



SHIRE OF MENZIES

DELEGATIONS REGISTER

For adoption by Council
February 2021

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INTRODUCTION

Statutory Context

Although a range of legislation permits Council to delegate authority, this Delegations Register has been prepared principally in accordance with the Local Government Act 1995 –

- s.5.16 – Delegation of some powers and duties to certain committees
- s.5.17 – Limits on delegations of powers and duties to certain committees
- s.5.18 – Register of delegations to committees
- s.5.42 – Delegation of some powers and duties to Chief Executive Officer
- s.5.43 – Limits on delegations to Chief Executive Officer's
- s.5.44 – Chief Executive Officer may delegate powers and duties to other employees
- s.7.1B – Delegation of some powers and duties to audit committee and the Administration Regulations –
- r.19 – Record to be kept by delegates

All delegations require approval by an absolute majority of Council.

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

However, given the limited number of delegations, and their importance, it is recommended that Council be advised of use of delegations, for their information. It is open to Council to make a direction that this is the case.

Heads of Power

The Council is responsible for functions and activities under numerous Acts and other legislation, many of which permit Council to delegate responsibilities and authority to various Officers.

Unless stated otherwise, the Local Government Act 1995 sections 5.16 and 5.42 is the statutory context for Council to make the delegations in Parts 1 and 2, and additional legislative requirements are noted.

Delegations must be made within the parameters of the enabling legislation. For instance, the authority of the Local Government Act 1995 cannot be used to delegate functions to the Chief Executive Officer under a different Act. If the other Act specifies a person or role, the delegation must be made accordingly. If the other Act does not specify a person, Council may delegate to who it chooses.

It is Council's expectation, that the Chief Executive Officer will assign delegations relevant to a specialist or specific position, to that person, in accordance with the Local Government Act s.5.44.

Legislation

Generally, the text of legislation (Acts and Regulations) will not be quoted, but only the reference and a summary of the relevant section given. Legislation changes, so it is essential that the empowering provisions are checked regularly, rather than relying on extracts being carried forward, that may be found to be superseded.

Definitions

The Local Government Act has not defined the term “delegation” or “delegated power”, however:

- s.5.16 refers to “... the exercise of any of its powers and duties ...”
- s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The term “policy” is not defined anywhere in the Local Government Act.

Accordingly, throughout this document, the following terms apply, insofar as they are consistent with all enabling legislation referred to within each of the specific delegations.

“Authority” means the permission or requirement for Council, a Committee or an Officer to act in accordance with:

- the Local Government Act or other legislation or regulation,
- a delegation made by Council,
- a policy made by Council, or
- a specific decision by Council.

“Delegation” means the authority for a Committee, the Chief Executive Officer or other specified Officer to act on behalf of Council, where the power is either specifically or by implication, intended to be exercised by the elected members, rather than an organisational responsibility.

“Policy”, as the context requires, means either:

- a procedural direction to Officers to implement Council’s wishes or instructions in a particular way; or
- the authority for Officers to act, where that authority is not considered to be a delegation, but more procedural in nature.

“Instruction” means the requirement for a staff member to act in accordance with a direction given by a senior Officer of Council.

There is often confusion about how the terms “Shire” and “Council” are used. In this document, a strict definition is applied –

“Council” means the elected members of the local government, as a body

“Shire” means, as the context requires –

- the corporate entity of the local government, or
- the physical area of the local government

DEPARTMENT OF LOCAL GOVERNMENT AND COMMUNITIES Guidelines No.17 – Delegations

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

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

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

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

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

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

New Delegations

Council may make new delegations at any time.

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

Review of Delegations

It is a requirement of the Local Government Act s.5.18 and s.5.46 (1) that all delegations made under the authority of that Act, be reviewed at least once in each financial year. Delegations made under other Acts do not have to be reviewed annually but are included for the sake of consistency.

In order to ensure that there is clear authority, Council and the appropriate Officers will formally review this Delegations Register at the June Meeting each year, and their application confirmed to the following financial year.

In this way, the delegations will be reviewed at the end of the operational year, with the formal motion of application made prior to the commencement of a new financial year.

CERTIFICATIONS

The Delegations contained in Parts 1, 2, 3 and 4 of this Register were formally reviewed by Council on 26 March 2020 and a resolution (No. 1829) confirming their application for the 2019/2020 financial year was made.

The Authorisation in Part 5 is also confirmed

President

The Delegations contained in Part 2 and Part 4 of this Register from Chief Executive Officer to other Officers have been formally reviewed (No. 1829), and their application for the 2019/2020 financial year is confirmed.

Chief Executive Officer

1. DELEGATIONS FROM COUNCIL TO Committees

1.1 Local Government Act Committees

Introduction	The Audit Committee must be established by Council, as required by the Local Government Act, whereas other Committees are at the discretion of Council.
Objective	To establish and authorise Committees under the Local Government Act as required, or as Council considers appropriate.
Statutory context	Local Government Act 1995 – <ul style="list-style-type: none">- s.5.11A – appointment of deputy members permitted- s.7.1A – requirement to establish an Audit Committee- s.7.1B – Council may delegate some powers and duties to Committees
Formal record	Minutes of Committee Meetings presented to Council.
Delegation by Committee	Not permitted
History	Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. Delegated authority is given to Committees as follows –
 - Audit – None
2. The purpose of Committees is as follows –
 - Audit – to review financial matters as required or considered appropriate
3. Committees are to operate in accordance with the Local Government Act, and have a quorum as follows –
 - Audit – two members to be present
4. All Committee recommendations are to be endorsed by Council prior to implementation.
5. Appointments to Committees remain current until the next general local government elections, subject to resignation etc.
6. Each Committee to meet as considered appropriate or as required, as per the Local Government Act.
7. Reference to a Committee member includes deputy to the member if the member is unavailable.

