers and duties to other employees</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	Determinations and decisions under the Shire of Morawa Local Laws having regard to the relevant Shire of Morawa Council policies in force at the time.
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.3 POWER TO ISSUE NOTICES

Delegated Function to be performed	The issue of notices requiring certain thing to be done by the owner or occupier of land
Legislative Power or duty delegated	<i>Local Government Act 1995</i> S3.25, Notices requiring certain things to be done by owner or occupier of land
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO
Delegation to	Chief Executive Officer
Conditions and Exceptions	The CEO is delegated authority to issue notices under Schedule 3.1 section 3.25 of the <i>Local Government Act 1995</i>
Reporting Requirements:	Action taken to must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.4 POWERS OF ENTRY

Delegated Function to be performed	<ol style="list-style-type: none"> 1. Authorise entry onto land to fulfil any statutory function that the local government has under the Local Government Act 1995 2. Give a Notice of Entry 3. Seek and execute an entry under warrant 4. Execute an entry in an emergency, using such force as is reasonable 5. Give notice and execute the opening of a fence
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i> Section 3.28 When this subdivision applies Section 3.32 Notice of Entry Section 3.33 Entry under Warrant Section 3.34 Entry in an Emergency Section 3.36 Opening Fences</p>
Legislative power to delegate	<p><i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>A warrant to enter may only be sought after the employee has a sworn affidavit setting out circumstances that gave rise to the need for a warrant (unless in the case of substantial risk to public safety or property).</p> <p>Entry in an emergency may only be used, where there is imminent or substantial risk to public safety or property.</p>
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.5 IMPOUNDING GOODS INVOLVED IN CERTAIN CONTRAVENTIONS

Delegated Function to be performed	To declare a vehicle to be an abandoned vehicle wreck if: <ul style="list-style-type: none"> ▪ after 7 days from the removal of the vehicle under the <i>Local Government Act 1995</i> Section 3.40A(1) : the owner of the vehicle has not been identified; or ▪ after 7 days from the removal of the vehicle under the <i>Local Government Act 1995</i> Section 3.40A(2), the owner of the vehicle has not collected it.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> Subdivision 4 Impounding Goods involved in certain contraventions S3.39 Power to remove and impound. <i>Road Traffic Act 1974</i>
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO
Delegation to	Chief Executive Officer
Conditions and Exceptions	N/A
Reporting Requirements:	Action taken to must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.6 CLOSING CERTAIN THOROUGHFARES TO VEHICLES

Delegated Function to be performed	To close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks. A local government may, by local public notice, order a thoroughfare to be wholly or partially closed to vehicles for a period exceeding 4 weeks.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> s3.50 Closing certain thoroughfares to vehicles (1) (1a) (4)
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>S.3.50 (4)</p> <p>Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —</p> <p>a. give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission; and</p> <p style="padding-left: 40px;">i. give written notice to each person who</p> <p style="padding-left: 40px;">ii. is prescribed for the purposes of this section; or</p> <p style="padding-left: 40px;">iii. owns land that is prescribed for the purposes of this section; and</p> <p>b) allow a reasonable time for submissions to be made and consider any submissions made.</p> <p>NOTE: The permanent closure of thoroughfares to be referred to Council for determination in accordance with the <i>Land Administration Act 1997</i>.</p>
Reporting Requirements:	<p>Action taken to must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</p>
Date Reviewed	20 July 2023

2.7 PAYMENTS FROM MUNICIPAL FUND AND TRUST FUND

Delegated Function to be performed	Where a local government has delegated to the Chief Executive Officer the exercise of its power to make payments from the municipal fund or the trust fund, each payment from the municipal fund or the trust fund is to be noted on a list compiled for each month which is to be presented to the next ordinary meeting of council.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> Division 4 – General Financial Provisions <i>Local Government (Financial Management) Regulations 1996</i> r. 12(1)(a) Payments from municipal fund or trust fund, restrictions on making r.. 13 Payments from municipal fund or trust fund by CEO
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	Subject to the requirements of r13 of the <i>Local Government (Financial Management) Regulations 1996</i> and Shire of Morawa Policy Manual - FIN01 Significant Accounting Policy
Reporting Requirements	Each payment from the municipal fund or the trust fund is to be noted on a list compiled for each month which is to be presented to the next ordinary meeting of council within the Ordinary Council Meeting Agenda.
Date Reviewed	20 July 2023

2.8 CONCESSION FOR MINOR CHARGES

Delegated Function to be performed	A local government may approve the waiving or granting concessions in relation to any amount of money but shall not apply to an amount of money owing in respect of rates and service charges
Legislative Power or duty delegated	<i>Local Government Act 1995</i> s6.12 Power to defer, grant discounts, waive or write off debts s6.12(1)(b), (2) and (3)
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	The CEO may: Authorise a waiver or grant a concession to a maximum value of \$1,000
Reporting Requirements	The delegate has the authority to deal with such matters relevant to the delegation. Actions taken must be recorded in Synergy.
Date Reviewed	20 July 2023

2.9 WRITE-OFF OF MONIES OWING

Delegated Function to be performed	To write off any amount of money owed to the Shire, subject to section 6.12(2) of the <i>Local Government Act 1995</i> .
Legislative Power or duty delegated	<i>Local Government Act 1995</i> s6.12(1)(c) Power to defer, grant discounts, waive or write off debts which is owed to the local government.
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>The Chief Executive Officer may:</p> <p>Authorise a write-off of any debts (not including rates or other charges) up to a value of \$1,000 per debtor.</p> <p>Authorise a write-off of any debts in relation to rates in accordance with the Financial Hardship Policy to a maximum of \$1,000.</p> <p>The Chief Executive Officer will need to take into consideration when making such decisions:</p> <ul style="list-style-type: none"> ▪ The amount involved; and ▪ Impact of the writing off of the debt will have on the Council's finances and <ul style="list-style-type: none"> ○ the debtor; and ▪ The likelihood of ever recovering the debt
Reporting Requirements	<p>Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</p>
Date Reviewed	20 July 2023

