GOVERNMENT OF WESTERN AUSTRALIA
Local Government, Sport and Cultural Industries

Delegations, Authorisations and Acting Through

Local Government Operational Guideline

Table of Contents

Part 1 – Introduction 3

Part 2 – How local governments make decisions 4

2.1. Introduction 4
2.2. Express power 4
2.3. Delegations 4
2.4. Authorisation 5
2.5. Implied authorisation 6
2.6. Acting through 6
2.7. Authority through policy and procedures 7
2.8. Operational authority and decisions 7
2.9. Delegations by the State Government to local government 7

Part 3 – Power to delegate 8

3.1. Legislative powers for delegations in local government 8
3.1.1. Local Government Act 1995 8
3.1.2. Building Act 2011 8
3.1.3. Bush Fires Act 1954 9
3.1.4. Cat Act 2011 9
3.1.5. Dog Act 1976 9
3.1.6. Food Act 2008 9
3.1.7. Graffiti Vandalism Act 2016 9
3.1.8. Planning and Development Act 2005 9
3.1.9. Public Health Act 2016 10
3.2. Legislative powers to delegate relate only to the Act in which they are contained 10
3.3. The rule against sub-delegation 11
3.4. Statutory limitations on delegations 11
3.4.1. Delegations to committees 11
3.4.2. Delegations to the CEO 11
3.4.3. Delegations to other local government employees 12

Part 4 – Responsibilities of delegates 12

4.1. Powers under the Interpretation Act 1984 12
4.2. Records of delegations 13
4.3. Delegates to disclose interests and lodge returns 13

Part 5 – Determining what should be delegated 14

5.1. Procedure for delegations by council 15
5.2. Procedure for delegations by CEO 15

Schedule of powers and duties 16

Local Government Act 1995 and Regulations 16
Cat Act 2011 and *Dog Act 1976* and Regulations 46

Document information 52

Revisions 52
Version history 52

Part 1 – Introduction

This guideline has been developed by the Department of Local Government, Sport and Cultural Industries (DLGSC) following a review of the previous guideline from January 2007 regarding delegations. A series of changes have been made over various years to the *Local Government Act 1995* and regulations which need to be reflected in this guideline. Likewise, the broader legislation that local governments administer has also changed significantly since 2007 including:

- The passing of the *Food Act 2008*, *Building Act 2011*, *Cat Act 2011* and *Public Health Act 2016*.
- Amendments to the *Dog Act 1976*.
- Introduction of many amendments to the *Local Government Act 1995* which have created new functions or amended existing functions in a local government.
- Creation of the *Planning and Development (Local Planning Schemes) Regulations 2015* which standardised a number of aspects of planning decision making.

In addition, following the *Local Government Legislation Amendment Act 2019* there have been reforms of the powers relating to authorised persons. This guideline will now also address this form of decision making.

Within the context of government administration and administrative law, this guideline:

- explains the concept of delegation;
- explains how delegations relate to or are derived from legislation;
- explains and illustrates the associated concept of 'acting through';
- provides guidance on determining which powers and duties should be delegated;
- explains the procedure for making delegations; and
- provides examples of delegations from selected powers and duties set out in the *Local Government Act 1995*, *Cat Act 2011* and *Dog Act 1976* and associated regulations.

This guideline also contains a list of various powers and duties in the *Local Government Act 1995*, *Cat Act 2011* and *Dog Act 1976* and their associated regulations and identifies powers and duties capable of delegation and to who they can be delegated.

This guideline, while making mention of delegations that can be given under the *Building Act 2011*, *Bush Fires Act 1954*, *Public Health Act 2016, Food Act 2008, Graffiti Vandalism Act 2016* does not address these acts in a comprehensive manner as they are not legislation that is administered by the Department of Local Government, Sport and Cultural Industries.

The DLGSC also notes that some state government authorities have delegated to local governments, their CEOs and employees certain functions under various acts including the *Planning and Development Act 2005* and *Environmental Protection Act 1986*.

Nothing in this guideline is intended to constitute legal advice, and independent legal advice should be sought where required.

Part 2 – How local governments make decisions

2.1. Introduction

Local Governments in Western Australia can make decisions in various ways based upon the framework established by the *Local Government Act 1995* and the varied functions conferred on local government in various other laws.

There are two critical decision making bodies in local government, the council, which is the principal decision making body and the CEO, who is conferred with certain functions under the LG Act. Other laws delegate additional powers and functions to these bodies.

2.2. Express power

Where a particular power or function is attributed to a "local government" then this power may be exercised by the Council. Likewise, where a function is directed to the "CEO" of the local government, then the CEO may exercise that power. An example of an express power is the power of delegation itself, as found in section 5.42 for the council and 5.44 for the CEO of the *Local Government Act 1995*.

A council makes decisions by the passing of a resolution, with the support of the required majority.

A CEO can decide in writing and may do so verbally, if permitted by the law. However, a written decision is always preferrable to ensure clarity and a clear record is kept.

However, if a Council or CEO had to exercise every function they are conferred by the law, it would likely result in an unmanageable situation. As a result, the *Local Government Act 1995* and other Acts allow for a local government and the CEO, to delegate their functions, to authorise a person to exercise certain functions and where appropriate to act through.

2.3. Delegations

Case law establishes that:

- a delegation is to appoint another person to exercise a power or discharge a duty; and
- a delegation does not strip the person making the delegation of the right to exercise the delegated power or discharge the delegated duty.

Delegations are used in local government in a number of circumstances including where:

- The business of the local government could not be efficiently carried on if the council or CEO were to personally exercise their discretion to enforce all the rights or discharge all the duties; and
- Through practical administration, the council or CEO needs to appoint other employees to exercise their discretion to make decisions, exercise powers or discharge duties on behalf of the local government.

Several potential delegated functions may also be matters that may be subject to review or appeal at the State Administrative Tribunal or a court. As a result, it is important that persons to who a delegation is given are suitably qualified to make those decisions. This is important as delegating to a qualified decision maker will ensure decisions are being made by a person with suitable training and experience.

While there is a requirement for local government delegations to be authorised by the particular law (as is explained in part 3.2 of these guidelines), there is no limitation, unless expressly provided in the law, on appointing a person to act on behalf of the local government or the CEO, provided the delegated power does not include the power of delegation itself.

Likewise certain functions in various laws may be exercised by a person with an authorisation given under the relevant law. These authorised persons can then exercise the particular functions that the authorised class of persons may exercise.

There is a legal distinction between a delegation and an authorisation. A delegation entails the conferral of full discretionary powers pursuant to an express statutory power. A delegate decides in their own name. An

authorisation is an authority granted to a position or person to undertake a function for and on behalf of the authoriser. The authorised person decides in the name of the authoriser, not their own name.

2.4. Authorisation

The *Local Government Act 1995* and various other Acts confer functions on authorised persons. These include powers to:

- enter onto property, subject to that law with or without the approval of the owner or occupier
- issue an infringement for a breach of the law
- seize or impound goods or animals in accordance with that law.

Some local laws confer functions on 'authorised persons' for the purpose of the relevant local law. Once an employee is appointed as an 'authorised person', it is not necessary for the CEO or council to delegate any powers to that employee for that employee to exercise the functions of an authorised person. This includes the function of issuing an infringement notice.

However; if the particular function in the local law is that of 'local government' or 'CEO' then those functions would require delegation, not an authorisation.

The functions of an authorised person are specifically highlighted in the relevant law and an authorisation allows them to exercise only those powers. An authorisation does not allow a person to exercise all the powers of a local government under that law. An authorisation can also be conditional.

For the purposes of the:

- *Local Government Act 1995*,
- *Caravan Parks and Camping Grounds Act 1995*,
- *Cat Act 2011*,
- *Cemeteries Act 1986*,
- *Control of Vehicles (Off-road Areas) Act 1978*,
- *Dog Act 1976*; and
- any subsidiary legislation made under those Acts, which includes regulations and local laws.

A person may be authorised to carry out the functions of an authorised person under those acts by section 9.10 of the *Local Government Act 1995*. Section 9.10 provides that a local government CEO may appoint in writing persons or a class of persons as authorised persons for one or more of those laws and may specify conditions or limitations. The CEO must issue each person appointed under section 9.10 an identity card which includes the name and insignia of the local government, the name and photograph of the person and details of their appointment.