– End of Delegation

COMMENT

The following Committees and memberships are current as at October 2019 (to October 2021):

INTERNAL COMMITTEES

Committee	Members	Position	Meetings
Audit	Cr Greg Dwyer Cr Jill Dwyer Cr Ian Baird External member to be sought	President Shire of Menzies Councillor Shire of Menzies Councillor Shire of Menzies Member of the Public	At least three times per year. Additional meetings shall be convened at the discretion of the presiding person.

Committee	Members	Position	Meetings
Lake Ballard Management Advisory Committee	Cr Greg Dwyer (temporary) Cr Justin Lee (Deputy) Cr Keith Mader (Deputy) Cr Jill Dwyer TBA TBA (Deputy) TBA (Deputy) David Graves TBA (Deputy)	President Shire of Menzies Councillor Shire of Menzies Councillor Shire of Menzies Councillor Shire of Menzies Traditional Owner Member Traditional Owner Member Traditional Owner Member WA Art Gallery Member WA Art Gallery Member	The Committee shall meet as required

Committee	Members	Position	Meetings
Niagara Dam Working Party	Cr Greg Dwyer Cr Jill Dwyer Mr Brian Joiner External member to be sought	Councillor Shire of Menzies Councillor, Shire of Menzies Chief Executive Officer Shire of Menzies Member of the Public	The Working Party shall meet as required

EXTERNAL COMMITTEES

Committee/Group	Members	Position	Meetings
Regional Road Group	Cr Greg Dwyer Cr Ian Baird Mr Brian Joiner	President Shire of Menzies - Member Councillor Shire of Menzies (Deputy) Chief Executive Officer Shire of Menzies (Deputy)	Twice per year (usually March and November)

Committee	Members	Position	Meetings
Local Emergency Management Committee	<p>CORE MEMBERS Cr Greg Dwyer Cr Keith Mader Mr Brian Joiner</p> <p>TBA</p> <p>Nurse – Menzies Nursing Post</p> <p>Delegate of Officer in Charge Chief Bush Fire Control Officer</p> <p>Delegate of the Principal</p> <p>Delegate - Menzies</p> <p>SECONDARY MEMBERS Delegate of the Regional Manager Delegate of the Regional Manager Delegate of the Regional Manager</p> <p>Delegate of the Regional Manager Delegate</p>	<p>President Shire of Menzies (Chairperson) Councillor Shire of Menzies Chief Executive Officer Shire of Menzies Works Manager Shire of Menzies Department of Health - Delegate of Regional Manager Leonora Police (Deputy Chairperson) Menzies location</p> <p>Menzies Primary School</p> <p>St. John Ambulance Sub-Centre</p> <p>Department of Fire and Emergency Services Department of Environment</p> <p>Department of Child Protection and Family Support Department Communities and Aboriginal Affairs Emergency Management Australia</p>	The Committee shall meet at least four times a year.

Committee/Group	Members	Position	Meetings
Goldfields Esperance Zone (GEDZ) or WALGA- GVROC	Cr Keith Mader Cr Jill Dwyer Brian Joiner	Councillor Councillor, Chief Executive Officer Shire of Menzies - Delegate (Proxy)	Meetings shall be held monthly

Note –

- i) Committee members (except LEMC) must be named
- ii) Deputy members must have the same origin as the person/s for whom they are deputy.

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1.2 Local Emergency Management Committee

Introduction	The Committee is to be established by Council, as required by the Emergency Management Act, and State Emergency Management Committee policy.
Objective	To review all matters relating to emergency management as considered appropriate.
Statutory context	Emergency Management Act 2005 – <ul style="list-style-type: none">- s.38 – requirement to establish a Local Emergency Management Committee- s.39 – functions of the Local Emergency Management Committee
Formal record	Minutes of Committee Meeting presented to Council.
Delegation by Committee	Not permitted
History	Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. No delegations are made to the Local Emergency Management Committee, except as outlined in (2) below.
2. The purpose of the Committee is to –
 - ensure Council compliance with Emergency Management Act 2005
 - review and update the Local Emergency Management Plan
 - carry out required functions of State Emergency Management Committee Policy
 - where matters are noted outside of these purposes and are not able to be implemented within the Chief Executive Officer's usual duties and responsibilities, a report and recommendation is to be made to Council.
3. The Committee is advisory in nature and is not to be considered as having an operational role in the event of an emergency.

Operational functions may only be exercised by the relevant Hazard Management Authority.