2.10 INVESTMENT OF SURPLUS FUNDS

Delegated Function to be performed	Money held in the municipal or trust funds of a local government that is not, for the time being required by the local government for any other purpose may be invested in accordance with the Trustee's Act
Legislative Power or duty delegated	<i>Local Government Act 1995</i> s6.14 Power to Invest <i>Local Government (Financial Management) Regulation 19C</i> Investment of money, restrictions on s.6.14(2)(a)) Shire of Morawa Policy Manual – FIN02 Investment Policy
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	Authority to CEO is up to \$800,000 per investment. Authority which may be delegated by the CEO to employees is subject to the following maximum individual amounts: Executive Manager Corporate & Community Services: \$100,00.
Express Power to Sub-Delegate	Executive Manager Corporate and Community Services
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.11 EXPRESSION OF INTEREST FOR GOODS AND SERVICES

Delegated Function to be performed	<p>Authorisation is given to call for Expressions of Interest for the supply of goods or services where appropriate.</p> <p>Authorisation is given to consider Expressions of Interest received and determine a list of acceptable tenderers</p>
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i> s3.57 Tenders for providing goods or services</p> <p><i>Local Government (Function and General) Regulations 1996</i> r.21 Limiting who can tender, procedure for r.23 Rejecting and accepting expressions of interest to be the acceptable tenderer.</p>
Legislative power to delegate	<p><i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>The delegate has the authority to deal with such matters relevant to this delegation.</p> <p>Details of the expression of interest sought must be recorded in the appropriate record and in the Tender Register as required by the Local Government (Functions and General) Regulations 1996, Regulation 17.</p> <p>A determination to call a tender must only occur where the procurement is identified in Annual Budget allocations.</p>
Reporting Requirements	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.12 DETERMINING THAT TENDERS DO NOT HAVE TO BE INVITED FOR THE SUPPLY OF GOODS AND SERVICES

Delegated Function to be performed	The Chief Executive Officer is delegated the power to determine that the Shire has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier and not publicly invite tenders before the Shire enters into a contract for the supply of goods or services even though the consideration under the contract is, or is expected to be, worth more than \$250,000.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> S3.57(1) Tenders for providing goods or services <i>Local Government (Function and General) Regulations 1996</i> r.11 When tenders have to be publicly invited (2)(f)
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	In all proposed actions, notification of the intent to undertake a delegated decision must be made to Councillors via email and Councillors given not less than 3 working days to request the matter be referred to the next available Council meeting for a decision. The determination is to be supported by a detailed report and subject to the requirements and conditions of Shire of Morawa Policy Manual - FIN04 Purchasing Policy.
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.13 TENDERS EVALUATION CRITERIA

Delegated Function to be performed	The power to amend, in writing, the tender evaluation criteria from that of Shire of Morawa Policy Manual - FIN04 - Purchasing Policy prior to tenders being advertised.
Legislative Power or duty delegated	<i>Local Government (Function and General) Regulations 1996</i> r14 Publicly inviting tenders, requirements for (2a)
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	The Chief Executive Officer is delegated the power to amend, in writing, the tender evaluation criteria from that of Shire of Morawa Policy Manual - FIN04 Purchasing Policy prior to tenders being advertised.
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.14 MINOR VARIATION FOR GOODS OR SERVICES

Delegated Function to be performed	The power, with the approval of the tenderer, to make a minor variation in a contract for goods or services before the Shire enters the contract with the successful tenderer, subject to r20(1) of the Local Government (Functions and General) Regulations 1996.
Legislative Power or duty delegated	Local Government (Function and General) Regulations 1996 r20 Variation of requirements before entry into contract (1)
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	That the variation is minor having regard to the total goods or services that tenderers were invited to supply. That the variation is in the opinion of the Chief Executive Officer within the criteria established for that tender.
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.15 DISPOSING OF PROPERTY

Delegated Function to be performed	<p>The Chief Executive Officer is delegated power to dispose of property to:</p> <p>(a) to the highest bidder at public auction [s.3.58(2)(a)].</p> <p>(b) to the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tenders [s.3.58(2)(b)]</p> <p>(c) by private treaty only in accordance with section 3.58(3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)]</p>
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i> s3.58(2) (3) Disposing of Property</p> <p><i>Local Government (Function and General) Regulation 30</i></p>
Legislative power to delegate	<p><i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>a. Disposal of land or building assets is limited to matters specified in the Annual Budget and in any other case, a Council resolution is required.</p> <p>b. In accordance with s.5.43(d), disposal of property, for any single project or where not part of a project but part of a single transaction, is limited to a maximum value of</p> <p>c. \$10,000 or less.</p> <p>d. When determining the method of disposal: o Where a public auction is determined</p> <p>e. as the method of disposal:</p> <p>f. Reserve price has been set by independent valuation.</p> <p>g. Where the reserve price is not achieved at auction, negotiation may be undertaken to achieve the sale at up to a -10% variation on the set reserve price.</p> <p>h. 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.</p> <p>i. Where a private treaty is determined [s.3.58(3)] as the method of disposal, authority to: o Negotiate the sale of the property up to a -10% variance on the</p>

	<p>valuation; and</p> <p><i>j.</i> Consider any public submissions received and determine if to proceed with the disposal, ensuring that the reasons for such a decision are recorded.</p> <p><i>k.</i> Where the market value of the property is determined as being less than \$20,000 (F&G r.30(3) excluded disposal) may be undertaken:</p> <p><i>l.</i> Without reference to Council for resolution; and</p> <p><i>m.</i> In any case, be undertaken to ensure that the best value return is achieved</p> <p><i>n.</i> however, where the property is determined as having a nil market value, then the disposal must ensure environmentally responsible disposal.</p>
Reporting Requirements:	<p>Actions taken must be recorded the Lease Register and in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p><i>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</i></p>
Date Reviewed	20 July 2023

