



SHIRE OF YALGOO

**DELEGATIONS REGISTER
AS REVIEWED 21 JUNE 2012**

Adopted 17 April 2008

Reviewed 08/09 - 20 November 2008

Reviewed 09/10 - 26 November 2009

Reviewed 10/11 – (reviewed on 23 June 2011, adopted C2011-0619)

CURRENT VERSION: Reviewed 11/12 – adopted C2012-0610

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INTRODUCTION

This document records the compiled delegations made by Council and the CEO under the authority of the Local Government Act 1995 and other legislative instruments as specified.

This register is the formal written record by which a delegation is made and conferred. Therefore, committees, the CEO and officers are provided with this document as their record of delegation/s made to them.

Statutory Context

This Delegations Register has been prepared in accordance with:

Local Government Act 1995:

- s.5.16 – Delegation of some powers and duties to certain committees
- s.5.17 – Limits on delegations of powers and duties to certain committees
- s.5.18 – Register of delegations to committees
- s.5.42 – Delegation of some powers and duties to CEO
- s.5.43 – Limits on delegations to CEO
- s.5.44 – CEO may delegate powers and duties to other employees
- s.7.1B – Delegation of some powers and duties to audit committees

Local Government (Administration) Regulations 1996:

- r.19 – Record to be kept by delegates

Other legislation (including but not limited to):

- Bushfires Act 1954
- Dog Act 1976
- Food Act 2008
- Health Act 1911
- Planning and Development Act 2005

Unless stated otherwise, the Local Government Act 1995 sections 5.16 and 5.42 is the statutory context for Council to make the delegations in Parts 1 and 2.

Various other legislative instruments empower or require Council to make delegations. The legislative instrument that empowers Council is stated within each delegation.

Council expects the CEO to apply the provisions of the Local Government Act s.5.44 to delegate powers and duties to other employees, including s5.44 (3) powers and duties which have been delegated to the CEO under s5.42.

Definitions

The LG Act has not defined the term “delegation” or “delegated power”. However:

- s.5.16 refers to “... the exercise of any of its powers and duties ...”
- s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The following terms used in this document apply insofar as they are consistent with enabling legislation.

“Authority” means the permission or requirement for a Committee or an officer to act in accordance with:

- the Local Government Act, regulation or other legislation,
- a delegation made by Council,
- a policy made by Council, or
- a specific decision by Council.

“Delegation” means the authority to exercise a power, or discharge a duty, as conferred under the provisions of the relevant legislation.

“Policy”, as the context requires, means either:

- a procedural direction to officers to implement Council’s wishes or instructions in a particular way; or
- the authority for officers to act, where that authority is not considered to be a delegation of a legislative or other specific power or duty.

“Instruction” means the requirement for a staff member to act in accordance with a direction given by the CEO, senior officer or supervisor.

Guidelines No.17 – Delegations (Department of Local Government)

The Department of Local Government has published Guidelines for the formation of Delegations.

The Guidelines outline the concept of “delegation” and “acting through” in parts 3 and 4, particularly in paragraph 13 where it is stated –

... 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. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken 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.

In effect, “acting through” is an action that could reasonably be expected to be carried out as the result of a decision by Council (e.g. advertising of a tender), or as a function reasonably expected of the position that a person holds.

Not all matters which will be recorded in Policy are “acting through” matters. Similarly, not all “acting through” matters will be listed. Policy describes how that action or some other action is to be carried out.

Administration

Delegations from Council require approval by an absolute majority of Council.

Delegations from the CEO to other employees are at the discretion of the CEO and do not require a Council resolution. The CEO can delegate a power or duty, the exercise or discharge of which has been delegated by a local government to the CEO, subject to any conditions imposed by the local government on its delegation to the CEO (s5.44 (3)).

It is a requirement that the use of all delegated authority is recorded but it is not a requirement to report the use of delegated authority to Council.

Review of Delegations

A delegation has effect for the period of time specified in the delegation or indefinitely if no period has been specified.

However, it is a requirement of the Local Government Act s5.18 and s.5.46 (1) that all delegations made under the authority of that Act be reviewed by the delegator at least once in each financial year.

Any decision to amend or revoke a delegation by a local government is to be by an absolute majority s.5.45 (1) (b).

Review of delegations from the Council to committees and the CEO will be carried out before the end of each financial year and preferably in conjunction with the annual review of Council policies.

The CEO will review delegations as required on changeover of staff or change of staff functions and will review all delegations at least once in the financial year in accordance with the legislation.

New Delegations

Council and the CEO may make new delegations at any time.

However, unless specifically resolved that the authority is to be included in the Delegations Register, the authority to act is for a specific matter, and is not a general or on-going delegation.

CERTIFICATIONS

Review of Delegations

Financial Year 2011-12

The Delegations contained in Parts 1, 2 and 3 of this Register were formally reviewed by Council on 21 June 2012 and adopted by resolution C2012-0610.

