

PART ONE: Instruments of Delegation

3.0 Bush Fires Act 1954

3.1 Council to CEO, Shire President and Chief Bushfire Control Officer

3.1.12 Prosecution of Offences and Infringement Notices

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Bush Fires Act 1954:</i> s.59 Prosecution of offences – subsection (3)
Express Power or Duty Delegated:	<i>Bush Fires Act 1954:</i> s.59 Prosecution of offences – subsection (3)
Delegate:	Chief Executive Officer Director Community Engagement Coordinator Emergency Services Manager Health, Building and Community Safety Coordinator Community Safety Senior Ranger Ranger <u>Bushfire Mitigation Officer</u>
Function: <i>This is a précis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. Authority to consider allegations of offences alleged to have been committed against this Act [s.59(3)] 2. Authority to institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59 (3)]. <p>Note: a person who has been delegated power under section 59 (3) to institute and carry on proceedings (function 2 above) may exercise the functions under s59A(2) which is to serve an infringement notice for an offence against the Bush Fires Act (refer s59A(1)).</p>
Council Conditions on this Delegation:	Nil.
Express Power to Sub-Delegate:	<i>NIL – Sub-delegation is prohibited by s.48(3)</i>
Compliance Links:	Bush Fires Act 1954 s.65 Proof of certain matters s.66 Proof of ownership or occupancy Bush Fires Regulations 1954 First Schedule: Form 2 – Withdrawal of Bush Fire Infringement Notice <i>(Note: only a prescribed officer can withdraw infringement</i>

	<p><i>notices, refer s59A(5). A prescribed officer is the CEO or Shire President, refer Reg. 4).</i></p> <p>Council Policy 4.1.3 - General Compliance and Enforcement (E17/11140)</p> <p>BOP 4.5.2 - Offences against the <i>Bush Fires Act 1954</i> (as amended) (E17/11033)</p> <p>Compliance Matrix for Emergency Services (E17/1484)</p> <p>Procedures Manual - Offences against the Bushfires Act 1954 (as amended) (E10/4382)</p>
Record Keeping	Each instance of this delegation being exercised is to be recorded in the Register of Exercised Delegations (CM container SJ4367).
Reporting Requirements:	Nil

Version Control:

1	SCM163/12/17 – 19 December 2017
2	OCM088/05/19 – 20 May 2019
3	OCM138/06/20 – 15 June 2020
4	OCM124/05/21 – 17 May 2021
5	OCM114/05/22 – 16 May 2022 – minor reference updates to compliance links and record keeping
6	OCM114/05/23 – 15 May 2023- Updates to delegates and record keeping reference
7	OCM – 19/02/2024 – Updated to record keeping reference and inclusion of Senior Ranger
8	<u>OCMXXX – DD Month YYYY – Inclusion of Bushfire Mitigation Officer</u>

12 Planning and Development (Local Planning Schemes) Regulations 2015

12.1 Council to CEO

12.1.1 Determination of Development Applications (except for Prescribed Single House Development Applications, which are covered in 12.2.1)

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	r.82 Planning and Development (Local Planning Schemes) Regulations 2015:
Express Power or Duty Delegated:	<i>Planning and Development (Local Planning Schemes) Regulations 2015 Parts 3, 4, 6, 7, 8, 9 of Schedule 2 (Deemed Provisions)</i>
Delegate:	Chief Executive Officer
Function: <i>This is a précis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<p>Authority to:</p> <p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i></p> <p>cl. 8, Part 3 of Schedule 2 Establish and maintain a heritage list.</p> <p>cl.12, Part 3 of Schedule 2 Make determinations to vary provisions to facilitate the conservation of a place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under clause 8 of the Deemed Provisions.</p> <p>cl.27, Part 4 of Schedule 2 Determining applications in accordance with Structure Plans pursuant to cl. 27 of the deemed provisions.</p> <p>cl.56, Part 6 of Schedule 2 Determine development applications, which modifies or varies a Local Development Plan pursuant to cl. 56 of the deemed provisions.</p> <p>cl.61, Part 7 of Schedule 2 Determine any works or uses that are temporary and in existence longer than 48 hours pursuant to cl. 61 (2) (f) and cl. 61 (2) (d) of the deemed provisions.</p> <p>cl. 63 and 63A, Part 8 of Schedule 2 Make determinations on the sufficiency of information provided with applications for development approval pursuant to cl. 62 and 63and waive or vary a requirement set out within.</p>

