

# Attachment 11.7.2



## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

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Reference Number	Legislative Reference	Delegate
LGA 1 - Appointment of Authorised Person	Local Government Act s. 9.10(1) and 9.10 (2)	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

To authorise persons, or classes of persons, on behalf of the local government for the purposes of performing particular functions in accordance with Section 9.10(1) and 9.10(2) of the *Local Government Act 1995*.

The Chief Executive Officer is delegated authority to appoint persons to initiate prosecutions on behalf of Council under the Local Government Act 1995 under 9.10(1) and 9.10(2) and Council's Local Laws. Further, the Chief Executive Officer is delegated authority to appoint persons or classes of persons to be authorised for the purposes of performing particular functions as specified by the Chief Executive Officer.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*

**Local Government Act 1995**

**9.10 (1)**

The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

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**9.10 (2)**

The local government is to issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person.

**Verification**

<b>Recent Council Resolution</b>	<b>Initial Council Resolution</b>
18037	5456 July 1999

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

<https://www.nannup.wa.gov.au/documents/248/administration-policy-adm1-legal-representation>

**Notes of Recent Alterations (if applicable)**

2018 Delegation Register Reference - 1

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Reference Number	Legislative Reference	Delegate
LGA 2 - Tenders	Local Government Act s. 3.57 Functions & General Regulations r. 11	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority under Section 5.42 of the Local Government Act 1995 to call tenders for any goods or services required where provision has been made in Council's budget and the amount exceeds, \$150,000 or where the expenditure is anticipated to be less than this sum, if the best interests of the local government would be served by calling tenders.

The Chief Executive Officer is delegated authority to implement the requirements of Council Policy ADM 4 in respect of authorising purchases on behalf of Council where provision has been made in Council's budget and the amount is less than \$150,000.

**Tender Exemption**

In the following instances public tenders or quotation procedures are not required (regardless of the value of expenditure):

- An emergency situation;
- The purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and Finance (permitted Common Use Arrangements), Regional Council, or another Local Government;
- The purchase is under auction which has been authorised by Council;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- Any of the other exclusions under Regulation 11(2) of the Functions and General Regulations apply.

**Conditions**

Nil.

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**Statutory Framework**

***Local Government Act 1995***

**3.57 Tenders for providing goods or services**

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

**Functions & General Regulations**

**11 When tenders have to be publicly invited**

- (2) Tenders do not have to be publicly invited according to the requirements of this Division if —
- (a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or
  - (b) the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or
  - [(ba) deleted]
  - (c) within the last 6 months —
    - (i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or
    - (ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer; or
  - (d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government; or
  - (e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government; or
  - (ea) the goods or services are to be supplied —
    - (i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and
    - (ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph; or
  - (f) the local government 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; or
  - (g) the goods to be supplied under the contract are —
    - (i) petrol or oil; or
    - (ii) any other liquid, or any gas, used for internal combustion engines; or
  - (h) the following apply —
    - (i) the goods or services are to be supplied by a person registered on the Aboriginal Business Directory WA published by the Small Business Development Corporation established under

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- the *Small Business Development Corporation Act 1983*; and
- (ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and
- (iii) the local government is satisfied that the contract represents value for money; or
- (i) the goods or services are to be supplied by an Australian Disability Enterprise; or
- (j) the contract is a renewal or extension of the term of a contract (the ***original contract***) where —
- (i) the original contract was entered into after the local government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and
- (ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and
- (iii) the original contract contains an option to renew or extend its term; and
- (iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised; or
- (k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.

### Verification

Recent Council Resolution	Initial Council Resolution
18037 - February 2018	5456 – July 1999

### Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

### Related Documents

<https://www.nannup.wa.gov.au/documents/236/administration-policy-adm4-purchasing>

### Notes of Recent Alterations (if applicable)

2018 Delegation Register Reference - 2

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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Reference Number	Legislative Reference	Delegate
LGA 3 - Impounding Goods and the Sale of Impounded/Seized/Confiscated Vehicles, Animals or Goods	Local Government Act s. 3.39, 3.40, 3.41, 3.42, 3.43, 3.44, 3.45, 3.46, 3.47, 3.48, 3.49 and 3.58.	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to:

1. Authorise an employee in accordance with Section 3.39 to remove and impound any goods that are involved in a contravention that can lead to impounding.
2. Take appropriate action with respect to impounded non-perishable goods in accordance with Section 3.42.
3. Give notice in accordance with Section 3.44 to collect goods.
4. Refuse to allow goods to be collected until all costs have been paid in accordance with Section 3.46.
5. Take action to recover expenses in accordance with Section 3.48. The Chief Executive Officer is delegated authority to dispose of any vehicles, animals or goods that have been impounded/seized/confiscated under the provisions of Section 3.47 and 3.58 of the Local Government Act 1995.

The Chief Executive Officer may dispose of the above only after calling public tenders in accordance with the procedures as set out in Part 4 of the Local Government (Functions and General) Regulations. The Chief Executive Officer is authorised pursuant to Section 5.43(b) of the Local Government Act 1995 to accept any tender up to the value of \$10,000. Tenders for amounts exceeding \$10,000 shall be referred to the Council for consideration.

**Conditions**

Nil

**Statutory Framework**

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**Local Government Act 1995**

**3.39 Power to remove and impound**

- (1) An employee authorized by a local government for the purpose may remove and impound any goods that are involved in a contravention that can lead to impounding.
- (2) A person may use reasonable force to exercise the power given by subsection (1).

**3.40. Vehicle may be removed if goods to be impounded are in or on vehicle**

- (1) Where under section 3.39 an employee may remove and impound any goods that are in or on a vehicle that is not itself to be impounded and, because of their size, nature or quantity or for any other reason, it is not convenient to unload and deal with them where they are, the employee may enter the vehicle for the purpose of removing it to a place where the goods may be conveniently unloaded and impounded.
- (2) Where a vehicle is removed under subsection (1) the local government is to allow the alleged offender, as soon as practicable after the goods are unloaded from the vehicle, to resume control of the vehicle.
- (3) If the person entitled to resume control of the vehicle is not present when the goods are unloaded or fails to resume control of the vehicle, the local government is to give notice to the person who is the holder of the requisite vehicle licence or permit under the *Road Traffic (Vehicles) Act 2012* in respect of the vehicle, advising that the vehicle may be collected from a place specified during such hours as are specified.

[Section 3.40 amended: No. 8 of 2012 s. 122.]

**3.40A. Abandoned vehicle wreck may be taken**

- (1) An employee authorised by a local government for the purpose may remove and impound a vehicle that, in the opinion of the local government, is an abandoned vehicle wreck.
- (2) If, within 7 days after a vehicle is removed under subsection (1), the owner of the vehicle is identified, the local government is to give notice to that person advising that the vehicle may be collected from a place specified during such hours as are specified in the notice.
- (3) A notice is to include a short statement of the effect of subsection (4)(b) and the effect of the relevant provisions of sections 3.46 and 3.47.
- (4) If —
  - (a) after 7 days from the removal of a vehicle under subsection (1), the owner of the vehicle has not been identified; or
  - (b) after 7 days from being given notice under subsection (2), the owner of the vehicle has not collected the vehicle, the local government may declare that the vehicle is an abandoned vehicle wreck.
- (5) In this section — ***abandoned vehicle wreck*** means a vehicle —
  - (a) that is not operational; and
  - (b) the owner of which has not been identified by the local government after using all reasonable avenues to do so; and
  - (c) that has a value that is less than the prescribed value calculated in the prescribed manner.

[Section 3.40A inserted: No. 49 of 2004 s. 25(1).]



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**3.41. Impounded perishable goods, notice to collect**

- (1) When any perishable goods are being removed under section 3.39 the employee removing them is required to personally give the person from whose charge they are removed notice that the goods may be collected from a place specified during such hours as are specified.
- (2) The giving of the notice does not prevent a prosecution from being instituted against the alleged offender.

**3.42. Impounded non-perishable goods**

- (1) When any non-perishable goods have been removed and impounded under section 3.39 the local government is required to either —
  - (a) institute a prosecution against the alleged offender; or
  - (b) give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified.
- (2) If after 7 days after the goods were removed, a local government has been unable to give the alleged offender a notice under subsection (1)(b) because it has been unable, after making reasonable efforts to do so, to find the alleged offender, the local government is to be taken to have given that notice.

*[Section 3.42 amended: No. 64 of 1998 s. 9.]*

**3.43. Impounded non-perishable goods, court may confiscate**

When a court convicts an alleged offender the court may, in addition to imposing any other penalty, order that any non-perishable goods removed and impounded under section 3.39 be confiscated.

**3.44. Notice to collect goods if not confiscated**

Where non-perishable goods have been removed and impounded under section 3.39 and a prosecution is instituted, if the alleged offender —

- (a) is not convicted; or
  - (b) is convicted but the court does not order that the goods be confiscated,
- the local government is required to give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified.

**3.45. Notice to include warning**

A notice is to include a short statement of the effect of the relevant provisions of sections 3.46, 3.47 and 3.48.

**3.46. Goods may be withheld until costs paid**

- (1) A local government may refuse to allow goods impounded under section 3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid to the local government.
- (2) A local government may refuse to allow goods removed under section 3.40 or 3.40A to be collected until the costs of removing and keeping them have been paid to the local government.

*[Section 3.46 inserted: No. 64 of 1998 s. 10; amended: No. 49 of 2004 s. 25(2) and (3).]*

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**3.47. Confiscated or uncollected goods, disposal of**

- (1) The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43.
- (2) The local government may sell or otherwise dispose of any vehicle that has not been collected within —
  - (a) 2 months of a notice having been given under section 3.40(3); or
  - (b) 7 days of a declaration being made under section 3.40A(4) that the vehicle is an abandoned vehicle wreck.
- (2a) The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in subsection (2b) of —
  - (a) a notice having been given under section 3.42(1)(b) or 3.44; or
  - (b) being impounded if the local government has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.
- (2b) The period after which goods may be sold or otherwise disposed of under subsection (2a) is —
  - (a) for perishable goods — 3 days;
  - (b) for animals — 7 days;
  - (ca) for prescribed non-perishable goods — one month;
  - (c) for other non-perishable goods — 2 months.
- (3) Section 3.58 applies to the sale of goods under this section as if they were property referred to in that section.
- (4) Money received by a local government from the sale of goods under subsection (2a) is to be credited to its trust fund except to the extent required to meet the costs and expenses incurred by the local government in removing, impounding and selling the goods.
- (5) Money received by a local government from the sale of a vehicle under subsection (2) is to be credited to its trust fund except to the extent required to meet the costs referred to in section 3.46 and the expenses incurred by the local government in selling the vehicle.
- (6) Unless this section requires it to be credited to its trust fund, money received by a local government from the sale under this section of any goods is to be credited to its municipal fund.