Other legislation providing for authorisation (or equivalent) are:

- *Public Health Act 2016* – Section 24 provides for an enforcement agency (a local government) to designate authorised officers, noting section 25 requires certain qualifications.
- *Food Act 2008* – Section 122 provides for the appointment of authorised officers who are suitably qualified to carry out the functions of an authorised officer.
- *Planning and Development Act 2005* – Section 234 provides for the appointment of a designated person for the purposes of sections 228, 229, 230 and 231.
- *Planning and Development (Local Planning Scheme) Regulations 2015* – Schedule 2, clause 79 allows for the CEO of a local government to appoint an officer of the local government as an authorised officer for the purpose of monitoring compliance with the local planning scheme.
- *Building Act 2011* – Section 96 provides for the designation of authorised persons under that act.
- *Building Regulations 2012* – Regulation 70 deals with approved officers and authorised officers.
- *Litter Act 1979* – Section 26 establishes that council members and employees are authorised officers for the purpose of that act. Section 27AA allows for the appointment of honorary inspectors.
- *Tobacco Products Control Act 2006* – Section 77 provides for the appointment of restricted investigators.

- *Bush Fires Act 1954* – Section 38 deals with the appointment of Bush Fire Control Officers by local governments.
- *Health (Miscellaneous Provisions) Act 1911* – Section 26 allows a local government to appoint a deputy to exercise all of the powers and functions of the local government under that Act.

An example of a section providing power to an authorised person is section 9.16(1) of the *Local Government Act 1995*, which provides:

(1) *An authorised person who has reason to believe that a person has committed a prescribed offence against a regulation or local law made under this Act may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.*

2.5. Implied authorisation

Some legislation that local governments administer do not include any power of delegation or authorisation, as a result this would typically require the council to exercise that function. However, as a result of the decision in *Carltona Ltd v Commissioner of Works* [1943] 2 All ER 560 which has been introduced into Australian common law by cases such as *O'Reilly v State Bank of Victoria Commissioners* [1983] HCA 47 there is a concept of implied authorisation.

Implied authorisation provides that where:

- a law does not provide a manner to delegate or authorise a person to carry out a function; and
- where that person is normally too busy to exercise the many and varied statutory functions placed on them personally that, of necessity, they must either delegate or act through an agent.

The DLGSC does not recommend that implied authorisation be relied upon without obtaining independent legal advice based upon the specifics of the decision. It is recommended that where an implied authority is relied on, an instrument of authorisation be adopted by the Council or CEO, giving authority for the authorised person to exercise the relevant function on their behalf such as a Council policy or CEO's procedure.

Implied authorisation is highlighted in the case of the certificates issued under sections 39 and 40 of the *Liquor Control Act 1988* for local governments which have several potential venues that can serve liquor. The issue of these certificates is not a decision relying on discretion as it provides advice if the venue has the relevant planning, building, health and other local law approvals. To produce this certificate a local government employee needs to search the relevant records and provide the specific facts of previous decisions relating to that property. As a result, the decision can be described in the context of larger local governments as being a situation where:

- a law does not provide a manner to delegate or authorise a person to carry out the council's functions under sections 39 and 40;
- the council is normally too busy to deal with these matters on top of the many and varied statutory functions placed on them;
- there is no discretion, and the task is operational and administrative; and
- of necessity, the council either delegate or act through an agent.

It is encouraged that a council adopt a policy or some other form of standing resolution or policy, based on independent legal advice, indicating that it grants authority for appropriate local government officers to exercise the functions under sections 39 and 40 of the *Liquor Control Act 1988* on its behalf.

2.6. Acting through

In addition to covering delegations, the *Local Government Act 1995* provides for 'acting through'. Section 5.45 of the Act states that in relation to delegations, nothing prevents a 'local government from performing any of its functions by acting through a person other than the CEO' or 'a CEO from performing any of his or her functions by acting through another person'.

However, Section 5.45(2) of the Act is not itself a head of power, but rather is included for the avoidance of doubt to ensure it is clear that the council reserves the right to undertake its functions through someone other than the

CEO, provided that the council has the underlying power to make a particular resolution based on consideration of the functions and powers of a local government acting through the council as conferred by the balance of the Act.

The Act does not specifically define the meaning of the term 'acting through'. However, the key difference between a delegation and 'acting through' is that a delegate exercises the delegated decision making function in his or her own right. Where a person has no discretion in carrying out a function, then that function may be undertaken by another through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

For administrative purposes, a person may sign a letter on behalf of the CEO while, with delegated powers, the person would sign a letter in his or her own name, in accordance with the delegated authority.

It is critical in understanding the types of functions that are appropriate for 'acting through' another person in preference to delegation. This can be demonstrated through the following example. In this case, the council gives the CEO the power to call tenders subject to certain cost parameters. If that power is delegated, the CEO could call tenders if the CEO believed the cost parameters had been satisfied (even if the council's opinion was different to the CEO's opinion). However, under an 'acting through' arrangement, the CEO could only call tenders if the council was satisfied about the cost parameters.

2.7. Authority through policy and procedures

Another method of providing decision making authority can be through the policies adopted by the council and the procedures prepared by the CEO. For example, the purchasing policy adopted by the council should provide authority for the CEO and other employees the CEO authorises to incur liabilities and procure goods and services for the local government.

Likewise, the CEO's procedure on the proper maintenance and security of the financial records of the local government may set out who can make amendments to the financial journals and the like.

Using policy and procedures in this matter can assist in establishing decision making frameworks where no specific function is provided in the relevant legislation.

2.8. Operational authority and decisions

Another notable form of decision-making power is the general operational authority of the CEO and other employees of the local government. This authority stems from the CEO's function to manage the day to day operations of the local government, employee and manage staff and their duties under the *Work Health and Safety Act 2020*.

This includes matters relating to human resources and work health and safety, except for the employment of the CEO and senior employees (if designated pursuant to section 5.37(1)), as the responsibilities of the employer are exercised by the CEO and other supervisory staff.

2.9. Delegations by the State Government to local government

Certain functions of the State Government have been delegated to local governments or employees of those local governments. These include delegations under the *Planning and Development Act 2005* and *Environmental Protection Act 1986*. Local governments should ensure they read and understand the powers and conditions of any delegated authority given to them by the State.

In particular, some delegations may be direct to the CEO of the local government meaning that the council of a local government does not have a role in making that decision.

Information regarding delegations to a local government should be sought from the relevant authority making the delegation.

Part 3 – Power to delegate

3.1. Legislative powers for delegations in local government

The legislation authorising the delegation of certain local government powers or duties and requiring records to be maintained in respect of such delegations, includes the:

- *Local Government Act 1995;*
- *Building Act 2011;*
- *Bush Fires Act 1954;*
- *Cat Act 2011;*
- *Dog Act 1976;*
- *Food Act 2008;*
- *Graffiti Vandalism Act 2016;*
- *Planning and Development (Local Planning Schemes) Regulations 2015; and*
- *Public Health Act 2016;*

3.1.1. Local Government Act 1995

The provisions of the *Local Government Act 1995* which provide for delegations by a local government, or its CEO are as follows:

- Section 5.16(1), states: 'Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.'
- Section 5.42(1), states: '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).'
- Section 5.44(1), states: 'A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.'

The Act has been framed in a way that determines whether powers and duties can be delegated or not, namely:

- If the term 'council' or 'by resolution' is used, then it is the council itself which must carry out that function.
- If the term 'local government' is used then delegation may be possible, subject to any other express powers against delegation.
- If the term 'the CEO' is used then unless expressly provided otherwise, the CEO may delegate that function.

Section 2 of the *Local Government (Miscellaneous Provisions) Act 1960* effectively incorporates the provisions of that Act into the *Local Government Act 1995,* and therefore the delegation provisions of the *Local Government Act 1995* apply to the *Local Government (Miscellaneous Provisions) Act 1960*.

Further under section 46 of the Interpretation Act 1984, "a reference in a written law to a written law shall be construed so as to include a reference to any subsidiary legislation made under that written law". As a result, the powers of delegation within the *Local Government Act 1995* extend to the Regulations and local laws made under that Act.