	<p>cl.64, Part 8 of Schedule 2 Advertise and provide notice of applications for planning approval or consent pursuant to cl. 64 of the deemed provisions.</p> <p>cl. 64A, Part 8 of Schedule 2 Require an applicant for development approval to pay the costs of advertising the application under cl. 64 and require the applicant to erect signs under clause 64(3)(c) or (4)(c)</p> <p>cl.65, Part 8 of Schedule 2 Determine any retrospective applications pursuant to cl. 65 – subsequent approval of development – of the deemed provisions.</p> <p>cl. 65A, Part 9 of Schedule 2 Request additional information or material by written notice cl.68, Part 9 of Schedule 2 Determine applications pursuant to cl. 68 of the deemed provisions for planning approval or refusal including: a) any conditions to be imposed or reasons for refusal; b) the period of validity; and c) the scope of the planning approval.</p> <p>cl.71, Part 9 of Schedule 2 Allow for the extension of the term within which any development approved must be substantially commenced in accordance with cl. 71 of the deemed provisions.</p> <p>cl.75, Part 9 of Schedule 2 Determine an application for development within the timeframes in accordance with cl.75(1)(a) and (b) or agree to a longer time in writing in accordance with cl.75(1)(c) of the deemed provisions. Determine an application for development in accordance with cl.75(3) of the deemed provisions.</p> <p>cl.77, Part 9 of Schedule 2 Determine any amendment applications pursuant to cl. 77 (amending or cancelling development approval) of the deemed provisions.</p>
<p>Council Conditions on this Delegation:</p>	<ol style="list-style-type: none"> 1. Delegation only to be exercised following appropriate consideration of the matters listed in cl.67, 68 and 69, of Schedule 2 - Deemed Provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. 2. Where applications are required to undergo consultation in accordance with cl.64 of Schedule 2, Part 8 and cl.66 of Schedule 2, Part 9, of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> delegation can only be exercised where two<u>five</u> or fewer submissions raising either

	<p>valid planning objections or valid planning concerns on the application have been received. For the avoidance of doubt:</p> <ol style="list-style-type: none"> a) a submission received in support is not counted as part of the 'two-five or fewer' submissions of objection/concern; b) a submission raising exclusively non-planning related objections or non-planning related concerns, is not a valid submission and therefore not counted as part of the 'two-five or fewer' submissions of objection/concern. Non-planning related matters are those established by the planning framework as not being valid to consider, and include matters such as; <ol style="list-style-type: none"> i. potential impact on property prices; ii. whether a proposal could be better than what is proposed; iii. moral considerations; iv. threat of competition to existing businesses; v. the nature or track record of a person proposing an application; vi. perception of a proposal that is not supported by the factual information proposed. <p>3. Where more than two-five submissions raising either valid planning objections or valid planning concerns on the application have been received, and where these cannot be addressed or mitigated through conditions, a report to Council shall be prepared <u>where an application is recommended for approval</u>.</p> <p><u>4.</u> Delegation can only be exercised to the extent that the Scheme, or Local Planning Policy provides for variations. Where variation to Local Planning Policy is proposed, a report to Council shall be prepared.</p> <p><u>5.</u> <u>Council is required to authorise the report to the Development Assessment Panel in accordance with Regulation 12 of the Planning and Development (Development Assessment Panel) Regulations 2011.</u></p>
<p>Express Power to Sub-Delegate:</p>	<p><i>Planning and Development (Local Planning Schemes) Regulations 2015</i> cl.83 of Schedule 2, Part 10</p>
<p>Sub-Delegate/s: <i>Appointed by CEO</i></p>	<p>Director Development Services Manager Strategic Planning Manager Statutory Planning and Compliance Statutory Town Planning Coordinator</p>
<p>CEO Conditions on this Sub-Delegation:</p>	<p>Nil</p>

<i>Conditions on the original delegation also apply to the sub-delegations.</i>	
Compliance Links:	Planning and Development Act 2005 Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 Planning and Development (Local Planning Schemes) Regulations 2015
Record Keeping	Each instance of this delegation being exercised is to be recorded in the Register of Exercised Delegations (CM container SJ4367), in accordance with r.19 of the <i>Local Government (Administration) Regulations 1996</i> .
Reporting Requirements:	Exercised use of delegations is to be reported in the Councillor Information Bulletin (Friday Facts).

Version Control:

1	SCM163/12/17 – 19 December 2017
2	OCM088/05/19 – 20 May 2019
3	27/06/2019 – E19/7527 – Memo to Acting CEO – Removal of Coordinator Statutory Enforcement from sub-delegation
4	OCM138/06/20 – 15 June 2020
5	OCM124/05/21 – 17 May 2021
5	OCM114/05/22 – 16 May 2022 – updates to functions, subdelegates, compliance links and reference updates to record keeping
6	OCM114/05/23 – 15 May 2023 - Updates to Council conditions and record keeping
7	OCM – 19/02/2024 – Updates to record keeping reference
8	<u>OCM – XX/XX/XX – Updates to Council Conditions</u>

1.17 Local Government (Model Code of Conduct) Regulations 2021 – Receive Complaints and Withdrawals of Complaints

Power to authorise:	<i>Local Government (Model Code of Conduct) Regulations 2021</i> r. 11(3) authorisation of a person to receipt and withdraw complaint
Function to be performed:	Receive complaints and withdrawals of complaints
Authorisation of:	Director Corporate Services Manager GovernanceCorporate Performance <u>Coordinator Governance</u>
Conditions:	Nil

Version Control:

1	OCM033/02/21 – 15 February 2021
2	OCM – XX/XX/XX - update to reflect new position titles