

SHIRE OF CARNAMAH

Ordinary Meeting of Council

21 February 2018

Notice of Meeting

Dear Councillor,

The next Ordinary Meeting of the Carnamah Shire Council is to be held:

On: Wednesday 21 February 2018

At: Council Chambers

33-37 Macpherson Street, Carnamah

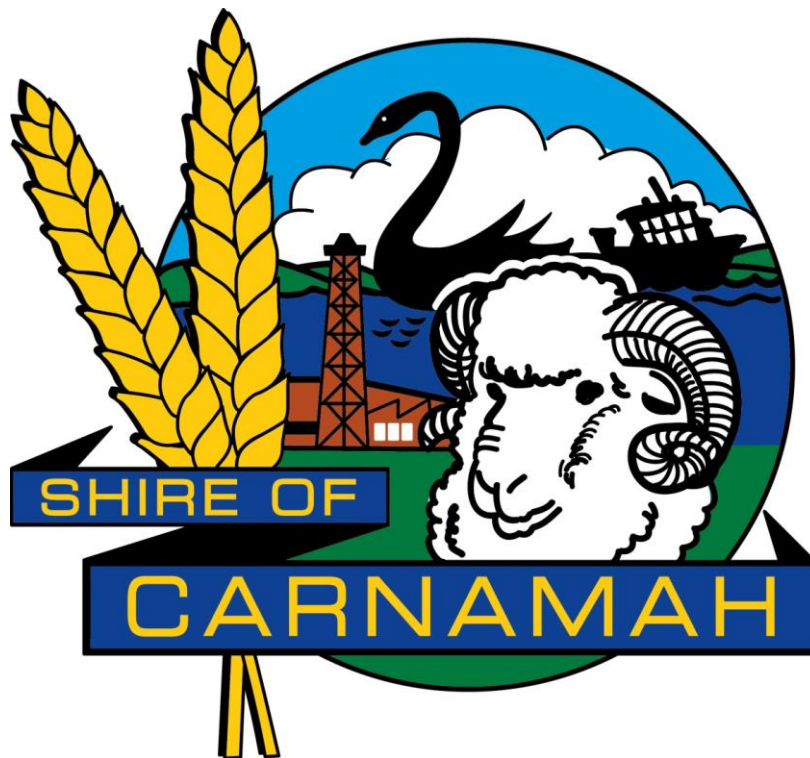
Commencing at 3:00pm

Please note: A Council 'Briefing Session' will be held prior to the Ordinary Meeting of Council – commencing at 2:00pm

.....

Sean Fletcher

ACTING CHIEF EXECUTIVE OFFICER



AGENDA

Ordinary Meeting of Council

21 February 2018

SHIRE OF CARNAMAH

ORDINARY MEETING OF COUNCIL – 21 FEBRUARY 2018

AGENDA

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APPENDIX “A”

**Minutes of Ordinary Meeting of Council – 8 December 2017
(As circulated)**

SHIRE OF CARNAMAH

DISCLAIMER

No responsibility is implied or accepted by the Shire of Carnamah for any act, omission or statement or intimation occurring during Council or committee meetings.

The Shire of Carnamah disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or committee meeting does so at that person's or legal entity's own risk.

In particular and without detracting in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Shire of Carnamah during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Carnamah.

The Shire of Carnamah advises that anyone who has any application lodged with the Shire of Carnamah shall obtain and should only rely on **WRITTEN CONFIRMATION** of the outcome of the application, and any conditions attaching to the decision made by the Shire of Carnamah in respect of the application.

Signed: _____

CHIEF EXECUTIVE OFFICER

SHIRE OF CARNAMAH

AGENDA

ORDINARY MEETING OF COUNCIL

**To be held in the Council Chambers – 33-37 Macpherson Street, Carnamah
On Wednesday 21 February 2018
Commencing at 3.00 pm**

- 1. DECLARATION OF OPENING**
- 2. RECORD OF ATTENDANCE**
 - Present**
 - Apologies**
 - Leave Of Absence (Previously Approved)**
- 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
- 4. PUBLIC QUESTION TIME**
- 5. APPLICATIONS FOR LEAVE OF ABSENCE**
- 6. DISCLOSURE OF INTEREST**
- 7. PETITIONS, DEPUTATIONS AND PRESENTATIONS**
- 8. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION**

9. CONFIRMATION OF MINUTES

9.1 MINUTES OF ORDINARY MEETING OF COUNCIL HELD 8 DECEMBER 2017

As Circulated

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item 9.1

That the Minutes of the Ordinary Meeting of Council held on 8 December 2017 be accepted as a true and correct record.

10 MANAGEMENT REPORTS

10.1 FINANCE REPORTS

10.1.1 ACCOUNTS FOR PAYMENT

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0075
Disclosure of Interest:	Nil
Date:	13 February 2018
Author:	Deputy Chief Executive Officer
Attachments:	10.1.1 - Cheque & EFT Listing

SUMMARY

Council to confirm the payment of creditors for the period 30 November 2017 to 9 February 2018, in accordance with the Local Government (Financial Management) Regulations 1996 section 13(1).

ATTACHMENT

Copy of list of accounts paid (EFT & cheque payments), which will enable Council to confirm the payment of its creditors in accordance with Local Government (Financial Management) Regulations 1996, Section 13(1).

BACKGROUND

Financial Regulations require a schedule of payments made through the Council bank accounts to be presented to Council for their inspection. The list includes details for each account paid incorporating the payee's name, amount of payment, date of payment and sufficient information to identify the transaction.

COMMENT

Invoices supporting all payments are available for inspection. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the provision of services and as to prices, computations and costings, and that the amounts shown were due for payment.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995, Section 6.4 *Financial Report*
Local Government (Financial Management) Regulations 1996 -
Section 12 Payments from municipal fund or trust fund;
Section 13 Lists of accounts; and
Section 15 Rounding off figures

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item: 10.1.1

That payment listed as attachment 10.1.1. List of Accounts Due and Paid for the period 30 November 2017 to 9 February 2018; and paid by the Chief Executive Officer under delegated authority of Council, or by the Deputy CEO (in the Chief Executive Officer's absence) as delegated by the Chief Executive Officer including:

Manual Municipal cheques:	022515 – 022528
Municipal cheques:	28091 – 28100
Municipal EFT's:	10790 – 10995
Trust Cheques:	300414 – 300417
Payroll direct debits:	#12 - #13 - #14 - #15 - #16
Municipal Direct Debits	31/12/2017 and 31/01/2018

Totalling \$ 2,919,545.93 be approved and passed for payment.

10.1.2 FINANCIAL REPORTS TO 31 JANUARY 2018

Applicant:	N/A
Location / Address:	N/A
File Ref:	ADM0075
Disclosure of Interest:	Nil
Date:	13 February 2018
Author:	Deputy Chief Executive Officer
Attachments:	10.1.2 (a) Monthly Statement of Financial Activity – December 2017, and 10.1.2 (b) Monthly Statement of Financial Activity – January 2018

SUMMARY

A Statement of Financial Activity and other supplementary financial information is produced monthly as part of the Council meeting agenda.

BACKGROUND

The attached financial reports for the period 1 July 2017 to 31 December 2017, (marked 10.1.2(a)), and 1 July 2017 to 31 January 2018 (marked 10.1.2(b)) have been prepared in accordance with the Local Government Financial Management Regulations.

COMMENT

Included with this report is the following:

- Statement of Financial Activity for the period 1 July 2017 to 31 December 2017, and 1 July 2017 to 31 January 2018;
- Summary Rates Trial Balance Report as at 31 December 2017, and 31 January 2018;
- Cash and Investment Listing;
- Debtors Listing;
- Other Supplementary Information;

CONSULTATION

Nil

STATUTORY ENVIRONMENT

Local Government (Financial Management) Regulation 34 - *Financial activity statement report* — s. 6.4

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item: 10.1.2

That Council receive the Statements of Financial Activity for the periods 1 July 2017 to 31 December 2017, and 1 July 2017 to 31 January 2018; and other supplementary financial information as presented.

10.2 ADMINISTRATION REPORTS

10.2.1 DECISIONS MADE AT THE ANNUAL GENERAL MEETING OF ELECTORS

Applicant:	Not Applicable
Location / Address:	Not Applicable
File Ref:	ADM0198
Disclosure of Interest:	Nil
Date:	11 December 2017 – Mr Hartley 5 February 2018 – Mr Fletcher
Author:	Acting Chief Executive Officer
Attachments:	10.2.1(a) Request for Exhaust Brakes (signs) to be positioned (Mr Lawrence Ovens), and 10.2.1(b) Minutes - Annual Electors Meeting

SUMMARY

The minutes of the 2016/17 Annual Electors Meeting are presented to Council for its receipt and to discuss any issues that arose.

One resolution is applicable, relating to truck exhaust brakes and it is recommended the advisory signs be removed in light of the Annual Electors Meeting resolution.

