

Town of Port Hedland



Delegation Register 2013/14

NOTE: ALL DELEGATIONS INCLUDED WITHIN THIS REGISTER WERE ADOPTED AT A MEETING OF THE COUNCIL HELD xxx

ALL CHANGES HAVE BEEN HIGHLIGHTED THROUGHOUT THE DOCUMENT.

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LOCAL GOVERNMENT ACT REGISTER OF DELEGATIONS

The Local Government Act 1995 allows for a local government to delegate to the Chief Executive Officer (Sections 5.42 and 5.43) the exercise of any of its powers or the discharge of any of its duties under the Act.

The Act allows for the Chief Executive Officer to delegate any of his powers to another employee, this must be done in writing. The Act allows for the Chief Executive Officer to place conditions on any delegations if he desires. The powers cannot, however, be further sub-delegated.

The purpose of this document is to detail which authorities have been delegated by Council to the Chief Executive Officer.

The manual details the related document(s) where the power to delegate is derived from. This enables easier cross referencing.

LIMITS ON DELEGATIONS TO THE CEO

In accordance with section 5.43 of the Local Government Act 1995 the following are decisions that cannot be delegated to the Chief Executive Officer:

- any power or duty that requires a decision of an absolute majority or 75% majority of the local government;
- accepting a tender which exceeds an amount determined by the local government;
- appointing an auditor;
- acquiring or disposing of any property valued at an amount determined by the local government;
- any of the local government's powers under Sections 5.98, 5.99 and 5.100 of the Act;
- borrowing money on behalf of the local government;
- hearing or determining an objection of a kind referred to in Section 9.5;
- any power or duty that requires the approval of the Minister or Governor; or
- such other duties or powers that may be prescribed by the Act.

REGISTER OF, AND RECORDS RELEVANT TO, DELEGATIONS

In accordance with section 5.46 of the Local Government Act 1995 a register of delegations, being this manual, relevant to the Chief Executive Officer is to be kept and reviewed at least once every financial year.

OTHER DELEGATIONS

For ease of reference, this register also contains delegations which are derived from a number of other legislations that prescribe the power to delegate. These legislations being:

- Town Planning Scheme No.5
- Planning and Development Act 2005
- Food Act 2008
- Strata Titles Act 1985
- Health Act 1911
- Caravan Parks and Camping Grounds Act 1995
- Building Act 2011

NOTE: This Delegation Register is to be read in conjunction with all Town of Port Hedland Local Laws and Policies, the Local Government Act 1995 and associated Regulations.

1. LOCAL GOVERNMENT ACT 1995 DELEGATIONS TO CEO

1.1 Acting Chief Executive Officer

LEGISLATIVE POWER Local Government Act 1995 Section 5.44

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to appoint an Acting Chief Executive Officer during any periods of approved leave of absence. The Chief Executive Officer, on making any appointment under this delegated authority, shall inform Council of the details of the appointment, including a timeline for this delegation.

1.2 Execution of Documents and Application of the Common Seal

LEGISLATIVE POWER Local Government Act 1995 s 5.42, 9.49A, 9.49B
and 9.49

DELEGATE Chief Executive Officer
Director Corporate Services
Director Community Development
Director Engineering Services
Director Planning Services

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated the authority to execute a document where the Council has authorised that a document be:

- duly executed;
- signed; and/or
- affixed with the common seal.

The Chief Executive Officer is delegated authority to prepare and execute the necessary documentation, inclusive of the affixing of the common seal (where required).

CONDITIONS AND REPORTING REQUIREMENTS

- (1) All documents affixed with the common seal are to be recorded in a register which shall be accessible by Elected Members upon request to the Chief Executive Officer during normal business hours.
- (2) The common seal must be affixed pursuant to the requirements of Policy 1/014 (Application of the Common Seal).

1.3 Legal Advice

LEGISLATIVE POWER Local Government Act 1995 Section 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

Subject to provision being made in the budget for legal expenses, the Chief Executive Officer is delegated authority to obtain from an appropriate solicitor, such legal advice, assistance and opinions as the Chief Executive Officer deems necessary in the exercise of the management of the Local Government.

1.4 Representing Local Government in Court

LEGISLATIVE POWER Local Government Act 1995 Section 9.29

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to appoint persons pursuant to section 9.29 of the Local Government Act 1995, to represent the Town of Port Hedland generally in proceedings in the court of petty sessions and Local Court.

DEFINITIONS:

proceedings means —

- (a) proceedings in the Magistrates Court, the Children's Court or the State Administrative Tribunal; or
- (b) proceedings in respect of a claim against a person who takes the benefit of an Act for the relief of bankrupt debtors.

(2) In proceedings a person who is —

- (a) the CEO; or
- (b) an employee of the local government appointed in writing signed by the CEO to represent the local government generally or in a particular case,

may represent the local government in all respects as though the person were the local government.

- (3) The person representing the local government in the proceedings is entitled to be reimbursed by the local government for any money paid or required to be paid by the person as a result of representing the local government in the proceedings.