2.16 LEASE AGREEMENTS INCLUDING USER AND LICENCE AGREEMENTS

Delegated Function to be performed	The delegation is given for the establishment, renewal and variation of User and License Agreements, Commercial Lease Agreements, Community Lease Agreements and Sub-Lease Agreements both as the Lessor (care, control and Management of property) and Lessee (Crown or third party ownership of property) limited to: <ul style="list-style-type: none"> ▪ Each agreement not exceeding a total value of \$100,000 per annum; and Multi-year contracts not exceeding a total value of \$100,000.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> s3.58 Disposing of Property <i>Residential Parks (Long-Stay Tenants) Regulations 2007</i>
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.44 CEO may delegate powers and duties to other employees
Delegation to	Chief Executive Officer
Conditions and Exceptions	Compliance with <i>Local Government Act 1995</i> s. 3.58(d) Regulation 30 Function and General Regulations
Reporting Requirements:	Actions taken must be recorded in the Lease Register and Synergy under the appropriate File Number to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.17 LEGAL PROCEEDINGS

Delegated Function to be performed	To allow the Chief Executive Officer to authorise legal expenses for Elected Members and Officers where a report cannot be presented to Council for approval and the expenses do not exceed \$10,000
Legislative Power or duty delegated	<i>Local Government Act 1995</i> Subdivision 3 General provisions about legal proceedings
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO
Delegation to	Chief Executive Officer
Conditions and Exceptions	Subject to: <ul style="list-style-type: none"> ▪ Funds being available in the Shire's Annual Budget; ▪ An approved Application that complies with the Shire of Morawa Council Policy - ELM22 Legal Proceedings; ▪ Legal expenses do not exceed \$10,000 in respect of each application; and ▪ For any applications anticipated to be or are over \$10,000, a report must be presented to Council in all instances.
Reporting Requirements	Elected Members will be given at least 24 hours' notice via email of the Chief Executive Officer's intent to use this delegated authority. Action taken must be recorded in Synergy under the appropriate record number to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.18 SALE/DISPOSAL OF VEHICLES, ANIMALS OR GOODS, CONFISCATED OR OTHERWISE

Delegated Function to be performed	<p>To sell or otherwise dispose of any goods which have not been collected in accordance with a notice given, as per the <i>Local Government Act 1995</i>, s3.47.</p> <p>Authority to recover expense incurred for removing, impounding, and disposing of confiscated or uncollected goods s3.48.</p>
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i> s3.47 Confiscated or uncollected goods, disposal of s3.48 Impounding expenses, recovery of</p>
Legislative power to delegate	<p><i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>To sell or otherwise dispose of any goods which have not been collected in accordance with a notice given, as per s3.47 Local Government Act 1995.</p> <p>Authority to recover expense incurred for removing, impounding, and disposing of confiscated or uncollected goods s3.48.</p>
Reporting Requirements:	<p>Action taken to must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</p>
Date Reviewed	20 July 2023

2.19 PRIVATE WORKS ON, OVER OR UNDER PUBLIC PLACES

Delegated Function to be performed	A local government may grant permission to a person to construct anything on, over or under a public thoroughfare or other public place that is local government property subject to Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996.
Legislative Power or duty delegated	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r17(5) The local government may impose such conditions as it thinks fit on granting permission under this regulation r17(6)(c) It is a condition of the permission granted under this regulation damage to the public thoroughfare or public place resulting from the construction is repaired to the satisfaction of the CEO of the local government.
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO
Delegation to	Chief Executive Officer
Conditions and Exceptions	Nil
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.20 TOWN PLANNING AND DEVELOPMENT ACT 1928 – TOWN PLANNING FUNCTIONS

<p>Delegated Function to be performed</p>	<p>ADVERTISING AND DETERMINING APPLICATIONS FOR DEVELOPMENT APPROVAL</p> <p><u>Power/Duty</u></p> <p>Notification and Advertising of Applications for Development Approval Determine in accordance with the TPS 3 and Planning and Development (Local Planning Schemes) Regulations 2015, determine that a particular development application will be advertised and notify the applicant accordingly.</p> <p>Determine those landowners and occupiers to whom notice of an application for Development Approval required to be advertised shall be provided pursuant to the TPS 3 and Planning and Development (Local Planning Schemes) Regulations 2015.</p> <p>Determine the requirement for consultation with other authorities for an application for Development Approval pursuant to the TPS 3 and Planning and Development (Local Planning Schemes) Regulations 2015.</p> <p><u>Consideration of Applications for Development Approval</u></p> <p>Determine applications for Development Approval made in accordance with the Town Planning Scheme, Planning and Development (Local Planning Schemes) Regulations 2015 and/or Statement of Planning Policy No. 1 – Residential Design Codes, irrespective of whether objections have been received and impose conditions or grounds of refusal as required.</p> <p><u>Determine requests for Amending or Revoking a Development Approval</u></p> <p>Determine requests for Amending or Revoking a Development Approval made in accordance with the TPS 3 and Planning and Development (Local Planning Schemes) Regulations 2015 where the original permit was issued under delegated authority.</p> <p><u>Conditions</u></p> <p>An officer to whom delegated authority is granted is not to exercise that authority in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.</p> <p>SUBDIVISION AND DEVELOPMENT DESIGN</p> <p><u>Power/Duty</u></p> <p>To approve plans and impose Council’s accepted Standards and Specifications on subdivisions and developments and other similar works done by the Shire.</p> <p><u>Conditions</u></p> <p>An officer to whom delegated authority is granted is not to exercise that authority in circumstances where the Chief</p>
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	Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination
Delegated Function to be performed cont'd	<p>CONSIDERATION OF WAPC REFERRALS OF APPLICATIONS FOR SUBDIVISION APPROVAL</p> <p>Power/Duty</p> <p>Pursuant to the <i>Planning and Development Act 2005</i>, <i>Planning and Development Regulations 2009</i> and <i>Strata Titles Act 1985</i> provide comment to the Western Australian Planning Commission (WAPC) on matters associated with freehold and survey strata subdivision applications, proposed development plans (or similar) and licence/ lease applications.</p> <p>CLEARANCE OF LOCAL GOVERNMENT CONDITIONS ASSOCIATED WITH SUBDIVISION APPROVAL</p> <p>Power/Duty</p> <p>Pursuant to the <i>Planning and Development Act 2005</i>, <i>Planning and Development Regulations 2009</i> and <i>Strata Titles Act 1985</i> where the WAPC has included conditions on a subdivision approval relevant to the Shire, determine the 'clearance' of conditions designated (LG) in a freehold or survey strata subdivision approval issued by the WAPC.</p> <p>ISSUE OF CERTIFICATES (STRATA TITLES)</p> <p>Power/Duty</p> <p>Pursuant to the provisions of Section 23 of the <i>Strata Titles Act 1985</i>, the Director of Property & Development Services and/or the Chief Executive Officer is authorised to issue the appropriate certificates in respect to buildings as may be shown on a strata plan to be lodged for registration under the Act, where in the opinion of the Chief Executive Officer:</p> <p>The buildings shown on the strata plan have been confirmed, following physical inspection, as being compliant with all relevant a town planning, health and engineering requirements as provided for in the TPS 3 and Residential Design Codes and Shire Policies and Local Laws; and</p> <p>The buildings are deemed to be of sufficient standard and suitable to be divided into lots pursuant to the <i>Strata Titles Act 1985</i>.</p>