4. All Committee recommendations are to be endorsed by Council prior to implementation.
5. Being established under the *Emergency Management Act 2006*, members of the Committee are –
 - Core members –
 - o Shire President – Chairperson

- delegate of Officer in Charge, Leonora Police – Deputy Chairperson
 - Chief Bushfire Control Officer
 - Shire Councillor
 - delegate of the Principal, Menzies Primary School
 - delegate of Menzies St John Ambulance Sub-Centre
 - delegate of Regional Manager, Dept of Health (Menzies Nursing Post)
- Secondary members –
- delegate of the Regional Manager, Department of Fire and Emergency Services
 - delegate of the Regional Manager, Department of Environment
 - delegate of the Regional Manager, Department of Child Protection and Family Support
 - delegate of the Regional Manager, Department Communities and Aboriginal Affairs
 - delegate of Emergency Management Australia
6. Quorum of the Committee is a simple majority of appointed Core members.
7. Support of the Committee is to be provided by the Chief Executive Officer.

– End of Delegation

COMMENT

As the Committee is not established under the Local Government Act 1995 –

- members are not required to be individually named but may be referred to by position or role.
- additional organisations wishing to participate as more than observers, will require Council approval.

Emergency Management Act 2005 –

38. Local emergency management committees

- (1) A local government is to establish one or more local emergency management committees for the local government's district.
- (2) If more than one local emergency management committee is established, the local government is to specify the area in respect of which the committee is to exercise its functions.
- (3) A local emergency management committee consists of –
 - (a) a chairman and other members appointed by the relevant local government in accordance with subsection (4); and
 - (b) if the local emergency coordinator is not appointed as chairman of the committee, the local emergency coordinator for the local government district.
- (4) Subject to this section, the constitution and procedures of a local emergency management committee, and the terms and conditions of appointment of members, are to be determined by the SEMC.

39. Functions of local emergency management committees

The functions of a local emergency management committee are, in relation to its district or the area for which it is established –

- (a) to advise and assist the local government in ensuring that local emergency management arrangements are established for its District;
- (b) to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and
- (c) to carry out other emergency management activities as directed by the SEMC or prescribed by the regulations.

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2. DELEGATIONS FROM COUNCIL TO Chief Executive Officer

2.1 Use of Common Seal

Introduction	The Local Government Act 1995 does not make reference to how the Common Seal is to be affixed or its custody.
Objective	To give authorisation to the President and Chief Executive Officer, to affix the Common Seal of the Shire of Menzies to relevant legal documents.
Statutory context	Local Government Act 1995 <ul style="list-style-type: none">- s.9.49A – execution of documents- s.9.49B – contract formalities Functions & General Regulations <ul style="list-style-type: none">- 34 – penalties for improper use
Formal record	Prior authorisation by Council, or Officer's report to Council if affixed under delegated authority
Delegation by Chief Executive Officer	Not permitted
History	Adopted 26 June 2014 Amended 30 March 2017 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The President and Chief Executive Officer are authorised to sign and affix the Common Seal of the Shire of Menzies to all legal documents requiring authorisation.
2. In the normal course of business, (except where the legal document is related to a matter to the benefit of Council such as the transfer of land or property), where the legal document is the initial document, it must be approved by Council prior to the signing and affixing of the Common Seal.
3. In case of urgency, where the legal document is the initial document and its purpose is consistent with previously agreed position or direction of Council, the President and Chief Executive Officer may affix the Common Seal, to be ratified at the following meeting of Council.
4. Where the legal document is a renewal or extension of the original document and there is not a significant variation in clauses or conditions in the renewal then the President and Chief Executive Officer are authorised to affix the Common Seal without prior referral to Council.
5. The Common Seal is to be kept in the secure custody of the Chief Executive Officer.

– End of Delegation

COMMENT

Generally, the Common Seal is to be kept in the Chief Executive Officer’s safe, both the current seal (ink stamp) and the superseded seal (embossing press and papers)

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2.2 Acquisition of Assets and Goods/Services – Tenders for supply

Introduction	<p>Generally, tenders must be called for –</p> <ul style="list-style-type: none"> - provision of goods or services valued over \$250,000 - disposal of goods over \$50,000 <p>although there is no prohibition on calling tenders under these thresholds.</p>
Objective	To allow the calling of tenders at an appropriate time.
Statutory context	<p>Local Government Act –</p> <ul style="list-style-type: none"> - s.3.57 – Tenders for providing goods or services - 3.58 – Disposing of property <p>Functions and General Regulations –</p> <ul style="list-style-type: none"> - Part 4 – Provision of goods and services - r.11 (2) – exemption from calling tender for supply - r.12 – anti-avoidance provisions for acquisitions - r.30 – exemption from calling tenders for disposal - r.31 – anti-avoidance provisions for dispositions <p>Council Policy –</p> <ul style="list-style-type: none"> - Purchasing and Tenders – Model Purchasing Policy (Policy 4.2 - amended 9.7.20)
Formal record	Officer’s report to Council
Delegation by Chief Executive Officer	Not permitted
History	<p>Former Delegation 11 Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and amended 25 February 2020</p>

Delegation Statement

1. The Chief Executive Officer is authorised to call tenders for supply of goods or services where the total consideration is more than the \$250,000 threshold, at the appropriate time, subject to the intended transaction being disclosed in the Budget.
2. Where an item or service exceeds \$250,000 and is able to be obtained through Council Purchasing Service of WALGA (Preferred Supplier list), a formal tender process is not required, subject to compliance with the Act and Council’s delegation 2.3 Disposal of Assets.
3. Rather than obtain quotes in accordance with Council Purchasing Policy, the Chief Executive Officer may exercise their discretion and call tenders for supply of an item or service less than the \$250,000 threshold.
4. All tenders called are to be dealt with according to the Act and Regulations, and referred to Council for decision, unless prior specific delegation has been given.