3.1.2. Building Act 2011

Section 127 of the *Building Act 2011* provides that a local government may delegate any of its powers or duties as a permit authority under another provision of this Act. This section further provides that a delegation of a local government's powers or duties may be only to a local government employee but not a committee.

Section 127(6A) further provides for the CEO to delegate functions delegated to them by the Council under that Act.

It is noted that subsection (7), provides 'nothing in this section limits the ability of the delegator to perform a function through an officer or agent' giving effect to acting through under this Act.

3.1.3. Bush Fires Act 1954

Section 48 of the *Bush Fires Act 1954* provides for a local government to delegate powers to its CEO, stating that:

'A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.'

It is particularly noted that there is no power of sub-delegation under the *Bush Fires Act 1954*, meaning only the Council or CEO may exercise powers under that Act except for two sections being:

- Section 17, where this function can be delegated to the Mayor/President and the Chief Bush Fire Control Officer jointly.
- Section 59 and 59A where the local government may delegate to a bush fire control officer or other officer to prosecute offences against that act and to issue infringement notices.

Section 48 further provides, 'nothing in this section is to be read as limiting the ability of a local government to act through its council, members of staff or agents in the normal course of business'.

3.1.4. Cat Act 2011

Sections 44 and 45 of the *Cat Act 2011* provide for the council to be able to delegate its functions to the CEO, and the CEO to delegate their functions to employees. Section 46(2) provides for acting through.

It also requires under section 47, a register of delegations to be kept, the delegations to be reviewed each financial year and records of the discharge of delegated duties to be kept.

3.1.5. Dog Act 1976

Section 10AA of the *Dog Act 1976* provides for the council to delegate its powers or duties, under that Act to the CEO. Unlike the *Cat Act 2011* or *Local Government Act 1995* the *Dog Act 1976* provides that a delegation may expressly authorise the delegate to further delegate the power or duty. This means that the CEO can further delegate a duty or power delegated to them under that Act, but only where the delegation given by Council expressly authorises this. Section 10AA(5) provides for acting through.

Section 10AB requires a register of delegations to be kept as well as review of those delegations each financial year.

3.1.6. Food Act 2008

The *Food Act 2008* confers many functions upon enforcement agencies, which include local governments. Section 118(2) of the *Food Act 2008* provides:

> 'A function conferred or imposed on an enforcement agency may be delegated —
> ...
> (b) if the enforcement agency is a local government... — subject to subsections (3) and (4), in accordance with the regulations.'

Section 118(3) provides that the performance of functions by delegates is subject to any conditions imposed or guidelines adopted by the CEO of the department of the public service principally assisting in the administration of the *Food Act 2008*, which at this time is the Director General of the Department of Health.

Section 118(4) provides that regulations may make specific provision for sub-delegation, and if a function is sub-delegated it is also subject to the same conditions and guidelines as a delegation.

The *Food Act 2008* does not address acting through for local government enforcement agencies.

3.1.7. Graffiti Vandalism Act 2016

Section 16 of the *Graffiti Vandalism Act 2016* provides for the council to delegate the local governments functions under that Act to the CEO. Section 17 provides for the CEO to likewise delegate any of their functions and any function delegated to them, to the employees of the local government.

3.1.8. Planning and Development Act 2005

A local government has no power to delegate under the *Planning and Development Act 2005*. Therefore, any discretionary decision-making function under that Act may only be exercised by the council. Those functions relate

to implementation of the decision of Council can be carried out administratively (e.g., issuing public notice of a planning scheme amendment).

Section 5.42 of the *Local Government Act 1995* provides that a local government can delegate its powers under section 214(2),(3) and (5) of the *Planning and Development Act 2005* to its CEO.

The *Planning and Development (Local Planning Scheme) Regulations 2015*, in Schedule 2 set out the model scheme text that applies to all local planning schemes. In Part 10, Clause 82 of that Schedule the council, by absolute majority, may delegate to a committee or the CEO the exercise of any of the local government's powers or duties under the scheme. Clause 83 allows the CEO to delegate their functions and duties, including those delegated by the Council to employees of the local government.

Clause 84 also applies sections 5.45 and 5.46 of the *Local Government Act 1995* to delegations under the *Planning and Development (Local Planning Scheme) Regulations 2015*. This means provision is made for acting through and there is a requirement to maintain delegations in a register and review those delegations each financial year.

3.1.9. Public Health Act 2016

Local governments are enforcement agencies under section 4 of the *Public Health Act 2016*. Section 21 allows enforcement agencies, that are local governments to delegate their powers or duties to either their CEO or an authorised officer, designated under that Act.

Section 21 also provides for sub-delegation if it is expressly provided for in regulations. At this time no regulations have been made permitting sub-delegation, as a result the CEO cannot delegate any of their functions under this Act to employees. Instead, the council can directly delegate functions to authorised officers, such as the environmental health officer.

3.2. Legislative powers to delegate relate only to the Act in which they are contained

Some local governments have mistakenly attempted to use the legislative powers of delegation contained in one Act to delegate a power or duty contained in another Act. Unless expressly stated to the contrary, a legislative power to delegate only relates to the powers or duties under the Act in which the delegation power is located.

It is not possible to, for example, rely on section 5.42(1) of the *Local Government Act 1995* to delegate any of a local government's powers under the *Bush Fires Act 1954* to a CEO. Any delegation by a local government of its powers under the *Bush Fires Act 1954* can only be delegated by the delegation provisions of that Act.

Likewise, some local governments have mistakenly tried to use the powers of delegation in the *Local Government Act 1995* to delegate functions which are not found in the Act such as the appointment of consultants, the giving of sponsorship or the approval of public art. A delegation under the *Local Government Act 1995* can only be given relating to a specific function that is provided in the *Local Government Act 1995,* regulations or a local law. In relation to the three examples provided:

- Consultants provide a service, they accordingly are procured in accordance with the local government's purchasing policy and the approval process contained in that policy, or through a public tender under the *Local Government (Functions and General) Regulations 1996*. Some functions relating to tenders can be delegated to the CEO and by the CEO to employees however there is not a specific function in those regulations relating to consultants. It is possible to place conditions on a delegation relating to the procurement of consultants, however this cannot be a delegated function in and of itself.
- Sponsorship or grants are not provided for specifically in the *Local Government Act 1995*. It is also not normally considered procurement. Typically, these matters are dealt with in council policy and the CEO's procedures, which can provide an approval mechanism for the giving of sponsorship and grants. While there is a legislative power to make payments from the local government bank account, this does not deal particularly with sponsorship. Like consultants, it is possible to place conditions on a delegation relating to the procurement of consultants, however this cannot be a delegated function in and of itself.

- Public art is a typical part of a development approval process, as a result this matter should be dealt with through a delegation under the *Planning and Development (Local Planning Schemes) Regulations 2015* or a policy addressing public art.

3.3. The rule against sub-delegation

Notwithstanding that only some of the relevant legislation expressly prohibits sub delegation, the common law prohibits sub delegation unless it is expressly provided for by legislation.

For the avoidance of doubt, an example of sub-delegation is where person A is delegated to exercise a power and they attempt to delegate to person B to exercise the power which was originally delegated to person A.

An example is the *Bush Fires Act 1954*. Unlike the *Local Government Act 1995*, the *Bush Fires Act 1954* does not provide for a CEO to delegate to another employee to exercise the powers delegated by council to the CEO under section 48 of that Act. Therefore, only the CEO may exercise the powers delegated by council to the CEO under that Act.

3.4. Statutory limitations on delegations

There are limitations on all the above legislative provisions which provide for the delegation of powers and duties.

Many of the limitations relate to sub-delegation. Other limitations include whether the delegation must be in writing, what types of powers and duties can be delegated and what type of majority decision is required to delegate a power or duty.

Not all the limitations can be addressed in this operational guideline, due to their number and detail. However, most of the limitation provisions are located close to the provisions which provide for the delegations.

As the *Local Government Act 1995* is the Act under which most delegations will be made by local government, this guideline will discuss the limitations on delegations contained within that Act.