*[Section 3.47 amended: No. 64 of 1998 s. 11; No. 49 of 2004 s. 25(4); No. 17 of 2009 s. 9.]*

**3.47A. Sick or injured animals, disposal of**

- (1) If an impounded animal is ill or injured to such an extent that treating it is not practicable the local government may humanely destroy the animal and dispose of the carcass.
- (2) A local government must not destroy an animal under subsection (1) unless —
  - (a) because of the state of the animal, destroying it is urgent; or
  - (b) the local government has —
    - (i) taken reasonable steps to notify the owner; and
    - (ii) whether or not notice has been given under subparagraph (i), allowed the owner a reasonable opportunity to collect the animal.
- (3) Subsection (2)(b) does not justify the destruction of an animal before it has been impounded for at least 7 days.

*[Section 3.47A inserted: No. 64 of 1998 s. 12.]*

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**3.48. Impounding expenses, recovery of**

If goods are removed and impounded under section 3.39 and the alleged offender is convicted, the local government may, by action in a court of competent jurisdiction, recover from the alleged offender —

- (a) if the goods are not sold under section 3.47, the expenses incurred by the local government in removing and impounding them and in disposing of them if they are disposed of under section 3.47; and
- (b) if the goods are confiscated and sold under section 3.47, the amount, if any, by which the money received from the sale and credited to the municipal fund under section 3.47(6) is insufficient to meet expenses incurred by the local government in removing, impounding, and selling them; and
- (c) if the goods are not confiscated but are sold under section 3.47, the amount, if any, by which the money received from the sale is insufficient to meet the costs and expenses referred to in section 3.47(4) or (5), as the case requires.

*[Section 3.48 amended: No. 64 of 1998 s. 13.]*

**Verification**

Recent Council Resolution	Initial Council Resolution
18037 - February 2018	5456 – July 1999

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Nil

**Notes of Recent Alterations (if applicable)**

2018 Delegation Register Reference – 3 & 4 combined

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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Reference Number	Legislative Reference	Delegate
LGA 6 - Certain Things to be Done in Respect of Land	Local Government Act s.3.24	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority under Section 5.44 of the Act to authorise other officers of the local government to exercise on behalf of the local government the powers given to a local government by Subdivision 2 (Certain Provisions about Land) of the Local Government Act 1995.

**Conditions**

Nil

**Statutory Framework**

**Local Government Act 1995**

**3.24. Authorising persons under this Subdivision**

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

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.



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**Related Documents:**

Nil

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference – 7

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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Reference Number	Legislative Reference	Delegate
LGA 7 - Power of Entry	Local Government Act s. 3.28, 3.29, 3.30, 3.31, 3.32, 3.33, 3.34, 3.35 & 3.36	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to exercise all of the powers and duties of the local government in respect to the powers of entry upon land as contained in Section 3.28 to 3.36 inclusive of the Local Government Act 1995.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

***Local Government Act 1995***

**3.28 When this Subdivision applies**

The powers of entry conferred by this Subdivision may be used for performing any function that a local government has under this Act if entry is required for the performance of the function or in any other case in which entry is authorized by this Act other than by a local law.

**3.29 Powers of entry are additional**

The powers of entry upon land conferred by this Subdivision are in addition to and not in derogation of any power of entry conferred by any other law.

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**3.30 Assistants and equipment**

Entry under this Subdivision may be made with such assistants and equipment as are considered necessary for the purpose for which entry is required.

**3.31 General procedure for entering property**

- (1) Except in an emergency or if the entry is authorized by the warrant of a justice, entry by or on behalf of a local government on to any land, premises or thing is not lawful unless —
  - (a) the consent of the owner or occupier has been obtained; or
  - (b) notice has been given under section 3.32.
- (2) If notice has been given under section 3.32, a person authorized by the local government to do so may lawfully enter the land, premises or thing without the consent of the owner or occupier unless the owner or occupier or a person authorized by the owner or occupier objects to the entry.
- (3) The powers conferred on a local government under this section may be exercised instead of the powers conferred under the Public Works Act 1902 and are not subject to any qualification or restriction by any provision of that Act.

**3.32 Notice of entry**

- (1) A notice of an intended entry is to be given to the owner or occupier of the land, premises or thing that is to be entered.
- (2) The notice is to specify the purpose for which the entry is required and continues to have effect for so long as that requirement continues.
- (3) The notice is to be given not less than 24 hours before the power of entry is exercised.
- (4) Successive entries for the purpose specified in the notice are to be regarded as entries to which that notice relates.

**3.33 Entry under warrant**

- (1) In the circumstances described in subsection (2), a justice may by warrant authorize a local government by its employees, together with such other persons as are named or described in the warrant, or a police officer, to enter any land, premises or thing using such force as is necessary.
- (2) A warrant may be granted under subsection (1) where a justice is satisfied that the entry is reasonably required by a local government for the purpose of performing any of its functions, but —
  - (a) entry has been refused or is opposed or prevented;
  - (b) entry cannot be obtained; or
  - (c) notice cannot be given under section 3.32 without unreasonable difficulty or without unreasonably delaying entry.
- (3) A warrant granted under subsection (1) —
  - (a) is to be in the prescribed form;
  - (b) is to specify the purpose for which the land, premises or thing may be entered; and
  - (c) continues to have effect until the purpose for which it was granted has been satisfied.

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**3.34 Entry in an emergency**

- (1) In an emergency a local government may lawfully enter any land, premises or thing immediately and without notice and perform any of its functions as it considers appropriate to deal with the emergency.
- (2) For the purposes of this section, an emergency exists where the local government or its CEO is of the opinion that the circumstances are such that compliance with the requirements for obtaining entry other than under this section would be impractical or unreasonable because of, or because of the imminent risk of —
  - (a) injury or illness to any person;
  - (b) a natural or other disaster or emergency; or
  - (c) such other occurrence as is prescribed for the purposes of this section.
- (3) A local government may use reasonable force to exercise the power of entry given by subsection (1).
- (4) A local government may exercise the power of entry given by subsection (1) at any time while the emergency exists and for so long subsequently as is reasonably required.
- (5) Although notice of an intended entry under this section is not generally required, a local government is to give notice of an intended entry of land under this section to the owner or occupier of the land where it is practicable to do so.

**3.35 Purpose of entry to be given on request**

A person who enters or who has entered any land, premises or thing on behalf of a local government is to give particulars of the power by virtue of which the local government claims a right of entry on being requested to do so.

**3.36 Opening fences**

- (1) This section applies only if it is expressly stated in Schedule 3.2.
- (2) Subsection (1) does not prevent regulations amending Schedule 3.2 from stating that this section applies, or excluding the application of this section, in relation to a particular matter.
- (3) If this section applies and it is not practicable to enter land that is fenced through the existing and usual openings in the fence, the local government may, on giving 3 days' notice in writing to the owner or occupier of the land that it intends to do so, open the fence.
- (4) If it opens the fence the local government is to provide at the opening an effective gate or, if the owner of the land agrees, a device across the gap in the fence that enables motor traffic to pass through the gap and prevents the straying of livestock through the gap.
- (5) If a gate is provided a person who, without the occupier's consent, leaves the gate open when it is not in use commits an offence.
- (6) If a gate is provided, when the local government no longer requires the opening, it is to immediately remove the gate and make good the fence unless the owner agrees to its retention.
- (7) The owner and occupier may, in a particular case, relieve the local government of any obligation that it has under this section.





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**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 8

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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Reference Number	Legislative Reference	Delegate
LGA11 – Rate Book	Local Government Act Part 6 s. 6.39 (1) & (2), 6.40, 6.41, 6.49, 6.50, 6.54, 6.55, 6.56, 6.57, 6.58, 6.59, 6.60, 6.61, 6.62, 6.64 (3), 6.76 (1), 6.76(4), 6.76(5),, 6.77, 6.78	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

To exercise the powers and discharge the duties of the local government under Sections 6.39 (1) & (2), 6.40, 6.41, 6.49, 6.50, 6.54-6.62, 6.64 (3), 6.76 (1), (4) & (5), 6.77 and 6.78 of the *Local Government Act 1995*.

1. Compile the necessary rate records as specified in Sections 6.39(1) and 6.39(2) of the Local Government Act 1995 and reassess rates payable in accordance with Section 6.40.
2. The service of rate notices referred to in Section 6.41.
3. Entering into an agreement in accordance with Section 6.49 for the payment of rates and service charges.
4. Determine the date that a rate or service charge becomes due and payable in accordance with Section 6.50.
5. The recovery of rates and service charges pursuant to the provisions of Sections 6.54, 6.55, 6.56, 6.57, 6.58, 6.59, 6.60, 6.61 & 6.62.
6. Lodge caveats on land where the rates are in arrears and it is considered that the interests of the local government should be protected and the subsequent withdrawal of caveats once arrears of rates have been settled in accordance with Section 6.64(3).
7. Exercise discretion in regard to granting of any extension of time for service of objections to the Rate Book in accordance with Section 6.76(4).
8. Allow or disallow in accordance with Section 6.76(5) any objection to the rate record lodged under Section 6.76(1) and to serve notice of the decision and a statement of reasons for the decision upon the person lodging the objection in accordance with Section 6.76(6).

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9. Extend the period of time for receipt of a notice under Section 6.77 and to refer notices received under Sections 6.77 and 6.78 to a Land Valuation Tribunal.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

**Local Government Act 1995**

**6.39. Rate record**

- (1) As soon as practicable after a local government has resolved to impose rates in a financial year it is to ensure that a record is compiled, at the time and in the form and manner prescribed, for that financial year of —
- (a) all rateable land in its district; and
  - (b) all land in its district on which a service charge is imposed.
- (2) A local government —
- (a) is required, from time to time, to amend a rate record for the current financial year to ensure that the information contained in the record is current and correct and that the record is in accordance with this Act; and
  - (b) may amend the rate record for the 5 years preceding the current financial year.