BACKGROUND

Every local government is required to hold an Annual Electors Meeting and the Shire of Carnamah scheduled it's for Friday 8 December 2017.

The minutes of the meeting are attached and there was one decision made that meets the requirements of Section 5.33 of the Local Government Act 1995, and therefore it needs to be considered by Council.

If Council makes a decision in response to a resolution of an Electors' General Meeting, the reasons for the decision are to be recorded in the Minutes of the Ordinary Council Meeting.

COMMENT

The issue raised related to trucks using exhaust brakes whilst entering the townsite of Carnamah, via Carnamah-Eneabba, and Carnamah-Bunjil Roads.

The signs were positioned following a request from a local resident (see attached). Whilst it was thought that positioning the advisory signs was a reasonable solution (and in keeping with the request from Mr Ovens) those present at the Annual Electors Meeting were satisfied that the noise created from the use of truck exhaust breaks was not as inconvenient as the potential safety gained to other road users and pedestrians from trucks using the exhaust breaks, as well as the other operational benefits truck owners gain.

CONSULTATION

Annual Electors Meeting attendees

STATUTORY ENVIRONMENT

Under Section 5.33 of the Local Government Act 1995 all decisions made at an Electors Meeting are to be considered at the next Ordinary Meeting of Council, Council, and if at that meeting, a local government makes a decision in response to a decision made at the Electors' General Meeting, the reasons for the decision are to be recorded in the Minutes of the Ordinary Council Meeting.

STRATEGIC IMPLICATIONS

The Shire's Strategic Community Plan at Objective 3 states *"to retain existing industries and encourage the establishment of new industries to broaden the district's economic base and develop and maintain an efficient road transport system"* and the strategy *"to develop, maintain and improve an efficient road system to support the transport requirements associated with agricultural production"*.

POLICY IMPLICATIONS

There is no Council policy relevant to this issue.

FINANCIAL IMPLICATIONS

If council chooses to remove the signs as requested, there will be a relatively small cost in plant and labour to undertake that task.

ACTING CEO's COMMENTS

Mr Fletcher supports the comments made by Mr Hartley in his report to Council regarding the motion minuted in the December 2017 Annual Electors Meeting Minutes concerning the 'Do Not Use Engine Brakes' signs installed on the Carnamah-Eneabba Road and Carnamah-Bunjil Road. Mr Hartley's recommendation was as follows:

OFFICER RECOMMENDATION

Item 10.2.1

That Council –

1. Receive the minutes of the 2016-17 Annual Electors Meeting held on Friday 8 December 2017 as per Attachment 10.2.1; and
2. In accordance with, agree to remove the "exhaust brake" sign on both Carnamah-Eneabba, and Carnamah-Bunjil Roads, as the noise reduction benefits of the signs are outweighed by the road user safety and other operational benefits of trucks using exhaust breaks.

The author notes that Section 32 of the Local Government Act requires the CEO to keep minutes of the proceedings at the Annual Elector's Meeting and ensure that copies are made available to the public before the council meeting at which decisions made at the electors' meeting will be considered. Mr Fletcher has presented a reworded recommendation at the end of this report.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item 10.2.1

That Council, Under section 5.33 (1) of the *Local Government Act 1995*, has considered the decision made at the Annual General Meeting of Electors regarding the removal of the "Do Not Use Engine Brakes" sign on both Carnamah-Eneabba, and Carnamah-Bunjil Roads.

Accordingly Council:

1. Notes that the noise reduction benefits of the signs are outweighed by the road user safety and other operational benefits of trucks using exhaust breaks, and
2. Instructs the CEO to remove the "Do Not Use Engine Brakes" signs on the Carnamah-Eneabba and Carnamah-Bunjil Roads as soon as practicable.

10.2 ADMINISTRATION REPORTS

10.2.2 ADOPTION OF POLICY – SOCIAL MEDIA SERVICES

Applicant:	Acting Chief Executive Officer
Location / Address:	N/A
File Ref:	ADM0062
Disclosure of Interest:	Nil
Date:	18 January 2018
Author:	Sean Fletcher, Acting CEO
Attachments:	10.2.2(a) - Draft Policy: 2.13 Social Media Services 10.2.2(b) - Shire of Carnamah Employee Social Media Guide

SUMMARY

The purpose of this report is to seek Council's adoption of a social media policy instead of a Facebook Page only policy. The proposed social media policy will allow staff to at least put in place a Facebook Page and at virtually no cost to the organisation. The implementation of such a page will improve the level of community engagement and allow the Shire to effectively engage on other social media pages or services currently operated by government departments, agencies and others.

BACKGROUND

At its meeting on 15 November 2017, Council considered a report from the former CEO, Mr Hartley regarding the endorsement in principle of implementing a Shire of Carnamah Facebook Page, but a final decision be deferred until further research is undertaken as to costs versus overall community value. In particular, Mr Hartley noted the pros and cons of such a service and suggested the cost to implement a quality Facebook page would be between \$500 - \$1,000.

Mr Hartley's report also noted that there would need to be an internal staff procedure manual developed to ensure the best use of the Facebook product.

As a result of the report and considerations, Council resolved the following:

COUNCIL RESOLUTION 20171109	Item 10.2.6
Moved: Cr Stirling Seconded: Cr Piccles-Popham	
That Council note the value of a Shire of Carnamah <i>Facebook</i> page to the district's community and ask the Chief Executive Officer to prepare a follow-up report prior to Council's mid-year budget review consideration (anticipated to be March 2018) outlining how such a service might be managed operationally, and what it might likely cost.	
CARRIED 6-1	

COMMENT

The key issue regarding the implementation of a Facebook Page is in fact the development and implementation of an appropriate social media management policy. Such a policy will allow the Shire to broaden its approach regarding community engagement through the implementation of not just a Facebook Page, but other social media services if considered appropriate. It will also allow Shire staff to use information from other social media sources and provide comment as required by many of the Shire's stakeholders including government departments and agencies and even local members and other politicians.

In terms of what social media is, the Department of Social Services regarding its Social Media policy notes that social media are online services and tools used for publishing, sharing and discussing information. These can include:

- Social networking – e.g. Facebook, LinkedIn;
- Video and photo sharing – e.g. Flickr, YouTube;
- Blogs – e.g. corporate blogs, personal blogs or media blogs;
- Micro blogs – e.g. Twitter;
- Forums and discussion boards – e.g. Reddit, Whirlpool, Yahoo! Groups;
- Online encyclopaedias – e.g. Wikipedia.

In terms of application, or the effort required for the number of posts that should be made, it is considered appropriate to put out no more than 3 or 4 Facebook posts a day. For the Shire this may only amount to 3 or 4 posts a week. Again, this will depend on the level of activity experienced from week to week.

This level of engagement is well within the existing staff's capabilities and capacity. Apart from Facebook, other relevant social media platforms are Twitter (currently used by the Shire of Meekatharra to tweet road information very effectively) and You Tube to post small, information filled, video snapshots of Shire services, activities and updates. This includes the likes of the Shire of Morawa and the Morawa business community.

Social media platforms can also be linked. That is to say a post on Facebook can also include an automatic post to Twitter for example. The author believes that the most appropriate way forward is for the Shire to implement a Facebook Page for now.

Model Policy

In order for the Shire of Carnamah to implement and use an appropriate social media platform, the author suggests that the following principles are put in a policy based on those encapsulated within Department of Social Services Social Media policy. This policy and how it can be adapted to reflect the Shire's requirements are set out as follows:

Purpose of the Policy

The Social Media Policy outlines protocols for using social media to undertake official Shire of Carnamah (the Shire) business, and provides guidance for employees on how to use social media and make public comment online, in the course of their official duties.

The Social Media Policy applies to all Shire employees, including contractors.

Application of the Policy

The Social Media Policy applies to the use of social media, where employees have been authorised by the Chief Executive Officer (CEO) to use social media as a communication tool on behalf of the Shire. This includes posting to an official Shire social media account (e.g. the Shire's Facebook account) participating as a Shire representative on a third-party site (e.g. external blog, news comment, online forum) or utilising internal online engagement tools and platforms (e.g. Sharepoint, blogs).

The Shire's use of Social Media is a key tool regarding community engagement and includes the following purposes that also align with Policy 2.9 – Community Engagement:

- Providing an update on the Shire's key activities e.g. projects (including actions from the Corporate Business Plan), status of the road network, statutory requirements, participation at a regional meeting or forum;
- Providing information on Shire events and community meetings, workshops, forums;
- Seeking of public feedback on an issue such as a statutory process, or the undertaking of a poll or other such similar activity;
- Providing information on a community event that is consistent with the Shire's interests and responsibilities;
- Responding to a request by a stakeholder to participate in a relevant activity e.g. undertake an on-line survey, provide written feedback on a key issue, the likelihood of using a service and so on.