The Authorisation in Part 5 is also confirmed

President Terry Iturbide

The CEO formally reviewed the Delegations from the CEO to other officers on 14 June 2012.

Chief Executive Officer Sharon Daishe

1. DELEGATIONS FROM COUNCIL TO COMMITTEES etc.

There are currently no delegations from Council to Committees. The previous Delegations Register made reference to the Audit Committee and the Local Emergency Management Committee.

However, information about these committees has been moved to the Policy Manual as Council has not made any delegations to these committees.

2. DELEGATIONS FROM COUNCIL TO CHIEF EXECUTIVE OFFICER

2.1 Use of Common Seal

Introduction	Section 9.49A (2) of the Local Government Act 1995 prescribes that the common seal of a local government is not to be affixed to any document except as authorised by the local government. Section 9.49A (3) requires that the common seal is to be affixed to a document in the presence of the President and CEO or an officer authorised by the CEO.
Objective	To give authorisation to the President and CEO to affix the Common Seal of the Shire of Yalgoo to execute relevant documents, without a specific resolution of council in certain circumstances.
Statutory context	Local Government Act 1995 s9.49A. Execution of documents
Formal record	Prior authorisation by Council, or Officer's report to Council if affixed under delegated authority
Delegation by CEO	*Under the authority of s.9.49A (3) (b), the CEO authorises the Deputy CEO to sign a document to attest that the common seal was so affixed.
History	Formerly Policy 5.7, adopted 19 July 2007 Amended 23 June 2011, adopted C2011-0619

Delegation Statement

1. Council delegates authority to the President and the CEO (or senior employee nominated by the CEO) to affix the Common Seal without prior approval by Council in the following circumstances:
 - a) Where the document is a renewal or extension of an original document, and there is not a significant variation in clauses or conditions in the renewal
 - b) Where the legal document is an agreement to provide funding to the Shire and the project/item to be funded is included in the Forward Capital Works Plan and/or disclosed in the budget and/or previously approved by Council.
2. The Commons Seal is to be kept in the custody of the CEO.

– End of Delegation

Notes

* s5.43 (ha) of the Local Government Act mandates that the Local Government cannot delegate to the CEO the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government. This is not to be confused with the power of the CEO under 9.49A(3)(b) to authorise a senior employee to sign a document to attest that the common seal was so affixed.

2.2 Tenders

Introduction	Tenders must be called for provision of goods or services valued over \$100,000, although there is no prohibition on calling tenders under this threshold.
Objective	To allow the calling of tenders at an appropriate time.
Statutory context	Local Government Act – <ul style="list-style-type: none">- s.3.57 – Tenders for providing goods or services- 3.58 – Disposing of property Functions and General Regulations – <ul style="list-style-type: none">- Part 4 – Provision of goods and services Council Policy – <ul style="list-style-type: none">- 7.2 - Purchasing and Tenders – Model Purchasing Policy
Formal record	Officer's report to Council
Delegation by CEO	
History	Adopted – 17 April 2008 Reviewed – 26 July 2011 no change

Delegation Statement

1. The CEO is authorised to call tenders for supply of goods or services where the consideration (price plus trade-in etc) is more than the \$100,000 threshold, at the appropriate time, subject to the intended transaction being disclosed in the Budget.
2. Rather than obtain quotes in accordance with Council Policy, the CEO may exercise their discretion and call tenders for an item less than the \$100,000 threshold.
3. All tenders called are to be dealt with according to the Act and Regulations, and referred to Council for decision.
4. All matters dealing with purchase or disposal of land (sale or lease) are to have the specific authorisation of Council, subject to any prior directions of Council.

– End of Delegation

2.3 Disposal of Assets

Introduction	Disposing of property is required to be accessible to the public, or if to be direct to a person, by public notice.
Objective	To permit the disposal of surplus and other items of minimal value from the Shire's premises and control.
Statutory context	Local Government Act – - s.3.58 – Disposing of property Function and General Regulations – - r.30 – Dispositions of property to which s.3.58 does not apply
Formal record	Records of submissions received and offers accepted.
Delegation by CEO	n/a
History	Adopted – 17 April 2008 Amended – 17 September 2009 Amended – 23 June 2011, C2011-0619

Delegation Statement

1. The CEO is authorised to dispose of assets by offering them for public sale, and to accept the most advantageous offer in the following circumstances –
 - a) Assets with a written down value less than \$5,000 (individually or collectively) –
 - assets that are surplus to requirements, unused, damaged or impounded
 - b) Assets with a written down value of \$5,000 or more (individually or collectively) –
 - if outright disposal of the asset with a written down value less than \$40,000, and is disclosed in Budget
 - if the “income” from the asset being disposed of, is to be used as part of consideration for the acquisition of a new asset, and both disposal and acquisition is disclosed in Budget –
 - o subject to the asset not being available to the purchaser until such time as the new asset is available for Shire use
2. This delegation is not applicable to –
 - disposal of land
 - disposal of an asset where it forms part of tender consideration