	<p>DIRECTIONS REGARDING UNAUTHORISED DEVELOPMENT Power/Duty</p> <p>To give directions in relation to unauthorized development and to authorise any action available to the responsible authority under the <i>Planning and Development Act 2005</i> and <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> incidental to such written direction, including but not limited to issuing a notice to correct or amend the development or to commence legal action.</p> <p>Conditions</p> <p>An officer to whom delegated authority is granted is not to exercise that authority in circumstances where the Chief Executive Officer has received a request from a Councillor that the matter be referred to Council for consideration or determination.</p>
Delegated Function to be performed cont'd	<p>RESPONSIBLE AUTHORITY REPORTS TO THE DEVELOPMENT ASSESSMENT PANEL Power/Duty</p> <p>To submit Responsible Authority Reports to the Development Assessment Panel pursuant to Regulation 12 of the <i>Planning & Development (Development Assessment Panels) Regulations 2011</i>.</p> <p>Conditions</p> <p>The Chief Executive Officer is to advise Councillors of the lodgement of a Mid- West/Wheatbelt JDAP application in the 'Councillors Information Bulletin' and report to Council at the earliest opportunity, the outcome of the Mid-West/Wheatbelt JDAP decision.</p>
Legislative Power or duty delegated	<p><i>Shire of Morawa Local Planning Scheme No. 3 or the most current scheme at time of applying the delegations (TPS)</i></p> <p><i>Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015,</i></p> <p><i>Local Government Act 1995</i></p> <p>s 5.45 Other matters relevant to delegations under this Division</p> <p>s5.46 Register of, and records relevant to, delegations to CEO and employees</p>
Legislative power to delegate	<i>Shire of Morawa Local Planning Scheme</i>
Delegation to	Chief Executive Officer

Conditions and Exceptions	<p>Where advertising any matter as provided for under this Delegation, referral must be made to Councillors via Email and Councillors given not less than 5 working days to request the matter be referred to Council for decision.</p> <p>Where the Shire receive an objection to any matter provided under this Delegation, the matter will be referred to Council for decision.</p> <p>This Delegation does not preclude the Delegate referring the categories of development or legal proceedings outlined above, to Council for determination, after having regard to the circumstances of a particular case.</p>
Reporting Requirements:	<p>Details of all Decisions given, and actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</p>
Date Reviewed	20 July 2023

2.21 BUILDING ACT 2011 - APPROVE OR REFUSE BUILDING PERMIT

Delegated Function to be performed	<p>A permit authority to which a certified application or an uncertified application is made must grant the building permit if it is satisfied that the application is in accordance with the Building Act 2011 subsections 20(1)(a) to (s).</p> <p>A permit authority to which an application is made must not grant the building permit unless it is satisfied as to each of the matters mentioned in subsection (1)(a) to (s).</p> <p>A permit authority to which an application is made may refuse to grant the building permit applied for if it appears to the permit authority that there is an error in the information provided for the application or in a document that accompanied the application</p> <p>A permit authority to which an application is made must not grant a building permit if to do so would be inconsistent with subsections (2) (a) and (b).</p>
Legislative Power or duty delegated	<p><i>Building Act 2011:</i> s.18 Further Information s.20 Grant of building permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit</p> <p><i>Building Regulations 2012:</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))</p>
Legislative power to delegate	<p><i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government</p>
Delegation to	Chief Executive Officer

Conditions and Exceptions	<p>Authority to require an applicant to provide any documentation or information required to determine a building permit application [s.18 (1)].</p> <p>Authority to grant or refuse to grant a building permit [s.20 (1) & (2) and s.22].</p> <p>Authority to impose, vary or revoke conditions on a building permit [s.27 (1) and (3)]. Authority to determine an application to extend time during which a building permit has effect [r.23].</p> <p>Subject to being satisfied that work for which the building permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)]</p> <p>Authority to impose any condition on the building permit extension that could have been imposed under s.27 [r.24 (2)].</p> <p>Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].</p>
	<p><i>In undertaking the functions of this delegation, Building Surveyors must be engaged by the Shire.</i></p> <p><i>With respect to uncertified applications, hold the appropriate qualification as set out under Regulation 6 of the Local Government (Building Surveyors) Regulations 2008.</i></p>
Reporting Requirements:	<p>Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting</p>
Date Reviewed	20 July 2023

