



16 MAY 2024

Shire of Esperance

ORDINARY COUNCIL MEETING

28 MAY 2024

ATTACHMENTS EXCLUDED FROM AGENDA



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DELEGATED AUTHORITY REGISTER 20243/20254

Council to Chief Executive Officer and Authorised
Persons

Introduction

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

Limitations

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

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

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

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

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

Record Keeping

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

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

Reading this Register

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

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

Example Delegation

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

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PART 1 LOCAL GOVERNMENT ACT 1995

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

1.1 Expressions of Interest, Tenders and Pre-qualified Suppliers (s.3.57)

DELEGATION ADMINISTRATION

Decision Reference		Decision Reference	
1.	Adopted – June 2019, Resolution # O0619-120	5.	Reviewed – June 2023, Resolution #O0623-117
2.	Amended – May 2020, Resolution #O0520-148	6.	
3.	Reviewed – May 2021, Resolution #O0521-147	7.	
4.	Reviewed – May 2022, Resolution #O0522-112	8.	

1.2 Agreement as to payment of rates and service charges (s.6.49)	
Function Delegated	Authority to accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.
<i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions.</i>	
Power being Delegated	<i>Local Government Act 1995</i> s.6.49 – Agreement as to payment of rates and service charges
Power originally assigned to	Local Government
Power to Delegate	<i>Local Government Act 1995</i> s.5.42 – Delegation of some powers and duties to the CEO s.5.43 – Limitations on delegations to the CEO
Power Delegated to	Chief Executive Officer
Council Conditions	Nil
Power to Sub-Delegate	<i>Local Government Act 1995</i> s.5.44 – CEO may delegate powers and duties to other employees
Compliance Links	Nil
DELEGATION ADMINISTRATION	
Decision Reference	Decision Reference
1. Adopted - February 2004, Resolution # O0204-0769	8. Reviewed – May 2018, Resolution #O0518-098
2. Reviewed - February 2011, Resolution # O0211-1575	9. Amended – June 2019: Resolution # O0619-120
3. Reviewed - May 2012, Resolution # AP0412-005	10. Reviewed – May 2020, Resolution #O0520-148
4. Reviewed - June 2013, Resolution # O0613-012	11. Reviewed – May 2021, Resolution #O0521-147
5. Reviewed – May 2015, Resolution # O0515-026	12. Reviewed – May 2022, Resolution #O0522-112
6. Reviewed – July 2016, Resolution # O0716-032	13. Reviewed – June 2023, Resolution #O0623-117
7. Reviewed – June 2017, Resolution #O0617-133	14.