– End of Delegation

2.4 Creditor payments

Introduction	For payment of creditors in a timely manner, obtain discounts if available and ensure payments are within the current balances of bank accounts.
Objective	To streamline payment of creditors.
Statutory context	Local Government Act – <ul style="list-style-type: none">- s.6.8 (1) – Expenditure from municipal fund not included in annual budget Financial Management Regulations – <ul style="list-style-type: none">- r.12 – Payments for municipal fund or trust fund- r.13 – Lists of accounts (presentation to Council meetings)
Formal record	Officer’s report to Council – Schedule of accounts paid and for payment
Delegation by CEO	To Deputy CEO, Finance Manager, Executive Assistant and Project Executive
History	Adopted – 17 April 2008 Amended – 1 December 2010

Delegation Statement

1. The CEO is authorised to arrange payments from the Municipal Fund, Reserve Accounts and Trust Fund.
2. Cheques are to be signed jointly and electronic transactions authorised jointly by secure password, by two authorised persons, at least one of whom must be either of the CEO or the DCEO.
3. All payments are to be reported to the following Council meeting as having been paid during the month.
4. Authorised signatories for cheques and electronic transaction are –
 - CEO
 - DCEO
 - Executive Assistant
 - Project Executive
 - Councillors who are able or willing to attend the Shire Office at short notice to authorise payments.

– End of Delegation

2.5 Investment of surplus funds

Introduction	Much of Council's funding is non-regular, and is received in large amounts at various times during the year, being rates and grant payments.
Objective	To maximise the interest earnings of funds not otherwise in use
Statutory context	Local Government Act – <ul style="list-style-type: none"> - Division 4 – General financial provisions - s.6.14 – Power to invest Trustees Act 1962 – <ul style="list-style-type: none"> - Part 3 – Investments Financial Management Regulations – <ul style="list-style-type: none"> - r.12 – Payments from municipal fund or trust fund - r.17 – Reserve accounts - r.19 – Management of investments
Formal record	Officer's report to Council – statement of investments held at previous month's end.
Delegation by CEO	To Deputy CEO
History	Adopted – 17 April 2008 Amended – 1 December 2010 Amended CEO – 1 October 2011 remove Executive Assistant from delegation by CEO

Delegation Statement

1. The CEO is authorised to invest money held in any Council fund that is not required for immediate use, provided that sufficient working funds are retained at all times.
2. Lodgement and maturing of investments may be arranged by telephone, subject to written confirmation.
3. Details of each investment transaction are to be recorded in an Investment Register. It is sufficient that all notifications, instructions and confirmations are retained in a single file, in such a way that an unbroken record can be established.
4. The Investment Register is to be updated at least monthly.
5. When arranging investment of funds, the CEO is to have regard to Dept of Local Government and Regional Development, Guidelines No. 19 – Investments

– End of Delegation

2.6 Write-off of minor outstanding amounts

Introduction	From time to time minor amounts remain unpaid for various reasons. Small amounts of interest accrue on these minor balances. Interim rating can result in a minor rate charge for an assessment where the annual rates have already been paid.
	Action to recover minor outstanding balances consumes staff resources and is not cost effective.
Objective	To eliminate accumulation of minor amounts that are considered unrecoverable or not cost effective to recover, or where small amounts of interest have accrued.
Statutory context	Local Government Act – <ul style="list-style-type: none"> - s.6.12 – Power to defer, grant discounts, waive or write-off debts Financial Management Regulations – <ul style="list-style-type: none"> - r.26 – Discount, incentive, concession, waiver and write-off information
Formal record	Full financial records must be kept for any financial transaction and must clearly show the audit trail and reason for the decision to write off the debt.
Delegation by CEO	To Deputy CEO To Rates Officer with regard to 1. c) only (interim rating)
History	Adopted 17 April 2008 Amended 20 November 2008 Ref – C2008-1115 Amended 23 June 2011, C2011-0619

Delegation Statement

1. The CEO is authorised to write off minor debts up to \$100.00 in the following circumstances:
 - a) Where the amount is deemed unrecoverable or where it would be an inefficient use of resources to pursue recovery;
 - b) Where interest has accumulated but it is clear that the debtor attempted to make the payment on time;
 - c) Where the ratepayer has no rates outstanding and interim rating would raise a debt that is less than five dollars (\$5.00);
 - d) At the end of the financial year and prior to calculating rates, where there is an outstanding debit or credit balance of less than five dollars (\$5.00).
2. Should additional information come to hand, a debt or credit previously written-off may be reinstated for recovery.
3. The officer exercising this delegation must apply discretion, impartiality and consistency.