2.22 BUILDING ACT 2011 – APPROVE OR REFUSE DEMOLITION PERMIT

Delegated Function to be performed	<p>Authority to require an applicant to provide any documentation or information required to determine a demolition permit application [s.18(1)].</p> <p>Authority to grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.20(1) & (2) and s.22].</p> <p>Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and (3)].</p> <p>Authority to determine an application to extend time during which a demolition permit has effect [r.23].</p> <p>Subject to being satisfied that work for which the demolition permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)]</p> <p>Authority to impose any condition on the demolition permit extension that could have been imposed under s.27 [r.24(2)].</p> <p>Authority to approve, or refuse to approve, an application for a new responsible person for a demolition permit [r.26].</p>
Legislative Power or duty delegated	<p><i>Building Act 2011:</i></p> <p>s.18 Further Information</p> <p>s.21 Grant of demolition permit</p> <p>s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit</p> <p><i>Building Regulations 2012</i></p> <p>r.23 Application to extend time during which permit has effect (s.32)</p> <p>r.24 Extension of time during which permit has effect (s.32(3))</p> <p>r.26 Approval of new responsible person (s.35(c))</p>
Legislative power to delegate	<p><i>Building Act 2011:</i></p> <p>s.127(1) & (3) Delegation: special permit authorities and local government</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>Delegation does not apply to places listed on the State's Register of Heritage Places or Council's Heritage Register, or to places classified by the National Trust.</p> <p>In undertaking the functions of this delegation, Building Surveyors must be engaged by the Shire.</p>
Reporting Requirements:	<p>Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p><i>Notification of the delegated decision must be made to Councillors at the next available Council Meeting</i></p>

Date Reviewed	20 July 2023
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2.23 BUILDING ACT 2011 – GRANT OF OCCUPANCY PERMIT OR BUILDING APPROVAL CERTIFICATE

Delegated Function to be performed	<p>A permit authority to which an application is made must grant or modify the occupancy permit or grant the building approval certificate applied for if it is satisfied that the application is in compliance with subsections 58(1)(a) to (l).</p> <p>A permit authority to which an application is made must not grant or modify the occupancy permit or grant the building approval certificate applied for unless it is satisfied as to each of the matters mentioned in subsections (1)(a) to (l).</p>
Legislative Power or duty delegated	<p><i>Building Act 2011:</i> <i>s.55 Further information</i> <i>s.58 Grant of occupancy permit, building approval certificate</i> <i>s.62(1) and (3) Conditions imposed by permit authority s.65(4)</i> <i>Extension of period of duration</i></p> <p><i>Building Regulations 2012</i> <i>r.40 Extension of period of duration of time limited occupancy permit or building approval certificate (s.65)</i></p>
Legislative power to delegate	<p><i>Building Act 2011:</i> <i>s.127(1) & (3) Delegation: special permit authorities and local government</i></p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>In undertaking the functions of this delegation, Building Surveyors must be engaged by the Shire.</p> <p>Authority to require an applicant to provide any documentation or information required in order to determine an application [s.55].</p> <p>Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58].</p> <p>Authority to impose, add, vary or revoke conditions on an occupancy permit [s.62(1) and (3)].</p> <p>Authority to extend, or refuse to extend, the period in which an occupancy permit or modification or building approval certificate has effect [s.65(4) and r.40].</p>
Reporting Requirements:	<p>Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</p>
Date Reviewed	20 July 2023

2.24 BUILDING ACT 2011 – ISSUE AND REVOCATION OF BUILDING ORDERS

Delegated Function to be performed	<p>A permit authority may make an order (a building order) in respect of one or more of the following: –</p> <ul style="list-style-type: none"> (a) particular building work; (b) particular demolition work; (c) a particular building or incidental structure, whether completed before or after commencement day. <p>A permit authority may, but notice in writing, revoke a building order at any time and must serve each person to whom the order is directed with a copy of the notice.</p>
Legislative Power or duty delegated	<p><i>Building Act 2011:</i></p> <p>s.110(1) A permit authority may make a building order</p> <p>s.111(1) Notice of proposed building order other than building order (emergency) s.117(1) and</p> <ul style="list-style-type: none"> (2) A permit authority may revoke a building order or notify that it remains in effect s.118(2) and (3) Permit authority may give effect to building order if non-compliance <p>s.133(1) A permit authority may commence a prosecution for an offence against this Act</p>
Legislative power to delegate	<p><i>Building Act 2011:</i></p> <p>s.127(1) & (3) Delegation: special permit authorities and local government</p>
Delegation to	Chief Executive Officer

Conditions and Exceptions	<p>Authority to make Building Orders in relation to:</p> <p>Building work Demolition work</p> <p>An existing building or incidental structure [s.110(1)].</p> <p>Authority to give notice of a proposed building order and consider submissions received in response and determine actions [s.111(1)(c)].</p> <p>Authority to revoke a building order [s.117].</p> <p>If there is non-compliance with a building order, authority to cause an authorised person to:</p> <ul style="list-style-type: none"> ▪ take any action specified in the order; or ▪ commence or complete any work specified in the order; or ▪ if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)]. <p>Authority to take court action to recover as a debt, reasonable costs and expense incurred in doing anything in regard to non-compliance with a building order [s.118(3)].</p> <p>Authority to initiate a prosecution pursuant to section 133(1) for non-compliance with a building order made pursuant to section 110 of the Building Act 2011.</p> <ol style="list-style-type: none"> 1) The Chief Executive Officer may refer notices to the Shire's Lawyer where it is considered appropriate; and 2) Determine that an order is to remain in effect in accordance with section 117(2) of the <i>Building Act 2011</i> where it is considered appropriate.
Reporting Requirements:	<p>Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.</p> <p>Notification of the delegated decision must be made to Councillors at the next available Council Meeting.</p>
Date Reviewed	20 July 2023