3.4.1. Delegations to committees

Section 5.17 of the *Local Government Act 1995* provides limitations on what powers and duties a local government can delegate to its committees. Section 5.17(1) limits the powers and duties which can be delegated to committees, according to the types of members which constitute the committees for example:

- Council members only;
- Council members and employees only;
- Council members and other persons only;
- Council members, employees and other persons; or
- Employees and other persons only.

Section 5.17(2) prohibits absolutely the delegation of any powers or duties to committees comprised of other persons only (no council members or employees).

3.4.2. Delegations to the CEO

Sections 5.43(a) to 5.43(i) of the *Local Government Act 1995* provide limitations on what powers and duties a council can delegate to its CEO, as follows:

- any power or duty that requires a decision of an absolute majority of the council;
- accepting a tender which exceeds an amount determined by the council;
- appointing an auditor;
- acquiring or disposing of any property valued at an amount exceeding an amount determined by the council;
- any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- borrowing money on behalf of the local government;
- hearing or determining an objection of a kind referred in section 9.5;
- the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government; or
- any power or duty that requires the approval of the Minister or the Governor.

Section 5.43(i) of the Act provides for regulations to prescribe further powers or duties which cannot be delegated to the CEO.

The following regulations prescribe powers and duties which cannot be delegated to a CEO:

Regulation 18G of the *Local Government (Administration) Regulations 1996* prohibits the delegation to a CEO of the powers and duties under sections 7.12A(2), 7.12A(3)(a) and 7.12A(4) of the *Local Government Act 1995* (relating to duties of a local government with respect to audits). Regulation 6 of the *Local Government (Financial Management) Regulations 1996* prohibits the delegation of the duty to conduct an internal audit to an employee (including a CEO) who has been delegated the duty of maintaining the local government's day to day accounts or financial management operations.

3.4.3. Delegations to other local government employees

Section 5.44(1) of the *Local Government Act 1995* provides for the CEO to make delegations to other employees.

The obvious main limitation of section 5.44(1) is that it expressly prohibits any sub-delegation of the power to delegate. This means that once the CEO has delegated a power or duty to an employee or employees, that power or duty cannot be on-delegated to other employees.

Just as a delegation to a CEO by a council may be done with conditions attached, when delegating to another employee a CEO may attach conditions to the delegation, provided that the CEO does not purport to delegate more powers or duties to the other employee than were delegated to the CEO.

Part 4 – Responsibilities of delegates

4.1. Powers under the Interpretation Act 1984

Section 59 of the *Interpretation Act 1984* explains the particular elements of the power to delegate when it appears in various Acts. It states:

'Construction of Power to Delegate

(1) Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him under a written law –
   (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;
   (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
   (c) if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;
   (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of office;
   (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;
   (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully acting in or performing the functions of that office.
(2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.
(3) Where under a written law an act or thing may or is required to be done to, by reference to or in relation to, a person and that person has under a written law delegated a relevant function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the function has been delegated.'

It is important to be aware that under these provisions, the delegator retains the power to make decisions, despite the fact that a delegation has occurred.

Also, in situations when several people occupy a particular office throughout either the day or week (e.g., ranger officers), a delegation by office enables an employee who occupies that office for the time being, to exercise the powers and duties delegated to that office.

A delegation by office will also enable an employee who temporarily occupies an office, say in an acting role whilst the normal occupier of the office is sick, to efficiently exercise the powers and duties delegated to that office, without the need to go through the delegation process again. Care needs to be taken in ensuring that the person has the appropriate qualifications where required.

When delegating by office, it is essential to ensure that the office described is a distinctly identifiable office (for example Manager, Corporate Services). It is also good practice to ensure, where lawful, delegations follow the line of management. That means where an employee has a delegation, their manager also has that delegation.

4.2. Records of delegations

The requirements to keep records of delegations to committees, CEOs and other employees are contained in sections 5.18 and 5.46 of the *Local Government Act 1995*.

In relation to delegations to committees, section 5.18 states that:

> *'A local government is to keep a register of the delegations made [to committees] under this Division and review the delegations at least once every financial year.'*

In relation to delegations to CEOs and other employees, section 5.46 states that:

> *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
>
> *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
>
> *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

The registers of delegations to committees and the CEO should include details of the resolutions which record the delegation (and any conditions) and can be kept in an electronic or paper format. In the case of a delegation from the CEO to an officer the register should also contain a copy of the memorandum/instrument of delegation.

Obligations are imposed on the recipients of delegated powers and duties. Under section 5.46 of the *Local Government Act 1995*, regulation 19 of the *Local Government (Administration) Regulations 1996* requires delegates to keep a record of each occasion on which they exercise the powers or discharge the duties delegated to them, stating that:

> *'Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of-*
>
> *(a) how the person exercised the power or discharged the duty;*
> *(b) when the person exercised the power or discharged the duty; and*
> *(c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.'*

This provision does not necessarily require the keeping of a register and other efficient record keeping practices would be sufficient. However, it is recommended that such systems provide for accessible accountability of the performance of these tasks.

4.3. Delegates to disclose interests and lodge returns

Part 5 Division 6 of the *Local Government Act 1995* (disclosure of financial interests) also applies to delegates of powers and duties.

Section 5.71 states that:

> *'If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and:*

(a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and

(b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: $10,000 or imprisonment for 2 years.'

Sections 5.75 and 5.76 of the *Local Government Act 1995* require employees who have been delegated powers or duties to lodge primary and annual returns. Sections 5.75 and 5.76 state:

5.75 Primary Returns

(1) A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day.

(2) A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day.

(3) This section does not apply to a person who:

(a) has lodged a return within the previous year; or

(b) has, within 3 months of the start day, ceased to be a relevant person.

Penalty: $10,000 or imprisonment for 2 years.

5.76 Annual returns

(1) Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.

(2) Each year, a CEO must lodge with the mayor or president an annual return in the prescribed form by 31 August of that year.

Penalty applicable to subsections (1) and (2): $10,000 or imprisonment for 2 years.

'Relevant person' includes a 'designated employee' who has been delegated a power or duty.

Section 5.78 of the *Local Government Act 1995* prescribes the information which must be included in the primary and annual returns.

Where an officer acts temporarily in a position with delegated power, that person will need to complete a financial interest return unless they have only acted in that position for less than 3 months.

It is noted that the requirement to complete a primary and annual return applies to delegations given under Part 5, Division 4 of the *Local Government Act 1995*, and not to delegations given under other acts.

Part 5 – Determining what should be delegated

A decision to delegate a power or duty should be made by local governments only after thorough consideration of whether the delegation will facilitate the effective operation of the local government. This will therefore depend on the circumstances of each local government.

A local government council is unable to deal with all the numerous issues and duties concerning its local government. As far as is possible and reasonable, councils should be predominantly concerned with dealing with higher level policy matters for their local governments. Councils should not be involved in administrative matters. Duties and powers which are operational in nature but exercise a discretion should be delegated to the CEO.

Powers and duties can be delegated to CEOs with comprehensive conditions attached. The conditions limit the exercise of powers or discharge of duties to circumstances prescribed by the council. For example, a development application which does not satisfy the conditions attached to a delegation, must be referred to the council for determination.

It is important to again note the difference between a delegation of a power or duty and the implementation of a council or CEO decision – see section 4 of this guideline in relation to 'acting through'.

An example of carrying out a council decision (compared to exercising a delegated power or duty) is where a council approves an annual budget which includes the expenditure of $40,000 for particular road maintenance to be carried out by employees. Employees do not need to be delegated the power to carry out their operational functions.

In the example above, if the relevant employees believe it is necessary to spend more funds than approved in the budget, they must refer that matter to the council for its approval – the adoption of an annual budget can only be done by an absolute majority of council, which under section 5.43(a) of the *Local Government Act 1995* cannot be delegated to the CEO or any other employee.

The principal consideration for a local government when deciding if it should delegate a power or duty, is whether the delegation will improve the efficiency of the local government's operations whilst ensuring that its policies are consistently implemented. See the attached schedule which lists those items where acting through would be a suitable mechanism for achieving that efficiency. Local governments also need to consider the content of their local laws and whether delegation may be necessary in some circumstances. It is important to note that 'authorised persons', however, can normally carry out the 'policing' type powers in local laws.