– End of Delegation

2.7 Planning Consent

Introduction	The Town Planning Scheme requires that development be controlled and consistent with the aims of Council.
Objective	To permit timely approval of development applications.
Statutory context	Planning and Development Act 2005 – <ul style="list-style-type: none">- Part 5 – Local planning schemes- s.68 – Town planning schemes continued as local planning schemes- s.72 – Local government may prepare or adopt scheme- s.73 – Provisions of a local planning scheme Town Planning Scheme No. 1 – <ul style="list-style-type: none">- clause 6.1 – Planning Consent
Formal record	Officer's report to Council
Delegation by CEO	To Environmental Health and Building Officer
History	Adopted – 17 April 2008 Reviewed – 23 June 2011 no change

Delegation Statement

1. The CEO is authorised to issue planning consent for development applications that fully comply with all requirements.
2. Compliance with the Town Planning Scheme, Regulations and Codes and Council's Planning Policies is mandatory.
3. Any application not complying is to be referred to Council for decision, where discretionary approval by Council may be considered.
4. Applications for Planning Consent that have been refused are also to be notified to Council for information.

– End of Delegation

2.8 Appointment of Authorised Officers

Introduction	To identify officers requiring to be appointed to specific roles / functions under various legislation.
Objective	To ensure that the required appointments are made, reviewed and revoked in a timely manner.
Statutory context	Bush Fires Act Dog Act Litter Act Local Government Act 1995 – s.9.10 (1) Local Govt (Misc) Act
Formal record	Officer's report to Council
Delegation by Officer	Not permitted
History	Adopted – January 2010 C2010-0124 Addition 14 December 2010, C2010-1214 and 1215

Delegation Statement

1. The following Schedules are adopted, and form part of this Statement –
 - Delegation Schedule 2.8 (a) – Officers exercising statutory authority of Council
 - Delegation Schedule 2.8 (b) – Officers undertaking statutory functions
2. In adopting this Delegation Statement, Council acknowledges that –
 - not all appointments are required to be employees, but some may be community members,
 - the appointment of a community member means that the person is an officer of Council,
 - as an officer of Council, there is a duty of care to the person, as well as to the community, and must ensure that the person is adequately resourced for the task, including training, equipment etc, as necessary,
 - as an officer of Council, Council has a legal responsibility for their actions, and must be satisfied that the person is appropriate and competent to exercise the authority.
3. Authority to make appointments or revocation of appointments, are as noted in Schedules 2.8 (a) and (b).
4. Appointment to a role is limited to the functions and authority as delegated by Council in this Delegations Register or directly, or by the CEO acting under delegated authority.
5. The CEO is authorised to –
 - make the appointments–
 - o listed in Schedule 2.8 (a) Offices exercising statutory authority as noted
 - o listed in Schedule 2.8 (b) Officers undertaking statutory function
 - o in relation to statutory functions not listed in Schedule 2.8 (b) being of administrative nature, without prior reference to Council,
 - make other appointments in relation to enforcement under the appropriate legislation, or for the carrying through of or responding to legal proceedings, under the appropriate legislation, subject to –
 - o being satisfied as to suitability and capability of the person,
 - o initiation of legal proceedings must first be authorised by Council.

- cancel the appointment of any officer no longer applicable (resignation, relocation etc).
6. On appointment by Council or under delegated authority, the CEO is to –
- as necessary, issue certificates to persons so appointed stating that they are an authorised person,
 - as necessary, carry out any necessary advertising of appointment or cancellation of appointment in the Government Gazette or other publication,
 - report to Council any appointment or cancellation of appointment of an officer as an employee or from the specific position to which appointed.
7. In exercise of statutory authority or function, the CEO may –
- extend the time period within which infringement notices may be paid (s.9.19 of the LG Act).
 - use discretion to withdraw any infringement notice issued by an Authorised Officer under the Act, following consideration of any submissions of special circumstances relating to it received from the Authorised Officer, the notice recipient or other persons (s.9.20 of the LG Act).
8. The appointments made by Council or under delegated authority are to be reviewed at least annually.

– End of Delegation

COMMENT

Proposed to ensure that appointments are made to necessary positions in a timely way, and so that Officers are aware of required functions.

Appointments can be made independent of employment with the Shire, and accordingly, unless revoked, the appointment continues. This is the case with Fire Control Officer, Authorised Dog Control Officers etc.

As these appointments mean that the person is an officer of Council for that specific purpose, they have the statutory authority to commit Council to particular actions, initiate various proceedings etc, as listed in the authorising Act, and as permitted or limited by Council.

Accordingly, Council must be certain that the person appointed is capable of undertaking the role, is a suitable appointment, and provide the necessary resources for the role to be carried out such as training, equipment, etc.

NOTE Schedules 2.8 (a) and 2.8 (b) are not exhaustive by any means, and should further appointments be required, they must be referred to Council in the first instance for appointment and amendment of the delegation if appropriate.

Delegation Schedule 2.8 (a) – Officers exercising statutory authority of Council

Various legislation requires these officers to be appointed by name for specific roles or tasks, with duties, responsibility and authority required by legislation.