1.5 Authority to Initiate Prosecutions

LEGISLATIVE POWER Local Government Act 1995 Section 9.24

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to commence a prosecution for an offence against this Act or under a local law under Section 9.24 of the Local Government Act 1995.

1.6 Conferences

LEGISLATIVE POWER Local Government Act 1995 Section 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to approve the attendance by Council staff at conferences, where, in the opinion of the Chief Executive Officer, attendance will enhance the professional development of the officer, provide benefits to the Council and is relevant to the duties and responsibilities of the officer. The Chief Executive Officer, in exercising the delegation, shall have regard to any Council Policy in place from time to time and to the availability of appropriate funding in Council's Budget.

1.7 Vehicles - Private Use

LEGISLATIVE POWER Local Government Act 1995 Section 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to make all appropriate private use arrangements with all staff having use of a Council vehicle contained within conditions of employment. The Chief Executive Officer shall have regard to Council's Policy 'Staff Use of Motor Vehicles'.

1.8 Signatories on Municipal and Trust Fund

LEGISLATIVE POWER Local Government Act 1995 Section 6.10
Local Government (Financial Management)
Regulations 12 and 13

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to make payments from the Municipal Fund Bank Accounts and the Trust Fund Bank Accounts. Each payment from the Municipal Fund Bank Accounts and the Trust Fund Bank Accounts 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 Council and is to be recorded in the minutes of the meeting at which it is presented.

1.9 Authorisation of Expenditure

LEGISLATIVE POWER Local Government Act 1995 Section 6.10(d)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority under section 6.10 (d) of the Local Government Act 1995 and Local Government (Financial Management) Regulation 5(1) (e) to authorise expenditure for the supply of goods or services where expenditure has been approved in the annual budget in accordance with Council Procurement Policy 2/007 or otherwise approved in accordance with Section 6.8 of the LG Act 1995.

1.10 Investment of Funds

LEGISLATIVE POWER Local Government Act 1995 Section 6.14 (1)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to approve the withdrawal and placement of up to \$1 million and, with the written approval of the Mayor, all investments of \$1 million or above, of Council funds for investment purposes, subject to the provisions of Policy 2/010 (Investment Policy).

1.11 Write off Debtors (Rates and Others) Up To \$200.00

LEGISLATIVE POWER Local Government Act 1995 Section 6.12(1)(c)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated to write off debtors (rates and others) with an account balance of \$200.00 or less pursuant to Local Government Act s.6.12(1)(c).

1.12 Recovery of Debts

LEGISLATIVE POWER Local Government Act 1995 Part 6 Financial Management

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated to take action to recover any outstanding debts pursuant to the LG Act 1995, Part 6.

1.13 Waiver of Fees and Charges (Other Than Rates or Service Charge)

LEGISLATIVE POWER Local Government Act 1995 Section 6.12(b)

DELEGATE Chief Executive Officer

The Chief Executive Officer is delegated to waive fees and charges (other than rates or service charges), that are the subject of a court settlement process.

The Chief Executive Officer will execute this delegation and then notify the Council if the amount exceeds \$2,000.

1.14 Rate Book

LEGISLATIVE POWER Local Government Act 1995 Part 6 Division 6

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is hereby delegated the performance of the following functions of the Council:

1. The discharge of the obligations specified in Section 6.39(1) 'Rate Record' of the Local Government Act 1995.
2. The service of Notices of Valuation and Rates referred to in Section 6.41(1) of the Local Government Act 1995 (as amended).
3. The time allowed for the payment of the rate before it becomes in arrear, Section 6.50(2) of the Local Government Act 1995.
4. The powers conferred in Section 6.40 'Effect of Amendment of Rate Record', of the Local Government Act 1995.
5. The exercise of discretion in regard to granting of any extension of time for service of objections to the Rate Book, Section 6.76(4) of the Local Government Act 1995.
6. The recovery of rates by complaint or action pursuant to the provisions of Section 6.56(1) of the Local Government Act 1995.
7. Entering into an agreement in accordance with Section 6.49 'Agreement as to payment of rates and service charges' of the Local Government Act 1995.
8. Requiring a lessee to pay rent to the Council in satisfaction of rates or service charges due and payable in accordance with Section 6.60(2) of the Local Government Act 1995.

1.15 Insurance - Public Liability Claims

LEGISLATIVE POWER Local Government Act 1995 Section 5.42

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to consider claims against Council for property damage that do not exceed the insurance policy excess levels and to accept or deny liability on behalf of Council.

In cases where liability is accepted, payment may only be made up to the value of Council's relevant insurance excess amount and then only upon receipt of an appropriate release form as used by Council's Insurers.

1.16 Tender Selection Criteria

LEGISLATIVE POWER Local Government (F&G) Regulation 14 (2a)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated to set Tender Selection Criteria for Council contracts as is required under Regulation 14(2a) of the Local Government (Functions and General) Regulations 1996. The selection of the criteria must be in accordance with the Council's Tender Policy (Policy 2/011) and Council's Procurement Policy (Policy 2/007).