5. All matters dealing with purchase of land are to have the specific authorisation of Council.

– End of Delegation

COMMENT

Purchasing policy adopted by Council applies to all non-tender acquisitions.

While the Act stipulates \$250,000 as the maximum purchase before tendering, Council may resolve a lesser limit.

Note comments to Delegation 2.3 – trade into a preferred supplier without public tender, does not comply with the Act.

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2.3 Disposal of Assets

Introduction	Disposing of property is required to be a process accessible to the public, or if disposal is direct to a person, by public notice.
Objective	To manage the disposal of surplus and other items under the Shire's control.
Statutory context	Local Government Act – - s.3.58 – Disposing of property Function and General Regulations – - r.30 – Dispositions of property to which s.3.58 does not apply
Formal record	Records of submissions received and offers accepted.
Delegation by Chief Executive Officer	Not permitted
History	Former Delegations 24, 33 Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The Chief Executive Officer is authorised to dispose of asset/s where the asset/s to be disposed of have a market value of \$20,000 or less, by offering them for public sale or as consideration for an asset to be acquired, and to accept the most advantageous offer in the following circumstances –
 - a) Assets with a written down value less than the Shire's adopted capitalisation threshold (individually or collectively) –
 - that are surplus to requirements, unlikely to be used, are damaged or impounded
 - b) Assets with a written down value more than the Shire's adopted capitalisation threshold but less than \$20,000 (individually or collectively) –
 - that are surplus to requirements, unlikely to be used, are damaged or impounded, or
 - if outright disposal of the asset is disclosed in Budget, or
 - if the value of the asset being disposed of is to be used as part of consideration for the acquisition of a new asset, and both disposal and acquisition are disclosed in Budget –
 - o subject to the asset not being available to the purchaser until such time as the new asset is available for Shire use
2. The Chief Executive Officer is authorised to dispose of asset/s where the asset/s to be disposed of have a market value of \$20,000 or more, and to accept the most advantageous offer in the following circumstances –
 - if disposal of the asset is disclosed in Budget, and either;
 - the asset is not being used as part of the consideration for a public tender for supply, by public auction or tender for outright sale, or

- the asset may be used as part of the consideration for an acquisition under a preferred supplier arrangement, the disposal must be –
 - o advertised for public auction or outright sale, and disclosure to this effect made in the acquisition specifications, or
 - o advertised for public submissions, and subsequent consideration of submissions.
3. All matters dealing with disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council, except leases for staff in Shire owned properties.

– End of Delegation

COMMENT

The Department of Local Government confirmed on 8 June 2010 that –

1. Changeover of plant and vehicles etc, is two transactions – one for supply and one for disposal. Therefore, simply trading in a vehicle to a preferred supplier, for a new vehicle from that preferred supplier, may not comply with the Local Government Act or Regulations, due to being above the prescribed values.
2. Use of WALGA Preferred Suppliers constitutes compliance with the requirements for acquisition under the Local Government Act, but not for disposal of an asset.
3. The limits imposed by Regulation 30 (3) that must be complied with, if the disposal is not publicly advertised are that –
 - the asset being disposed of is valued at less than \$20,000, or
 - the asset being acquired has a total value less than \$75,000*

* this value was increased from \$50,000 to \$75,000 within the regulations (18 September 2015)

2.4 Creditors – Payment of accounts

Introduction	For payment of creditors in a timely way, obtaining discounts if available, and ensuring payments are within the current balances of bank accounts.
Objective	To streamline payment of creditors.
Statutory context	Local Government Act – - s.6.8 (1) – Expenditure from municipal fund not included in annual budget Financial Management Regulations – - r.12 – Payments for municipal fund or trust fund - r.13 – Lists of accounts (presentation to Council meetings)
Formal record	Officer’s report to Council – Schedule of accounts paid and for payment
Delegation by Chief Executive Officer	Deputy Chief Executive Officer
History	Former Delegation 18, Policy 3.8 Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The Chief Executive Officer is authorised to arrange payments from the Municipal Fund and Trust Fund, and transfers to and from Reserve Accounts as necessary.
2. No creditor payments of any kind may be made from a Reserve Account. Reserve Accounts are permitted to have funds transferred to and from the Municipal Fund only.
3. No payments whatsoever are permitted to be made in cash, except from Petty Cash.
4. Creditor payments are to be certified by the person ordering and/or receiving the goods, or services, prior to actual payment being made.
5. Cheques are to be signed and electronic funds transfers authorised by two persons, at least one of whom must be the Chief Executive Officer, except that if the Chief Executive Officer is unavailable, then it shall be the Deputy Chief Executive Officer and another person authorised by the Chief Executive Officer.
6. All payments are to be reported to the following Council meeting as having been paid during the month.
7. Contravention of this Delegation of Authority will be considered serious misconduct and may result in disciplinary action.

– End of Delegation

COMMENT

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2.5 Investments

Delegation Statement

The Chief Executive Officer is delegated authority to invest money held in the municipal, trust or reserves funds that are not required for the time being for any other purpose. The Chief Executive Officer, when exercising this delegation, shall do so in accordance with Shire of Menzies Investment Policy 4.9 (Adopt 30.8.18).