2.25 BUILDING ACT 2011 – APPOINTMENT OF AUTHORISED PERSONS

Delegated Function to be performed	A local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions of the <i>Building Act 2011</i> and the <i>Building Regulations 2012</i>
Legislative Power or duty delegated	<i>Building Act 2011</i> s.96(3) authorised persons
Legislative power to delegate	<i>Building Act 2011</i> s.127(1) & (3) Delegation: special permit authorities and local government
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>The Chief Executive Officer is delegated the power to appoint authorised persons for the purpose of enforcing section 96.3 of the provisions of the <i>Building Act 2011</i></p> <p>Authority to designate an employee as an authorised person [s.96 (3)].</p> <p>Authority to 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 [s.99(3)].</p> <p>The Delegation is subject to section 100(2) of the <i>Building Act 2011</i>:</p> <p>"The authorised person is not entitled to enter a part of a place in use as a residence, except –</p> <ul style="list-style-type: none"> a) with the consent of an adult occupier; or b) under the authority of an entry warrant; or c) to take action under section 118(2) in relation to a building order emergency); and <p>Section 127 (3) of the <i>Building Act 2011</i></p> <p>(1) A delegation of a local government's powers or duties may be only to a local government employee"</p>
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.26 BUSH FIRES ACT 1954 - POWER AND DUTIES

Delegated Function to be performed	All powers, duties and functions of the local government under the <i>Bush Fires Act 1954</i>
Legislative Power or duty delegated	<i>Bush Fires Act 1954</i>
Legislative power to delegate	<i>Bush Fires Act 1954</i> Section 48 – Delegation by local governments
Delegation to	Chief Executive Officer
Conditions and Exceptions	Excludes powers and duties that are subject to separate delegated authority within this Register as set out below: <ul style="list-style-type: none"> ▪ Delegation.7.7.2 Appointment of Bush Fire Control Officers; ▪ Delegation 7.7.3 Variation of Prohibited Burning Times; and ▪ Delegation 7.7.4 Prosecutions; ▪ are prescribed powers and duties in the Act with the requirement for a resolution by the local government; ▪ are prescribed in the Act for performance by prescribed offices;.
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.27 BUSH FIRES ACT 1954 - APPOINTMENT OF BUSH FIRE CONTROL OFFICERS

Delegated Function to be performed	Appointing a bush fire officer to carry out the powers and functions in the <i>Bush Fires Act 1954</i> .
Legislative Power or duty delegated	<i>Bush Fires Act 1954</i> S38 Local government may appoint bush fire control officer
Legislative power to delegate	<i>Bush Fires Act 1954</i> Section 48 – Delegation by local governments
Delegation to	Chief Executive Officer
Conditions and Exceptions	Appointment of Bush Fire Control Officers to be subject to the recommendations of the Bush Fire Advisory Committee
Reporting Requirements	Actions taken must be recorded in Synergy under the appropriate File Number to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.28 BUSHFIRES ACT 1954 - PROHIBITED BURNING TIMES

Delegated Function to be performed	Determine to vary Prohibited Burning Times, in accordance with specified times <i>in the Bush Fires Act 1954.s17(7) and (8)</i> , regarding: <ul style="list-style-type: none"> ▪ shortening, extending, suspending or re-imposing a period of prohibited burning times; or ▪ imposing a further period of prohibited burning
Legislative Power or duty delegated	<i>Bush Fires Act 1954:</i> s.17(7) Prohibited burning times variation due to seasonal conditions <i>Bush Fire Regulations 1954:</i> r.15 Permit to burn (Act s.18), form of and apply for after refusal etc. r. 38A Use of engines, plant or machinery likely to cause a bush fire r.8C 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.
Legislative power to delegate	Bush Fires Act 1954 Section 48 – Delegation by local governments
Delegation to	Chief Executive Officer and Chief Bush Fire Control Officer (jointly)
Conditions and Exceptions	N/A
Express Power to Sub-Delegate	Nil
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.29 BUSHFIRES ACT 1954 - PROSECUTIONS

Delegated Function to be performed	<p>Issue Infringement Notices.</p> <p>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 as prescribed under the <i>Bush Fires Act 1954</i>.</p> <p>Note: s59A(3) and <i>Bush Fires (Infringements) Regulations 1958</i>, Reg.4(a) provide that only the President or the Chief Executive Officer may withdraw an infringement notice.</p>
Legislative Power or duty delegated	<p><i>Bush Fires Act 1954</i></p> <p>s59(3) Prosecution of Offences s59A(2) Alternative Procedure – Infringement Notices</p>
Legislative power to delegate	<p><i>Bush Fires Act 1954</i></p> <p>Section 48 – Delegation by local governments</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	N/A
Reporting Requirements:	Actions taken must be recorded in Synergy under the appropriate File Number to meet legislative requirements.
Date Reviewed	20 July 2023

2.30 FOOD ACT 2008 – APPOINTMENT OF AUTHORISED OFFICERS

Delegated Function to be performed	Authority to appoint authorised officers under the Food Act, Public Health Act and authority to appoint an Authorised Officer to be a Designated Officer for the purposes contained in S126 (6), (7) of the <i>Food Act 2008</i>
Legislative Power or duty delegated	<i>Food Act 2008</i> s122 Appointment of Authorised Officers and s126 Infringement Notices
Legislative power to delegate	<i>Food Act 2008:</i> <i>r.118 Functions of enforcement agencies and delegation</i> <i>(2)(b) Enforcement agency may delegate a function conferred on it</i> <i>(3) Delegation subject to conditions [s.119] and guidelines adopted [s.120]</i> <i>Sub-delegation permissible only if expressly provided in regulations.</i>
Delegation to	Chief Executive Officer
Conditions and Exceptions	Authority to appoint a person to be an authorised officer for the purposes of the Food Act 2008 [s.122 (2)]. Authority to appoint an Authorised Officer appointed under s.122 (2) of this Act or the s.24(1) of the Public Health Act 2016, to be a Designated Officer for the purposes of issuing Infringement Notices under the Food Act 2008 [s.126(13)]. Authority to appoint an Authorised Officer to be a Designated Officer (who is prohibited by s.126(13) from also being a Designated Officer for the purpose of issuing infringements), 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)].
Reporting Requirements:	Details of all authorised officers appointed must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.31 FOOD ACT 2008 – PROHIBITION ORDERS