1.17 Tenders

LEGISLATIVE POWER Local Government Act 1995 Sections 5.42 and 5.43 (b)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to accept a tender when the consideration involved does not exceed \$500,000 provided that appropriate provision is made on Council's Budget and with reference to the Council's Procurement Policy (2/007) and the Council's Tender Policy (2/011).

1.18 Contract Variations

LEGISLATIVE POWER Functions and General Regulation 20(1)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to approve minor variations to contracts entered into by Council, subject to the funds required to meet the cost of the variations being contained within the amount set aside in the budget adopted by the Council. The definition of minor being 10% of the total project value, up to a maximum of the Chief Executive Officer's delegation for authorisation of expenditure.

1.19 Disposal of Property

LEGISLATIVE POWER Local Government Act 1995 (Section 3.58)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

Delegation 1): That Council delegate authority to the Chief Executive Officer to dispose of property by public tender or public auction or expressions of interest where the individual value of the property disposal is greater than \$500 or less than \$100,000.

Delegation 2): That Council delegate authority to the Chief Executive Officer to gift or donate property with a maximum written down value of \$500.

Delegation 3): That Council delegate authority to the Chief Executive Officer to enter into lease arrangements for the leasing of Council owned facilities and property.

The above sections do not apply to:

- (a) a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or
- (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
- (d) any other disposition that is excluded by regulations from the application of this section. (NOTE: See section 30 of the Local Government Functions and General Regulations 1996).

1.20 Certain Provisions about Land

LEGISLATIVE POWER Local Government Act 1995 (Section 3.24 & 3.25)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer be delegated authority as an Authorised Person in accordance with Section 3.24 and 3.25 of the Act for the purposes of exercising those powers as defined in Sub Division 2 'Certain Provisions About Land' of the Local Government Act 1995 and as prescribed in Schedule 3.1 'Powers under notices to owners or occupiers of land'.

Schedule 3.1 – Things a notice may require to be done

1	Prevent water from dripping or running from a building on the land onto any other land.
2	Place in a prominent position on the land a number to indicate the address.
3	Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause.
4	1) Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law — (a) is suitably enclosed to separate it from the public place; and (b) where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place. 2) The notice cannot be given to an occupier who is not an owner.
5	(1) Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly. (2) In this item — unsightly , in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality. (3) The notice cannot be given to an occupier who is not an owner.
5A	(1) Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy. (2) In this item — disused material includes disused motor vehicles, old motor vehicle bodies and old machinery.
5B	Ensure that graffiti that is — (a) applied with the consent of the owner or occupier; and (b) visible from a public place; and

	(c) considered by the local government to be unsightly or offensive, is obliterated in a manner acceptable to the local government.
6	Take specified measures for preventing or minimising the movement of sand, silt, clay or rocks on or from the land if, in the opinion of the local government, that movement would be likely to adversely affect other land.
7	Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown.
8	Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government's control or management and adjoins the land where the tree is situated.
9	Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe.
10	Take specified measures for preventing or minimizing — (a) danger to the public; or (b) damage to property, which might result from cyclonic activity.
11	Remove bees that are likely to endanger the safety of any person or create a serious public nuisance.
12	Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired.
13	Take specific measures to prevent — (a) artificial light being emitted from the land; or (b) natural or artificial light being reflected from something on the land, creating a nuisance.
14	(1) Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised. (2) In this item — private thoroughfare has the same meaning as in Schedule 9.1 clause 7(1).

1.21 Liquor - Sale and Consumption - Council Property

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to determine applications for the sale of liquor from property under the care, control and management of the Council and to approve applications to consume liquor on property under the care, control and management of Council.

1.22 Signs, Installation of Stop and Give-Way

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to make applications to Main Roads WA for approval for the installation of stop and give-way signs at such places as the Director Engineering Services considers warranted.

1.23 Licences, Signs and Hoardings

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to approve the erection and/or licensing of signs and hoardings that comply with the Local Laws and policies of the Council. Where an application for a sign or hoarding does not comply with the Local Laws and the policies of the Council the application is to be refused.

1.24 Temporary Closure of Roads for Public Events

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to determine applications for the temporary closure of roads for public events.

The determination shall be in accordance with provisions of the Road Traffic (Events on Roads) Regulations 1991 and section 3.50 of the Local Government Act 1995 and shall, when approved by the Chief Executive Officer contain the following conditions:

1. The closure is to be advertised in a local newspaper.
2. Arrangements are to be made for appropriate signposting to effect the closure.
3. The applicant is to take out a Public Risk Insurance policy which indemnifies Council against any damages claims and a copy is to be delivered to Council.
4. The applicant is to notify the Emergency Services Department and ensure that whilst the event is in progress, satisfactory arrangements are made to allow access to premises by Emergency Services.

The Chief Executive Officer may determine other conditions to be imposed on any approvals issued.