**6.40. Effect of amendment of rate record**

- (1) Where the rate record in relation to any land is amended under section 6.39(2) as a result of a change in —
- (a) the rateable value of; or
  - (b) the rateability of; or
  - (c) the rate imposed on, that land, the local government is to reassess the rates payable on the land and to give notice to the owner of the land of any change in the amount of rates payable on the land.
- (2) Where the rate record in relation to any land is amended under section 6.39(2) as a result of a change in a service charge imposed on that land, the local government is to reassess that service charge and to give notice to the owner or occupier of the land, as the case requires, of any change in the amount of the service charge payable on the land.
- (3) If, as a result of a reassessment of rates under subsection (1), a rate on any land is —
- (a) reduced, and that rate has already been paid to a local government, the local government —
    - (i) may, and if so requested by the current owner of the land is required to, make a refund to that owner of the amount overpaid; or
    - (ii) is required to allow a credit of the amount overpaid in relation to the land against future liabilities for rates or service charges in respect of that land; or

## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

- (b) increased, that increased rate is the rate to which section 6.44 applies.
- (4) If, as a result of a reassessment of a service charge under subsection (2), a service charge on any land is —
  - (a) reduced, and that service charge has already been paid to a local government —
    - (i) by the owner, the local government —
      - (I) may, and if so requested by the current owner of the land is required to, make a refund to that owner of the amount overpaid; or
      - (II) is required to allow a credit of the amount overpaid in relation to the land against future liabilities for rates or service charges in respect of that land; or
    - (ii) by the occupier, the local government is required to make a refund to the person who paid the service charge; or
  - (b) increased, and that service charge was imposed on —
    - (i) the owner, that increased service charge is the service charge to which section 6.44 applies; or
    - (ii) the occupier, that increased service charge is a debt due to the local government by the person on whom the service charge was imposed.

### **6.41. Service of rate notice**

- (1) A local government is required to give to —
  - (a) the owner of rateable land; and
  - (b) the owner or occupier, as the case requires, of land on which a service charge is imposed, a rate notice stating the date the rate notice was issued and incorporating or accompanied by the details and particulars prescribed.
- (2) The rate notice is to be given —
  - (a) as soon as practicable after —
    - (i) the rate record of the land is completed; or
    - (ii) the rate record of the land is amended, if that amendment results in a change in the amount of rates or service charges payable on that land; or
  - (b) where an election has been made under section 6.45 to pay rates or service charges by instalments, not less than 28 days before each instalment is due.
- (3) Notwithstanding sections 75 and 76 of the *Interpretation Act 1984* service of the rate notice is deemed to have been effected if delivered to the address shown in the rate record for the owner at the time of delivery.

### **6.49. Agreement as to payment of rates and service charges**

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

### **6.50. Rates or service charges due and payable**

- (1) Subject to —
  - (a) subsections (2) and (3); and

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- (b) any concession granted under section 6.47; and
- (c) the *Rates and Charges (Rebates and Deferments) Act 1992*, a rate or service charge becomes due and payable on such date as is determined by the local government.
- (2) The date determined by a local government under subsection (1) is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued.
- (3) Where a person elects to pay a rate or service charge by instalments the second and each subsequent instalment does not become due and payable at intervals of less than 2 months.

### **Subdivision 5 — Recovery of unpaid rates and service charges**

#### **6.54. Term used: service charge**

In sections 6.55, 6.60 and 6.62 — **service charge** does not include a service charge imposed under section 6.38(1)(b) on the occupier of land who is not the owner of that land.

#### **6.55. Recovery of rates and service charges**

- (1) Subject to subsection (2) and the *Rates and Charges (Rebates and Deferments) Act 1992* rates and service charges on land are recoverable by a local government from —
  - (i) the owner at the time of the compilation of the rate record; or
  - (ii) a person who whilst the rates or service charges are unpaid becomes the owner of the land.
- (2) A person who, by virtue of an Act relating to bankruptcy or insolvency or to the winding up of companies, has become the owner of land in the capacity of a trustee or liquidator, is not on that account personally liable to pay, out of the person's own money, rates or service charges which are already due on, or become due on that land while that person is the owner in that capacity.

#### **6.56. Rates or service charges recoverable in court**

- (1) If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.
- (2) Rates or service charges due by the same person to the local government may be included in one writ, summons, or other process.

[Section 6.56 amended: No. 84 of 2004 s. 80.]

#### **6.57. Non-compliance with procedure in Act not to prevent recovery of rate or service charge**

In proceedings by or on behalf of a local government for the recovery of an amount due in respect of a rate or service charge, failure by the local government to comply in respect of the rate or service charge with the provisions of this Act, is not a defence, if it appears that it had the power to impose, and did in fact assent to the imposition of, the rate or service charge.

#### **6.58. Defence in special cases**

If a person sued or proceeded against proves that a notice required to be given under Subdivision 3 has not been given, the claim of the local government does not on that account fail, but such

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objections as would have been competent on an application under Subdivision 7 for a review may be raised as a defence to the whole or part of the claim, unless they have already been unsuccessfully raised by the person on an application under that Subdivision for a review.

*[Section 6.58 amended: No. 55 of 2004 s. 691.]*

### **6.59. Question of title to land not to affect jurisdiction**

A jurisdiction otherwise competent to entertain proceedings to recover rates or service charges, or consequent on the recovery of rates or service charges, or to hear an application for review or an appeal relating to the payment of rates or service charges is not affected on the ground that a question of title to land is raised in the proceedings, but an order or judgment in the matter is not evidence of title.

*[Section 6.59 amended: No. 55 of 2004 s. 692.]*

### **6.60. Local government may require lessee to pay rent**

- (1) In this section — *lease* includes an agreement whether made orally or in writing for the leasing or subleasing of land and includes a licence or arrangement for the use of land; *lessor* and *lessee* mean the parties to a lease and their respective successors in title.
- (2) If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.
- (3) The local government is to give to the lessor a copy of the notice with an endorsement that the original of it has been given to the lessee.
- (4) The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.
- (5) Where an amount is paid under this section to the local government —
  - (a) the payment discharges the payer from any liability to any person to pay that amount as rent; and
  - (b) where as between a lessor and lessee the lessor is liable to pay the rate or service charge, the amount paid may be set off by the lessee against the rent payable to the lessor; and
  - (c) if the amount exceeds the rent due, or if there is no rent due, the amount may be set off by the lessee against accruing rent, or the balance recovered from the lessor in a court of competent jurisdiction.
- (6) To the extent that an agreement purports to preclude a lessee from setting off or recovering payments made to a local government under this section, the agreement is of no effect.

### **6.61. Requirement to give name of person liable**

- (1) On the request of a local government —
  - (a) the occupier of property, or an agent of the owner of property, is required to disclose to the local government the name and address of the owner or of the person receiving or authorised to receive the rent of the property; and

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- (b) the person receiving or authorised to receive the rent of the property is required to disclose the name and address of the owner of the property.
- (2) A person from whom information is requested in accordance with subsection (1) commits an offence if the person —
  - (a) fails to give the information requested; or
  - (b) gives information that is false or misleading in any material particular.

### **6.62. Application of money paid for rates and service charges**

Where money is paid to a local government in respect of rates or service charges imposed on land, the local government is to apply the money for or towards —

- (a) the rates or services charges due on the land in the order in which they become due; and
- (b) any outstanding costs of proceedings for the recovery of any such rates or charges.

### **6.64. Actions to be taken**

(3) Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

### **6.76. Grounds of objection**

- (1) A person may, in accordance with this section, object to the rate record of a local government on the ground —
  - (a) that there is an error in the rate record —
    - (i) with respect to the identity of the owner or occupier of any land; or
    - (ii) on the basis that the land or part of the land is not rateable land; or
  - (b) if the local government imposes a differential general rate, that the characteristics of the land recorded in the rate record as the basis for imposing that rate should be deleted and other characteristics substituted.
- (4) The local government may, on application by a person proposing to make an objection, extend the time for making the objection for such period as it thinks fit.
- (5) The local government is to promptly consider any objection and may either disallow it or allow it, wholly or in part.

### **6.77. Review of decision of local government on objection**

Any person who is dissatisfied with the decision of a local government on an objection by that person under section 6.76 may, within 42 days (or such further period as the State Administrative Tribunal, for reasonable cause shown by the person, allows) after service of notice of the decision, apply to the State Administrative Tribunal for a review of the decision.



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### **6.78. Review of decision to refuse to extend time for objection**

A person who is dissatisfied with a decision of the local government to refuse to extend the time for making an objection against the rate record may apply to the State Administrative Tribunal for a review of the decision.

### **Verification**

<b>Recent Council Resolution</b>	<b>Initial Council Resolution</b>
18037	5456

### **Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

### **Related Documents**

#### **Notes of Recent Alterations (if applicable)**

2018 Delegation Register Reference - 16



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Reference Number	Legislative Reference	Delegate
LGA 13 - Investments	Local Government Act s. 6.14	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to invest any monies held in the Municipal Fund, Trust Fund or any Reserve Fund that is not, for the time being, required by the local government for any other purpose. In exercising this delegated authority, the Chief Executive Officer shall observe Section 6.14 of the Local Government Act 1995.

Further, the Chief Executive Officer is delegated authority to establish and document internal control procedures to be followed by employees to ensure control over investments, as required by Local Government (Financial Management) Regulation 19. The control procedures are to enable the identification of:

- a) The nature and location of all investments, and
- b) The transactions related to each investment.

**Conditions**

Nil.

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

**Local Government Act 1995**

**6.14. Power to invest**

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

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

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- (2) Regulations in relation to investments by local governments may —
- (a) make provision in respect of the investment of money referred to in subsection (1); and
  - [(b) deleted]
  - (c) prescribe circumstances in which a local government is required to invest money held by it; and
  - (d) provide for the application of investment earnings; and
  - (e) generally provide for the management of those investments.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

<https://www.nannup.wa.gov.au/documents/333/finance-policy-fnc7-investment-policy>

**Notes of Recent Alterations (if applicable)**

2018 Delegation Register Reference - 19

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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Reference Number	Legislative Reference	Delegate
LGA 15 - Temporary Closure of Thoroughfares and Fixing or Altering Levels or Alignments or Drainage Onto Adjoining Land	Local Government Act 1995 s. 3.50, s. 3.50A, and s. 3.51	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to give the necessary notices and take all appropriate actions to temporarily close any thoroughfare pursuant to the requirements of Section 3.50, 3.50A and 3.51 of the Local Government Act 1995.