Act	Section	Function	Person/s appointed <i>(Person/s to be appointed)</i>	Appointment or revocation by
Bush Fires	s.38(1)	Chief Bush Fire Control Officer	RON ADAMS, Project Executive <i>14 Dec 2010 C2010-1214</i>	Council
	s.38(1)	Deputy Chief Bushfire Fire Control Officers	SHARON DAISSHE, CEO <i>21 June 2012 C2012-0611</i>	Council
	s.38(6)(c)(ca)(cb)	Fire Weather Officer/s (not mandatory)	Nil currently appointed	Council
	s.38(1)	Bush Fire Control Officers	Nil currently appointed	Council
	Local Law	Volunteer Fire Fighters	As per registrations held by Dept Fire & Emergency Services	CBFCO
Dog	s.29(1)	Dog Control Officer	Contract Ranger Project Executive Ron Adams (C2010-1215)	CEO
	s.29(1a)	Dog Control Officer	Police Officer	Statutory
	s.14(2)	Dog Registration Officer	Contract Ranger Project Executive Ron Adams (C2010-1215) Staff as appointed by CEO	CEO
	s.11	Pound Officer	Contract Ranger Project Executive Ron Adams (C2010-1215)	CEO
Health	s.27(1)	Medical Officer of Health	Qualified person	Council
	s.27(1)	Environmental Health Officer	Qualified person	Council
Litter	s.26(1)	Authorised Officer	Police Officer Elected Members Council Employee	Statutory
	s.27AA	Honorary Inspector	Suitable persons	CEO
Local Gov't (Misc Provisions)	s.374(1b)	Building Surveyor	Qualified person	Council

End of Schedule

Delegation Schedule 2.8 (b) – Officers undertaking statutory functions

These officers may not require appointment by name, but undertake the functions as part of their position, in accordance with legislative requirements. Many appointments are implied by the legislation through the obligation to carry out a particular task, rather than a specific requirement.

Act	Section	Function	Person appointed	Appointed by
Local Government	-	Complaints Officer (general)	Deputy CEO	CEO
	s.5.120	Complaints Officer (Conduct)	CEO (default) or other person	LG Act (default) or Council
	s.4.20	Returning Officer	CEO (default) or other person	LG Act (default) or Council
	s.4.21	Deputy Returning Officer	As appropriate	Returning Officer
	s.4.23(b)	Other Electoral Officers	As appropriate	Returning Officer
Public Interest Disclosure	s.5(2)	Public Information Officer, and	Deputy CEO	CEO
	s.8(1)	Investigating Officer	Deputy CEO	CEO
	s.23	Review Officer	CEO	CEO
Rates and Charges (Rebates and Deferments)	s.12	Determining Officer	Deputy CEO	CEO
	s.13	Review Officer	CEO	CEO
Freedom of Information	s.13	FOI Officer	Deputy CEO	CEO
	s.39	Review Officer	CEO	CEO

– End of Schedule

2.9 Fire fighting – Emergency plant hire

Introduction	While a budget allocation is made for fire control each year, significant expense may be required at short notice to respond to a serious fire.		
Objective	To ensure that maximum effort can be made for the control of wildfires for the protection of life and property.		
Statutory context	Local Government Act – - s.6.8 (1)(c) – authorisation of unbudgeted expenditure in an emergency Bush Fires Act 1954 – 6. section 38 (3)(4)(5) – appointed BFCO’s may exercise specific authorities given to them		
Formal record	Officer’s report to Council		
Delegation by CEO	To	Deputy CEO Project Executive Works Supervisor Chief Bush Fire Control Officer Deputy Chief Bush Fire Control Officers	
History	Adopted	17 April 2008	
	Amended	20 November 2008	Ref – C2008-1115
	Reviewed	1 December 2010	

Delegation Statement

1. The CEO is authorised to commit expenditure for the private hire of plant and equipment necessary for the efficient fighting and control of fires.
2. Where possible, the CEO is to seek advice from the senior FCO at the fire and if major expenditure is likely seek approval from the President or Deputy President. However, since this delegation will only be used in emergency situations, it is acknowledged that these actions may not be possible.

The approval to be sought is an administrative function for expenditure purposes only, and does not extend to the issue of operational instructions.

3. Adequate resources to fight a fire for the safety of fire fighters and for the protection of life and property have the highest priority and are not to be unnecessarily jeopardised by delay.