5.1. Procedure for delegations by council

This part considers the procedure for council to make a delegation.

When CEOs identify a duty or power of the local government which can be delegated and they believe that if it is delegated it will provide better efficiency, they should put the proposed delegation to their council, for approval.

A recommendation to council for a delegation is relatively straightforward. The essential elements of a delegation recommendation are:

- correct and accurate identification of the power or duty to be delegated;
- correct and accurate identification of the person or office to whom or which the power or duty is to be delegated;
- correct and accurate definition of the circumstances (if any) in which the power or duty can be exercised or discharged; and
- conditions on the exercise of the power or discharge of the duty.

It is important to note again that all delegations by council require an absolute majority decision.

Once a delegation has been made by council, the delegation must be recorded in the delegation register.

Under regulation 19 of the *Local Government (Administration) Regulations 1996*, the delegate must keep written records of when and how they exercise the delegated power or discharge the delegated duty, and the persons or classes of persons affected by the exercise of the power or discharge of the duty.

5.2. Procedure for delegations by CEO

Similar to delegations by councils, delegations by CEOs must accurately and correctly identify all elements of the delegation.

Employee proposals for delegations (for themselves or for other employees) should be provided to the CEO. The recommendations should be in a format similar to recommendations for delegations by councils.

As with delegations by council, written records of delegations by the CEO must be kept in the delegations register and delegates must keep records of their exercise of delegated powers or discharge of delegated duties.

Schedule of powers and duties

The attached schedule lists the powers and duties under the *Local Government Act 1995, Cat Act 2011, Dog Act 1976* (with associated regulations) which cannot be delegated, those that can be delegated, and to whom the powers and duties can be delegated. It additionally highlights those duties that are for an authorised person. It also lists those matters where 'acting through' may be the most practical way of carrying out those functions.

It is not suggested that all of the powers and duties which can be delegated should be delegated – the schedule is provided only as an indication of what can be delegated if it is appropriate for a particular local government. Each local government will need to consider their own circumstances, including the expertise of proposed delegates, when deciding on a course of action.

Local Government Act 1995 and Regulations

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 2 – Constitution of Local Government							
2.11(2)	Changing the method of electing the mayor or president	Yes					Absolute majority required.
2.12A(1)(c)	Giving local public notice of proposal		Yes				
2.12A(2)	Deciding to conduct a poll of electors to change the method of election for the mayor/president to election by council	Yes					
Schedule 2.1, clause 2	Making a proposal to the advisory board for a matter set out in section 2.1 of the Act		Sometimes				While this function could be delegated, the Local Government Advisory Board may request the council consider the proposal.
Schedule 2.2, clause 4	Dealing with a submission made by electors, to change, wards or the number of councillors	Yes					Absolute majority required.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 2 – Constitution of Local Government (continued)							
Schedule 2.2, clause 5 & 9	Making a proposal to the Advisory Board or Minister to change wards or the number of councillors	Yes					Absolute majority required.
Schedule 2.2, clause 6	Review of wards		Yes	Yes	Yes		
Schedule 2.2, clause 7	Giving public notice of review		Yes				
Part 3 – Functions of Local Government and Local Government (Functions and General) Regulations 1996							
3.5, 3.6and 3.12(4)	Making of a local law, including making of a local law that applies outside its district with the Governors approval	Yes					Absolute majority required.
3.12(3), (5) and (6)	Giving local public notice of a local law and publication in the gazette		Yes				
3.15	Ensuring people are informed of the purpose and effect of all local laws		Yes				
3.16(1), (2) and (3)	Giving public notice of the review of a local law, considering submissions and preparing a report at a council meeting		Yes				
3.16(4)	Determining if a local law should be amended or repealed	Yes					Absolute majority required.
3.18, 3.19, 3.20 & 3.21	Duties when performing executive functions		Yes				