Delegated Function to be performed	An enforcement agency may: Authority to serve a prohibition order on the proprietor of a food business in accordance with s.65 of the Food Act 2008 [s.65(1)]. Authority to give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66].
Legislative Power or duty delegated	<i>Food Act 2008</i> s.65(1) Prohibition orders s.66 Certificate of clearance to be given in certain circumstances s.67(4) Request for re-inspection
Legislative power to delegate	<i>Food Act 2008</i> s118 Functions of enforcement agencies and delegation
Delegation to	Chief Executive Officer Executive Manager Corporate and Community Services Environmental Health Officer
Conditions and Exceptions	Environmental Health Officer is delegated the power to issue prohibition orders in accordance with section 65 of the Food Act 2008. Environmental Health Officer is delegated the power to initiate appropriate legal action in accordance with section 125 of the Food Act 2008. Environmental Health Officer is delegated the power to clear and remove a prohibition order in accordance with section 66 of the Food Act 2008, and to provide written notification as required with respect to any decision made not to issue a certificate of clearance following an inspection under either Section 66 or 67. The power to prosecute any person is only exercised by agreement of Chief Executive Officer in conjunction with advice from the Shire's Lawyer.
Reporting Requirements:	Details of all prosecutions must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.32 CAT ACT 2011 – APPOINTMENT OF AUTHORISED PERSON

Delegated Function to be performed	<i>Cat Regulations 2012</i>
Legislative Power or duty delegated	<i>Cat Act 2011</i> <i>Part 4 Administration and enforcement</i> <i>Part 5 Subsidiary Legislation</i>
Legislative power to delegate	<i>Cat Act 2011</i> s44 Delegation by local government
Delegation to	Chief Executive Officer
Conditions and Exceptions	All the powers and duties of the local government under the <i>Cat Act 2011, Cat Regulations 2012</i>
Reporting Requirements:	Details of all decision made must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.33 DOG ACT 1976 – APPOINTMENT OF AUTHORISED PERSON

Delegated Function to be performed	<p><i>Dog Act 1976</i> <i>Dog Regulations 2013.</i> All the powers and duties of the local government.</p> <p><i>Shire of Morawa Dogs Local Law 2018:</i> s 2.2 s 2.3 s.4 s.3.3 s 4.15 s 7.4 s 7.5 s 7.6 s 7.7 Schedule 2</p>
Legislative Power or duty delegated	<p><i>Dog Act 1976</i> <i>Dog Regulations 2013.</i> All the powers and duties of the local government.</p> <p><i>Shire of Morawa Dogs Local Law 2018: s 2.2</i> s 2.3 s 2.4 s.3.3 s 4.15 s 7.4 s 7.5 s 7.6 s 7.7 Schedule 2</p>
Legislative power to delegate	<p><i>Dog Act 1976</i> s10AA s10AB</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>Withdrawal of an Infringement Notice can only to be approved by the Chief Executive Officer or Executive Manager Corporate and Community Services.</p> <p>The authorised officers (excepting those listed as authorised to perform functions which are limited to the registration of animals) are appointed to undertake the powers of an authorised person under the Dog Act 1976 the Dog Regulations 1976 and the Dog (Restricted Breeds) Regulations No 2 2002. The appointment includes the power of an authorised person to declare a dog to be a dangerous dog under section 33E of the Act.</p>
Reporting Requirements:	Details of all decision made must be recorded in Synergy under the appropriate File Number record to meet legislative requirements.
Date Reviewed	20 July 2023

2.34 FIREWORK EVENTS

Delegated Function to be performed	The issue of fireworks event notice.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> S3.25 (1) Division 1 — Things a notice may require to be done Schedule 3.1 Powers under notices to owners or occupiers of land [
Legislative power to delegate	<i>Dangerous Goods Safety Act 2004</i> <i>Dangerous Goods Safety (Explosives) Regulations 2007</i>
Delegation to	Chief Executive Officer
Conditions and Exceptions	N/A
Reporting Requirements:	Action taken must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors at the next available Council Meeting.
Date Reviewed	20 July 2023

2.35 HEALTH (ASBESTOS) REGULATIONS – ADMINISTRATION

Delegated Function to be performed	Approving officers for the purposes of the <i>Criminal Procedures Act 2002 Part 2</i>
Legislative Power or duty delegated	<i>Health (Asbestos) Regulations Regulation 1992</i> s.3 <i>Local Laws</i> 15D <i>Infringement Notices</i> <i>Criminal Procedures Act 2002 Part 2</i>
Legislative power to delegate	<i>Health (Asbestos) Regulation 26(7)</i> r15D <i>Infringement Notices</i> r. 15D(5) A local government may, in writing, appoint <i>persons or classes of persons to be authorised officers or approved officers for the purposes of the Criminal Procedure Act 2004 Part 2.</i>
Delegation to	Chief Executive Officer
Conditions and Exceptions	Local Government Act 1995 Section 3.25 Notices requiring certain things to be done by owner or occupier of land Schedule 3.1 Powers under notices to owners or occupiers of land
Reporting Requirements:	Details of actions taken to made on behalf of the Shire must be recorded in Synergy under the appropriate File Number record to meet legislative requirements. Notification of the delegated decision must be made to Councillors via the next available information bulletin
Date Reviewed	20 July 2023

2.36 RESTRICTED ACCESS VEHICLES (RAV) ON SHIRE ROADS

Delegated Function to be performed	To determine an application referred from Main Roads WA to use heavy haulage vehicles (RAV) on any local road within the district, recommending approval or refusal and conditions. As well as to grant letters of authority where conditions have been applied.
Legislative Power or duty delegated	<p><i>Local Government Act 1995</i></p> <p><i>Land Administration Act 1997</i> Section 56(2) road reserves under the control of the local government</p> <p><i>Public Works Act 1902</i> Section 86(2) Governor may declare roads to be under the control of the local government</p> <p><i>Road Traffic (Vehicle Standards) Regulations 2002</i></p> <p>Shire of Morawa Public Places and Local Government Property Local Law 2018</p>
Legislative power to delegate	<p>Local Government Act 1995 s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO s5.44 CEO may delegate powers and duties to other employees</p> <p>On delegation permitted.</p>
Delegation to	Chief Executive Officer
Conditions and Exceptions	<p>The CEO only has authority to approve or refuse requests where:</p> <ul style="list-style-type: none"> • The estimate haulage volume per annum is less than 50,000 tonnes • The road has already been assessed by Main Roads WA as being suitable for the configuration proposed by the applicant • If recommending CA07 conditions are applied where necessary to manage RAV access in order to preserve the condition of the road and avoid heavy vehicle damage • the applicant agrees to accept liability for damage to the road attributed to their use that exceed fair use/wear and tear <p>Where an application relates to a road that has not previously been assessed by Main Roads WA or Council, the matter must be referred to Council.</p> <p>Where the CEO declines an application, the applicant has the right to lodge a written appeal with the Shire which will be presented to Council for consideration.</p>