Standard of Conduct

The same high standards of conduct and behaviour generally expected of Shire staff under the Code of Conduct also apply when participating online through social media. Online participation should reflect and uphold the values, integrity and reputation of the Shire.

As with all operational matters, the CEO is responsible for approving the use of all official Shire social media accounts and allocating the responsibility for the management and use of the social media accounts.

Key principles for official use of social media

All employees who are authorised to use or deploy social media as an official communication tool need to be familiar with, and apply the key principles outlined in the Shire's Employee Social Media Guide.

The Internet is forever

Content published on the internet can remain public indefinitely. Before posting to a social media site, it is important to understand the tool/platform and that users read the terms of service and user guides and look through existing content to get an idea of the posting etiquette and any cultural and behavioural rules or protocols associated with the social media platform.

Staying safe

Shire employees should always exercise discretion and judgment when making public comment or participating online. The Australian Public Sector Commission has published some [general Do's and Don'ts](#) when making public comment and engaging online which are encapsulated within the Shire's Employee Social Media Guide.

Accessibility

Where possible, content on official Shire social media accounts should also be made available in an alternative accessible format. This alternative may be represented on the Shire's website, however given the online interaction inherent in social media, it may also be appropriate to refer individuals to telephone or face-to-face channels.

Recordkeeping

Information that provides evidence of business activity or decision is a public record. Shire employees are required to appropriately classify and store information regarding their use of the Shire's social media platforms as set out in the Shire [Records Management Policy](#).

Privacy

Personal information about individuals cannot be provided to third-parties without their consent. The email address of colleagues or stakeholders and other identifiable information must be treated with discretion and care. Shire employees must not upload contact details from the Shire's contacts when using, or prompted by external social networking sites.

Shire of Carnamah Employee Social Media Guide

As pointed out in Mr Hartley's previous item on the implementation of a Facebook Page, he commented that the Shire will need a manual to guide staff on the use of such a service. In hand with this suggestion, the author has developed a user guide (The Shire of Carnamah Social Media Guide) for staff regarding the use of any appropriate social media platform. The content is based on the proposed Social Media Services Policy and encapsulates those elements that are procedural in nature from the Department of Social Services Social Media policy.

Accordingly, the Shire of Carnamah Employee Social Media Guide contains detailed information for staff regarding the following:

- A copy of the new Social Media Services Policy;
- A description of what is Social Media;
- The key principles for official use of Social Media;
- Useful resources including the do's and don'ts of using Social Media at the Shire;
- A reminder that the Internet is forever i.e. the protocols on using content used by others;
- The need for recordkeeping. Any posting made is official Shire business that is a public record and must be recorded under the Shire's record keeping policy;
- A key reminder that privacy is important and must be maintained;
- The sanctions for non-compliance with the policy and the user guide;
- Comments on how social media can help the staff do their work.

Final Comments

The author considers that the use of social media at the Shire is of value to both it and the community. Furthermore, such a policy will allow the Shire to effectively engage on other social media pages that require feedback from stakeholders.

There is sufficient capacity within the Office Administration to assist provide the required level of social media service for the Shire and at a cost that is encapsulated within the normal day to day running cost of the Shire. There is a natural link to the weekly newsletter that the Shire provides to the community and providing the same information on social media such as Facebook.

CONSULTATION

- Shire President;
- Deputy CEO;
- Executive Support Officer;
- Customer Service Officer.

Discussions with Shire staff firmly indicate that they consider the immediacy of Facebook as opposed to the Shire's web page will allow the Shire to post time effective advice regarding roads, the weather and local tourist information.

STATUTORY ENVIRONMENT

Section 2.7 (2)(b) says that the Council is to determine the local government's policies.

STRATEGIC IMPLICATIONS

Corporate Business Plan

Civic Leadership

Objective 4:

To be a professional, customer focussed organisation, which

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

Strategies to Achieve Civic Leadership Outcomes

Communications

1. *To improve communications between Council and the community; and to disseminate information.*

POLICY IMPLICATIONS

The Social Media Services Policy is a new policy for the Shire of Carnamah. It has a direct connection to Policy 2.9 Community Engagement Policy. In particular, it has the capability to address the informing, consulting and involvement levels of the community engagement process. For example the Shire could use the Facebook Page or other social media platform to provide information on road closures or when an event is to be held. At the consulting level, the Facebook Page could be used to receive public comment on a key issue or provide a link to a survey. With the involvement level, the Facebook Page could be used to conduct a poll on a particular matter.

FINANCIAL IMPLICATIONS

Nil

RISK IMPLICATIONS

Using the Shire's Risk Governance Framework, failing to use the Social Media policy correctly is one of high risk. The relevant measure impacted is to do with reputation. In particular, the consequence of the incorrect use of social media is one that is a moderate to major risk i.e. substantiated, public embarrassment of moderate/high impact and with a moderate/high news profile (e.g. media reporting in the Mid West and further afield). The likelihood of this occurring is likely i.e. at least once a year.

High risks are managed or mitigated at the CEO/management level. It is therefore incumbent on the CEO and the appropriate officers to ensure the Social Media policy is adhered to which will reduce the risk from high to low.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item: 10.2.2

That Council adopts Draft Policy 2.13 'Social Media Services' as set out in Attachment 10.2.2(a).

10.2 ADMINISTRATION REPORTS

10.2.3 ANNUAL REVIEW OF DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER

Applicant:	N/A
Location Address:	N/A
File Ref:	Delegation Register
Disclosure of Interest:	The A/CEO declares an impartiality interest as the delegations have a direct bearing of the extent of his authority to act on behalf of Council.
Date:	24 January 2018
Author:	Sean Fletcher, A/Chief Executive Officer
Attachments:	10.2.3 - Delegation Register 2018

SUMMARY

This report recommends that Council confirms and approves the delegations to the CEO as encompassed in Attachment 10.2.3, consisting of the Register of Delegations that incorporates:

- A separate Instrument of Delegation for each relevant Act i.e. the Local Government Act, the Building Act and three new areas within the Cat Act, the Bush Fires Act and the Graffiti Vandalism Act;
- Those delegations as per the Local Government Act where Council has put a limitation on the CEO's authority.

BACKGROUND

The Local Government Act requires the delegator to review their delegations once every financial year. In this case there are two delegators:

- Council, as it delegates functions to the CEO; and
- The CEO, as they delegate functions to other staff.

Council last reviewed its delegations to the CEO in February 2017. The CEO reviewed his delegations to other staff at the same time.

COMMENT

The author, on behalf of Council, has reviewed the delegations to the CEO. There are a number of new delegations proposed including those regarding the Cat Act (registration of cats), the Bush Fires Act (matters regarding prosecution) and the Graffiti Vandalism Act (the power to give notice, enter land and remove graffiti visible from a public place).

In terms of the Cat Act, in order to handle matters regarding the registration of cats administratively, the Shire (Council in this instance) has the authority to delegate to its CEO the exercise of any its powers and any of its duties under section 44. Such a delegation will allow the relevant officers (including the Emergency and Ranger Services Officer, the Senior

Finance Officer and the Customer Service Officer) to grant, refuse or renew a cat registration. The delegation instrument is set out in Attachment 10.2.3 accordingly.

With regard to the Bush Fires Act, section 59 (1) allows the Shire (Council) to institute and carry on proceedings against a person for an alleged offence against the Act. Section 58 of the Act allows the Shire to recover expenses from those committing an offence and matters undertaken as a result of that offence. Section 59 (3) allows the Shire to delegate such activity to a bush fire control officer or other officer (in this case the CEO). The delegation instrument is set out in Attachment 10.2.3 accordingly. In this instance it is recommended that the delegation regarding enforcement is to the CEO only.

The Graffiti Vandalism Act was recently introduced to give local governments the power to compel persons to remove graffiti or to undertake the removal of graffiti that is visible from a public place that was applied without the consent of the owner or occupier. The delegation will allow the authorised officers to take the necessary action.

Further to the above, the author has reformatted the delegations document as follows:

- A separation of the delegation instrument regarding the Local Government Act and the Building Act from one instrument into two separate instruments. This is to show the separate requirements for both the Local Government Act and the Building Act, which is appropriate;
- A tidy up of the delegation instruments including:
 - For the instrument regarding the Local Government Act:
 - A reference to relevant Local Laws has also been inserted. The Shire has a number of local laws made under the Local Government Act;
 - Has been structured so that they flow better and refer to the relevant parts and in the relevant way within the delegations document. In particular, Schedule 1 is now clearly referenced and a new section added in the conditions and limitations (section 4) that connects the Delegations with Limits to the schedule;
 - The reference regarding applying the Common Seal has been removed and a signature for the Shire President only is inserted on page 4.
 - For the instrument regarding the Building Act, it has been structured the same as that for the Local Government Act and the new signing page can be found on page 10.