LEGISLATIVE POWER

Local Government Act, Section 5.42, 6.14 and 6.15

Local Government (Financial Management) Regulation 19

RECORDING REQUIREMENTS

Section 5.46(3) Local Government (Administration) Regulation No.19

Investment Register maintained by Deputy Chief Executive Officer

– End of Delegation

COMMENT

Delegation Schedule 2.5 – Investments

1. "Prudent Person" Rule

- a) The main features of the "Prudent Person" rule include:
 - exercising the care, diligence and skill that a "Prudent Person" would exercise in managing the affairs of other persons; and
 - a duty to invest funds in investments that are not speculative or hazardous.
- b) In exercising powers of investment, there are important matters for consideration, including the:
 - purpose of the investment and the needs and circumstances;
 - desirability of diversifying investments;
 - nature of and risk associated with existing investments;
 - need to maintain the real value of capital and income;
 - risk of capital or income loss or depreciation;
 - potential for capital appreciation;
 - likely income return and timing of the income return;
 - length of the term of the proposed investment;
 - liquidity and marketability of the proposed investment;
 - aggregate value of the investment;
 - effect of the proposed investment in relation to the tax liability (if any);
 - likelihood of inflation affecting the value of the proposed investment;
 - costs of making the proposed investment; and
 - results of a review of existing investments.

2. Liquidity

- a) Liquidity ratio – at least 50% of total investment portfolio must be liquefiable within 10 days.
- b) Cash flow report to be monitored at least weekly to ensure cash funds are available to meet commitments.
- c) Generally, investments should not exceed 3 months to ensure liquidity, subject to investment rates available, and the likelihood of funds being required.

3. Authorised Investments

- a) Institutions and minimum credit rating (Standard & Poor's) approved/required are –
 - All banks within the meaning of the Banking Act 1959. A-1 (Short) to A (Long)
(A minimum of 50% of total investments must remain with a Bank)
 - Commonwealth Government A-1 to AA
 - State Government A-1 to AA
 - Other Financial Institutions A-1 (Short) to A (Long)
- b) Maximum term of any investment is 1 year
- c) Cash / Bank Deposits / Securities –
 - At Call/Short-Dated deposits with a bank within the meaning of the Banking Act 1959 of the Commonwealth or a bank established by or under a law of a State or Territory of the Commonwealth.
 - Bills of exchange that have been accepted or endorsed by a bank.
 - Certificates of deposit and term deposits issued by a bank whether negotiable, convertible or not.
- d) Restrictions
 - Organisations with which deposits are placed must have a long-term credit rating of A (or equivalent or higher) as assessed by a recognised Ratings Agency.
 - All securities other than those guaranteed by the Commonwealth or a State Government must have a short-term domestic credit rating of A1 (or equivalent or higher) as assessed by a recognised Ratings Agency.

4. Management Reporting

Each month an investment report must be produced to Council. The report will summarise

- institutions holding investments;
- amounts invested
- maturity details;
- current investment rate of return;
- any breaches of authority

– End of Schedule

2.6 Debtors - Write-off of minor amounts

Introduction	From time to time, minor amounts remain unpaid as the result of miscalculation, late receipt or processing of payments, or other error, that are not cost effective to attempt recovery.
Objective	To eliminate accumulation of minor amounts that are considered unrecoverable, or that arise as a result of a miscalculation of interest on rates etc.
Statutory context	Local Government Act – - s.6.12 – Power to defer, grant discounts, waive or write-off debts Financial Management Regulations – - r.26 – Discount, incentive, concession, waiver and write-off information
Formal record	Officer's report to Council
Delegation by Chief Executive Officer	Deputy Chief Executive Officer
History	Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The Chief Executive Officer is authorised to write off minor amounts up to \$500.00 in the following circumstances –
 - interest and charges on rates (not rates) – where as a result of daily interest calculations, it is clear that the rates were intended to be paid in full, but either an error occurred, or the payment was received by mail after the calculation was made.
 - sundry debtors – where the debtor can no longer be traced, or recovery is deemed unlikely.
2. This delegation is not authority for the write-off of rates, but may be applied to rate interest and charges, administrative charges or sundry debtors considered unrecoverable or where it would be an inefficient use of resources to pursue the amount.
3. Should additional information come to hand, a debt previously written-off under this delegation or by authority of Council may be reinstated, and recovery pursued.
4. The Chief Executive Officer to report to Council any debts written off.

– End of Delegation

COMMENT

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2.7 Fire Fighting – Emergency plant hire

Introduction	While an allocation is made for fire control each year, should a serious incident occur, substantial commitment may be required.
Objective	To ensure that maximum effort can be made for the control of wildfires, for the protection of life and property.
Statutory context	Local Government Act – <ul style="list-style-type: none"> - s.6.8 (1)(c) – authorisation of unbudgeted expenditure in an emergency Bush Fires Act 1954 – <ul style="list-style-type: none"> - s.38 (3)(4)(5) – appointed BFCO’s may exercise specific authorities given to them
Formal record	Officer’s report to Council
Delegation by Chief Executive Officer	To Deputy Chief Executive Officer Chief Bush Fire Control Officer
History	Former Delegation 5 Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The Chief Executive Officer is authorised to commit expenditure for the private hire of plant and equipment necessary for the efficient fighting and control of fires.
2. Where possible, the Chief Executive Officer is to seek advice from the senior FCO at the fire, and if major expenditure is likely, seek approval from the President or Deputy President. However, since this delegation will only be used in emergency situations, it is acknowledged that these actions may not be possible.