1.25 Use of Over Dimension Vehicles

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to consider and determine all applications for the use of over dimension vehicles on Town of Port Hedland roads.

1.26 Authority to Approve Permits and Issue Registrations/Permits Relative to Environmental Health

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

That the Chief Executive Officer be authorised to approve applications for licences, registrations, and permits relating to environmental health under Local Laws of the Town of Port Hedland in accordance with section 5.42 of the Local Government Act 1995

1.27 Temporary Partial Closure of Roads for Maintenance and Repairs

LEGISLATIVE POWER Local Government Act 1995 (Section 5.42)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated authority to determine applications for the temporary partial closure of roads for maintenance and repairs.

The determination shall be in accordance with the provisions of section 3.50A of the Local Government Act 1995.

1.28 Impounding Abandoned Vehicle Wrecks and Goods Involved in Certain Contraventions

LEGISLATIVE POWER Local Government Act 1995, Part 3, Division, 3, Subdivision 4

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer has delegated authority to undertake the functions and duties required under Part 3, Division, 3, Subdivision 4 of the Local Government Act 1995 in respect of:

1. Section 3.39 – Power to remove and impound
2. Section 3.40 - Vehicle may be removed if goods to be impounded are in or on vehicle
3. Section 3.40A – Abandoned vehicle wreck may be taken
4. Section 3.41 – Impounded perishables goods, notice to collect
5. Section 3.42 – Impounded non-perishable goods
6. Section 3.46 – Goods may be withheld until costs paid
7. Section 3.47 – Confiscated or uncollected goods, disposal of
8. Section 3.47A – Sick or injured animals, disposal of
9. Section 3.48 – Impounding expenses, recovery of

Subject to the following conditions:

1. Requirements of Regulation 29 and 29A of the Local Government (Functions and General) Regulations 1996.

1.29 Enforcement and Infringement Notices

LEGISLATIVE POWER Local Government Act 1995, Part 9, Division, 2, Subdivision 1 and Subdivision 2

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer has delegated authority under section 9.10 of the Local Government Act 1995 to appoint, in writing, persons or classes of persons to be authorised for the purposes of performing particular functions under the following sections of the said Act :

- 9.11 Persons found committing breach of Act to give name on demand
- 9.13 Onus of proof in vehicle offences may be shifted
- 9.16 Giving a notice
- 9.17 Content of notice
- 9.19 Extension of time
- 9.20 Withdrawal of notice

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.

1.30 Powers of Entry

LEGISLATIVE POWER Local Government Act 1995, Part 3, Division 3, Subdivision 3

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

The Chief Executive Officer has delegated authority under section 3.31(2) of the Local Government Act 1995 to authorise persons on behalf of the local government for the purposes of discharging the following duties:

- 3.31 – General procedure for entering property
- 3.32 – Notice of entry
- 3.33 – Entry under warrant
- 3.34 – Entry in an emergency
- 3.36 – Opening fences

2. DELEGATIONS TO STATUTORY COMMITTEES

2.1 Audit and Finance Committee

LEGISLATIVE POWER Local Government Act 1995 (Section 5.18)

FUNCTION TO BE PERFORMED

The Audit and Finance Committee has been established in accordance with Part 7 of the Local Government Act 1995 to:

1. liaise with the Auditor(s);
2. receive Quarterly Budget Review Reports;
3. recommend Donations as per Council's Policy;
4. periodically consider alternatives for potential staff housing options;
5. receive Quarterly Financial Reports on all of the Town of Port Hedland's Managed Community Facilities; and
6. review and suggest improvements to Risk Management within the organisation.

DELEGATION

The Town of Port Hedland Council provides delegated authority to the Audit and Finance Committee to meet annually with the Town's auditor(s) as required by Section 7.12A(2) of the Local Government Act 1995.

2.2. Airport Committee

LEGISLATIVE POWER Local Government Act 1995 (Section 5.18)

FUNCTION TO BE PERFORMED

The Airport Committee is established to ensure that the Port Hedland International Airport is recognised as a leading regional airport in the area of passenger and freight movements and customer satisfaction and to:

- Develop a comprehensive Airport Master Plan and commence implementation of key initiatives that are identified;
- Actively pursue the generation of income from a variety of sources at the Airport including through leases, rentals, advertising, freight and any other means; and
- Upgrade terminal facilities including baggage screening and departure lounges.

DELEGATION

- i) To determine whether a tender is required to be sought or not as specified in LG (F&G) Reg 11F.
- ii) To choose tenderers for products services on behalf of the local government in accordance with LG (F&G) Reg 18.