Within the delegation instrument for the Local Government Act, it should be noted that Council has delegated the following to the CEO:

- All relevant matters under the Local Government Act and its regulations and relevant local laws except those things prohibited by Section 5.43 of that Act; and
- Delegations with limits including:
 - 1001 Obtaining Legal Advice – Is subject to the provision made in the budget for such expenses;
 - 1002 Debt Write Off – CEO can write off debts up to \$100;
 - 1003 Disposal of Surplus Equipment, Materials, Tools, etc. – Only applies to items not included on the Asset Register;

- 1004 Altering Thoroughfare Alignments – Can be undertaken by the CEO providing there are no objections.
- Within the delegation Instrument for the Building Act, all relevant matters under the Building Act and its regulations and relevant local laws. Local Government under the Building Act is a permit authority and so has the power and function to deal with building approvals and incidental matters including inspections and the issue of building permits. The CEO can on delegate this power;

A copy of the reviewed delegations to the CEO is attached to this report in Attachment 10.2.3. The author has also conducted a review of delegations from the CEO to staff.

CONSULTATION

- Senior Staff Team (CEO, DCEO, MWS, ERSO, ESO).
- Shire President
- Elected Members through the weekly update to councillors and at the February briefing session

STATUTORY ENVIRONMENT

Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the *Planning and Development Act 2005* section 214(2), (3) or (5).

** Absolute majority required*

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

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;

- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

[Section 5.43 amended by No. 49 of 2004 s. 16(3) and 47; No. 17 of 2009 s. 23.]

5.44. CEO may delegate powers and duties to other employees

- (1) 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.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
 - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
 - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,
 are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —
conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* —
 - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
 - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing —
 - (a) a local government from performing any of its functions by acting through a person other than the CEO; or
 - (b) a CEO from performing any of his or her functions by acting through another person.

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.

- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) 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.

Section 9.49A

As advised in the policy implications section of this report, the Shire President can sign the instruments of delegation to the CEO on behalf of the Shire.

Note:

In the annual financial review of the delegations to the CEO, the review process is only required under the Local Government Act and not in other legislation. However, it would be prudent to review all delegations to the CEO at the same time.

Building Act 2011

Section 127

This section allows the Council to delegate any of the Local Governments functions (powers or duties) as a permit authority under any of the other provisions in the Building Act.

Cat Act 2011

As listed in the comment sections of this report.

Bush Fires Act 1954

As listed in the comment sections of this report.

Graffiti Vandalism Act 2016

As listed in the comment sections of this report.

STRATEGIC IMPLICATIONS

Civic Leadership

Objective 4:

To be a professional, customer focussed organisation, which

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

POLICY IMPLICATIONS

Policy 2.5: Shire of Carnamah Common Seal. Previously, the Common Seal was applied to the Instrument of Delegation. However, this is not required under Council's policy. In short, the Council should give the Shire President the authority to issue the instruments of delegation to the CEO on the Council's behalf.

FINANCIAL IMPLICATIONS

Nil

RISK IMPLICATIONS

Using the Shire's Risk Governance Framework, there are a number of risks associated with failing to administer delegations correctly:

- Financial:** The financial delegations to the CEO are currently limited (e.g. write off of debts up to \$100) and there is a procurement policy in place that allows the CEO (and therefore staff) to act within the required limits and to act through (according to) the Shire's budget. So the consequence is low (less than \$1,000). The likelihood of conducting an action without the appropriate delegation in this instance is possible i.e. once every three years. The risk is therefore low.
- Compliance:** The CEO and staff conducting tasks without the appropriate delegation can be a major consequence i.e. resulting in an imposed penalty. The likelihood of this occurring is possible i.e. once every three years and so the risk is high.
- Reputational:** Once reported that the Shire is non compliant regarding keeping its' delegations up to date, there is the risk of substantiated, public embarrassment of moderate impact and with a moderate news profile (e.g. media reporting in the Mid West) and so the consequence is moderate. The likelihood of this occurring is possible i.e. once every three years. The risk is moderate in nature.

The annual review of the delegations to the CEO (and by the CEO to staff) reduces the risk for all three consequences to low. The risk acceptance criteria puts the responsibility at CEO/Manager level i.e. the CEO conducts the review of the delegations (or seeks new delegations as required) and advises Council accordingly.

VOTING REQUIREMENT

ABSOLUTE Majority (regarding the Local Government Act requirements)

OFFICER RECOMMENDATION

Item: 10.2.3

That Council:

1. Under section 5.46 (2) of the *Local Government Act 1995* confirms it has conducted its review of its delegations to the CEO for 2017/18 and that there is no change to the delegations to the CEO.
2. Under section 5.42 of the *Local Government Act 1995* confirms that its delegations to the CEO:
 - a. Are as set out in the Instrument of Delegation to the CEO dated February 2018, as provided in Attachment 10.2.3.

- b. Includes separately attached to Schedule 1 of the Delegation of Instrument referred to in Point 2a the following delegations with a limit:
 - i. 1001 Obtaining Legal Advice (Subject to the provision made in the budget for such expenses);
 - ii. 1002 Debt Write Off (CEO can write off debts up to \$100);
 - iii. 1003 Disposal of Surplus Equipment, Materials, Tools, etc.(Only applies to items not included on the Asset Register);
 - iv. 1004 Altering Thoroughfare Alignments (Can be undertaken by the CEO providing there are no objections).
- 3. Under Section 127 of the *Building Act 2011* confirms that:
 - a. There is no change to the delegation under this Act to the CEO; and
 - b. The delegation to the CEO is in line with the Instrument of Delegation dated February 2018, as provided on page 9 in Attachment 10.2.3.
- 4. Under Section 44 of the *Cat Act 2011* delegates to the CEO those responsibilities regarding cat registrations as set out on page 12 in the Instrument of Delegation in Attachment 10.2.3;
- 5. Under Section 59 of the *Bush Fires Act 1954* delegates to the CEO those responsibilities regarding enforcement as set out on page 15 in the Instrument of Delegation in Attachment 10.2.3;
- 6. Under Section 16 of the *Graffiti Vandalism Act 2016* delegates to the CEO those responsibilities regarding the giving of notices, obliterating graffiti and entry onto land as set out on page 18 in the Instrument of Delegation in Attachment 10.2.3;
- 7. Under Section 9.49A(4) of the *Local Government Act 1995*, authorises the Shire President to sign the Instruments of Delegation (*Local Government Act 1995, Building Act 2011, Cat Act 2011 and Bush Fires Act 1954*) to the Chief Executive Officer as provided for in Attachment 10.2.3.

10.2 ADMINISTRATION REPORTS

10.2.4 UPDATE TO AUTHORISATIONS AND FURTHER APPOINTMENT OF BUSH FIRE CONTROL OFFICER

Applicant:	CEO
Location / Address:	N/A
File Ref:	ADM0305
Disclosure of Interest:	The A/CEO declares an impartiality interest as the delegations have a direct bearing of the extent of his authority to act on behalf of Council.
Date:	24 January 2018
Author:	Sean Fletcher, Acting CEO
Attachments:	Nil

SUMMARY

The purpose of this report is to update the authorised persons to carry out certain functions and duties under different legislation. In many instances, the authorised function involves matters of enforcement.

The report proposes an appointment schedule (Schedule 1 and Schedule 2) that is based on appointing the office or class of person as an authorised officer instead of a named (specific) person. This will allow the CEO to make changes to who holds an authorisation without the need to bring through an authorisation for approval each time an authorised officer leaves or commences with the Shire.

Schedule 1 also contains the latest changes introduced by new legislation including the Graffiti Vandalism Act and the Public Health Act.

As a result of this update to the authorisations, it was identified that the Emergency & Ranger Services Officer should be authorised as a Bush Fire Control Officer so that he can undertake many of the key functions of the Bush Fires Act.

The report also proposes that the previously named persons are withdrawn as authorised officers.