**Conditions**

**Local Government Act 1995**

**3.52. Public access to be maintained and plans kept**

- (1) This section applies in respect of a thoroughfare only if it is in the metropolitan area or on land that has been constituted a townsite under section 10 of the *Land Act 1933* <sup>5</sup>.
- (2) Except to the extent that it is authorised by law to close them or restrict their use, a local government is to ensure that public thoroughfares are kept open for public use.
- (3) In fixing or altering the level of, or the alignment of, a public thoroughfare, a local government is to ensure that access by vehicle to land adjoining the thoroughfare can be reasonably provided.
- (4) A local government is to keep plans of the levels and alignments of public thoroughfares that are under its control or management, and make those plans available for public inspection.

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**Statutory Framework**

***Local Government Association 1995***

**3.50. Closing certain thoroughfares to vehicles**

- (1) A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.
- (1a) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.
- (2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.
- [(3) deleted]*
- (4) 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 —
- (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
- (b) give written notice to each person who —
- (i) is prescribed for the purposes of this section; or
- (ii) owns land that is prescribed for the purposes of this section; and
- (c) allow a reasonable time for submissions to be made and consider any submissions made.
- (5) The local government is to send to the Commissioner of Main Roads appointed under the *Main Roads Act 1930* a copy of the contents of the notice required by subsection (4)(a).
- (6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.
- [(7) deleted]*
- (8) If, under subsection (1), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.
- (9) The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.

*[Section 3.50 amended: No. 1 of 1998 s. 11; No. 64 of 1998 s. 15; No. 49 of 2004 s. 26.]*

**3.50A. Partial closure of thoroughfare for repairs or maintenance**

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

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

*[Section 3.50A inserted: No. 64 of 1998 s. 16.]*

**3.51. Affected owners to be notified of certain proposals**

- (1) In this section — ***person having an interest***, in relation to doing anything, means a person who —

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- (a) is the owner of the land in respect of which that thing is done, or any land that is likely to be adversely affected by doing that thing; or
- (b) is shown on the title to any of the land mentioned in paragraph (a) as holding an interest in any of that land; or
- (c) is prescribed for the purposes of this section.
- (2) This section applies to —
  - (a) fixing or altering the level of, or the alignment of, a public thoroughfare; or
  - (b) draining water from a public thoroughfare or other public place onto adjoining land.
- (3) Before doing anything to which this section applies, a local government is to —
  - (a) give notice of what is proposed to be done giving details of the proposal and inviting submissions from any person who wishes to make a submission; and
  - (b) allow a reasonable time for submissions to be made and consider any submissions made.
- (4) The notice is to be given —
  - (a) in writing to each person having an interest; and
  - (b) if any land is likely to be adversely affected by the doing of the thing, by local public notice.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference – 22 & 26 combined

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Reference Number	Legislative Reference	Delegate
LGA 16 - Public Thoroughfares – Public Use	LGA 3.52	Chief Executive Officer Manager Infrastructure

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to;

Ensure that public thoroughfares are kept open for public use as required under Section 3.52(2) of the Local Government Act 1995.

Ensure that access by vehicles to land adjoining the thoroughfare can be reasonably provided in fixing or altering the level of, or the alignment of a public thoroughfare.

**Conditions**

Nil

**Statutory Framework**

**Local Government Act 1995**

**3.52. Public access to be maintained and plans kept**

- (1) This section applies in respect of a thoroughfare only if it is in the metropolitan area or on land that has been constituted a townsite under section 10 of the *Land Act 1933* <sup>5</sup>.
- (2) Except to the extent that it is authorised by law to close them or restrict their use, a local government is to ensure that public thoroughfares are kept open for public use.
- (3) In fixing or altering the level of, or the alignment of, a public thoroughfare, a local government is to ensure that access by vehicle to land adjoining the thoroughfare can be reasonably provided.
- (4) A local government is to keep plans of the levels and alignments of public thoroughfares that are under its control or management, and make those plans available for public inspection.



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**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 27

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Reference Number	Legislative Reference	Delegate
LGA 17 – Contract Variations	Local Government Act s. 5.42	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to determine minor variations (up to the value of 10% of the contract value) to contracts entered into by Council, subject to the funds required to meet the cost of the variations being contained within the amount set aside in the budget adopted by the Council.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

**Local Government Act 1995.42.**

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

(1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —

- (a) this Act other than those referred to in section 5.43; or
- (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

\* *Absolute majority required.*

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

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456





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### **Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

### **Related Documents**

<b>Notes of Recent Alterations (if applicable)</b>
2018 Delegation Register Reference - 35

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Reference Number	Legislative Reference	Delegate
LGA 24 - Building Permit Fees: Refunds and Exemptions	Local Government Act 1995 s. 6.12	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to determine applications for the refund of building permit fees where a building project is abandoned after the issue of the building permit. Any refund shall not exceed 50% of the building permit fee paid and no refund is to be made when the building project is abandoned after the expiry of 12 months from the date of issue of the permit.

The Chief Executive Officer is further delegated authority to determine any applications from sporting, charitable and other community groups for exemption from payment of any building permit fees.

NOTE: This delegation applies only to that part of the Building Permit Fee retained by Council and not to that part collected as a Building Services Levy or a Building and Construction Industry Training Fund Levy.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

**Local Government Act 1995**

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

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or
  - (b) waive or grant concessions in relation to any amount of money; or
  - (c) write off any amount of money, which is owed to the local government.

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*\* Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 49

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Reference Number	Legislative Reference	Delegate
LGA 37 - Write Off Debts	Local Government Act 1995 s. 6.12	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to write off debts to a maximum value of \$5,000 per transaction.

**Conditions**

Nil

**Statutory Framework**

**Local Government Act 1995**

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

- (1) Subject to subsection (2) and any other written law, a local government may —
- (a) when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or (b) waive or grant concessions in relation to any amount of money; or
- (c) write off any amount of money, which is owed to the local government.

\* *Absolute majority required.*

- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456



## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

### **Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

### **Related Documents**

<b>Notes of Recent Alterations (if applicable)</b>
2018 Delegation Register Reference - 71

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING



Reference Number	Legislative Reference	Delegate
ADM 1 - Copies of Information	Local Government Act s. 5.94, 5.95 (1)(b) & (3)(b) & 5.96 Local Government  (Administration) Regulations 1996 r.29 (2) & (3) and r.29B	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to ensure copies are available to persons inspecting information made available for inspection under Division 7, Part 5 of the Local Government Act 1995 and ensure that the price at which the copies are sold does not exceed the cost of providing the copies.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

***Local Government Act 1995***

**5.94. Public can inspect certain local government information**

A person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection —

(a) any code of conduct;

(aa) any regulations prescribing rules of conduct of council members referred to in section 5.104;

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- (ab) any register of complaints referred to in section 5.121;
- (b) any register of financial interests;
- (c) any annual report;
- (d) any annual budget;
- (e) any schedule of fees and charges;
- (f) any plan for the future of the district made in accordance with section 5.56;
- (g) any proposed local law of which the local government has given Statewide public notice under section 3.12(3);
- (h) any local law made by the local government in accordance with section 3.12;
- (i) any regulations made by the Governor under section 9.60 that operate as if they were local laws of the local government;
- (j) any text that —
  - (i) is adopted (whether directly or indirectly) by a local law of the local government or by a regulation that is to operate as if it were a local law of the local government; or
  - (ii) would be adopted by a proposed local law of which the local government has given Statewide public notice under section 3.12(3);
- (k) any subsidiary legislation made or adopted by the local government under any written law other than under this Act;
- (l) any written law having a provision in respect of which the local government has a power or duty to enforce;
- (m) any rates record;
- (n) any confirmed minutes of council or committee meetings;
- (o) any minutes of electors' meetings;
- (p) any notice papers and agenda relating to any council or committee meeting and reports and other documents that have been —
  - (i) tabled at a council or committee meeting; or
  - (ii) produced by the local government or a committee for presentation at a council or committee meeting and which have been presented at the meeting;
- (q) any report of a review of a local law prepared under section 3.16(3);
- (r) any business plan prepared under section 3.59;
- (s) any register of owners and occupiers under section 4.32(6) and electoral rolls;
- (t) any contract under section 5.39 and variation of such contract;
  - (ta) a report on a supplementary audit prepared under section 7.12AH(1);
- (u) such other information relating to the local government —
  - (i) required by a provision of this Act to be available for public inspection; or
  - (ii) as may be prescribed.

*[Section 5.94 amended: No. 49 of 2004 s. 42(7); No. 1 of 2007 s. 7; No. 5 of 2017 s. 9.]*

**5.95. Limits on right to inspect local government information**

- (1) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information —
- (b) which, in the CEO's opinion, would divert a substantial and unreasonable portion of the local government's resources away from its other functions.

**EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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- (3) Subject to subsection (4), a person’s right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (n) or (p) of that section if the meeting or that part of the meeting to which the information refers —
- (b) in the CEO’s opinion, could have been closed to members of the public but was not closed.

**5.96. Copies of information to be available**

If a person can inspect certain information under this Division, the person may request a copy of the information and, unless regulations prescribe otherwise, the local government is to ensure that copies are available and that the price at which it sells copies does not exceed the cost of providing the copies.

*[Section 5.96 amended: No. 17 of 2009 s. 31.]*

***Local Government (Administration) Regulations 1996***

**r.29. Information to be available for public inspection (Act s. 5.94)**

- (2) A person’s right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in subregulation (1)(c) if the meeting or that part of the meeting to which the information refers —
- (a) was closed to members of the public; or
- (b) in the CEO’s opinion, could have been closed to members of the public but was not closed, unless the information to be inspected is a record of a decision made at the meeting.
- (3) A person’s right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in subregulation (1)(d) if, in the CEO’s opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public.

**29B. Copies of certain information not to be provided (Act s. 5.96)**

A local government must not make available to a person copies of information referred to in section 5.94(m) or (s) unless —

- (a) the request for the information is made in the manner and form approved by the CEO of the local government; and
- (b) the CEO of the local government is satisfied, by statutory declaration or otherwise, that the information will not be used for commercial purposes.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.





EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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**Related Documents**

<b>Notes of Recent Alterations (if applicable)</b>
2018 Delegation Register Reference - 12

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING



Reference Number	Legislative Reference	Delegate
BFA 1 - Prohibited Burning Period	Bush Fires Act 1954 s. 23 and s. 25	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

In the absence of a Bush Fire Control Officer of an area, the Chief Executive Officer be delegated authority to issue a permit to a landowner for the burning of bush on his land for the purpose of protecting a dwelling house or other building, or a stack of hay, wheat or other produce, from damage by fire in accordance with Section 23(2)(a)(i) of the Bush Fires Act 1954.