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
3.22(1)	Payment of compensation when the local government causes damage through the performance of the local government's functions under the Act, regulations or local laws				Yes		
3.24	Authorising persons to exercise the functions under Part 3, Division 3, Subdivision 2 of the Act				Yes		
3.25 – 3.27	Issue of notices requiring an owner or occupier to take action in relation to a matter set out in Schedule 3.1 and 3.2 of the Act and taking of action if a person does not comply.					Yes	Authorised under section 3.24, not section 9.10.
3.31	After giving notice of entry a person may enter onto land					Yes	
3.34	A local government may enter land in an emergency without notice or consent and giving of notice of entry where it is practical to do so		Yes		Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
3.36	A local government may make an opening in a fence to do works on property subject to providing the owner or occupier with 3 days written notice		Yes		Yes		
3.39	Removal and impounding of goods					Yes	
3.40	Impounding of goods in or on a vehicle		Yes			Yes	
3.40A(1)	Removal and impounding of abandoned vehicle wreck					Yes	
3.40A(2), (4) and (5)	Giving of notices and declaring a vehicle an abandoned vehicle wreck		Yes		Yes		
3.42	Giving of notice of impounded non-perishable goods		Yes				
3.44	Giving notice of the place where an alleged offender may collect their goods		Yes				
3.46	Refuse to allow release of impounded or removed goods until costs are paid		Yes				
3.47	Disposal of confiscated or uncollected goods		Yes		Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
3.47A	Euthanasia of an impounded animal that is too ill or injured to be practically treated		Yes		Yes		
3.48	Recovery of costs through court for impounding expenses		Yes		Yes		
3.50	Closing a throughfare		Yes		Yes		
3.50A	Partially closing a throughfare		Yes		Yes		
3.51	Notifying persons of alteration or realignment or draining of a throughfare		Yes				
3.52	Duty to keep throughfares otherwise open and make plans available		Yes				
3.53(3)	Making agreement on control and management of otherwise unvested facility that lies within 2 or more local government districts			Yes	Yes		
3.54	Doing anything that a board appointed under the Parks and Reserves Act 1895 could do on land reserved under the Land Administration Act 1997 and placed under the control and management of the local government.		Yes	Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
3.57	Inviting tenders prior to entry into contract of a prescribed kind			Yes (limited)	Yes (limited)		Must include monetary limit of amount that the CEO can enter into a contract for.
3.58	Disposal of property			Yes (limited)	Yes (limited)		Must include maximum value that the CEO can dispose of property.
3.59(2), (3) & (4)	Preparation of business plan and giving of public notice for major trading undertaking or major land transaction		Yes				
3.59(5)	Deciding if to proceed with major land transaction or major trading undertaking	Yes					Absolute majority required.
3.61, 3.65	Decisions to establish regional local government or amend establishment agreement	Yes					Ministerial approval required.
3.69, 3.70	Decisions to establish regional subsidiary or amend regional subsidiary charter	Yes					Ministerial approval required. Absolute majority required under Minister's policy.
F&G Reg 10	Preparation of the business plan		Yes				
F&G Reg 11A	Preparation and adoption of purchasing policy			Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
F&G Reg 11(2)(f)	Determining that the local govt. 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 and as a result not inviting tenders for a contract exceeding $250,000.			Yes	Yes		
F&G Reg 11(2)(h)	Determining that the local govt. is satisfied that the contract represents value for money and entering into the contract with that person who satisfies the other criteria in regulation 11(2)(h).			Yes	Yes		
F&G Reg 11(3)	Determining that that the goods or services are required for the purposes of addressing a need arising from the hazard, or from the impact or consequences of the hazard, to which the state of emergency declaration relates for the purpose of region 11(2)(aa).			Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
F&G Reg 14(2a)	Determine in writing the criteria for deciding which tender should be accepted			Yes	Yes		
F&G Reg 14(5)	After a notice has been given under sub regulation (1) or (2), vary the information referred to in sub regulation (3) by taking reasonable steps to give each person who has sought copies of the tender documents or each acceptable tenderer, as the case may be, notice of the variation		Yes		Yes		
F&G Reg 18(4)	Assess, tenders that have not been rejected under sub regulation (1), (2), or (3) by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.			Yes	Yes		This assessment is typically conducted by a tender assessment panel, the decision to accept the tender should however be made by a delegate. Note the ability to accept a tender must be limited to a monetary amount by the council under section 5.43.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
F&G Reg 18(4a)	Request a tenderer to clarify the information provided in the tender		Yes		Yes		
F&G Reg 18(5)	Decline to accept any tender			Yes	Yes		
F&G Reg 18(6)&(7)	Accept the next most advantageous tender, where the local government is unable to form a contract with the originally successful tenderer, or the original successful tenderer terminates the contract.			Yes	Yes		
F&G Reg 20(1)	Making a minor variation to the goods and services required prior to entering into a contract with the successful tenderer			Yes	Yes		
F&G Reg 20(2)	If the successful tenderer is unable to enter into the contract to supply the varied requirements, choose the next most advantageous tenderer.			Yes	Yes		
F&G Reg 21	Decide to seek expressions of interest to make a preliminary selection from among potential tenderers			Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
F&G Reg 23	Considering the expressions of interest received		Yes				It is the CEO's responsibility to list those persons who are satisfactory as acceptable tenderers.
F&G Reg 24AB	Establish a panel of pre-qualified suppliers to supply particular goods or services to the local government			Yes	Yes		
F&G Reg 24AC	Be satisfied that there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers.			Yes	Yes		
F&G Reg 24AD(3)	Determine in writing the criteria for deciding which applications should be accepted.			Yes	Yes		
F&G Reg 24AD(6)	Vary the information referred to in sub regulations (4) and (5) by taking reasonable steps to give each person who has sought detailed information about the proposed panel or each person who has applied, as the case may be, notice of the variation.		Yes		Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
F&G Reg 24AH(3)	Assess the by means of a written evaluation of the extent to which each application satisfies the criteria for deciding which applications to accept and it is to decide which of them (if any) it thinks it would be most advantage-ous to the local government to accept.			Yes	Yes		This assessment is typically conducted by a panel of tenderers, the decision to accept a person onto a panel should however be made by a delegate.
F&G Reg 24AH(4)	Request an applicant clarify the information provided in their application		Yes		Yes		
F&G Reg 18(5)	Decline to accept any tender			Yes	Yes		
F&G Reg 24AJ	Enter into a contract, or contracts, for the supply of goods or services with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular goods or services.			Yes	Yes		
F&G Reg 24C & 24G	Give a regional price preference in accordance with Part 4A of the LG (F&G) Regs 1996. Choose not to apply the regional price preference for a particular tender.			Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 3 – Functions of Local Government and Local Government (Functions and General) Reg 1996 (continued)							
F&G Reg 24E & 24F	Prepare and adopt a regional price preference policy in accordance with regulation 24E of the LG (Functions and General) Regulations 1996.			Yes	Yes		
F&G Reg 30(2)(a)	Consider that that ownership of the land would be of significant benefit to anyone other than the transferee and dispose of land worth less than $5000 accordingly.			Yes	Yes		
F&G Reg 30(2a)(a)	Fix the reserve price for disposal of property by public auction			Yes	Yes		
F&G Reg 32	Form or take part in the forming of a body corporate under the Incorporated Associations Act 2015, Strata Titles Act 1985 or Community Titles Act 2018.			Yes	Yes		
Part 4 – Elections and other polls and Local Government (Elections) Regulations 1997							
4.20(2)	Appointing a person other than the CEO or electoral commissioner to conduct an election	Yes					Absolute majority required.
4.20(4)	Appointing the Electoral Commissioner to conduct an election	Yes					Absolute majority required.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 4 – Elections and other polls and Local Government (Elections) Regulations 1997 (continued)							
4.61(2)	Deciding to conduct an election as a postal election	Yes					Absolute majority required.
Election Reg 9 and 91	Agree the fees to be paid to an electoral officer or electoral commission		Yes		Yes		
Election Reg 17	Retention of enrolment eligibility claim forms and notices		Yes		Yes		
Election Reg 28(1b)	Credit the deposit to the fund of the local government		Yes		Yes		
Election Reg 89	Conduct a poll in the manner considered appropriate in the circumstances described in subregulation (1).				Yes		
Part 5 – Administration and Local Government (Administration) Regulations 1996							
5.8	Establishment of committees	Yes					Absolute majority required.
5.10	Appointment of members of a committee	Yes					Absolute majority required.
5.11A	Appointment of deputy members of a committee	Yes					Absolute majority required.
5.15	Reduction of quorum for committee	Yes					Absolute majority required.
5.16	Delegation of powers and duties to a committee	Yes					Absolute majority required.
5.18	Keeping a register of delegations to committees and reviewing those delegations		Yes				
5.27(2)	Setting the date of electors general meeting				Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 5 – Administration and Local Government (Administration) Regulations 1996 (continued)							
5.36(1) & (2)	Employment of the CEO	Yes					Absolute majority required.
5.36(4)	Advertising a vacancy in the role of CEO		Yes				
5.37(1)	Designation of senior employees			Yes	Yes		
5.37(3)	Advertising a vacancy in a senior employee role		Yes				
5.38(1)	Review of the performance of the CEO	Yes					Absolute majority required by the CEO standards.
5.39(8)	Ensuring the CEO is paid in accordance with the determination of the Salaries and Allowances Tribunal	Yes					As council is the CEO's employer, it is only appropriate that the council carry out this duty.
5.39B	Adoption or amendment to CEO standards	Yes					Absolute majority required.
5.39C	Adoption or amendment of policy for temporary employment or appointment of a CEO	Yes					Absolute majority required.
5.42	Delegation of powers and duties to the CEO, subject to section 5.43 and any regulations	Yes					Absolute majority required.
5.50(1)	Preparation of a policy for termination payments above the contract or award			Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 5 – Administration and Local Government (Administration) Regulations 1996 (continued)							
5.50(2)	Payment of an amount to an employee whose employment is ended that is above the amount set out in the policy			Yes	Yes		
5.53(1)	Preparation of the annual report		Yes				
5.54	Acceptance of annual report	Yes					Absolute majority required.
5.56	Planning for the future		Yes				Note that the Administration Regulations establish a number of duties relating to the preparation of plans for the future.
5.62(1B)(a)(ii)	Approval, in accordance with the event attendance policy, a person's attendance at an event, to enable the ticket or attendance at an event to become an excluded gift				Yes		
5.74(1) definition of designated employee	Nomination of a designated employee				Yes		
5.90A	Adoption or amendment of policy for attendance at events	Yes					Absolute majority required.
5.95(7)	Release of confidential information	Yes					Resolution of council required.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 5 – Administration and Local Government (Administration) Regulations 1996 (continued)							
5.96	Making available copies of information		Yes				
5.98 – 5.100	Payment of fees and allowances and reimburse-ments for council members	Yes					Absolute majority required.
5.104	Adoption or amendment of code of conduct for council members, committee members and candidates	Yes					Absolute majority required.
5.127	Preparation of report on training		Yes		Yes		
5.128(1)&(2)	Adoption or amendment to policy for continuing professional development	Yes					Absolute majority required.
5.128(5)	Review of the policy on contin-uing professional development		Yes				
Admin Reg 14	Ensuring notice papers and agendas are published on the website at the same time they are available to council		Yes				
Admin Reg 14E	Giving notice of electronic meeting		Yes				
Admin Reg 18A	Giving statewide public notice of vacancy in CEO or senior employee role		Yes				
Admin Reg 18FB & 18FC	Certification of compliance with adopted standards for CEO recruitment or termination	Yes					Resolution and absolute majority required.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 5 – Administration and Local Government (Administration) Regulations 1996 (continued)							
Admin Reg 18FB & 18FC	Giving a copy of the resolution of compliance to the Director General of DLGSC		Yes				
Admin Reg 19C	Ensuring a strategic community plan is made for the district including having regard to the matters required by the regulation including content and consultation		Yes				
Admin Reg 19C	Determining if to adopt the strategic community plan	Yes					Absolute majority required.
Admin Reg 19DA	Ensuring a corporate business plan is made for the district including having regard to the matters required by the regulation including content and review		Yes				
Admin Reg 19DA	Determining if to adopt the corporate business plan	Yes					Absolute majority required.
Admin Reg 29A	Making available information under regulation 29A(2)	Yes					Resolution required.
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996							
6.2 & 6.3	Preparation of a budget		Yes				
6.2 & 6.3	Adoption or amendment of the budget	Yes					Absolute majority required.
6.4	Preparation of annual financial report and submission to the auditor		Yes				