3. BUILDING ACT 2011

3.1 Authorised Persons

LEGISLATIVE POWER Building Act 2011, Section 96(3)
Building Act 2011, Section 100,101,102,103,106

DELEGATE Manager Building Services
Manager Planning Services
Coordinator Building Services
Building Surveyor(s)
Compliance Officer (Planning & Building)

FUNCTION TO BE PERFORMED

A local government may, by instrument in writing, designate a person employed by the local government under the Local Government Act 1995 section 5.36, as an authorised person for the purposes of the Building Act 2011 in relation to buildings and incidental structures located, or proposed to be located, in the district of the local government. The powers of authorized persons being:

- s100 - Entry Powers;
- s101 - Powers after entry for compliance;
- s102 - Obtaining information and documents;
- s103 - Use of force and assistance; and
- s106 - Apply for an entry warrant.
- s109 – Execution of Warrant

CONDITIONS AND REPORTING REQUIREMENTS

All notices and documents are to be retained on the appropriate file or record pursuant to the requirements of Part 11 of the Building Act 2011.

3.2 Building Permits and Certificates of Design Compliance

LEGISLATIVE POWER Building Act 2011, Part 2, Div. 2, sections 18, 20, 22, 23, 24.

DELEGATE Manager Building Services
Coordinator Building Services
Building Surveyor(s)

FUNCTION TO BE PERFORMED

Authority to approve or refuse building permit applications certified or uncertified and certificates of design compliance.

The above Officers are delegated the authority to issue of Building Permits or Certificates of Design Compliance; issue request for further information and issue notice of decision not to grant building permit in the prescribed form pursuant to Building Act 2011, Sections 18, 20, 22, 23, 24.

CONDITIONS AND REPORTING REQUIREMENTS

All building permits, certificates of design compliance, requests for further information and notices issued are to be retained on the appropriate file or record pursuant to the requirements of the Building Act 2011.

FOOTNOTES

Local government building surveyors have the power to issue a certificate of design compliance pursuant to section 19 as part of the Town's Building Services Operations.

3.3 Occupancy Permit, Building Approval Certificate, Certificate of Building Compliance, Certificate of Construction compliance with or without conditions and extension of period of duration of Occupancy Permit or Building Approval Certificate & Notice of decision to not grant an Occupancy Permit or grant Building Approval Certificate

LEGISLATIVE POWER Building Act 2011, sections 55, 58, 59, 60, 62 and 65.

DELEGATE Manager Building Services
Coordinator Building Services
Building Surveyor(s)

FUNCTION TO BE PERFORMED

Authority to approve or refuse the following applications: Occupancy Permit, Building Approval Certificate, Certificates of Construction Compliance and Certificate of Building Compliance

Authority to issue further information requests and an extension of duration of time for Occupancy Permit and Building Approval Certificate, pursuant to the Building Act 2011.

The above officers are delegated authority to issue Occupancy Permits, Building Approval Certificates, Certificates of Construction Compliance and an extension of period of duration of Occupancy Permit or Building Approval Certificate in the prescribed form upon completion of buildings, pursuant to the Building Act 2011, Sections 55, 56, 57, 60, 62 and 65.

CONDITIONS AND REPORTING REQUIREMENTS

All permits, certificates and documentation issued are to be retained on the appropriate file or record pursuant to the requirements the Building Act 2011.

FOOTNOTE

Local government building surveyors have the power to issue a certificate of design compliance pursuant to section 19 as part of the Town's Building Services Operations.

3.4 Approve a Demolition Permit Other Than Buildings Listed on the Local Heritage Inventory or of a Local Historical and/or Cultural Significance

LEGISLATIVE POWER Building Act 2011, Sections 18, 21, 22 and 24.

DELEGATE Manager Building Services
Coordinator Building Services
Building Surveyor(s)

FUNCTION TO BE PERFORMED

Authority to approve or refuse applications for a Demolition Permit.

The above officers are delegated authority to grant a Demolition Permit, issue a further information request and issue a notice of decision not to grant a demolition permit other than for buildings classified by the National Trust, on the Local Heritage Inventory or of a Local Historical and/or Cultural Significance, pursuant to the Building Act 2011, Sections 18, 21, 22 and 24.

CONDITIONS AND REPORTING REQUIREMENTS

All demolition permits, further information requests and notices issued are to be retained on the appropriate file or record pursuant to the requirements the Building Act 2011.

3.5 Issue Notices and/or Building Orders

LEGISLATIVE POWER Building Act 2011, Part 8, Div. 4, sections 106, and 109

Building Act 2011, Part 8, Div. 5, sections 110, 111, 112, 114, 117 and 118

DELEGATE

Director Planning Services
 Manager Building Services
 Coordinator Building Services
 Building Surveyor(s)
 Compliance Officer (Building)

FUNCTION TO BE PERFORMED

Pursuant to Part 8 Division 5 s.110 (1) of the Building Act 2011 a permit authority may make an Order (a building Order) in respect of one or more of the following –

- (a) particular building work;
- (b) particular demolition work;
- (c) particular building or incidental structure, whether completed before or after commencement day.

The above Officers are delegated the power to issue Notices of proposed Building Order other than a building order (emergency) and issue, serve and revoke Building Orders for works in contravention of the Building Act 2011, pursuant to the Building Act 2011 sections 106, 107, 108, 109, 110, 111, 112, 114 and 117.