The approval to be sought is an administrative function for expenditure purposes only and does not extend to the issue of operational instructions.

3. Adequate resources to fight a fire, for the safety of fire fighters, and for the protection of life and property have the highest priority and are not to be unnecessarily jeopardised by delay.

– End of Delegation

COMMENT

2.8 Mining tenements, exploration licences etc.

Introduction

Objective To ensure that prompt response to applications/notifications is made.

Statutory context Planning Scheme –
- cl.3.3.3, 4.1.1, Table 1 – Zoning, 5.2.4(d)

Formal record Officer's report to Council

Delegation by
Chief Executive
Officer Not permitted

History Former Delegation 40
Adopted 26 June 2014
Adopted 29 March 2018
Reviewed and adopted 26 March 2020
Adopted 25 February 2021 (major)

Delegation Statement

1. The Chief Executive Officer is authorised to lodge objections, notify of conditions etc to the granting of mining tenements, exploration licenses and the like, that may affect any Council property.
2. The Chief Executive Officer is further delegated authority to negotiate/impose appropriate conditions to be applied to protect Council's interest in that property. Conditions that are to be considered include environmental and social issues, such as –
 - No activity to be within 30 metres of the centerline of any road, or 10 metres of the top of the table drain backslope, whichever is the greater,
 - Vehicle entry warning signs to be placed between 200 metres and 250 metres on either side of any access being used regularly by vehicles
 - Protection of sites of local historical or cultural significance, whether or not listed on the Heritage Council Register or Listing, or the Municipal Heritage Register
 - Control and minimization of noise within 500m of a townsite or community
3. The Chief Executive Officer may apply additional conditions if circumstances warrant.

– End of Delegation

COMMENT

The Mining Act 1978 provides for grant of multiple types of licence associated with mining, over all Crown lands and public (reserve) lands with few exceptions, and generally over private lands. There is little opportunity for objection or influence in this process, as it is, and there is no obligation for the comments of Council to be sought prior to grant of any licence.

In the process of adopting or reviewing a Local Planning Scheme, the Dept of Mines and Petroleum must be notified, and their comments sought. Inclusion of the above provisions are almost the only method of significant influence that Council may be able to utilise.

DRAFT

3. DELEGATIONS FROM COUNCIL TO Other Officers

3.1 Alteration to Restricted and Prohibited Burning Periods

Delegation to	Shire President and Chief Bush Fire Control Officer, jointly
Introduction	To extend or reduce the prohibited or restricted burning seasons.
Objective	To enable flexibility in the opening and closing dates of the restricted and prohibited periods as seasonal conditions appear to warrant.
Statutory context	Bush Fires Act 1954 – - s.17 (7) to (11) – variation of prohibited burning periods
Formal record	Chief Executive Officer’s report to Council
Delegation by President & CBFCO	Not permitted
History	Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. In accordance with the Bush Fires Act 1954 section 17 (10) the President and the Chief Bush Fire Control Officer are authorised to exercise the powers of Council under the Bush Fires Act 1954 section 17 (7) and (8).
2. The Fire and Emergency Services Authority and surrounding shires will be advised, prior to a decision being made.
3. Should the President or Chief BFCO be unavailable or hold joint office –
 - the deputy to that position, or
 - the Chief Executive Officer as Chief BFCO, only, may act in that office in relation to this matter.
4. If not holding joint office, the Chief Executive Officer is to be advised in order that notification to other FCOs, Shires and the community may be arranged as quickly as possible.

– End of Delegation

COMMENT

3.2 Control of Environmental Health Matters

Delegation to Environmental Health Officer

Introduction	A Local Government is authorised and directed to carry out within its district the provisions of the Act and the regulations, local laws, and orders made.
Objective	To authorise the timely management of environmental health responsibilities.
Statutory context	Health Act 1911 – - s.26 – the local government may appoint a deputy (i.e. delegate) to discharge all or any of the functions and powers
Formal record	Officer’s report to Council
Delegation by EHO	Not permitted
History	Former Delegation 27 Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The EHO is appointed and authorised to exercise and discharge all or any of the powers and functions of the Local Authority, under the Health Act 1911 in regard to –
 - a) Part IV Sanitary Provisions,
 - b) Part V Dwellings;
 - c) Part VI Public Buildings;
 - d) Part VII Nuisances and Offensive Trades;
 - e) Part VIII Food generally;
 - f) Part IX Infectious Diseases;
 - g) Part XV Miscellaneous Provisions;
 - h) Regulations and made pursuant to the above parts of the Health Act 1911, specifically including the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974,
 - subject to Delegation Schedule 3.2 Septic Tank Licences
 - i) Shire of Menzies Health Local Laws

2. The following matters are to be referred to Council for decision –
 - a) commencement of any action for prosecution of an offence

– End of Delegation

COMMENT

Delegation Schedule 3.2 – Septic Tank Licences

1. The EHO is authorised to exercise and discharge the powers and functions of the Council in relation to the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974 –
 - Regulation 4 (3)(a) – Grant approval subject to form and conditions set by Council.
 - Regulation 4 (3)(b) – Refusal to grant approval.
 - Regulation 10 (2) – Issue of permit to use
 - Regulation 10 (4)(b) – Issue of order to undertake works or decommission
 - Regulation 22 (2)(a) – Making a determination of appeal of decision
 - Regulation 22 (2)(b) – Advising of determination of appeal of decision
2. Compliance with the Health Act and Regulations, the Building Code of Australia, the Town Planning Scheme and Town Planning Policies is mandatory.
3. Any application not complying is to be refused, unless there is a discretion, in which case it is to be referred to Council for decision.
4. Effluent systems are to be sized in accordance with the Regulations.