The Chief Executive Officer be delegated to publish a notice in the *Gazette* and in a newspaper circulating in the district, to prohibit the lighting of fires in the open air in the district for the purpose of camping or cooking for such period during the prohibited burning times as is specified in the notice, in accordance with Section 25(1a).

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

***Bush Fires Act 1954***

**23. Burning during prohibited burning times**

- (1) Subject to this section the owner or occupier of land may during the prohibited burning times for the zone of the State in which his land is situated —
- (a) at any time, burn the bush on his land for the purpose of protecting a dwelling house or other building, or a stack of hay, wheat or other produce, from damage by fire;
  - (b) within such period after the commencement of those prohibited burning times as is determined by the local government of the district in which his land is situated —
    - (i) burn the bush on a road reserve adjoining his land;
    - (ii) burn the bush on any of his land that is grass land, for the purpose of protecting pasture or crop growing on his land from damage by fire.

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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- (2) The burning of bush under this section is subject to the owner or occupier of land complying with —
- (a) the following conditions —
- (i) a permit in writing to burn the bush shall be obtained from a bush fire control officer of the local government in whose district the land is situated, or from the chief executive officer of the local government if a bush fire control officer is not available; and
  - (ii) the bush shall be burnt at such a time between the hours of 4 p.m. and midnight of the same day as is specified in the permit issued under this section; and
  - (iii) in the case of burning carried out pursuant to subsection (1)(a), the bush shall be burnt between 2 plough or spade breaks of which the outer break is not more than 100 m from the property to be protected; and
  - (iv) in the case of burning carried out pursuant to subsection (1)(b)(i), the bush shall be burnt between the constructed portion of the road and an established fire-break; and
  - (v) in the case of burning carried out pursuant to subsection (1)(b)(ii), the bush shall be burnt between 2 fire-breaks that are not more than 20 m apart and each of which is not less than 2 m in width; and
- (b) the conditions prescribed for the purposes of section 18; and
- (c) such other conditions as are stipulated in the permit issued under this section.

**25. No fire to be lit in open air unless certain precautions taken**

- (1) Subject to subsection (1aa) and section 25A, during the restricted burning times or during the prohibited burning times a person shall not light or use a fire in the open air for a purpose not specifically mentioned or provided for in this Act, save and except in accordance with and subject to the following provisions —
- (a) a fire for the purpose of camping or cooking shall not be lit within 3 m of a log or stump and unless and until a space of ground around the site of the fire having a radius of at least 3 m from the site as the centre, is cleared of all bush and other inflammable material, and when for any day, or any period of a day, the fire danger forecast by the Bureau of Meteorology in Perth in respect of the locality wherein it is desired to light or use a fire for such purpose is “catastrophic”, “extreme”, “severe” or “very high”, such fire shall not be lit on that day or during that period unless and until the approval in writing of the local government for that locality has been obtained so to do;
- (b) a fire shall not be lit for the conversion of bush into charcoal, or in or about a lime kiln for the production of lime, unless and until approval in writing is obtained from the local government in whose district the burning is proposed to be carried out and a space of ground around the perimeter of a kiln, pit, or retort used for the purpose is cleared of all bush and other inflammable material for a distance of at least 6 m and such directions and requirements, if any, as are given or specified by a bush fire control officer or authorised CALM Act officer as being in his opinion, necessary for the purpose of preventing the fire from spreading or escaping, are duly carried out or complied with;

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PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

- (c) a fire for the purpose of disposing of the carcass of a dead animal, or a part of the carcass, shall not be lit —
- (i) unless and until a space of ground around the perimeter of the fire and the carcass or part to be burnt is cleared of all bush and other inflammable material for a distance of at least 6 m;
  - (ii) within a distance of 6 m of a standing tree, whether dead or living and unless at least one person remains in attendance constantly at the fire, and the directions which may be given by a bush fire liaison officer or bush fire control officer in respect of the fire are complied with;
  - (iii) except between the hours of 6 p.m. and 11 p.m.;
  - (iv) unless and until notice of intention so to do has been given to the occupier of all land adjoining the land on which the burning is to take place and to a bush fire control officer of the local government for the district in which the fire is to be lit;
- [(d), (e) deleted]*
- (f) where a fire is lit for any purpose mentioned in this subsection, except for the purpose mentioned in paragraph (b), the person who lit the fire, or the person left in attendance on the fire as required by this subsection, as the case may be, shall completely extinguish the fire by the application of water or earth before he leaves it;
- (g) where the occupier of a sawmill uses a fire on the premises of the sawmill for the purpose of consuming or disposing of sawdust and waste timber resulting from the sawmilling of timber in the sawmill, if the occupier causes reasonable precautions to be taken for the purpose of preventing the fire from spreading or becoming a source of danger to persons or property, and causes the particular directions or requisitions of a bush fire control officer, bush fire liaison officer or of an authorised CALM Act officer in respect of the fire to be properly observed, the occupier is not required to extinguish the fire whilst it continues to be required for the purpose;
- (h) where the occupier of a brick kiln uses a fire on the premises of the brick kiln for the purpose of burning and producing bricks, such occupier is not required to extinguish the fire while it continues to be required for that purpose, if he takes or causes to be taken reasonable precautions to prevent the fire from spreading or becoming a source of danger to persons or property and observes or causes to be observed properly the particular directions or requisitions of a bush fire control officer, bush fire liaison officer or authorised CALM Act officer in respect of the fire.
- (1aa) For the purposes of this section a gas appliance, comprising a fire the flame of which is encapsulated by the appliance and which does not consume solid fuel, shall not be taken to be a fire in the open air and may be used at any time for the purpose of camping or cooking if that gas appliance is used —
- (a) at a person's home; or
  - (b) in an area which —
    - (i) is set aside for that purpose by the State Authority or local government responsible for the care, control or management of the land; and
    - (ii) bears the State Authority's or local government's sign denoting that purpose, and all combustible material is cleared from within a 5 m radius of the appliance.

**EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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- (1a) Notwithstanding anything contained in subsection (1) a local government may, by notice published in the *Gazette* and in a newspaper circulating in its district, prohibit the lighting of fires in the open air in its district for the purpose of camping or cooking for such period during the prohibited burning times as is specified in the notice.
- (1b) A notice published under subsection (1a) may be cancelled or varied by a subsequent notice so published.
- (1c) During any period for which the lighting of fires for the purpose of camping or cooking is prohibited in the district of a local government by a notice published under subsection (1a) a person shall not light a fire in the open air in that district for either of those purposes unless the fire is lit —
- (a) in a place specified in the notice as being set aside for the lighting of camping and cooking fires; or
- (b) with the approval in writing of the local government.
- (1d) The provisions of subsection (1)(a) and (f) shall be complied with in relation to a fire lit pursuant to subsection (1c).
- (2) A person who contravenes a provision of this section is guilty of an offence.
- Penalty: \$3 000.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 46

EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY  
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Reference Number	Legislative Reference	Delegate
BFA 2 - Burning – Prohibited and Restricted Times (Variations)	Bush Fires Act 1954 s. 17 and s. 18	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

Pursuant to Sections 17(10) and 18(5C) of the Bush Fires Act 1954, the Shire President and Chief Bush Fire Control Officer be jointly delegated Council's powers and duties under Section 17(7) & 17(8) and Section 18(5) of the Bush Fires Act 1954 in respect of varying the prohibited burning times and restricted burning times.

Administrative arrangements on any variation are to be carried out by the Chief Executive Officer with the Department of Parks and Wildlife being consulted before a decision is made under this authority.

In any given year the Chief Executive Officer is to formally advise the Department of Parks and Wildlife when the Autumn restricted burning period ceases even if there is no change to the scheduled "opening" of the non-restricted burning period.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

***Bush Fires Act 1954***

**17. Prohibited burning times may be declared by Minister**

(1) The Minister may, by declaration published in the *Gazette*, declare the times of the year during which it is unlawful to set fire to the bush within a zone of the State mentioned in the declaration and may, by subsequent declaration so published, vary that declaration or revoke that

## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

- declaration either absolutely or for the purpose of substituting another declaration for the declaration so revoked.
- (2) Where by declaration made under subsection (1) prohibited burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from time to time, those prohibited burning times shall have effect in respect of that zone in each year until that declaration is revoked.
  - (3) A copy of the *Gazette* containing a declaration published under subsection (1) shall be received in all courts as evidence of the matters set out in the declaration.
  - (4) Where the FES Commissioner considers that burning should be carried out on any land, the FES Commissioner may suspend the operation of a declaration made under subsection (1), so far as the declaration extends to that land, for such period as the FES Commissioner thinks fit and specifies and subject to such conditions as may be prescribed or as the FES Commissioner thinks fit and specifies.
  - (5) The FES Commissioner may authorise a person employed in the Department to regulate, permit or define the class of burning that may be carried out, and the times when and conditions under which a fire may be lit, on the land referred to in subsection (4) during the period of suspension granted under that subsection.
  - (6) In any year in which the FES Commissioner considers that seasonal conditions warrant a variation of the prohibited burning times in a zone of the State the FES Commissioner may, by notice published in the *Gazette*, vary the prohibited burning times in respect of that year in the zone or a part of the zone by —
    - (a) shortening, extending, suspending or reimposing a period of prohibited burning times; or
    - (b) imposing a further period of prohibited burning times.
  - (7) Subject to subsection (7B), in any year in which a local government considers that seasonal conditions warrant a variation of the prohibited burning times in its district the local government may, after consultation with an authorised CALM Act officer if forest land is situated in the district, vary the prohibited burning times in respect of that year in the district or a part of the district by —
    - (a) shortening, extending, suspending or reimposing a period of prohibited burning times; or
    - (b) imposing a further period of prohibited burning times.
  - (7B) A variation of prohibited burning times shall not be made under subsection (7) if that variation would have the effect of shortening or suspending those prohibited burning times by, or for, more than 14 successive days.
  - (8) Where, under subsection (7), a local government makes a variation to the prohibited burning times in respect of its district or a part of its district the following provisions shall apply —
    - (a) the local government —
      - (i) shall, by the quickest means available to it and not later than 2 days before the first day affected by the variation, give notice of the variation to any local government whose district adjoins that district;
      - (ii) shall, by the quickest means available to it, give particulars of the variation to the FES Commissioner and to any Government department or instrumentality which has land in that

## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

district under its care, control and management and which has requested the local government to notify it of all variations made from time to time by the local government under this section or section 18;

- (iii) shall, as soon as is practicable publish particulars of the variation in that district;
- (b) the Minister, on the recommendation of the FES Commissioner, may give notice in writing to the local government directing it —
  - (i) to rescind the variation; or
  - (ii) to modify the variation in such manner as is specified in the notice;
- (c) on receipt of a notice given under paragraph (b) the local government shall forthwith —
  - (i) rescind or modify the variation as directed in the notice; and
  - (ii) publish in that district notice of the rescission or particulars of the modification, as the case may require.
- (9) For the purposes of subsection (8) — **publish** means to publish in a newspaper circulating in the district of the local government, to broadcast from a radio broadcasting station that gives radio broadcasting coverage to that district, to place notices in prominent positions in that district, or to publish by such other method as the FES Commissioner may specify in writing.
- (10) A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8). (11) A local government may by resolution revoke a delegation it has given under subsection (10) and no delegation so given prevents the exercise and discharge by the local government of its powers and duties under subsections (7) and (8).
- (12) Subject to this Act a person who sets fire to the bush on land within a zone of the State during the prohibited burning times for that zone is guilty of an offence.  
Penalty: \$10 000 or 12 months' imprisonment or both.