BACKGROUND

At the July OCM 2017, Council resolved to appoint (or designate) a number of authorised persons to carry out enforcement and other related functions under the Local Government Act and other legislation:

- 1. That the following persons be appointed authorised persons in accordance with the relevant Acts hereunder:**

Local Government Act 1995, Part 3, Division 3, Subdivision 2, Certain provisions about land – S3.24 (relates to the issuing of notices):

- Mr Neil Philip Hartley
- Mr Ian Stephen Walsh
- Mr Grant Raymond Fidock

Local Government Act 1995, Part 3, Division 3, Subdivision 4, Impounding goods involved in certain contraventions – S3.39 (relates to the power to remove and impound):

- Mr Neil Philip Hartley
- Mr Ian Stephen Walsh
- Mr Grant Raymond Fidock

Local Government Act 1995, Part 9, Division 2, Subdivision 1, Miscellaneous provisions about enforcement – S9.10, S9.11 & S9.15

- Mr Neil Philip Hartley
- Mr Ian Stephen Walsh
- Mr Grant Raymond Fidock
- Mr Johnnie Maxwell Richardson

Local Government Act 1995, Part 9, Division 2, Subdivisions 1 & 2, Miscellaneous provisions about enforcement and infringement notices – S9.13, S9.16 & S9.17 (relates to the issuing of notices):

- Mr Neil Philip Hartley
- Mr Ian Stephen Walsh
- Mr Grant Raymond Fidock

Local Government Act 1995, Part 9, Division 2, Subdivision 2, Miscellaneous provisions about enforcement – S9.19 & S9.20 (relates to amendment of notices):

- Mr Neil Philip Hartley
- Mr Ian Stephen Walsh
- Mr Grant Raymond Fidock

Local Government (Miscellaneous Provisions) Act 1960 – S449 Local Governments may establish pounds, appoint Pound Keepers and Rangers:

- Mr Neil Philip Hartley (Pound Keeper)
- Mr Ian Stephen Walsh (Pound Keeper)
- Mr Grant Raymond Fidock (Pound Keeper and Ranger)
- Mr Johnnie Maxwell Richardson (Pound Keeper and Ranger)

Cat Act 2011 – Authorised Persons

- Mrs Ruth Passmore
- Mrs Susanne Levett

Dog Act 1976 – Registration & Authorised Officers

- Mr Neil Philip Hartley (Authorised)
- Mr Ian Stephen Walsh (Authorised & Registration)
- Mr Malcolm Harold Pumphery (Authorised)
- Mr Grant Raymond Fidock (Authorised & Registration)
- Mr Johnnie Maxwell Richardson (Authorised & Registration)
- Ms Jennifer Joy Benson (Registration)
- Mrs Ruth Passmore (Registration)
- Mrs Susanne Levett (Registration)

Health Act 1911 – S27 Appointment of Environmental Health Officer

- Mr Trevor Brandy

Food Act 2008 – Division 3 S 122 Authorised Officer; S126 Designated Officer – Infringements.

- *Mr Trevor Brandy*

Bush Fires Act 1954 – S59 (1) & (3) – Authorised Persons – Prosecution of Offences.

- *Mr Neil Philip Hartley*
- *Mr Ian Stephen Walsh*
- *Mr Grant Raymond Fidock*
- *Mr Johnnie Maxwell Richardson*

Caravan Parks and Camping Grounds Act 1995 – S17 Authorised Persons:

- *Mr Neil Philip Hartley*
- *Mr Ian Stephen Walsh*
- *Mr Grant Raymond Fidock*
- *Mr Johnnie Maxwell Richardson*

Litter Act 1979 – S 26 – Authorised Officers

- *Mr Grant Raymond Fidock*
- *Mr Johnnie Maxwell Richardson*

2. That all appointment authorisations for the following officers be revoked:

- *Ms Kylie Patricia Kammann;*
- *Ms Maxine Frances Philbey;*
- *Ms Lisa Marie Harrison; and*
- *Ms Roslyn Venettia Miller.*

However, the author has noted that the list of authorised officers (persons) requires updating due to:

- Changes to a number of staff resulting from resignations;
- Some authorised functions not accounted for; and
- Incorrect allocation of the authorised function.

This report seeks to address each of these issues.

COMMENT

Changes Required

Staff Changes

The following personnel have since left the Shire of Carnamah:

- Mr Neil Hartley;
- Mrs Ruth Passmore;
- Mrs Susanne Levett;
- Mr Trevor Brandy. Mr Brandy's contract was not renewed with the Shire of Coorow;
- Mr Johnnie Richardson. Mr Richardson is the ranger at the Shire of Coorow.

The following persons that require an authorisation that have commenced with the Shire (or soon to commence with the Shire) include:

- Miss Hope Casbolt, Customer Service Officer;

- Mr Gordon Houston. Mr Houston is the consultant EHO appointed under the group scheme facilitated by the Shire of Irwin;
- Ms Karen Oborn, Incoming CEO;
- Mr Sean Fletcher, Acting CEO.

Designated Functions Not Accounted For

The legislation regarding certain functions not catered for at this point in time includes:

- *Health (Miscellaneous Provisions) Act 1911*. This Act was previously known as the *Health Act 1911*. With the introduction of the *Health Act 2016*, some provisions were preserved under the *Health Act 1911*, and so an authorised officer is still required under this Act for a range of functions including the sanitary provisions, unfit dwellings, public buildings, nuisances and offensive trades, infectious diseases, powers of entry. This includes those matters regarding the regulations for these matters and local laws made under the 1911 Act including the Shire's current Health Local Law concerning the keeping of certain animals and poultry;
- *Health Act 2016* for those matters that require a designated officer to perform functions under Part 8 – Registration and Licensing, Part 9 – Notifiable infectious diseases and related conditions, Part 14 – improvement notices and enforcement orders, Part 16 – powers of entry, inspection and seizure;
- *Graffiti Vandalism Act 2016*. This Act allows an authorised person under the Local Government Act to deal with graffiti on a property;
- *Caravan Parks and Camping Grounds Regulations 1997* – Regulation 6. This regulation allows the authorised officer to perform functions conferred on local government under these regulations;
- *Control of Vehicles (Off-road Areas) Act 1978*. The legislation allows an authorised officer to deal with unlicensed vehicles and others that may be carrying out inappropriate behavior on certain land.

Incorrect Allocation of the Authorisation Function

There are a number of instances where the current authorisations have been issued on an incorrect basis. This is explained as follows:

Local Government Act 1995, Sections 3.24 and 9.10 (Appointment of Authorised Officers)

Under the Instrument of Delegation to the CEO regarding the *Local Government Act 1995*, Council has already by the very nature of the delegation instrument, delegated the authority to the CEO to appoint authorised persons under sections 3.24 and 9.10. What this means is that the Council is still required to appoint the CEO as an authorised officer for the purposes of the Local Government Act. However, the CEO in turn can already appoint other persons for enforcement purposes of the Local Government Act.

Local Government Act 1995, Part 9, Division 2, Subdivision 2, Miscellaneous provisions about enforcement – S9.19 & S9.20 (relates to amendment of notices):

Under the Local Government Act, sections 9.19 and 9.20 are functions directly attributable to the CEO. These sections allow the CEO to extend the due date on an infringement or to withdraw an infringement. So in accordance with s5.44 of the Local Government Act, the CEO can delegate this function directly to another officer.

Cat Act 2011

With the Cat Act, an authorisation is not required for an officer to register a cat (s.9), cancel the registration (s.10) or issue a notice of decision (s.13). The authority and power to do these things are a delegated function under that Act from the Council to the CEO and then the CEO to the officer.

An authorised officer however is required for those things regarding the capture, disposal and impounding of a cat and breaches of the Act. Further to these requirements, the Shire and the Environmental Health Officer have specific functions under the Health Local Law regarding the keeping of cats.

Bush Fire Act 1954

Currently, the authorisation in place is for s.59 (1) and (3) regarding prosecution of offences. Sub section (1) allows a local government to carry on proceedings. Sub section (3) is a delegated function, and not an authorised function as such. In particular, sub section (3) includes the consideration of an offence and carrying out proceedings against a person who is alleged to have committed an offence in the district. The requirement allows for a delegation to either the Bush Fire Control Officer or other officer (CEO in this instance. Note that the CEO cannot sub-delegate as per s.48(3)).

Under the Bush Fire Regulations, an authorised officer regarding regulations 16 and 24 of means the CEO of a local government or an officer duly appointed by the local government can grant permits regarding the burning of clover and the refuse of proclaimed plants. An authorised person (Bush Fire Liaison Officer) under the Bush Fire Act is someone appointed by the DFES Commissioner. This person is the DFES representative who can take control of a fire over and above a bush fire control officer.

The appropriate way to treat authorisations at the Shire of Carnamah would be to, under s.38, appoint the Shire's Emergency & Ranger Services Officer (ERSO) as a Bush Fire Control Officer. This will allow the ERSO to conduct those things under Part III of the Bush Fire Act including all matters regarding the prevention of bush fires. This officer will also be able to carry out the functions under Part V including those regarding entering a property, causing certain things to be done on land, cause firebreaks to be undertaken and deal with those obstructing an officer. It is recommended that the matters regarding prosecution are delegated to the CEO. The CEO and ERSO should be appointed as authorised officers regarding matters pertaining to regulations 16 and 24 of the Bush Fire Regulations.

Delegation of Authorised Officer Appointments to the CEO

Historically, it would appear that the Council at the Shire of Carnamah has appointed all authorised persons by the name of that person. However, Section 53 of the *Interpretation Act 1984* allows the relevant authority to appoint an authorised person either by their name or by their office. If the Council appoints the authorised person by their office, then the CEO can issue and withdraw the authorisation as required without the need to submit the name of the new or departing employee on each occasion.