– End of Delegation

3. DELEGATIONS FROM COUNCIL TO OTHER OFFICERS

3.1 Alteration to Restricted and Prohibited Burning Periods

Delegation to	Shire President and Chief Bush Fire Control Officer, jointly
Introduction	To extend or reduce the prohibited or restricted burning seasons.
Objective	To enable flexibility in the opening and closing dates of the restricted and prohibited periods as seasonal conditions appear to warrant.
Statutory context	Bush Fires Act 1954 – - s.17 (7) to (11) – variation of prohibited burning periods
Formal record	CEO's report to Council
Delegation by President & CBFCO	Not permitted
History	Adopted – 17 April 2008 Reviewed – 28 February 2011

Delegation Statement

1. In accordance with the Bush Fires Act 1954 section 17 (10) the President and the Chief Bush Fire Control Officer are authorised to exercise the powers of Council under the Bush Fires Act 1954 section 17 (7) and (8).
2. The Fire and Emergency Services Authority (FESA) and surrounding shires should be consulted before a decision is made.
3. Should the Shire President be unavailable or hold joint office as CBFCO, the Deputy Shire President shall be deemed to be Acting Shire President in relation to this matter.
4. If Chief BFCO is unavailable, a Deputy Chief BFCO shall act in his/her place.
5. If not holding joint office, the CEO is to be advised in order that public notification may be arranged.

– End of Delegation

3.2 Environmental Health

Delegation to **Environmental Health Officer**

Introduction	A Local Government is authorised and directed to carry out within its district the provisions of the Act and the regulations, local laws, and orders made.
Objective	To authorise the timely management of environmental health responsibilities.
Statutory context	Health Act 1911 – - s.26 – the local government may appoint a deputy (i.e. delegate) to discharge all or any of the functions and powers
Formal record	Officer's report to Council
Delegation by EHO	Not permitted
History	Adopted – 17 April 2008 (Health Act

Delegation Statement

The EHO is appointed and authorised to exercise and discharge all or any of the powers and functions of the Local Authority with regard to –

- a) Part IV Sanitary Provisions,
- b) Part V Dwellings;
- c) Part VI Public Buildings;
- d) Part VII Nuisances and Offensive Trades;
- e) Part VIII Food generally;
- f) Part IX Infectious Diseases;
- g) Part XV Miscellaneous Provisions;
- h) Regulations and Local Laws made pursuant to the above parts of the Health Act 1911, specifically including the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974
 - o subject to Delegation Schedule 3.2 Septic Tank Licences

– End of Delegation

Delegation Schedule 3.2 – Septic Tank Licences

1. The CEO is authorised to exercise and discharge the powers and functions of the Council in relation to the Health (Treatment of Sewage and Disposal of Liquid Waste) Regulations 1974 –
 - Regulation 4 (3)(a) – Grant approval subject to form and conditions set by Council.
 - Regulation 4 (3)(b) – Refusal to grant approval.
 - Regulation 10 (2) – Issue of permit to use
 - Regulation 10 (4)(b) – Issue of order to undertake works or decommission
 - Regulation 22 (2)(a) – Making a determination of appeal of decision
 - Regulation 22 (2)(b) – Advising of determination of appeal of decision
2. Compliance with the Health Act and Regulations, the Building Code of Australia, the Town Planning Scheme and Town Planning Policies is mandatory.
3. Any application not complying is to be refused, unless there is a discretion, in which case it is to be referred to Council for decision.
4. Effluent systems are to be sized in accordance with the Regulations.

– End of Schedule

3.3 Delegations Under Food Act 2008 to Environmental Health Officer

Delegation to	Environmental Health Officer
Introduction	<p>Passed on 8 July 2008 by the Western Australian Parliament, The <i>Food Act 2008</i> is the principal legislation regulating the sale of food in Western Australia (WA) and provides food safety regulation over the food supply chain.</p> <p>The Food Act clarifies that the responsibility for food safety rests on the food business.</p>
Objective	<p>The delegations will enable the Shire to carry out its functions under the Food Act 2008 through an appropriately qualified person, being a person who holds office as an environmental health officer under the Health Act 1911.</p> <p>This will enable the Environmental Health Officer to enforce compliance with the Food Act 2008 and Food Regulations 2009 as required which may include:</p> <ul style="list-style-type: none"> • formal warnings • improvement notices • prohibition orders • infringement notices (fines) • legal action through the Courts
Statutory context	<p>Food Act s.8, Food Regulations r.5 –a local government is the enforcement agency for certain food businesses, animal processing premises and retail pet meat shops conducted in the local government district.</p> <p>Food Act s.118 (2) permits the local government to delegate functions.</p> <p>Food Act 2008 s.122 states that an enforcement agency may appoint a person to be an authorised officer if the person holds office as an environmental health officer under the Health Act 1911 .</p>
Formal record	Officer’s report to Council
Delegation by EHO	Not permitted
History	Adopted – 14 December 2010 (Resolution C2010-1206)

Delegation Statement

1. Pursuant to section 122 of the Food Act 2008, the Principal Environmental Health Officer, being a person holding office as a health officer under the Health Act 1911, is an authorised officer for the purpose of the Food Act 2008.
2. Pursuant to section 118 of Division 2 of the Food Act 2008, Council delegates the administration of the functions of the Shire of Yalgoo as enforcement agency (r.5 of the Food Regulations 2009) to the Principal Environmental Health Officer.

- a) These functions include, but are not limited to, the issuing of food business registrations and the annual reporting requirements described in the act.