### **18. Restricted burning times may be declared by FES Commissioner**

- (1) Nothing contained in this section authorises the burning of bush during the prohibited burning times.
- (2) The FES Commissioner may, by notice published in the *Gazette*, declare the times of the year during which it is unlawful to set fire to the bush within a zone of the State mentioned in the notice except in accordance with a permit obtained under this section and with the conditions prescribed for the purposes of this section, and may, by subsequent notice so published, vary that declaration or revoke that declaration either wholly or for the purpose of substituting another declaration for the declaration so revoked.
- (3) Where by declaration made under subsection (2) restricted burning times have been declared in respect of a zone of the State then, subject to such variations (if any) as are made under that subsection from time to time, those restricted burning times shall have effect in respect of that zone in each year until that declaration is revoked.
- (4) A copy of the *Gazette* containing a declaration published under subsection (2) shall be received in all courts as evidence of the matters set out in the declaration.



## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

- (4a) In any year in which the FES Commissioner considers that seasonal conditions warrant a variation of the restricted burning times in a zone, or part of a zone, of the State the FES Commissioner may, by notice published in the *Gazette*, vary the restricted burning times in respect of that year in the zone or part of the zone by —
- (a) shortening, extending, suspending or reimposing a period of restricted burning times; or
  - (b) imposing a further period of restricted burning times.
- (5) Subject to subsection (5B) in any year in which a local government considers that seasonal conditions so warrant the local government may, after consultation with an authorised CALM Act officer if forest land is situated in its district —
- (a) vary the restricted burning times in respect of that year in the district or a part of the district by —
    - (i) shortening, extending, suspending or reimposing a period of restricted burning times; or
    - (ii) imposing a further period of restricted burning times; or
  - (b) vary the prescribed conditions by modifying or suspending all or any of those conditions.
- (5B) A variation shall not be made under subsection (5) if that variation would have the effect of —
- (a) shortening the restricted burning times by; or
  - (b) suspending the restricted burning times, or any prescribed condition, for, more than 14 successive days during a period that would, in the absence of the variation under subsection (5), be part of the restricted burning times for that zone in that year.
- (5C) The provisions of section 17(8), (9), (10) and (11), with the necessary adaptations and modifications, apply to and in relation to the variation of restricted burning times or prescribed conditions by a local government, as if those provisions were expressly incorporated in this section. (5D) In subsections (5) and (5C) — **prescribed condition** includes the requirement of subsection (6)(a).
- (6) Subject to this Act a person shall not set fire to the bush on land within a zone of the State during the restricted burning times for that zone of the State unless —
- (a) he has obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer of the local government if a bush fire control officer is not available; and
  - (b) the conditions prescribed for the purposes of this section are complied with in relation to the burning of the bush.
- (7) The person issuing a permit to burn under this section may, by endorsement on the permit —
- (a) incorporate therein any additional requirements and directions considered necessary by him relative to the burning; or
  - (b) modify or dispense with any of the conditions prescribed for the purposes of this section in so far as those conditions are applicable to the burning.
- (8) The holder of a permit to burn under this section —
- (a) shall observe and carry out any requirement or direction incorporated therein pursuant to subsection (7)(a);

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- (b) shall, where any prescribed condition is modified pursuant to subsection (5) or subsection (7)(b), comply with that condition as so modified;(c) need not comply with any prescribed condition that is suspended or dispensed with pursuant to subsection (5) or (7)(b).
- (9) A permit issued under this section may authorise the owner or occupier of land to burn the bush on a road reserve adjoining that land.(10A) Subject to the regulations a local government may by resolution declare that within its district bush may be burnt only on such dates and by such persons as are prescribed by a schedule of burning times adopted by the local government.
- (10B) A person desiring to set fire to bush within the district of the local government that has made a declaration under subsection (10A) shall, by such date as may be determined by the local government, apply to the local government for permission to set fire to the bush, and the local government shall allocate a day or days on which the burning may take place.
- (10C) Any burning permitted under subsection (10B) shall be done only on the day or days and in the manner specified by the local government and subject to the conditions prescribed for the purposes of this section except that any prescribed period of notice may be varied by the local government in order to enable the schedule of burning times adopted by it to be given effect to.
- (11) Where a person starts a fire on land, if the fire escapes from the land or if the fire is in the opinion of a bush fire control officer or an officer of a bush fire brigade out of control on the land, the person shall be liable to pay to the local government on the request of and for recoup to its bush fire brigade, any expenses up to a maximum amount of \$10 000 incurred by it in preventing the extension of or extinguishing the fire, and such expenses may be recovered in any court of competent jurisdiction.
- (12) A person who commits a breach of this section other than subsection (11) is guilty of an offence.  
Penalty: For a first offence \$4 500.  
For a second or subsequent offence \$10 000.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 47

Reference Number	Legislative Reference	Delegate
BFA 3 - Prosecution of Offences	Bush Fires Act 1954 s. 59	Chief Executive Officer

### Delegator

Council

### Power / Duty

The Chief Executive Officer is delegated authority to consider allegations of offences alleged to have been committed against the Bush Fires Act within the district, and if the Chief Executive Officer thinks fit, to institute and carry out proceedings in the name of the Shire against any person alleged to have committed any of those offences. This delegation extends to the issue of infringement notices in accordance with the provisions of Section 59A of the Act.

### Conditions

Nil

### Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

#### ***Bush Fires Act 1954***

#### **59. Prosecution of offences**

- (1) A person authorised by the Minister, a person employed in the Department for the purposes of this Act, an authorised CALM Act officer, a member of the Police Force, or a local government, may institute and carry on proceedings against a person for an offence alleged to be committed against this Act.
- (2) The person instituting and carrying on the proceedings shall be reimbursed out of the funds of the local government within whose district the alleged offence is committed, all costs and expenses which he may incur or be put to in or about the proceedings.
- (3) A local government may, by written instrument of delegation, delegate authority generally, or in any class of case, or in any particular case, to its bush fire control officer, or other officer, to consider allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those

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offences in the district, and may pay out of its funds any costs and expenses incurred in or about the proceedings.

- (4) A local government may by written instrument cancel, or from time to time vary, any instrument of delegation conferred under subsection (3).
- (5) Notwithstanding that a local government has under subsection (3) conferred authority on a delegate, the local government is not precluded from exercising but may itself exercise the authority.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 50

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Reference Number	Legislative Reference	Delegate
DA 1 - Powers and Duties of the <i>Dog Act 1976</i> ; including the authority to further delegate	Dog Act 1976 s. 10AA	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

All powers and duties of the 'local government' under the *Dog Act 1976* including the authority to further delegate those powers.

**Conditions**

Nil

**Statutory Framework**

***Dog Act 1976***

**10AA. Delegation of local government powers and duties**

- (1) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, delegate to its chief executive officer any power or duty of the local government under another provision of this Act.
- (2) The delegation must be in writing.(3)The delegation may expressly authorise the delegate to further delegate the power or duty.
- (4) A local government's chief executive officer who is exercising or performing a power or duty that has been delegated as authorised under this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of a local government's chief executive officer to perform a function through an officer or agent.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456



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### **Review Requirements**

In accordance with the requirements of Section 10AB of the *Dog Act 1976*, at least once every financial year.

### **Related Documents**

<b>Notes of Recent Alterations (if applicable)</b>
2018 Delegation Register Reference - 51

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Reference Number	Legislative Reference	Delegate
CA 1 - The Powers and Duties of the <i>Cat Act 2011</i>	Cat Act 2011 s. 44	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

All powers and duties of the 'local government' under the *Cat Act 2011*.

**Conditions**

Nil

**Statutory Framework**

***Cat Act 2011***

**44. Delegation by local government**

- (1) The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Act.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) A decision to delegate under this section is to be made by an absolute majority.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of Section 47 of the *Cat Act 2011*, at least once every financial year.

**Related Documents**

**Notes of Recent Alterations (if applicable)**



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2018 Delegation Register Reference - 51



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Reference Number	Legislative Reference	Delegate
FA 1 – Food Act 2008	Food Act 2008 Part 5	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to exercise and discharge all or any of the powers and functions as set out in Part 5 of the Food Act 2008.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

[https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc\\_36961.pdf/\\$FILE/Food%20Act%202008%20-%20%5B01-a0-02%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_36961.pdf/$FILE/Food%20Act%202008%20-%20%5B01-a0-02%5D.pdf?OpenElement)

**Verification**

Recent Council Resolution	Initial Council Resolution
18037 February 2018	9135 May 2014

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

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Reference Number	Legislative Reference	Delegate
HLTH 2- Authorised Officers	Public Health Act 2016 s. 21	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

Council delegates to the Chief Executive Officer, under the provisions of Section 21 of the Public Health Act 2016, the authority to appoint and/or designate Authorised Officers.