The above Officers are delegated the authority to take any action specified in the order, to commence or complete any work specified in the order; or if any specified action was required by the order to cease, to take such steps as are reasonable in the circumstances to cause the action to cease pursuant to the Building Act 2011 section 118.

CONDITIONS AND REPORTING REQUIREMENTS

Copies of all orders and notices issued are to be retained on the appropriate file or record pursuant to the requirements of the Building Act 2011.

Building orders must only be issued by officers where there is a failure to comply with a building notice (with the exception of where there is imminent and high risk to people, property or the environment pursuant to section 111(2) of the Building Act 2011).

3.6 Appoint Authorised Persons (Swimming Pool Inspectors)

LEGISLATIVE POWER Building Regulations 2012, Regulation 53(1).

DELEGATE
Manager Building Services
Coordinator Building Services
Building Surveyor(s)
Compliance Officer (Building)

FUNCTION TO BE PERFORMED

The local government must arrange for authorised person(s) to inspect private swimming pools containing water more than 300mm deep at intervals of no more than 4 years for the purpose of monitoring whether the provisions in regulation 50 and 52 are complied with pursuant to Building Regulations 2012 r. 53 (1).

CONDITIONS AND REPORTING REQUIREMENTS

The authorisations must be in writing and recorded on the appropriate file and the person's personal file.

Copies of all reports on swimming pools inspected are to be retained on the appropriate file or record.

3.7 Recover the Charge Imposed for Private Swimming Pool Inspection

LEGISLATIVE POWER Building Regulations 2012, Regulation 53(2).

DELEGATE Chief Executive Officer
 Director Corporate Services

FUNCTION TO BE PERFORMED

The Chief Executive Officer is delegated the power to recover the amount of a charge imposed for the inspection of a private swimming pool in a court of competent jurisdiction, pursuant to the Building Regulations 2012, Regulation 53(2).

SUBDELEGATION

Director Corporate Services

CONDITIONS AND REPORTING REQUIREMENTS

Chief Executive Officer to sign any Prosecution Notices.

Corporate Services to be advised of any charges imposed or recovered.

Details of the recovery and court action to be retained on the appropriate file or record.

3.8 Approve the use of a battery powered smoke alarms

LEGISLATIVE POWER Building Act 2011
Building Regulation 2012, regulation 61

DELEGATE Manager Building Services
Coordinator Building Services
Building Surveyor(s)

FUNCTION TO BE PERFORMED

Approve the use of battery powered smoke alarms pursuant to the Building Regulations 2012.

The above officers are delegated authority to grant or refuse to approve applications for the use in the dwelling or part of the dwelling, of a battery powered smoke alarm pursuant to the Building Regulations 2012 r. 61.

CONDITIONS AND REPORTING REQUIREMENTS

All approvals issued are to be retained on the appropriate file or record pursuant to the requirements of the Building Act 2011.

4. LOCAL GOVERNMENT (UNIFORM LOCAL PROVISIONS) REGULATION 1996

4.1 Issue Licence to obstruct a public thoroughfare, make and excavation on or adjoining a public thoroughfare, construct a thing on, over or under a public thoroughfare.

LEGISLATIVE POWER Local Government (Uniform Local Provisions) regulation 1996, regulations 15, 6, 7A, 7, 11 and 17.

DELEGATE

- Manager Building Services
- Coordinator Building Services
- Building Surveyor
- Director Engineering Services
- Manager Engineering Services
- Manager Technical Services
- Manager Infrastructure Development

FUNCTION TO BE PERFORMED

Issue notices, Issue or renew permission and charge a fee of not more than \$1.00/month/m² to place on a specified part of public thoroughfare one or more specified things that may obstruct the public thoroughfare and impose conditions; to make or make and leave and 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 and impose conditions and to construct a specified thing on, over, or under a specified public thoroughfare or public place that is local government property pursuant to the Local Government (Uniform Local Provisions) regulation 1996.

The above officers are delegated authority to Issue notices or permission regarding the obstruction of a public thoroughfare pursuant to the Local Government (Uniform Local Provisions) regulation 1996 regulations 15, 6, 7A, 7, 11 and 17.

CONDITIONS AND REPORTING REQUIREMENTS

Licence fee to be set by Council annually.

Copies of all licences issued are to be retained on the appropriate file or record.

5. TOWN PLANNING SCHEME NO. 5

5.1 Town Planning Scheme No. 5

LEGISLATIVE POWER

Town Planning Scheme No. 5 - Clause 9.2

FUNCTION TO BE PERFORMED

1. For the purposes of carrying out and completing the Town Planning Scheme and to ensure its observance, the Council may delegate to the Director Planning and Development and Manager Planning any of the powers which it is entitled to exercise by virtue of the Scheme.
2. Any officer of the Council who exercises any power delegated pursuant to the preceding provision shall exercise such power strictly in conformity with the provisions of the Scheme and in particular any policy made by the Council there under.
3. A list of planning applications approved under this delegation is to be provided to Council.