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
6.9(3)	Payment or delivery of money to persons entitled to it		Yes				
6.9(4)	Transfer of money held in trust for 10 years to its municipal fund, but must repay it to a person who establishes a right to the repayment, together with any interest earned on the investment.		Yes		Yes		
6.11(1)	Establishing and maintaining a reserve account or giving public notice of a change to a reserve account		Yes				
6.11(2)	Changing or using the money in a reserve account for another purpose	Yes					Absolute majority required.
6.12(1)(a)	Granting a discount or incentive for early payment of money with the annual budget	Yes					Absolute majority required.
6.12(1)(b)&(c)	Granting a concession or writing off any amount of money and applying any conditions			Yes	Yes		
6.13	Determining amount of interest payable on money owed to a local govern-ment, other than rates and services charges	Yes					Absolute majority required.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
6.14	Investment of surplus funds in accordance with Part III of the Trustees Act 1962 and Local Government (Financial Management) Regulations 1996			Yes	Yes		
6.15	Receipt of revenue		Yes				
6.16	Imposing or amending of fees and charges	Yes					Absolute majority required.
6.19	Giving notice of fees and charges		Yes				
6.20	Power to borrow	Yes					Absolute majority required by either budget adoption or subsequent additional borrowing.
6.20	Giving local public notice related to borrowing		Yes				
6.26	If Co-operative Bulk Handling Ltd and a local government cannot reach an agreement, under section 6.26(2)(i), the local government may refer the matter to the Minister for determination			Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
6.32, 6.33, 6.35, 6.37, 6.38	Imposing a general rate on rateable land or an emergency rate, or a rate following the quashing of a general valuation, rate or service charge, including the imposition of a differential rate, minimum payments, specified area rates or service charges	Yes					Absolute majority required.
6.36	Giving local public notice of intention to impose differential rates or minimum payments		Yes				
6.39, 6.40	Compiling or amending the rate record, including any reassessment of rates or service charges payable and payment of any refund and issue of the rates notice.		Yes		Yes		
6.45	Imposing an additional charge (including by way of interest) for payment by instalments				Yes		Preferably adopted by council with the annual budget.
6.46	Providing a discount or other incentive for early payment of rates or service charges	Yes					Absolute majority required.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
6.47	Waiving or granting concessions on rates or service charges	Yes					Absolute majority required.
6.49	Entering into agreements for payment of rates or service charges				Yes		
6.50	Determining the due date of rates and service charges				Yes		
6.51	Imposing interest on unpaid rates or service charges and costs of recovery of unpaid rates and service charges	Yes					Absolute majority required. Maximum interest limited by regulations.
6.56	Recovery of rates or service charges and costs of recovery by proceedings in court				Yes		
6.60	Giving notice to a lessee of land to pay rent to the local government to satisfy the rate or service charge, including giving notice to the lessor and where the lessee does not pay rent recovering the rate or service charge from the lessee.		Yes		Yes		
6.61	Request the occupier, agent or person who receives rent to give the name and address of the owner to the local government		Yes		Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
6.64(1)	Take action under section 6.64 in respect of rates and service charges that have been unpaid for 3 years				Yes		Note subject to section 5.43(d) and 6.68(3A).
6.64(2)	Give notice of the taking of possession of land to the owner and affix the notice in a conspicuous part of the land		Yes		Yes		
6.64(3)	Lodge or withdraw a caveat for unpaid rates or service charges				Yes		
6.69	Acceptance of payment of outstanding rates and service charges and causing sale of land to be cancelled		Yes		Yes		
6.71, 6.72, 6.74	Causing land to be transferred to the crown or the local government				Yes		Note subject to section 5.43(d)
6.76	Dealing with objections to the rate record including allowing or disallowing the objection, extending the time to make an objection and giving notice of the decision			Yes	Yes		
FM Reg 5A	Compliance with the AAS		Yes				

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
FM Reg 6	Ensuring that employee who is delegated responsibility for day to day accounting and financial management is not responsible for internal audit or reviewing the work of the internal auditor.		Yes				
FM Reg 8	Maintaining separate bank accounts		Yes				
FM Reg 11	Development of procedures for payments			Yes	Yes		
FM Reg 12	Making payments from the municipal fund or trust fund				Yes		Note, this is not the power to incur a liability (e.g. approve a purchase order). These powers are established through the tender regulations and the local government' s purchasing policy.
FM Reg 17A	Valuation of assets in financial reports		Yes				
FM Reg 19	Procedures for investments			Yes	Yes		
FM Reg 32	Excluding amounts when calculating budget deficiency		Yes				
FM Reg 33	Lodging copy of budget with Director General of DLGSC		Yes				

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 6 – Financial Management & Local Government (Financial Management) Regulations 1996 (continued)							
FM Reg 33A	Undertaking review of budget and providing a copy of the review and determination to the DLGSC		Yes	Yes	Yes		
FM Reg 33A	Determination on if to adopt budget review	Yes					Absolute majority required.
FM Reg 34(1)	Preparing monthly financial report		Yes				
FM Reg 34(5)	Adoption of a percentage or value for material variances			Yes	Yes		Ideally adopted with budget by council.
Part 7 – Audit & Local Government (Audit) Regulations 1996							
7.1A	Establishment of an Audit Committee and appointment of its members	Yes					Absolute majority required.
7.1B	Delegation of powers and duties under Part 7 to the Audit Committee	Yes					The power of delegation itself cannot be delegated.
7.12AE 7.12AI	Making payment to the Auditor		Yes		Yes		
7.12A(1)	Doing everything in its power to assist the auditor to conduct the audit or carry out the auditor's other duties including ensuring that audits are conducted successfully and expeditiously.		Yes	Yes (Audit Committee)	Yes		
7.12A(2)	Meeting with the auditor at least once a year			Yes (Audit Committee)	Forbidden (Admin Reg 18G)		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 7 – Audit & Local Government (Audit) Regulations 1996 (continued)							
7.12A(3)	Considering the audit report, determine the action to be taken in response and ensuring that action is taken			Yes (Audit Committee)	Forbidden (Admin Reg 18G)		
7.12A(4)	Preparing a report addressing matters identified as significant by the auditor in the audit report and providing it to the Minister.			Yes (Audit Committee)	Forbidden (Admin Reg 18G)		
Audit Reg 14	Carrying out the compliance audit		Yes				
Audit Reg 14	Adoption of compliance audit	Yes					Must be considered by audit committee and adopted by council.
Part 8 – Scrutiny of the Affairs of Local Governments							
8.2(2)	Upon receiving a notice from the Minister or Director General, providing the information to the Minister or Director General in the time specified in the notice.		Yes		Yes		
8.14(3)	A local government must give the Minister written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the authorised person.			Yes	Yes		It is strongly recommended the council adopt the final response.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 8 – Scrutiny of the Affairs of Local Governments (continued)							
8.15B	Giving a response to the Minister's show cause notice			Yes	Yes		It is strongly recommended the council adopt the final response.
8.23(4)	A local government must give the Minister advice of what things it has done, or will do, to comply with an Inquiry Panel's report within 35 days of receiving the report, or give its comment on a recommendation to dismiss the council.			Yes	Yes		It is strongly recommended the council adopt the final response.
Part 9 – Miscellaneous Provisions & Local Government (Uniform Local Provisions) Regulations 1996							
9.5	Allowing an extension of time for lodging an objection			Yes	Yes		
9.6(1)	An objection under Part 9 is to be dealt with by the council or a committee authorised by council to deal with it	Yes		As an authorisation			
9.6(5)	The local government must give the person who made the objection notice of how it was disposed of and reasons why		Yes	Yes	Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 9 – Miscellaneous Provisions & Local Government (Uniform Local Provisions) Regulations 1996 (continued)							
9.9(1)(a) and 9.9(2)	Order the revocation of the suspension of a decision because it is considered that there are urgent reasons why the effect of the decision should not be suspended or suspension of the effect of the decision is reasonably likely to endanger the safety of any person, cause damage to property, or to create a serious public nuisance.	Yes		As an authorisation			
9.9(1)(b) 9.9(3)	The local government considers that there are urgent reasons why the effect of the decision should not be suspended or suspension of the effect of the decision is reasonably likely to endanger the safety of any person, cause damage to property, or to create a serious public nuisance and giving notice in writing stating the reasons for that decision.				Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 9 – Miscellaneous Provisions & Local Government (Uniform Local Provisions) Regulations 1996 (continued)							
9.11	Authorising a person for the purposes of section 9.11				Yes		Note section 9.11 in sub-section (4) includes a power of arrest.
9.24	Authorising a person to commence a prosecution for an offence against the Local Government Act 1995, regulations made under that Act or a local law.				Yes		
9.49A	Authorising persons to sign documents on behalf of a local government	Yes					Resolution of council required.
9.63	Refer a dispute between two local governments to the Minister	Yes					Minister's decision required.
ULP Reg 5	Issue written notice to a person who is carrying out work over or near a footpath on local government property and require them to take action.				Yes		
ULP Reg 6	Grant or renew permission to obstruct a throughfare			Yes	Yes		
ULP Reg 7A	Request a person remove an object obstructing a throughfare that has fallen from their land		Yes		Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 9 – Miscellaneous Provisions & Local Government (Uniform Local Provisions) Regulations 1996 (continued)							
ULP Reg 7	Request a person remove a structure, tree or plan that is encroaching without lawful authority on a public thoroughfare		Yes		Yes		
ULP Reg 9	Grant permission to have a gate across a public thoroughfare			Yes	Yes		
ULP Reg 11(1)	Consider an excavation dangerous and request the owner or occupier of the land to fill in or securely fence the excavation				Yes		
ULP Reg 11(5)&(6)	Grant or renew permission to make or leave an excavation on a throughfare or part of land adjoining a public throughfare and impose such conditions as are thought fit			Yes	Yes		
ULP Reg 12	Approve the construction of a crossover or agree to construct the crossover for the applicant			Yes	Yes		
ULP Reg 13	Give a notice to a person to require an owner or occupier to construct or repair a crossover				Yes		
ULP Reg 15	Deciding what is a standard crossing	Yes					Decided by resolution of council or local law.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Part 9 – Miscellaneous Provisions & Local Government (Uniform Local Provisions) Regulations 1996 (continued)							
ULP Reg 17	Grant permission for construction on, over or under a public throughfare or other public place which is local government property and impose such conditions as thought fit.			Yes	Yes		
ULP Reg 20	Give notice of works for supply of gas or water		Yes				
ULP Reg 21	Give notice to the owner or occupier of land if the clearing of land might cause land having a common boundary with local government property to be adversely affected by wind erosion or sand drift.				Yes		