**Conditions**

Nil

**Statutory Framework**

**Public Health Act 2016**

**21. Enforcement agency may delegate**

- (1) A power or duty conferred or imposed on an enforcement agency may be delegated —
- (a) if the enforcement agency is the Chief Health Officer, in accordance with section 9; or
- (b) if the enforcement agency is a local government, to — (i) the chief executive officer of the local government; or (ii) an authorised officer designated by the local government; or
- (c) if the enforcement agency is a person or body, or a person or body within a class of persons or bodies, prescribed by the regulations, to an authorised officer designated by the agency.
- (2) A delegation under subsection (1)(b) or (c) must be in writing.
- (3) Without limiting the *Interpretation Act 1984* section 59, the exercise or performance by a delegate of an enforcement agency of a power or duty delegated under subsection (1)(b) or (c) is subject to any condition or restriction imposed under section 20 on the exercise or performance by the enforcement agency of the power or duty.
- (4) Subsection (5) applies if —
- (a) the regulations expressly authorise a delegated power or duty of an enforcement agency referred to in subsection (1)(b) or (c) to be further delegated; and

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(b) the delegated power or duty is further delegated to a person or body in accordance with those regulations.

(5) If this subsection applies, subsection (3) applies to the exercise or performance by the person or body of that power or duty as if it were exercised or performed, and delegated, as described in subsection (3).

**22. Reports by and about enforcement agencies**

(1) An enforcement agency (other than the Chief Health Officer) must report to the Chief Health Officer, at the intervals that the Chief Health Officer requires, on the performance of functions under this Act by the agency and by persons employed or engaged by the agency. (2) In addition to any report required under subsection (1), an enforcement agency must forward to the Chief Health Officer details of any proceedings for an offence under this Act taken by the agency, and those details must be forwarded —

(a) within one month after the proceedings have been instituted; and

(b) one month after the proceedings have been finally dealt with.

(3) The accountable authority of the Department must include in the annual report submitted under the *Financial Management Act 2006* Part 5 —

(a) a report on the performance by enforcement agencies (including the Chief Health Officer) of functions under this Act; and

(b) the current State public health plan prepared under section 43.

**Verification**

<b>Recent Council Resolution</b>	<b>Initial Council Resolution</b>
18037 February 2018	17029 February 2017

**Review Requirements**

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

**Related Documents**

<b>Notes of Recent Alterations (if applicable)</b>
2018 Delegation Register Reference - 83



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Reference Number	Legislative Reference	Delegate
ULP 2 - Excavation in or near Public Thoroughfares	Local Government (Uniform Local Provisions) Regulation 11	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated the authority to determine applications for licences to deposit materials on a street, way or other public place and to excavate on land abutting or adjoining a street, way or other public place pursuant to Regulations 6 and 11 of the Local Government (Uniform Local Provisions) Regulations 1996.

The Chief Executive Officer shall first obtain confirmation from employees that the proposed activity will not create undue interference with the operation of the street, way or public place.

Licences are to be issued subject to the conditions detailed in Regulation 6 of the Local Government (Uniform Local Provisions) Regulations 1996 and such other conditions as considered relevant by the Chief Executive Officer.

The Chief Executive Officer is delegated authority to take all appropriate action in accordance with Local Government (Uniform Local Provisions) Regulation 11 to remove, or have removed, any dangerous excavation in a public thoroughfare or land adjoining a public thoroughfare.

**Conditions**

**Local Government (Uniform Local Provisions) Regulations 1996**

**6. Obstruction of public thoroughfare by things placed and left — Sch. 9.1 cl. 3(1)(a)**

(1) A person must not, without lawful authority, place on a public thoroughfare anything that obstructs it.

Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the obstruction continues.

(2) A person may apply to the local government for permission to place on a specified part of public thoroughfare one or more specified things that may obstruct the public thoroughfare.

(3) Permission granted by the local government under this regulation —

(a) must be in writing; and

(b) must specify the period for which it is granted; and

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- (c) must specify each condition imposed under subregulation (4); and
- (d) may be renewed from time to time; and
- (e) may be cancelled by giving written notice to the person to whom the permission was granted.
- (4) The local government may impose such conditions as it thinks fit on granting permission under this regulation including, but not limited to, any of the following —
  - (a) conditions relating to the erection of hoardings, fences, walkways or other structures for the protection of the public thoroughfare or public safety (**protective structures**);
  - (b) conditions about the placement of things in the public thoroughfare including conditions about the depositing of building materials or waste, or storage or other facilities in the public thoroughfare;
  - (c) a condition imposing a charge for any damage to the public thoroughfare resulting from the placement of a thing on the public thoroughfare;
  - (d) a condition requiring the applicant to deposit with the local government a sum sufficient in the opinion of the CEO of the local government to cover the cost of repairing damage to the public thoroughfare resulting from the placement of a thing or a protective structure, on the basis that the local government may retain from that sum the amount required for the cost of repairs by the local government if the damage is not made good by the applicant.
- (5) It is a condition of the permission granted under this regulation that —
  - (a) placed things and protective structures are sufficiently illuminated every night from sunset to sunrise to prevent mishaps; and
  - (b) protective structures are kept and maintained in good condition, to the satisfaction of the CEO of the local government, during such time as the CEO thinks necessary for the public safety and convenience; and
  - (c) placed things or protective structures are removed within a reasonable time after the person granted the permission is required in writing to do so by the local government; and
  - (d) damage to the public thoroughfare resulting from the placement of a thing or a protective structure is repaired to the satisfaction of the CEO of the local government within a reasonable time after the person granted the permission is required in writing to do so by the local government.
- (6) The local government may, when renewing permission granted under this regulation or at any other time, vary any condition imposed by it under subregulation (4) and the variation takes effect when written notice of it is given to the person to whom the permission was granted.
- (7) A person granted permission under this regulation must comply with each condition of the permission.

Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the offence continues.
- (8) The local government may charge a person granted permission under this regulation a fee of not more than \$1.00 for each month or part of a month for each m<sup>2</sup> of public thoroughfare that is enclosed by a hoarding or fence in accordance with the permission.

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(9) For the purposes of section 3.37 of the Act, a contravention of subregulation (1) or (7) is a contravention that can lead to impounding of goods comprising a placed and left thing or structure.

Note for this regulation:

This regulation is of a kind prescribed in the *Local Government Act 1995* Schedule 3.1 Division 2 item 1. This means that an offender might be given a notice under section 3.25(1)(b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.

### Statutory Framework

#### ***Local Government (Uniform Local Provisions) Regulations 1996***

#### **11. Dangerous excavation in or near public thoroughfare — Sch. 9.1 cl. 6**

(1) If there is, in a public thoroughfare or land adjoining a public thoroughfare, an excavation that the local government considers to be dangerous, the local government may —

- (a) fill in or fence the excavation; or
- (b) in writing request the owner or occupier of the land to fill in or securely fence the excavation.

(2) A person to whom a request is made under subregulation (1)(b) must comply with the request.  
Penalty: a fine of \$5 000.

(3) A person must not, without lawful authority, make or make and leave an excavation in a public thoroughfare or land adjoining a public thoroughfare.

Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the offence continues.

(4) A person may apply to the local government for permission to make or make and leave an excavation of specified dimensions and in a specified way in a specified part of a public thoroughfare or on a specified part of land adjoining a public thoroughfare.

(5) Permission granted by the local government under this regulation —

- (a) must be in writing; and
- (b) must specify the period for which it is granted; and
- (c) must specify each condition imposed under subregulation (6); and
- (d) may be renewed from time to time; and
- (e) may be cancelled by giving written notice to the person to whom the permission was granted.

(6) The local government may impose such conditions as it thinks fit on granting permission under this regulation including, but not limited to, any of the following —

- (a) conditions relating to the erection of hoardings, fences, walkways or other structures for the protection of the public thoroughfare, adjoining land or public safety (***protective structures***);
- (b) a condition imposing a charge for any damage to the public thoroughfare or adjoining land resulting from the excavation;
- (c) a condition requiring the applicant to deposit with the local government a sum sufficient in the opinion of the CEO of the local government to cover the cost of repairing damage to the public thoroughfare or adjoining land resulting from the excavation or a protective structure, on the

## EXISTING SHIRE OF NANNUP DELEGATIONS OF AUTHORITY PROPOSED FOR RECOVATION MARCH 2023 ORDINARY COUNCIL MEETING

basis that the local government may retain from that sum the amount required for the cost of repairs by the local government if the damage is not made good by the applicant.

- (7) It is a condition of the permission granted under this regulation that —
- (a) the excavation is securely fenced off from the public thoroughfare or adjoining land; and
  - (b) protective structures are sufficiently illuminated every night from sunset to sunrise to prevent mishaps; and
  - (c) protective structures are kept and maintained in good condition, to the satisfaction of the CEO of the local government, during such time as the CEO thinks necessary for the public safety and convenience; and
  - (d) the excavation is filled in or protective structures are removed within a reasonable time after the person granted the permission is required in writing to do so by the local government; and
  - (e) damage to the public thoroughfare or adjoining land resulting from the excavation or a protective structure is repaired to the satisfaction of the CEO of the local government within a reasonable time after the person granted the permission is required in writing to do so by the local government.
- (8) The local government may, when renewing permission granted under this regulation or at any other time, vary any condition imposed by it under subregulation (6) and the variation takes effect when written notice of it is given to the person to whom the permission was granted.
- (9) A person granted permission under this regulation must comply with each condition of the permission.  
Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the offence continues.
- (10) The local government may charge a person granted permission under this regulation a fee of not more than \$1.00 for each month or part of a month for each m<sup>2</sup> of public thoroughfare that is enclosed by a hoarding or fence in accordance with the permission.
- (11) For the purposes of section 3.37 of the Act, a contravention of subregulation (3) or (9) is a contravention that can lead to impounding of goods comprising a protective structure or other thing placed in or near the excavation.

Note for this regulation:

This regulation is of a kind prescribed in the Local Government Act 1995 Schedule 3.1 Division 2 item 2. This means that an offender might be given a notice under section 3.25(1)(b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.

### Verification

Recent Council Resolution	Initial Council Resolution
18037	5456

### Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.





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**Related Documents**

<b>Notes of Recent Alterations (if applicable)</b>
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2018 Delegation Register Reference - 24
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Reference Number	Legislative Reference	Delegate
ULP 3 - Crossovers	Local Government (Uniform Local Provisions) Regulations 12, 13, 14 and 15	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to determine applications for the construction of a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving the land and may agree to construct the crossing for the applicant.

The Chief Executive Officer is delegated authority to give notice to an owner or occupier of private land requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land.

If the person fails to comply with the notice the Chief Executive Officer is delegated authority to construct or repair the crossing and recover 50% of the cost of doing so as a debt due from the person.