Reporting Requirements:	Written record of determination and reasoning must be recorded in the Shire's record keeping system. Notification of the delegated decision must be made to Councillors via the next available information bulletin or Council meeting.
Date Reviewed	20 July 2023

2.37 RESPONDING TO EXPLORATION LICENCE APPLICATION REFERRALS

Delegated Function to be performed	To respond to Mining Registrar in relation to notice served about an Exploration Licence application. Provide the Shire's basic conditions and any objections to the exploration.
Legislative Power or duty delegated	<i>Local Government Act 1995</i> <i>Mining Act 1978 - Sections 23 to 26</i> <i>Mining Act Regulations</i>
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO s5.44 CEO may delegate powers and duties to other employees On delegation permitted.
Delegation to	Chief Executive Officer
Conditions and Exceptions	The CEO must apply the below conditions to any response where an objection is not raised: a) That dust suppression is carried out so that others are not adversely affected; b) That any saline ground water found is contained by pumping it into a water trailer and disposed of through normal mining practices under the terms of the company's mining conditions; c) Any ground water that escapes onto the ground around the drill site is to be bunded so that it does not spread; d) All plastic bags used for soil samples are to be removed from the site and disposed of in a suitable manner; e) All rubbish is to be disposed of in the appropriate manner; f) A firefighting unit is to be available at all times, and drilling is to cease if a total fire and harvest ban is called; g) No drill holes are to extend under any public roadways or interfere with road drainage; h) All drill holes are to be capped as soon as possible/practical after drilling; and i) No drilling is to occur within any Shire gravel pits
Reporting Requirements:	Written record of determination and reasoning must be recorded in the Shire's record keeping system. Notification of the delegated decision must be made at the next Ordinary Meeting of Council.
Date Reviewed	20 July 2023

2.38 LONG SERVICE LEAVE

Delegated Function to be performed	To approve or reject: <ul style="list-style-type: none"> a) Applications for Long Service Leave at half pay b) Applications for Long Service Leave at double pay c) An appropriate period or periods for the taking of long service leave d) On application of the employee, to defer taking of long service leave beyond six (6) months of becoming entitled
Legislative Power or duty delegated	<i>Local Government Act 1995</i> <i>Section 5.48 – Long Service Leave benefits for employees</i> Local Government (Long Service Leave) Regulations Regulation 6A – long service leave on half pay Regulation 6B – long service leave on double pay Regulation 7 – taking of long service leave Regulation 8(2) – payment for or in lieu of leave
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO s5.44 CEO may delegate powers and duties to other employees On delegation permitted.
Delegation to	Chief Executive Officer
Conditions and Exceptions	Long Service Leave requests for the CEO must be referred to Council. The CEO is to advise employees that any deferred long service leave will: <ul style="list-style-type: none"> • Not be deferred for more than 2 years without Council approval • Be at the rate of pay applicable at the end of six months of becoming entitled (not at the rate applicable when taken) Applications must be referred to Council if they request: <ul style="list-style-type: none"> • a deferment greater than two (2) years • payment at a rate greater than double the applicable rate 6 months after becoming entitled • payment at a higher rate than agreed when the CEO deferred the Long Service Leave entitlement
Reporting Requirements	Leave records are to be kept.
Date Reviewed	20 July 2023

2.39 CONTROL OF ENVIRONMENTAL MATTERS

Delegated Function to be performed	To exercise and discharge all or any of the powers and functions of the local government with regard to: <ul style="list-style-type: none"> the Public Health Act 2016 and Regulations the Health (Miscellaneous Provisions) Act 1911 and Regulations
Legislative Power or duty delegated	<i>Public Health Act 2016</i> <i>Section 4(2) – Authorised Officer</i> <i>Section 21 – Power to Delegate to CEO</i> <i>Section 24 – Authorised person must be qualified</i> <i>Section 25 – Authorised person must have acceptable qualifications or be an EHO</i> <i>Health (Miscellaneous Provisions) Act 1911</i> <i>Section 344(2) regulations or local laws may be made so as to delegate or confer a discretionary authority to specific persons or class of persons.</i>
Legislative power to delegate	<i>Local Government Act 1995</i> s5.42 Delegation of some powers and duties to CEO s5.43 Limits on delegations to CEO s5.44 CEO may delegate powers and duties to other employees On delegation permitted.
Delegation to	Chief Executive Officer
Conditions and Exceptions	All approvals must comply with the requirements of legislation and planning schemes. Non-compliant applications are to be refused unless there is a discretion, in which case it is to be referred to Council for a decision. The delegation excludes determining a fee or charge and dealing with objections. Decisions around prosecutions cannot be on delegated and Council should be informed of proposed prosecutions prior to them commencing.
Reporting Requirements:	Written record of determination and reasoning must be recorded in the Shire's record keeping system. Notification of the delegated decision must be made at the next Ordinary Meeting of Council.
Date Reviewed	20 July 2023

VERSION CONTROL

Delegation Number	Title	Action	Date of Ordinary Meeting of Council
4.11	Fireworks Event	Carried Resolution 200912	17 September 2020
All delegations		Full Review	15 July 2021
All delegations		Full Review	21 July 2022
All delegations		Full Review	20 July 2023