The other matter to consider is that as per the legislation outlined in Table 1, the Council can delegate the authorisation appointment process to the CEO for most legislation as follows:

Act	Power to Appoint Authorised Person	Power that Enables Delegation by Local Government	Delegation Reference
<i>Building Act 2011</i>	s.96(3)	s.127	Delegation Instrument – Building Act
<i>Bush Fires Act 1954</i>	s.38	s.48	N/A
<i>Cat Act 2011</i>	s.48	s.44	N/A
<i>Dog Act 1976</i>	s.29(1)	s.10AA	N/A
<i>Food Act 2008</i>	s.122(1) and 126(3)	s.118(2)(b)	N/A
<i>Graffiti Vandalism Act 2016</i>	s.15	s.16	Delegation Instrument – Local Government Act
<i>Public Health Act 2016</i>	s.24	s.21	N/A
<i>Shire of Carnamah Local Planning Scheme 2</i>	Clause [11.1.2] of the Model Scheme Text – called up by LPS 2	Clause [11.3.1] of the Model Scheme Text – called up by LPS 2	N/A

Table 1: Delegation of Appointments to the CEO

Please note that in Table 1, Council has already delegated the appointment function of an authorised person regarding the Building Act and the Graffiti Vandalism Act. This is as a result of the instruments of delegation Council has issued to the CEO already regarding both the Local Government Act and the Building Act i.e. for all intents and purposes regarding those acts. Also, as pointed out earlier in this report, the Graffiti Vandalism Act requirements for an authorised person are tied directly to the Local Government Act.

The other matter to consider is that the advantage of Council delegating the authorisation appointment process where possible is one of expediency. It will allow the CEO to quickly resolve the issuing or withdrawing an authorisation as soon as the change occurs without waiting for the approval to go a Council meeting.

However, there is still some legislations that requires Council to approve an authorised person i.e. the appointment cannot be delegated. The legislation that requires Council only approval is as follows:

- S.38(3) of the *Control of Vehicles (Off-road Areas) Act 1978*;
- S.26(1)(c) of the *Litter Act 1979*;
- S.17(1) *Caravan Parks and Camping Grounds Act 1995*;
- S.449 *Local Government (Miscellaneous Provisions) Act 1960*.

List of Proposed Appointments

At this point in time the author recommends that the Council makes the appointment of authorised persons by office (class of person). The appointments are set out in Schedule 1 as follows:

Column 1 Legislation	Column 2 Section	Column 3 Purpose	Column 4 Office (Class of Person)
<i>Building Act 2011</i> <i>Building Act Regulations 2012</i>	s.127	Building Act: <ul style="list-style-type: none"> • Approving buildings and incidental structures – s.96(3) Regulations 2012: <ul style="list-style-type: none"> • Swimming Pools as an incidental structure –Part 8 Div 2; • Building fire safety measures –Part 8 Div 2A 	Not applicable as Council has delegated the appointment function of an authorised person to the CEO under the Building Act Instrument of Delegation
<i>Bush Fires Act 1954</i> <i>Bush Fires Regulations 1954</i> <i>Bush Fires (infringement) Regulations 1978</i>	r.16 r.24	Regulations 1954: <ul style="list-style-type: none"> • To fulfil the duties and functions of authorised officers regarding r.16 (permit to burn clover during restricted times and prohibited times); and • r.24 (permit to burn proclaimed or declared plants during prohibited burning times) 	<ul style="list-style-type: none"> • CEO • Emergency & Ranger Services Officer
<i>Cat Act 2011</i>	s.48	Cat Act: <ul style="list-style-type: none"> • Part 3, re seizing cats, disposing cats; • Part 4, re places within the district, destruction, committing breaches, entering premises; general powers, obstruction, warrants, infringements (except s.64 & s.65 and Division 5). 	<ul style="list-style-type: none"> • CEO • Deputy CEO • Emergency & Ranger Services Officer
<i>Caravan Parks and Camping Act 1995</i> <i>Caravan Parks and Camping Act Regulations 1997</i>	s.17(1) r.6	All purposes of the Act and the Regulations. All purposes of the Act and the Regulations except:	CEO <ul style="list-style-type: none"> • Deputy CEO • Emergency & Ranger

		<ul style="list-style-type: none"> Section 22 (take proceedings for offences under the Act); Removing a neglected, abandoned or dangerous caravan from a facility under Regulation 56(3) or 57(3). 	<ul style="list-style-type: none"> Services Officer Contract Environmental Health Officer Contract Building Surveyor
		Infringement Notices – s.23:	
		<ul style="list-style-type: none"> Section 23(5): extending the payment period for infringement notices; and 	CEO
		<ul style="list-style-type: none"> Section 23(7): withdrawing an infringement notice; 	CEO
		<ul style="list-style-type: none"> Section 23(3) receiving payment for infringement notices; 	<ul style="list-style-type: none"> Senior Finance Officer Finance Officer Customer Service Officer
		<ul style="list-style-type: none"> Issuing an infringement for all prescribed purposes –s.23(2) 	<ul style="list-style-type: none"> Contract Environmental Health Officer; Contract Building Surveyor
		<ul style="list-style-type: none"> Regulation 10 (Illegal camping); Regulation 25 (Control of animals in a facility) 	<ul style="list-style-type: none"> Emergency & Ranger Services Officer; Emergency & Ranger Services Officer
		The specific limitations and conditions for regulation 6 are provided in Schedule2.	
<i>Control of Vehicles (Off-Road Areas) Act 1995</i>	s.38(3)	The purposes of the Act and the Regulations.	<ul style="list-style-type: none"> CEO Emergency & Ranger Services Officer
<i>Dog Act 1976</i>	s.29(1)	For all purposes of the Act, the Regulations and the Local Law	<ul style="list-style-type: none"> CEO Deputy CEO Emergency & Ranger Services Officer
<i>Dog Act Regulations 2013</i>		Part II of the Act – Registrations and Part III Administration only	<ul style="list-style-type: none"> Senior Finance Officer Executive Support Officer Finance Officer Customer Services Officer
<i>Food Act 2008</i>	s.122(1)	For all purposes of the Act and the Regulations	Contract Environmental Health Officer
<i>Food Regulations 2009</i>	s.126(3)	Issuing Infringement Notices – s.126(2)	Contract Environmental Health Officer
		Receiving payment for infringement notices	Customer Service Officer
		Extending the payment period for an infringement notice – 126(6)	<ul style="list-style-type: none"> CEO DCEO
		Withdrawing an infringement	<ul style="list-style-type: none"> CEO

		notice – 126(7)	<ul style="list-style-type: none"> • DCEO
<i>Graffiti Vandalism Act 2016</i>	s.15	For the purposes of Part 3 (matters regarding issuing notices, objecting to notices, reviewing decisions and powers regarding graffiti on land not local government property) of the Act.	<ul style="list-style-type: none"> • CEO • DCEO
<i>Health (Miscellaneous Provisions) Act 2011</i> <i>Various Regulations</i> <i>Health Local Law 2013</i>	s.26	For the purposes of the Act, the Regulations and the Local Law regarding the following provisions except where otherwise stated: <ul style="list-style-type: none"> • 2.1 Part IV – sanitary provisions • 2.2 Part V – dwellings (houses unfit for occupation and lodging houses) • Part VI – public buildings • Part VII – nuisances and offensive trades • Part IX – infectious diseases • Part XV – miscellaneous provisions (general power of entry etc.) • All regulations and local laws made under this Act. 	<ul style="list-style-type: none"> • CEO • Contract EHO
<i>Litter Act 1979</i>	26(1)(c)	For the purposes of the Act and the Regulations, exercise the powers of an authorised officer under the Act regarding: <ul style="list-style-type: none"> • s.26 (exercising of powers within the district and outside the district including the person was pursued from the district or was known to have been in the district at the time of the contravention). • s.27 (authorised powers including person to state full name and usual place of residence, identification of person driving a vehicle, removal of material re lands and waters re s.23,24 or 24A); • s.27A (offences regarding vehicles including the issues of infringement notices): 	<ul style="list-style-type: none"> • CEO • Deputy CEO • Emergency & Ranger Services Officer
<i>Litter Regulations 1981</i>			
<i>Local Government Act 1995</i>	s.3.24 & s.9.10	For all purposes of the Act, the Regulations and Local Laws made under the Local Government Act regarding enforcement: <ul style="list-style-type: none"> • Part 3, Division 3, Subdivision 2, Certain provisions about land – s3.24, s3.25, (notices requiring a person to do 	CEO only. All other appointments are made by the CEO according to the Local Government Act Instrument of Delegation
<i>Local Government (Functions and General) Regulations 1996</i>			