– End of Schedule

3.3 Control of Food Matters

Delegation to Environmental Health Officer

Introduction	The Food Act came into force replacing a range of provisions in several Acts, consolidating the requirements into one Act.
Objective	To enable timely compliance with the Act and Regulations.
Statutory context	Food Act 2008 – <ul style="list-style-type: none">- s.118 – authority to delegate functions and obligations- s.122(1)(b) – authorised person must hold office as an environmental health Officer under the <i>Health Act 1911</i> Food Regulations 2009 – <ul style="list-style-type: none">- s.5 – a local government is an appropriate enforcement agency- s.56 – appointment of an environmental health Officer
Formal record	Officer’s report to Council
Delegation by EHO	Not permitted
History	Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The EHO is authorised to exercise and discharge the powers and functions of the local authority in regard to the Food Act 2008.
2. The following matters are to be referred to Council for decision –
 - a) commencement of any action for prosecution of an offence

– End of Delegation

COMMENT

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

3.4 Control of Building Matters

Delegation to	Chief Executive Officer
Introduction	Introduction of the Building Act 2011 required a full review of delegations and authorisations previously made under various legislation
Objective	To enable the timely approval or actions in relation to building applications, approvals and orders.
Statutory context	Building Act 2011 – <ul style="list-style-type: none"> - s.96 (3) – appointment of authorised Officers - s.127 (6A) – delegation of authority
Formal record	Officer’s report to Council
Delegation by Chief Executive Officer	Not permitted
History	Former Delegations 1, 2, 3, 4, 25, 26 Adopted 26 September 2013 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Delegation Statement

1. The authorised persons under Building Act 2011 s.96 (3) are –
Mr Brian Joiner, Chief Executive Officer
2. The authorised persons may undertake the following actions under the Building Act 2011 –
 - Section 20 - Grant of Building Permit
Authority to grant or refuse to grant building permits.
 - Section 21- Grant of Demolition Permit
 - Section 22 – Not to grant a Permit
Authority 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.
 - Section 50 – Grant of Occupancy Permits – Strata, and
Building Approval Certificate – Strata
Authority to grant, modify or refuse to grant Occupancy Permits or Building Approval Certificates.
 - Section 58 – Grant of Occupancy Permits, Building Approval Certificate

Authority to grant, modify or refuse to grant Occupancy Permits or Building Approval Certificates.

Section 96 – Authorised Persons

Authority to appoint authorised persons for the purpose of the *Building Act 2011*

Section 110 – Building Orders

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.

3. The following matter is to be referred to Council for decision –

- a) commencement of any action for prosecution of an offence

4. The following Delegation Schedule 3.4 – Issue of Building Licences is adopted, and forms part of this Statement.

– End of Delegation

COMMENT

Delegation Schedule 3.4 to be deleted once appropriate Planning Policy has been adopted and is in place.

Delegation Schedule 3.4 – Issue of Building Licences

1. The authorised persons may issue building permits for –

- all buildings where permitted in accordance with the Building Act 2011 and where
- permitted in accordance with the Town Planning Scheme and Planning Policies, provided that the proposed building does not –
 - Residential Zone – exceed 60m² in area or have a wall height greater than 3m; or
 - Special Rural Zone – exceed 150m² in area or have a wall height greater than 3.6m

2. A building licence is not to be issued unless –

- a) the application complies with –
- the Building Code of Australia
 - the Building Regulations 1989
 - Builder’s Registration Board requirements
 - Local Planning Scheme
 - Local Planning Policies
- b) where necessary, planning consent has been granted in accordance with the Local Planning Scheme
- c) payment has been received for –
- the assessed building licence fees

- Building and Construction Industry Training Fund levy, or production of evidence of payment or exemption
- d) if for an outbuilding, there is existing development on or of the property, and the aggregate area of outbuildings does not –
 - in the Residential Zone – exceed 60m² in area or have a wall height greater than 3m; or
 - in the Special Rural Zone – exceed 150m² in area or have a wall height greater than 3.6m.

– End of Schedule

DRAFT

3.5 Control of Planning Matters

Delegation to Chief Executive Officer

Introduction The Shire’s Planning Scheme permits Council to delegate various matters to a committee or the Chief Executive Officer the functions under the Scheme.

Objective To enable the timely approval of planning and development applications.