**Conditions**

Nil

**Statutory Framework**

***Local Government (Uniform Local Provisions) Regulations***

**12. Crossing from public thoroughfare to private land or private thoroughfare — Sch. 9.1 cl. 7(2)**

(1) Upon the application of the sole owner, or a majority of the owners, of private land the local government may, in writing and subject to regulation 14(2) —

(a) approve the construction, under the supervision of, and to the satisfaction of, the local government, of a crossing giving access from a public thoroughfare to —

(i) the land; or

(ii) a private thoroughfare serving the land;

or

(b) agree to construct for the applicant a crossing giving access from a public thoroughfare to —

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- (i) the land; or
- (ii) a private thoroughfare serving the land.

(2) A person is not to construct a crossing for vehicles from a public thoroughfare that is a Government road to —

- (a) land on which premises have been or are about to be constructed; or
- (b) a private thoroughfare serving the land, unless the construction of the crossing has been approved by the local government under subregulation (1) and the crossing is constructed in accordance with the approval. Penalty: a fine of \$5 000. Note for this regulation:  
This regulation is of a kind prescribed in the Local Government Act 1995 Schedule 3.1 Division 2 item 2A(a). This means that an offender might be given a notice under section 3.25(1)(b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.

*[Regulation 12 amended: Gazette 1 Feb 2013 p. 429-30.]*

**13. Requirement to construct or repair crossing — Sch. 9.1 cl. 7(3)**

- (1) A local government may, subject to regulation 14(2), give a person who is the owner or occupier of private land a notice in writing requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land.
- (2) If the person fails to comply with the notice, the local government may construct or repair the crossing as the notice required and recover 50% of the cost of doing so as a debt due from the person.
- (3) A person given a notice under subregulation (1) must comply with the notice.  
Penalty: a fine of \$5 000.

*[Regulation 13 amended: Gazette 1 Feb 2013 p. 430.]*

**14. Role of Commissioner of Main Roads in some cases — Sch. 9.1 cl. 7(2)**

- (1) This regulation applies to a crossing for vehicles from a public thoroughfare that is a Government road to —
  - (a) land on which premises have been or are about to be constructed; or
  - (b) a private thoroughfare serving the land.
- (2) A local government cannot —
  - (a) under regulation 12 construct or approve the construction of; or
  - (b) under regulation 13(1) require the construction of, a crossing to which this regulation applies unless the local government has consulted with the Commissioner and the Commissioner has approved in writing the construction of the crossing.
- (3) If a person —
  - (a) constructs a crossing to which this regulation applies other than in accordance with approval given by the Commissioner under this regulation; or
  - (b) modifies a crossing to which this regulation applies in such a way that it is not in accordance with approval given by the Commissioner under this regulation, the Commissioner may, by notice in writing, require the person to bring the crossing into accordance with the approval, if approval

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was given, or remove the crossing and restore the place where the crossing was to its former condition.

- (4) If the person fails to comply with the notice, the Commissioner may do anything required by the notice to be done and recover the cost of doing it as a debt due from the person.
- (5) A person given a notice under subregulation (3) must comply with the notice. Penalty: a fine of \$5 000.

[[6) deleted]

- (7) In this regulation — **Commissioner** means the Commissioner of Main Roads.

Note for this regulation: his regulation is of a kind prescribed in the Local Government Act 1995 Schedule 3.1 Division 2 item 2A(b). This means that an offender might be given a notice under section 3.25(1)(b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.

[Regulation 14 amended: Gazette 1 Feb 2013 p. 430-1.]

**15. Contribution to cost of crossing — Sch. 9.1 cl. 7(4)**

- (1) Where —

- (a) a local government —

- (i) under regulation 12 constructs or approves the construction of; or  
(ii) under regulation 13(1) requires the construction of, a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving the land; and

- (b) the crossing is the first crossing in respect of the land; and

- (c) the crossing is a standard crossing or is of a type that is superior to a standard crossing, the local government is obliged to bear 50% of the cost, as estimated by the local government, of a standard crossing, but otherwise the local government is not obliged to bear, nor prevented from bearing, any of the cost.

- (2) In subregulation (1) — **first crossing**, in respect of land, means the first crossing to the land or a private thoroughfare serving the land constructed under regulation 12 or section 358<sup>2</sup> of the *Local Government Act 1960*<sup>3</sup> as in force at any time before 1 July 1996; **standard crossing** means, subject to any local law as to what is or is not a standard crossing, a crossing of a kind that the local government, by resolution, decides is a standard crossing.

**Verification**

Recent Council Resolution	Initial Council Resolution
18037	5456

**Review Requirements**

In accordance with the requirements of S5.46(2) of the *Local Government Act 1995*, at least once every financial year.



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**Related Documents**

<https://www.nannup.wa.gov.au/documents/336/works-policy-wrk7-driveway-crossovers>

<https://www.nannup.wa.gov.au/documents/273/local-planning-policy-lpp13-car-parking-and-vehicular-access>

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 25

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Reference Number	Legislative Reference	Delegate
ULP 4 - Private Works On, Over or Under Public Places	Local Government (Uniform Local Provisions) Regulations 1996 r.17	Chief Executive Officer Manager Infrastructure

**Delegator**

Council

**Power / Duty**

The Chief Executive Officer is delegated authority to determine applications to undertake a construction on, over, or under a specified public thoroughfare or public place that is local government property.

The Chief Executive Officer shall first obtain confirmation from employees that the proposed activity will not create undue interference with the operation of the street, way or public place. Permission is to be issued subject to the conditions detailed in Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996 and such other conditions as considered relevant by the Chief Executive Officer.

**Conditions**

Nil

**Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

***Local Government (Uniform Local Provisions) Regulations 1996***

**17. Private works on, over, or under public places — Sch. 9.1 cl. 8**

(1) A person must not, without lawful authority, construct anything on, over, or under a public thoroughfare or other public place that is local government property.

Penalty: a fine of \$5 000.

(2) Subregulation (1) does not apply to the construction of things by or on behalf of the Crown.

(3) A person may apply to the local government for permission to construct a specified thing on, over, or under a specified public thoroughfare or public place that is local government property.

(4) Permission granted by the local government under this regulation —

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- (a) must be in writing; and
  - (b) must specify the period for which it is granted; and
  - (c) must specify each condition imposed under subregulation (5); and
  - (d) may be renewed from time to time; and
  - (e) may be cancelled by giving written notice to the person to whom the permission was granted.
- (5) The local government may impose such conditions as it thinks fit on granting permission under this regulation including, but not limited to, any of the following —
- (a) a condition imposing a charge for any damage to the public thoroughfare or public place resulting from the construction;
  - (b) a condition requiring the applicant to deposit with the local government a sum sufficient in the opinion of the CEO of the local government to cover the cost of repairing damage to the public thoroughfare or public place resulting from the construction, on the basis that the local government may retain from that sum the amount required for the cost of repairs by the local government if the damage is not made good by the applicant.
- (6) It is a condition of the permission granted under this regulation that —
- (a) the ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed; and
  - (b) the person carrying out the construction work ensures that a footpath of a public thoroughfare or other public place that is local government property is covered during the period specified in writing by the local government so as to —
    - (i) prevent damage to the footpath; or
    - (ii) prevent inconvenience to the public or danger from falling materials;and
  - (c) damage to the public thoroughfare or public place resulting from the construction is repaired to the satisfaction of the CEO of the local government.
- (7) A person granted permission under this regulation must comply with each condition of the permission.
- Penalty: a fine of \$5 000 and a daily penalty of \$500 for each day during which the offence continues.
- (8) A person who constructs anything in accordance with permission granted under this regulation must —
- (a) maintain it; and
  - (b) obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.
- Penalty: a fine of \$5 000.
- (9) For the purposes of section 3.37 of the Act, a contravention of subregulation (1) or (7) is a contravention that can lead to impounding of goods comprising a thing constructed on, over, or under a public thoroughfare or other public place that is local government property.

Note for this regulation:

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This regulation is of the kind prescribed in the Local Government Act 1995 Schedule 3.1 Division 2 item 3. This means that an offender might be given a notice under section 3.25(1)(b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender. Schedule 9.1 item 8(4) is relevant.

See also Schedule 3.1 Division 1 item 3 which allows a similar notice to be given even when no offence has been committed.

### Verification

Recent Council Resolution	Initial Council Resolution
18037	5456

### Review Requirements

In accordance with the requirements of *S5.46(2) of the Local Government Act 1995*, at least once every financial year.

### Related Documents

Notes of Recent Alterations (if applicable)
2018 Delegation Register Reference - 32



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Reference Number	Legislative Reference	Delegate
FMR 1 – Payment of Creditors	LGA 6.10 Financial Management Regulations r.12 1(a)	Chief Executive Officer

**Delegator**

Council

**Power / Duty**

To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the *Local Government (Financial Management) Regulations 1996*, in relation to Section 6.10 of the *Local Government Act 1995*.

The Chief Executive Officer is delegated authority 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 showing:

- a) The payee's name
- b) The amount of the payment
- c) The date of the payment
- d) Sufficient information to identify the transaction.

The list referred to above is to be presented to the Council at the next ordinary meeting of the Council following the preparation of the list and is to be recorded in the minutes of the meeting at which it is presented.

**Conditions**

***Local Government (Financial Management) Regulations 1996***

**13. Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.**

(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —

- (a) the payee's name; and
- (b) the amount of the payment; and

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- (c) the date of the payment; and
- (d) sufficient information to identify the transaction.
- (2) A list of accounts for approval to be paid is to be prepared each month showing —
  - (a) for each account which requires council authorisation in that month —
    - (i) the payee's name; and
    - (ii) the amount of the payment; and
    - (iii) sufficient information to identify the transaction; and
  - (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under subregulation (1) or (2) is to be —
  - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
  - (b) recorded in the minutes of that meeting.

### Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

#### *Local Government Act 1995*

#### **6.10. Financial management regulations**

Regulations may provide for —

- (a) the security and banking of money received by a local government; and
- (b) the keeping of financial records by a local government; and
- (c) the management by a local government of its assets, liabilities and revenue; and
- (d) the general management of, and the authorisation of payments out of —
  - (i) the municipal fund; and
  - (ii) the trust fund, of a local government.

#### **Local Government (Financial Management) Regulations**

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

- (1) A payment may only be made from the municipal fund or the trust fund —
  - (a) if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO;

### Verification

Recent Council Resolution	Initial Council Resolution
18037	5456

### Review Requirements

In accordance with the requirements of 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

### Related Documents

Nil



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**Notes of Recent Alterations (if applicable)**

2018 Delegation Register Reference - 15



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