		<p>certain things on their land in accordance with Schedule 3.1: Divisions 1 and 2).</p> <ul style="list-style-type: none"> • Part 3, Division 3, Subdivision 3, Powers of Entry – s3.31 (and s3.32), s3.33, s3.34, s3.36 (general procedures for entering a property by notice, entry under warrant, entry in an emergency and opening of fences). • Part 3, Division 3, Subdivision 4, Impounding goods involved in certain contraventions – S3.39, s3.40A(1), s3.44 (the power to remove and impound abandoned wrecked vehicles and goods involved in certain contraventions including a vehicle, an animal or a stall or other structure temporarily placed on land and perishable goods). • Part 9, Division 2, Subdivision 1, Miscellaneous provisions about enforcement – S9.10, S9.11 & S9.15 (appointments to be in writing, persons found committing a breach to give name on demand and definitions regarding specific actions). • Part 9, Division 2, Subdivisions 1 & 2, Miscellaneous provisions about enforcement and infringement notices – S9.13, S9.13A, S9.16 & S9.17 (issuing of notices). 	
<i>Local Government(Miscellaneous Provisions) Act 1960</i>	s.449	<p>Poundkeeper:</p> <ul style="list-style-type: none"> • Sections 452 – 460 – Duties of the poundkeeper; • Section 462 – Fees etc. for impounded cattle; • Section 466 – Person impounding cattle in public pound to notify poundkeeper; • Sections 467 – 475 - Matters regarding impounded cattle; • Section 479 – Application of sale proceeds. 	<ul style="list-style-type: none"> • CEO • DCEO • Emergency & Ranger Services Officer
		Ranger	Emergency & Ranger

Local Planning Scheme 2	clause 11.1.2	For the purposes of Scheme regarding entering any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.	Services Officer DCEO Building Surveyor
Public Health Act 2016	s.24	For the purposes of: <ul style="list-style-type: none"> Part 8 – Registration and licensing Part 9 – Notifiable infectious diseases and related conditions Part 14 – Improvement notices and enforcement orders Part 16 – Powers of entry, inspection and seizure. 	Designated classes of persons are: Authorised Officer: EHO Environmental Health Officer: Contract EHO

Schedule 1: Appointments by Office (Class of Person)

Performance of Functions Under Regulation 6 – Caravan Parks and Camping Grounds Regulations

In addition to the purpose provided in Schedule 1 regarding the Caravan Parks and Camping Grounds Regulations, the following offices are designated in accordance with Schedule 2:

Regulation	Function	Authorised Persons
R.11(2)	Camping permits: issuing approvals to camp other than at a caravan park or camping ground for longer than 3 nights (but not for any longer than 3 months in any 12 month period), subject to R.13	CEO, EHO, Rangers
R.12(2)(a)	Issuing approvals to the owner or occupier of land for there to be more than one caravan used for camping on a lot at any one time for a period of up to 3 months, subject to R.13	CEO, EHO
R.20	Issuing approvals for the use of an overflow area of a facility	CEO, EHO
R.30	In accordance with regulation 31, sighting park home certificates and issuing approvals for bringing a park home onto a facility	CEO, EHO, BSu
R.32(7)	Approve change of plans for construction of park home	CEO, EHO, BSu
R.34	Sighting certificates under regulation 36 and issuing approvals, in accordance with regulation 35, for the attaching of rigid annexes to caravans	CEO, EHO, BSu
R.38	Approving a change of class of a park home or rigid annex	CEO, EHO, BSu
R.39	Approving the construction of a carport or pergola within a facility (separate to building permit)	CEO, EHO, BSu

Schedule 2: Office Designations – Regulation 6

Concluding Comments

Going forward the author suggests that Council makes appointments on the basis of office. This will allow the CEO to update authorisations without the need to bring them back to Council each time a person resigns or undertakes a different function.

The matter for consideration is delegating the appointment process of authorised persons to the CEO where possible, as listed in Table 1, in due course.

CONSULTATION

- Senior Staff Team Meeting 24 January 2018;
- Shire President at weekly briefing sessions;
- Elected Members through the weekly update to Councillors and the February 2018 briefing session.

STATUTORY ENVIRONMENT

The relevant legislation regarding this matter is set out in Column 1 of Schedule 1 – Appointments by Office.

STRATEGIC IMPLICATIONS

Civic Leadership

Objective 4:

To be a professional, customer focussed organisation, which

- *effectively engages (with) the community to determine strategic direction,*
- *responsibly manages the organisation's assets and financial resources,*
- *is a strong advocate for the community.*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

RISK IMPLICATIONS

Using the Shire's Risk Governance Framework, there are a number of risks associated with failing to administer authorisations correctly:

Compliance: The CEO and staff conducting tasks without the appropriate authorisation can be a major consequence i.e. resulting in an imposed penalty. The likelihood of this occurring is possible i.e. once every three years and so the risk is high.

Reputational: Once reported that the Shire is non-compliant regarding keeping its' authorisations up to date, there is the risk of substantiated, public embarrassment of moderate impact and with a moderate news profile (e.g. media reporting in the Mid West) and so the consequence is moderate. The likelihood of this occurring is possible i.e. once every three years. The risk is moderate in nature.

The regular review of the authorisations and the appointment process required at the same time as the review of the delegations will reduce the risk for all three consequences to low. The risk acceptance criteria has the area of responsibility at CEO/Manager level i.e. the CEO conducts the review of the authorisations (or seeks new authorisations as required) and advises Council accordingly.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item 10.2.4

That Council

1. Appoints/designates in accordance with Column 1 (Legislation) of Schedule 1 and Column 2 (Section) of Schedule 1 the authorised officers/persons (by office/class of person) specified in Column 4 of Schedule 1 to conduct the Purpose subject to the conditions and limitations imposed in Column 3 of Schedule 1 as follows:

Schedule 1 – Appointment by Office

Column 1 Legislation	Column 2 Section	Column 3 Purpose	Column 4 Office (Class of Person)
<i>Building Act 2011</i> <i>Building Act Regulations 2012</i>	s.127	Building Act: <ul style="list-style-type: none"> • Approving buildings and incidental structures – s.96(3) Regulations 2012: <ul style="list-style-type: none"> • Swimming Pools as an incidental structure –Part 8 Div 2; • Building fire safety measures –Part 8 Div 2A 	Not applicable as Council has delegated the appointment function of an authorised person to the CEO under the Building Act Instrument of Delegation
<i>Bush Fires Act 1954</i> <i>Bush Fires Regulations 1954</i> <i>Bush Fires (infringement)</i>	r.16 r.24	Regulations 1954: <ul style="list-style-type: none"> • To fulfil the duties and functions of authorised officers regarding r.16 	<ul style="list-style-type: none"> • CEO • Emergency & Ranger Services Officer

Regulations 1978		(permit to burn clover during restricted times and prohibited times); and	
		<ul style="list-style-type: none"> • r.24 (permit to burn proclaimed or declared plants during prohibited burning times) 	
Cat Act 2011	s.48	Cat Act: <ul style="list-style-type: none"> • Part 3, re seizing cats, disposing cats; • Part 4, re places within the district, destruction, committing breaches, entering premises; general powers, obstruction, warrants, infringements (except s.64 & s.65 and Division 5). 	<ul style="list-style-type: none"> • CEO • Deputy CEO • Emergency & Ranger Services Officer
Caravan Parks and Camping Act 1995	s.17(1)	All purposes of the Act and the Regulations	CEO
Caravan Parks and Camping Act Regulations 1997	r.6	All purposes of the Act and the Regulations except: <ul style="list-style-type: none"> • Section 22 (take proceedings for offences under the Act); • Removing a neglected, abandoned or dangerous caravan from a facility under Regulation 56(3) or 57(3). 	<ul style="list-style-type: none"> • Deputy CEO • Emergency & Ranger Services Officer • Contract Environmental Health Officer • Contract Building Surveyor
		Infringement Notices – s.23: <ul style="list-style-type: none"> • Section 23(5): extending the payment period for infringement notices; and 	CEO
		<ul style="list-style-type: none"> • Section 23(7): withdrawing an infringement notice; 	CEO
		<ul style="list-style-type: none"> • Section 23(3) receiving payment for infringement notices; 	<ul style="list-style-type: none"> • Senior Finance Officer • Finance Officer • Customer Service Officer
		<ul style="list-style-type: none"> • Issuing an infringement for all prescribed purposes – s.23(2) 	<ul style="list-style-type: none"> • Contract Environmental Health Officer; • Contract Building Surveyor
		<ul style="list-style-type: none"> • Regulation 10 (Illegal camping); • Regulation 25 (Control of animals in a facility). 	<ul style="list-style-type: none"> • Emergency & Ranger Services Officer; • Emergency & Ranger Services Officer
		The specific limitations and conditions for regulation 6 are provided in Schedule2.	
Control of Vehicles (Off-Road Areas) Act 1995	s.38(3)	The purposes of the Act and the Regulations.	<ul style="list-style-type: none"> • CEO • Emergency & Ranger Services Officer
Dog Act 1976	s.29(1)	For all purposes of the Act,	• CEO