The following functions of Council are, in accordance with clause 9.2 of town planning scheme no. 5, delegated to the Director Planning and Development and Manager Planning:

1. **Uses**

The Director Planning and Development and the Manager Planning may:

- a) **Determine** all applications to commence development where the proposed use is a "P" use listed in the Zoning Table of the Town Planning Scheme;
- b) **Determine** all applications to commence development where the proposed use is "AA" use listed in the Zoning Table of the Town Planning Scheme; and
- c) **Determine** all applications to commence development where the proposed use is prohibited and "-" use listed in the Zoning Table of the Town Planning Scheme
- d) **Determine** all applications to commence development where the use is an "SA" use listed in the Zoning Table of the Town Planning Scheme provided that:
 - Advertising has been completed on accordance with the scheme.
 - All Councillors have been advised (in writing) prior to leave determining the application.
 - No objections are raised during the advertising period.

- e) **Determine** all applications to commence development where the proposed use is an "IP" use listed in the Zoning Table of the Town Planning Scheme.
- f) **Determine** all applications to commence development where the use is a 'Use Not Listed' in the Zoning Table of the Town Planning Scheme provided that:
- Advertising has been completed on accordance with the scheme.
 - All Councillors have been advised (in writing) prior to leave determining the application.
 - No objections are raised during the advertising period.

Where any objection is received by a Councillor or a member of the public, or the proposal may have an effect on the amenity or the orderly and proper planning of the locality then the application is to be referred to Council for determination.

Note: all delegations and sub-delegations are restricted to developments less than seven (7) million dollars in value.

2. Conditions

The Director Planning and Development and the Manager Planning has the authority to impose conditions on any approval to commence development that relates to the proper and orderly planning of the locality.

3. Residential Planning Codes

The Director Planning and Development and the Manager Planning may determine all requests for variation of development requirements conferred to Council pursuant to the provisions of the Residential Planning Codes.

4. Local Planning Policies

The Director Planning and Development and the Manager Planning may determine all requests for variation of provisions of all Council adopted Local Planning Policies.

5. Reserves

The Director Planning and Development and the Manager Planning may approve or refuse all applications provided that all Councillors have been advised (in writing) prior to determining the application.

6. Scheme Requirement

The Director Planning and Development and the Manager Planning may forward Town Planning Scheme Amendments to the Planning Commission for final approval in the case of:

- i) There being no objections received during the statutory advertising period; and
- ii) The proposal being of an uncontentious nature.

The date of adoption of Council's final approval shall be the date of the next Council Ordinary Meeting following the closing date of the advertising period.

7. Road Closure/ *Dedication Actions*

The Director Planning and Development and the Manager Planning may initiate a request for a 'Road Closure', 'Road Dedication' and subject to (i) and (ii) below forward 'Road Closure', 'Road Dedication' applications direct to the Department of Regional Development and Lands.

- (i) there being no objection received during the statutory advertising period

The date of Council's adoption of the 'Road Closure/Dedication' action following conclusion of the advertising period shall be the date of the next Council Ordinary Meeting.

8. Easement Registration / Cancellation Actions

The Director Planning and Development and the Manager Planning Services may determine all requests for the Registration / Cancellation of easements on Council owned and / or managed property.

9. Revoke / Accept "Vesting" / "Management Orders"

The Director Planning and Development and the Manager Planning Services may determine all requests to revoke / accept "Vesting" / "Management Orders".

10. Signs and Hoardings

The Director Planning and Development and the Manager Planning Services may determine all signage / hoarding applications that comply with the Local Laws and policies of the Council.

11. Infringement Notices

Pursuant to Section 234 of the Planning and Development Act 2005, the Chief Executive Office has appointed the following classes of person to be designated persons for the purpose of Section 228 and 230 of the Planning and Development Act 2005, to:

- i. Give an Infringement Notice (s.228)
 - Compliance Officer(s)

Pursuant to Section 234 of the Planning and Development Act 2005, the Chief Executive Office has appointed the following classes of person to be designated persons for the purpose of Section 230 and 231 of the Planning and Development Act 2005, to

- i. Extend the period of 28 days within which a modified penalty may be paid (s.230); and
- ii. Withdraw an Infringement Notice (s.231)
 - Manager Planning
 - Director Planning and Development

5.2 Power of Entry to Perform Functions Related to Compliance with the Port Hedland Town Planning Scheme No. 5.

LEGISLATIVE POWER Town Planning Scheme No. 5

DELEGATES Chief Executive Officer
 Director Planning and Development
 Manager Planning Services
 Senior Statutory Planning Officer(s)
 Senior Strategic Planning Officer(s)
 Compliance Officer(s) Planning

FUNCTION TO BE PERFORMED

Council authorises the above officers right of entry to any building or land as per Section 9.1(c) of Town Planning Scheme No. 5.