– End of Delegation

3.4 Building Control

Delegation to	Environmental Health and Building Officer William (Bill) Atyeo
Introduction	Amendments to the Local Government (miscellaneous Provisions) Act require that the delegation of authority to approve building licences is made to an appropriately qualified and certified person.
Objective	To enable the timely approval or actions in relation to building applications, approvals and orders.
Statutory context	Local Government (Miscellaneous Provisions) Act 1960 – <ul style="list-style-type: none"> - s.2 – this Act to be considered as part of the LG Act 1995 - s.373A – Qualifications of local government building surveyors - s.373B – Appointment of local government building surveyors - s.374AAB – Delegation of authority to approve to a qualified person
Formal record	Officer’s report to Council
History	Adopted – 26 November 2009 Updated – 22 July 2010 C2010-0704

Delegation Statement

1. The EHO is authorised to exercise and discharge the following powers and functions of the local authority with regard to the Local Government (Miscellaneous Provisions) Act 1960:
 - Part XV Section 374 (1a) – Extension of time to complete building works
 - Part XV Section 374 (1b) – Issue of Building Licences
 - o subject to Delegation Schedule 2.6 Building Licences
 - Part XV Section 374A – Issue of Demolition Licences
 - Part XV Section 377 – Licence to deposit materials on or excavate adjacent to a street
 - Part XV Section 401 – Issue of Notices and related matters (Uncompleted building works)

2. The following matters are to be referred to Council for decision –
 - Part XV Section 401A – Issue of Notice unlawful works
 - Part XV Section 403 – Dangerous Buildings
 - Part XV Section 408 – Removal of Neglected Building

The following matters were delegated to William Atyeo by Council motion C2010-0704 and should be read in conjunction with 1. and 2. above:

- 374. Plans of buildings to be approved by local government
- 374AA. Building approval certificates for unauthorised building work
- 374AAB. Delegation of authority to approve plans of buildings or unauthorised building work
- 374AAC. Advice to be sought where no delegation of authority
- 374AAD. Review of decisions about building licences and building approval certificates
- 374A. Demolition licences
- 374AB. Local government not to issue building licence or building approval certificate unless levy due on work is paid
- 374AC. Local government not to issue building licence unless home indemnity insurance held
- 374B. Performance of building work in emergency

- 374C. Classification of buildings
- 375. Notice to be given before commencing to build or alter a building
- 376. Local government may compel installation of electricity where available
- 377. No materials to be deposited on streets without licence
- 401. Notice of required alterations
- 401A. Stopping unlawful work
- 403. Survey to be made of dangerous buildings
- 408. Removal of neglected buildings
- 409. Power to compel renovation of dilapidated buildings
- 409A. Uncompleted buildings
- Building Regulations 1989
- 20. Certificate of classification

– End of Delegation

COMMENT

The new building provisions came into effect on 1 July 2008, with transitional provisions permitted for up to 5 years. However, the transitional provisions discontinue automatically when a person to which they apply leaves. The delegation was originally to EHO David Williams with whom they remained until appointment of William (Bill) Atyeo in March 2009 and subsequent delegation 22/7/10 to William Atyeo.

8 March 2012 – this delegation requires rigorous review for clarity and consistency. SHD

Delegation Schedule 3.4 – Issue of Building Licences

1. The EHO is authorised to issue building licences for –
 - all Class 1A, 1B and 2 buildings where permitted in accordance with the Town Planning Scheme; and
 - all Class 10A and 10B buildings where permitted in accordance with the Town Planning Scheme, provided that the proposed building does not:
 - Residential Zone – exceed 60m² in area or have a wall height greater than 3m; or
 - Special Rural Zone – exceed 150m² in area or have a wall height greater than 3.6m.
2. A building licence is not to be issued unless –
 - a) the application complies with –
 - the Building Code of Australia
 - the Building Regulations 1989
 - Builder’s Registration Board requirements
 - Town Planning Scheme
 - Town Planning Policies
 - b) where necessary, planning consent has been granted in accordance with the Town Planning Scheme
 - c) payment has been received for –
 - the assessed building licence fees
 - Building and Construction Industry Training Fund levy, or production of evidence of payment or exemption.
 - d) if for an outbuilding, there is existing development on or of the property, and the aggregate area of outbuildings does not –
 - in the Residential Zone – exceed 60m² in area or have a wall height greater than 3m; or
 - in the Special Rural Zone – exceed 150m² in area or have a wall height greater than 3.6m.
 - e) the applicant has signed the building licence accepting the conditions contained therein.
3. Where suppliers of steel fabricated outbuildings have supplied structural computations to cover such buildings, and the drawings submitted comply with the structural requirements, an engineer’s computations or certification for the building is not required.
4. Any other outbuildings will require engineer’s computations or certification to be submitted with the building licence application.
5. Any application not complying is to be refused, unless there is a discretion, in which case it is to be referred to Council for decision.
6. Buildings in Classes 3 to 9 are to be referred to Council for decision.