Cat Act 2011 and *Dog Act 1976* and Regulations

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Cat Act 2011							
9	Grant the registration of a cat		Yes	Delegation to a committee is not permitted under the *Cat Act 2011*	Yes		
9 & 13	Refuse the registration of a cat and give notice of the reasons				Yes		Decision subject to review by SAT.
10 & 13	Cancellation of the registration of a cat and give notice of the reasons				Yes		Decision subject to review by SAT.
11	Allot a registration number or issue a replacement registration certificate or tag		Yes		Yes		
12	Maintain a register of cats		Yes		Yes		
26	Issue a cat control notice				Yes		
37 & 39	Decide to grant, or renew an approval for a person to breed cats and give a certificate or any replacement certificate to the applicant				Yes		
37 & 40 & Cat Reg 22	Decide to refuse an approval for a person to breed cats and give notice of the decision.				Yes		Decision subject to review by SAT.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Cat Act 2011 (continued)							
38 & 40	Cancel an approval to breed cats and give notice of the decision			Delegation to a committee is not permitted under the *Cat Act 2011*	Yes		Decision subject to review by SAT.
44	Power of delegation	Yes					The common law prohibits delegation of the power to delegate.
49	Recover in court the costs of destruction of a cat				Yes		
70	Dealing with objection	Yes					Must be dealt with by council or a committee.
79	Making of local laws under the *Cat Act 2011*	Yes					Making of local laws must always be done by the council (absolute majority required).
Cat (Uniform Local Provisions) Regulation 2013							
Cat ULP Reg 9	Grant or refuse approval to keep additional cats including imposing any conditions or granting approval for additional cats but less than the amount applied for.			Delegation to a committee is not permitted under the *Cat Act 2011*	Yes		Decision subject to review by SAT.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Dog Act 1976							
10AA	Delegation by local government.			Delegation to a committee is not permitted under the *Dog Act 1976*	Yes		A council may expressly authorise the CEO to further delegate any delegation such as to employees.
10A	Making payments to veterinarians towards the cost of the sterilisation and issue directions in writing as a condition of receipt of that payment				Yes		
14	Maintaining a register of dogs		Yes				
15	Discounting or waiving a registration fee				Yes		
16(1)	Appointing another place for registering dogs		Yes		Yes		
16(2)(a)	Affecting the registration of a dog					Yes (Registration Officer)	
16(2)(b), (3) and (4)	Direct the refusal of an application to register a dog and notify the applicant of the reasons for that decision				Yes		
17A	Giving notice to an owner that a dog cannot be registered				Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Dog Act 1976 (continued)							
17(4) and (5)	Apply to a Justice of the Peace for an order authorising seizure of a dog and cause the dog to be seized and detained or destroyed.			Delegation to a committee is not permitted under the *Dog Act 1976*	Yes		Note (5) is following an SAT decision.
26(3)	Grant an exemption from the requirements of the local law relating to the limit of dogs without needing an approved kennel establishment				Yes		
27	Grant, renew, refuse or cancel a licence for an approved kennel establishment				Yes		May apply to SAT for review of a decision to refuse/cancel licence.
29 and 33G	Require payment of impounding fees, recover costs in court of money due under the Act, dispose of a dog impounded				Yes		
31	Specify a place where dogs are prohibited, dog exercise areas and rural leashing areas	Yes					Absolute majority decision.

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Dog Act 1976 (continued)							
31	Issue local public notice of intention to designate areas		Yes	Delegation to a committee is not permitted under the *Dog Act 1976*			
33E and 33F	Declaration of a dangerous dog and giving notice to the owner of the declaration.				Yes	Yes	Authorisation must be specifically given for this section to an authorised person and this authorisation applies to section 39.
33F(6), 33G(4) and 33H(4)	Consider and decide on an objection and given notice to the objector of the decision				Yes		The person who issued the declaration of a dangerous dog should not decide on the objection.
33H	Revoke dangerous dog declarations or proposal to destroy dog				Yes		
33M	Determine the recoverable expenses of a local government relating to a dangerous dog				Yes		
39	Apply to the Magistrates court for an order that a dog be destroyed				Yes	Yes	
40	Appoint a person to carry out the order of the State Administrative Tribunal				Yes		

Section/ Regulation	Function of the local government	Delegation Prohibited	Suitable for Acting Through	Suitable for Delegation to a Committee	Suitable for Delegation to the CEO	Authority of an Authorised Person	Notes
Dog Act 1976 (continued)							
44	Authorise a person to undertake enforcement proceedings			Delegation to a committee is not permitted under the *Dog Act 1976*	Yes	Yes	
49	Making of local laws	Yes					Making of local laws must always be done by the council (absolute majority required).
Dog Regulations 2013							
Regulation 35	Withdrawal of an infringement notice.			Delegation to a committee is not permitted under the *Dog Act 1976*	Yes	Yes	

Document information

Approved by	L. Horton	Date: 21 August 2024
Status	Approved for publication	
Version	1.00	
Policy Owner	DLGSC – Local Government Support and Engagement team	
Primary Contact	Director Support and Engagement	
Effective date	16 July 2024	
Next review date	16 July 2026	
File reference		

Revisions

Version	Date	Reviewer	Details of revision
	16 July 2024	C. Perham	Updated information in Part 3.1.6, updated document to new DLGSC branding, added version control.

Version history

Version	Date	Name & Position / Committee	Status / Notes
1.00	16 July 2024	C. Perham, Senior Strategy and Reporting Officer	Reviewed for approval

Department of Local Government,
Sport and Cultural Industries
PO BOX 8349
Perth Business Centre WA 6849
Email: communications@dlgsc.wa.gov.au
Website: www.dlgsc.wa.gov.au