Statutory context

Planning and Development Act 2005 –

- s.214 (2)(3) – issue notices to stop unlawful work, or remove unlawful work
- s.214 (5) – issue notices to complete work

Shire of Menzies Planning Scheme –

- cl.11.3.1 – delegation of functions

Formal record Officer’s report to Council

Delegation by Chief Executive Officer None

History

Adopted 26 February 2015
 Adopted 29 March 2019
 Reviewed and adopted 26 March 2020
 Adopted 25 February 2021 (major)

Delegation Statement

5. The Chief Executive Officer is delegated authority to determine planning and development applications in the following circumstances –
- a) All “P” uses as per the Planning Scheme Zoning Table,
 - b) All “IP” uses as per the Planning Scheme Zoning Table, where
 - i) The proposed development is on land having –
 - existing development,
 - and
 - the proposed development is a use consistent with the existing development having similar or more stringent conditions, all of which will apply to the proposed development, in addition to any extra conditions specific to the proposed development
 - c) “AA” uses as per the Planning Scheme Zoning Table, where –
 - ii) The proposed development is a use previously approved by Council on that land and the conditions imposed at that time (if any) are to be re-imposed without reduction, or
 - iii) The proposed development is on land having –

- existing development, or
 - common boundary with land having an existing development
- and both –
- the proposed development is a use consistent with the existing development having similar or more stringent conditions, all of which will apply to the proposed development, in addition to any extra conditions specific to the proposed development, and
 - the proposed development is adjoining the existing development
- d) “SA” uses as per the Planning Scheme Zoning Table where –
- iv) The proposed development is a use previously approved by Council on that land and the conditions imposed at that time (if any) are to be re-imposed without reduction, or
 - v) The proposed development is on land having –
 - existing development,and both –
 - the proposed development is a use consistent with the existing development, having similar or more stringent conditions, all of which will apply to the proposed development, in addition to any extra conditions specific to the proposed development, and
 - the proposed development is adjoining the existing development.
6. The Chief Executive Officer is delegated authority to commence advertising of any proposal submitted to Council for approval at a time considered appropriate.
7. Notwithstanding compliance in all other respects with clause 1 of this delegation, where advertising of a proposal is required the proposed development is not to be approved by the Chief Executive Officer unless the submissions are solely in support of a proposed development, and all submissions received in response to advertising of the proposed development are to be referred to Council for determination.
8. The Chief Executive Officer is delegated authority to issue notices in accordance with the Planning and Development Act 2005 s.214 (2), (3), and (5), and shall report each such instance to the next following Council meeting.

– End of Delegation

COMMENT

4. FINANCIAL DELEGATIONS FROM CHIEF EXECUTIVE OFFICER TO Other Officers

4.1 Financial Delegation

Delegation to Deputy Chief Executive Officer
Works Manager

Introduction In accordance with the provisions of section 5.44 of the Local Government Act 1995, the Chief Executive Officer has the authority to delegate powers and duties to other Officers to maintain effective and efficient Administration of the Shire.

Objective To expend operational/capital expenditure to a set value to enable efficient deliverables.

Statutory context Local Government Act 1995 –
- s.5.44 – CEO may delegate powers and duties to other employees

Formal record Officer's report to Council

Delegation by Officer Not permitted

History Adopted 25 February 2021 (major)

Delegation Statement

1. The Deputy Chief Executive Officer (DCEO) is permitted to expend:
 - a. up to \$5,000 on operational expenditure
 - b. up to \$15,000 on capital expenditure
2. The Works Manager (WM) is permitted to expend:
 - a. \$5,000 on capital expenditure
3. The DCEO and WM are required to sign a letter of understanding and acknowledgement of the above delegated powers.

COMMENT

5. OTHER STATUTORY MATTERS NOT BEING DELEGATIONS

5.1 Media Releases

Introduction	This authorisation is not a Delegation as defined under the Local Government Act, as it is the sole prerogative of the President to permit the Chief Executive Officer to speak on behalf of Council either generally, or within set guidelines.
Objective	To ensure that the public receives full, appropriate and timely information.
Statutory context	Local Government Act - - s.5.41 (f) – discretionary decision of Shire President
Formal record	President’s letter of authority to each individual Chief Executive Officer.
Delegation by Chief Executive Officer	n/a
History	President’s authority to each individual Chief Executive Officer. Adopted 26 June 2014 Adopted 29 March 2018 Reviewed and adopted 26 March 2020 Adopted 25 February 2021 (major)

Authorisation Statement

1. The Chief Executive Officer is permitted to make media releases and to speak on behalf of the Shire of Menzies.
2. The President, or if unavailable, the Deputy President, should be consulted prior to matters of delicacy being discussed in public, however it is recognised that this may not always be possible. In this case, the Chief Executive Officer is to use discretion whether comment is to be made or not. Regardless, the Chief Executive Officer is not under any obligation to make any comment on any matter.

– End of Authorisation

COMMENT

6. HISTORY SUMMARY

	Meeting	Purpose	Applies	Delegations changed
1		Revocation Adoption		All former delegations All delegations within this document
2	26 September 2013	Review and Adoption	All Delegations	None
3	26 June 2014	Review and Adoption	All Delegations	None
4	26 February 2015	Additional	EHO/Building Surveyor	3.5 Control of Planning Matters
5	29 March 2018	Review and Adoption	All Delegations	4.1 Caravan Parks and Camping Grounds
6	26 March 2020	Review and Adoption	All Delegations	2.1 Use of Common Seal – additional item (6) 2.2 Acquisition of Assets and Goods/Services – Tenders for supply 2.3 Disposal of Assets 3.1 Alteration to Restricted and Prohibited Burning Periods 3.4 Control of Building Matters 4.1 Caravan Parks and Camping Grounds
8	25 February 2021	Review & Adoption	All Delegations	4.1 Financial Delegation to other Officers (new item)