– End of Schedule

4. DELEGATIONS FROM CEO TO OTHER OFFICERS

4.1 Employment and Management of Staff

Delegation to	Deputy CEO/Finance Manager Project Executive Works Foreman
Introduction	To authorise supervisory staff to engage other staff as necessary.
Objective	To enable timely employment of staff to ensure the smooth operation of Shire activities.
Statutory context	Local Government Act 1995 – <ul style="list-style-type: none"> - s.5.41(g) – CEO is to manage all staff - s.5.44 – CEO may delegate powers and duties to staff
Formal record	Employee’s personnel file – letter of appointment, supervisor’s notes etc Specialist staff – purchase order or other record as appropriate
Delegation by Officers	Not permitted
History	Adopted – 17 April 2008 Amended – 1 December 2010

Delegation Statement

1. The Deputy CEO/Finance Manager is authorised to appoint and manage staff as follows –
 - office/administrative staff
 - town maintenance staff – gardener, labourer, cleaners
 - engage specialist staff for any sector of Shire operations –
 - o eg: administrative, works, HCP, consultants etc
2. The Project Executive, in consultation with the Works Foreman, is authorised to appoint and manage staff as follows –
 - all works staff
 - town maintenance staff – gardener, labourer, cleaners
 - engage specialist staff for works –
 - o eg: mechanical repairs or service, roadworks
3. Appointment and management of staff or engagement of specialists –
 - is to be within the adopted Budget or as approved by Council or CEO
 - in compliance with Policies adopted by Council relating to –
 - o employment,
 - o staff,
 - o purchasing of services etc
 - where considered appropriate, particularly in relation to any disciplinary matter, referral to WALGA Workplace Solutions is to be made.

4. Day to day direction of staff in their duties is considered to be a required function of each supervisory position and is not a delegation.

– End of Delegation

5. APPOINTMENT OF AUTHORISED OFFICERS

Introduction

Under the authority of various legislative instruments, the local government can appoint a person or a class of persons to carry out the functions of the local government under the relevant legislation.

Following is a summary of appointments that the local government has made of authorised officers.

Legislative Instrument	Authorised Officer	Delegated Authority
Food Act 2008	Atyeo, William	
Bushfires Act 1954	Adams, Ronald	
Dog Act 1976	Smith, Peter Adams, Ronald	
Local Government Act 1995		
Health Act 1911	Atyeo, William	
Planning & Development Act 2005	Daishe, Sharon Aty eo, William	

6. OTHER STATUTORY MATTERS NOT BEING DELEGATIONS

5.1 Media Releases

Introduction	This authorisation is not a Delegation as defined under the Local Government Act as it is the sole prerogative of the President to permit the CEO to speak on behalf of Council either generally, or within set guidelines
Objective	To ensure that the public receives full, appropriate and timely information.
Statutory context	Local Government Act - - s.5.41 (f) – discretionary decision of Shire President
Formal record	President’s letter of authority to each individual CEO.
Delegation by CEO	n/a
History	President’s authority to each individual CEO. Confirmed – 17 April 2008 Reviewed – 28 February 2011

Authorisation Statement

1. The CEO is permitted to make media releases and to speak on behalf of the Shire of Yalgoo.
2. The President, or the Deputy President if unavailable, should be consulted where possible before delicate matters are publicly discussed. The CEO must use discretion whether comment is to be made or not. The CEO is not under any obligation to make any comment on any matter.

– End of Authorisation

HISTORY SUMMARY

	Meeting	Purpose	Applies for	Delegations changed
1	April 2008	Adoption	End of 2008	All
2	November 2008	Review	2009 calendar year	2.6 and 2.9
3	September 2009	Amendment	Immediately	2.3
4	November 2009	Review	2010 calendar year	Amended – 2.2, 2.5, 2.6, 4.1 Deleted – 1.2, 2.8 Inserted – 1.2 (new) 3.3
5	23 June 2011 C2011-0619	Review and Amend	Financial year in which review is undertaken, as per s5.18 and s5.46 of the Local Government Act 1995	CEO delegations amended 1 December 2010 to recognise Project Executive (temporary position), Finance Manager (DCEO part time maternity leave position) and Executive Assistant (replaces Personal Assistant, with additional responsibilities). Deleted – 1.1, 1.2 (Audit & LEMC Committee moved to Policy Manual re no formal delegations), 2.8 Amended – 2.1, 2.4, 2.5, 2.6, 2.9
6a	14 June 2012	Review of Delegations by CEO to other officers	2011/12 Financial Year	Adopted without changes. Whole delegations manual needs to be reviewed along with interface to policy, and improvement of interface between instrument of delegation and delegation manual. Time and staff changeover have delayed this process and it is required mostly to improve administration and in the interest of due diligence.
6b	21 June 2012	Review of Delegations by Local Government	2011/12 Financial Year	Nil changes recommended C2012-0610