6. PLANNING AND DEVELOPMENT ACT 2005

6.1 Subdivision

LEGISLATIVE POWER

Planning and Development Act
(Sections 20 & 24)

DELEGATE

Director Planning and Development
Manager Planning

FUNCTION TO BE PERFORMED

Director Planning and Development and the Manager Planning is delegated authority to endorse subdivision referral pro-formas for the purposes of part III Sections 20 and 24 of the Town Planning and Development Act 1928 with notification to Council.

In addition, the Director Planning and Development and the Manager Planning is delegated authority to certify the compliance with subdivision conditions for the purposes of part III Sections 20 and 24 of the Town Planning and Development Act 1928.

7. FOOD ACT 2008

7.1 Food Act 2008

LEGISLATIVE POWER

Food Act 2008

FUNCTION TO BE PERFORMED

Authority being delegated	Legislative Power	Delegate
Prosecute for breach of the Food Act	Section 118	Chief Executive Officer
Authority to issue a Prohibition order where a food proprietor has not complied with an improvement notice or the order is required to mitigate a serious danger to Public Health	Section 65 (1)	Chief Executive Officer
Officers designated by the Council for the purposes of withdrawing Infringement Notices for breach of the Act. These persons are prohibited by the Act from serving Infringement Notices.	Section 126 (13)	Chief Executive Officer
Designated Officers" listed by the Town for the purposes of serving Infringement Notices for breach of the Act	Section 126 (2)	Chief Executive Officer Manager Environmental Health Services Coordinator Environmental Health Services Environmental Health Officer(s)
A designated officer may, whether or not the modified penalty has been paid, withdraw and infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.	Section 126 (7)	Director Planning and Development
"Authorised Officers" listed by the Town for the purposes of administering the Act.	Section 122 (1)	Chief Executive Officer Manager Environmental Health Services Coordinator Environmental

		Health Services Environmental Health Officer(s)
<p>'Authority to:</p> <ol style="list-style-type: none"> 1. Register a food business in respect of any premises for the purposed of Part 9 of the Food Act 2008 and issue a certificate of registration; 2. After considering an application, determine to grant (with or without conditions) or refuse the application; 3. Vary the conditions or cancel the registration of a food business in respect of any premises under Part 9 of the Food Act 2008. 	Section 110(1) and (5) Registration of food business	Chief Executive Officer Manager Environmental Health Services Coordinator Environmental Health Services Environmental Health Officer(s)
Variation of conditions or cancellation of registration of food businesses	Section 112	Chief Executive Officer Manager Environmental Health Services Coordinator Environmental Health Services Environmental Health Officer(s)

8. STRATA TITLES ACT 1985

8.1 Strata Titles

DELEGATION POWER

Strata Titles Act 1985

DELEGATE

Manager Building Services
Coordinator Building Services
Building Surveyor

FUNCTION TO BE PERFORMED

Pursuant to the provisions of Section 23 of the Strata Titles Act 1985, the Manager Building Services, Coordinator Building Services and a qualified building surveyor are authorised to issue the appropriate certificates in respect to buildings as may be shown on a strata plan to be lodged for registration under the Act, provided that the buildings shown on the strata plan are first inspected to ensure compliance with Town Planning, Health and Building Services requirements and that the Manager Building Services, Coordinator Building Services and qualified building surveyor are of the opinion that the buildings are of sufficient standard and suitable to be divided into lots pursuant to the Strata Titles Act.

8.2 Granting of a Certificate Form 26

LEGISLATIVE POWER Strata Titles Act 1985, Section 25 Certificate of Commission.

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

Certificate of Approval under the *Strata Titles Act 1985*, Section 25.

Power to determine applications for the issuing of a certificate of approval under the *Strata Titles Act 1985*, Section 25 for a plan of subdivision, re-subdivision or consolidation, except those applications that:

- (a) propose the creation of a vacant lot;
- (b) proposed vacant air strata's in multi-tiered strata scheme developments;
- (c) in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing, relating to:
 - (i) a type of development; and/or
 - (ii) land within an area,

which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

9. HEALTH ACT 1911

9.1 Exercise and Discharge Powers and Functions of the Local Authority

LEGISLATIVE POWER

Health Act 1911 (Section 26)

DELEGATE

Manager Environmental Health Services
Coordinator Environmental Health Services

FUNCTION TO BE PERFORMED

The Manager Environmental Health Services and Coordinator Environmental Health Services have delegated authority to serve notices, approve and renew licences and permits and exercise the powers of Council for the expeditious administration of the Health Act.

10. CARAVAN PARKS AND CAMPING GROUNDS ACT 1995

10.1 Authority to Issue Licences for Caravan Parks and to Approve Permits to Camp on Private Property

LEGISLATIVE POWER Caravan Parks and Camping Grounds
Regulation 1997 (Regulation 6)

DELEGATE Chief Executive Officer

FUNCTION TO BE PERFORMED

That Council delegates its authority in accord with Regulation 6 of the Caravan Parks and Camping Grounds Regulations 1997, to the Chief Executive Officer to issue licences for Caravan Parks and to approve permits to camp on private property.

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