<i>Dog Act Regulations 2013</i> <i>Dog Local Law 2013</i>		the Regulations and the Local Law	<ul style="list-style-type: none"> • Deputy CEO • Emergency & Ranger Services Officer
		Part II of the Act – Registrations and Part III Administration only	<ul style="list-style-type: none"> • Senior Finance Officer • Executive Support Officer • Finance Officer • Customer Services Officer
<i>Food Act 2008</i> <i>Food Regulations 2009</i>	s.122(1) s.126(3)	For all purposes of the Act and the Regulations	Contract Environmental Health Officer
		Issuing Infringement Notices – s.126(2)	Contract Environmental Health Officer
		Receiving payment for infringement notices	Customer Service Officer
		Extending the payment period for an infringement notice – 126(6)	<ul style="list-style-type: none"> • CEO • DCEO
		Withdrawing an infringement notice – 126(7)	<ul style="list-style-type: none"> • CEO • DCEO
<i>Graffiti Vandalism Act 2016</i>	s.15	For the purposes of Part 3 (matters regarding issuing notices, objecting to notices, reviewing decisions and powers regarding graffiti on land not local government property) of the Act.	<ul style="list-style-type: none"> • CEO • DCEO
<i>Health (Miscellaneous Provisions) Act 2011</i> <i>Various Regulations</i> <i>Health Local Law 2013</i>	s.26	For the purposes of the Act, the Regulations and the Local Law regarding the following provisions except where otherwise stated: <ul style="list-style-type: none"> • 2.1 Part IV – sanitary provisions • 2.2 Part V – dwellings (houses unfit for occupation and lodging houses) • Part VI – public buildings • Part VII – nuisances and offensive trades • Part IX – infectious diseases • Part XV – miscellaneous provisions (general power of entry etc.) • All regulations and local laws made under this Act. 	<ul style="list-style-type: none"> • CEO • Contract EHO
<i>Litter Act 1979</i> <i>Litter Regulations 1981</i>	26(1)(c)	For the purposes of the Act and the Regulations, exercise the powers of an authorised officer under the Act regarding: <ul style="list-style-type: none"> • s.26 (exercising of powers within the district and outside the district) 	<ul style="list-style-type: none"> • CEO • Deputy CEO • Emergency & Ranger Services Officer

		<p>including the person was pursued from the district or was known to have been in the district at the time of the contravention).</p> <ul style="list-style-type: none"> • s.27 (authorised powers including person to state full name and usual place of residence, identification of person driving a vehicle, removal of material re lands and waters re s.23,24 or 24A); • s.27A (offences regarding vehicles including the issues of infringement notices): 	
<i>Local Government Act 1995</i>	s.3.24 & s.9.10	<p>For all purposes of the Act, the Regulations and Local Laws made under the Local Government Act regarding enforcement:</p> <ul style="list-style-type: none"> • Part 3, Division 3, Subdivision 2, Certain provisions about land – s3.24, s3.25, (notices requiring a person to do certain things on their land in accordance with Schedule 3.1: Divisions 1 and 2). • Part 3, Division 3, Subdivision 3, Powers of Entry – s3.31 (and s3.32), s3.33, s3.34, s3.36 (general procedures for entering a property by notice, entry under warrant, entry in an emergency and opening of fences). • Part 3, Division 3, Subdivision 4, Impounding goods involved in certain contraventions – S3.39, s3.40A(1), s3.44 (the power to remove and impound abandoned wrecked vehicles and goods involved in certain contraventions including a vehicle, an animal or a stall or other structure temporarily placed on land and perishable goods). • Part 9, Division 2, Subdivision 1, Miscellaneous provisions about enforcement – S9.10, S9.11 & S9.15 (appointments to be in writing, persons found 	CEO only. All other appointments are made by the CEO according to the Local Government Act Instrument of Delegation
<i>Local Government (Functions and General) Regulations 1996</i>			

		committing a breach to give name on demand and definitions regarding specific actions).	
		<ul style="list-style-type: none"> Part 9, Division 2, Subdivisions 1 & 2, Miscellaneous provisions about enforcement and infringement notices – S9.13, S9.13A, S9.16 & S9.17 (issuing of notices). 	
Local Government (Miscellaneous Provisions) Act 1960	s.449	Poundkeeper: <ul style="list-style-type: none"> Sections 452 – 460 – Duties of the poundkeeper; Section 462 – Fees etc. for impounded cattle; Section 466 – Person impounding cattle in public pound to notify poundkeeper; Sections 467 – 475 - Matters regarding impounded cattle; Section 479 – Application of sale proceeds. 	<ul style="list-style-type: none"> CEO DCEO Emergency & Ranger Services Officer
		Ranger	Emergency & Ranger Services Officer
Local Planning Scheme 2	clause 11.1.2	For the purposes of Scheme regarding entering any building or land for the purpose of ascertaining whether the provisions of the Scheme are being observed.	<ul style="list-style-type: none"> DCEO Building Surveyor
Public Health Act 2016	s.24	For the purposes of: <ul style="list-style-type: none"> Part 8 – Registration and licensing Part 9 – Notifiable infectious diseases and related conditions Part 14 – Improvement notices and enforcement orders Part 16 – Powers of entry, inspection and seizure. 	Designated classes of persons are: <ul style="list-style-type: none"> Authorised Officer: EHO Environmental Health Officer: Contract EHO

Schedule 2: Office Designations – Regulation 6 of the *Caravan Parks and Camping Act 1995*

Regulation	Function	Authorised Persons
R.11(2)	Camping permits: issuing approvals to camp other than at a caravan park or camping ground for longer than 3 nights (but not for any longer than 3 months in any 12 month period), subject to R.13	CEO, EHO, Rangers
R.12(2)(a)	Issuing approvals to the owner or occupier of land	CEO, EHO

	for there to be more than one caravan used for camping on a lot at any one time for a period of up to 3 months, subject to R.13	
R.20	Issuing approvals for the use of an overflow area of a facility	CEO, EHO
R.30	In accordance with regulation 31, sighting park home certificates and issuing approvals for bringing a park home onto a facility	CEO, EHO, BSu
R.32(7)	Approve change of plans for construction of park home	CEO, EHO, BSu
R.34	Sighting certificates under regulation 36 and issuing approvals, in accordance with regulation 35, for the attaching of rigid annexes to caravans	CEO, EHO, BSu
R.38	Approving a change of class of a park home or rigid annex	CEO, EHO, BSu
R.39	Approving the construction of a carport or pergola within a facility (separate to building permit)	CEO, EHO, BSu

1. Under Section 38 of the *Bush Fires Act 1954*:
 - a. Appoints the Emergency & Ranger Services Officer as Bush Fire Control Officer; and
 - b. Note that a notice of the appointment in Point 2b will be published in a newspaper circulating in the district.
2. Withdraws the following persons as authorised/designated officers/persons:
 - Mr Neil Philip Hartley
 - Mr Ian Stephen Walsh
 - Mr Malcolm Harold Pumphrey
 - Mr Grant Raymond Fidock
 - Mr Johnnie Maxwell Richardson
 - Ms Jennifer Joy Benson
 - Mrs Ruth Passmore
 - Mrs Susanne Levett
 - Mr Trevor Brandy

10.3 CONFIDENTIAL REPORTS

10.3.1 MOTION TO CLOSE THE MEETING TO THE PUBLIC: CONSIDERATION OF CONFIDENTIAL REPORTS

Applicant:	N/A
Location / Address:	N/A
File Ref:	N/A
Disclosure of Interest:	
Date:	14 February 2018
Author:	Executive Support Officer
Attachments:	Nil

BACKGROUND

Item 10.3.2 of the Agenda of 21 February 2018, deals with matters affecting Council, of which the meeting may be closed to the public.

COMMENT

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 5.23 (2) (a) (c) (d) (e) Meetings generally open to the public.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item 10.3.1

That the meeting be closed to the public to consider Confidential Item 10.3.2 of the 21 February 2018 Agenda.

10.3.2 CONFIDENTIAL ITEM

File: Policy Manual

Author: Acting Chief Executive Officer

Date: 12 February 2018

VOTING REQUIREMENT

Simple Majority

10.3.3 MOTION TO RE-OPEN THE MEETING

Applicant:	N/A
Location / Address:	N/A
File Ref:	N/A
Disclosure of Interest:	Nil
Date:	14 February 2018
Author:	Executive Support Officer
Attachments:	Nil

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Item 10.3.3

That the meeting be re-opened to the public.

11. ORDERING THE COMMON SEAL

12. REPORTS OF COMMITTEES AND MEMBERS

13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

14. NOTICE OF MOTIONS

(For consideration at the following meeting, if given during the meeting)

15. NEW BUSINESS OF AN URGENT NATURE ADMITTED BY COUNCIL

16. CLOSURE OF MEETING