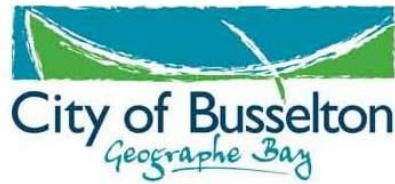


## **ATTACHMENT B**

For resolution Absolute Majority to adopt delegations to the CEO contained within.



## INSTRUMENT OF DELEGATION

<b>Ref No</b>	<b>Act Ref</b>	<b>Delegate</b>	<b>Delegation Subject</b>
BA1	s.127 of Building Act 2011	Chief Executive Officer	<b>Powers of the Local Government pursuant to the <i>Building Act 2011</i></b>
	s.96 of Building Act 2011		<b>Power to appoint a local government employee as an <i>Authorised Person</i></b>

### Delegator

Council.

### Power/Duty

To undertake the powers of the local government pursuant to the *Building Act 2011*.

### Conditions

Nil

### Statutory Framework

Council is exercising its power of delegation under section 127 of the *Building Act 2011* and the delegation of Authorised persons pursuant to section 96(3) of the *Building Act 2011*.

#### **127 . Delegation: special permit authorities and local governments**

- (1) A SPECIAL PERMIT AUTHORITY OR A LOCAL GOVERNMENT MAY DELEGATE ANY OF ITS POWERS OR DUTIES AS A PERMIT AUTHORITY UNDER ANOTHER PROVISION OF THIS ACT.
- (3) A delegation of a local government's powers or duties may be only to a local government employee.
- (6A) The CEO of a local government may delegate to any other local government employee a power or duty of the local government that has been delegated to the CEO under this section but in the case of such a power or duty —
  - (a) the CEO's power under this subsection 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, qualifications, limitations or exceptions imposed by the local government on its delegation to the CEO.

## **96 . Authorised persons**

- (3) A local government may, by instrument in writing, designate a person employed by the local government under the [Local Government Act 1995](#) section 5.36, as an authorised person for the purposes of this Act in relation to buildings and incidental structures located, or proposed to be located, in the district of the local government.

### **Verification**

Council Resolution

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Council Resolution

C1110/334

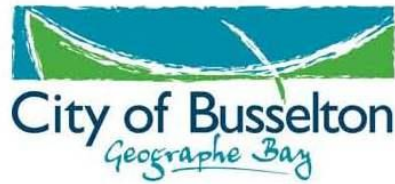
### **Review Requirements**

At Council's discretion as necessary (no statutory requirement).

### **Review Dates**

26 October 2011 (implementation)

##### 2014



## INSTRUMENT OF DELEGATION

Del No	Ref	Act Ref	Delegate	Delegation Subject
TPD 1		s.162 Planning and Development Act 2005  cl. 12.2 City of Busselton Local (Town) Planning Scheme 21	Chief Executive Officer	<b>Determining Applications for Planning Consent</b>

### Delegator

Council.

### Power/Duty

1. To undertake the powers and duties of local government under cl 12.2 of the City of Busselton Local (Town) Planning Scheme 21, subject to the following *Exemptions, Limitation* and *Conditions*.

### Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 162 of the *Planning and Development Act 2005* and clause 12.2 in the City of Busselton Local (Town) Planning Scheme 21.

### **Planning and Development Act 2005**

#### **162. No development except with approval**

- (1) subject to this act, where a planning scheme or interim development order provides that development referred to in the planning scheme or interim development order is not to be commenced or carried out without approval being obtained upon the making of a development application, a person must not commence or carry out that development on land to which the planning scheme or interim development order applies unless —
  - (a) the approval has been obtained and is in force under the planning scheme or interim development order; and
  - (b) the development is carried out in accordance with the conditions subject to which the approval was granted.

## City of Busselton Local (Town) Planning Scheme 21

### 12.2 Delegation of Functions

- 12.2.1 The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee, the Chief Executive Officer (CEO), within the meaning of those expressions under the *Local Government Act 1995*, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.
- 12.2.2 The 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 clause 12.2.1.
- 12.2.3 The exercise of the power of delegation under clause 12.2.1 requires a decision of an absolute majority as if the power had been exercised under the *Local Government Act 1995*.

### Exemptions

The following items, identified by Scheme 21, are exempted from the affect of this delegation and are matters in the *Description* to be determined by Council, or as required by *Conditions* to be determined by Council.

Scheme clause	Description	Conditions
2.1	Initiate preparation or amendment of a local (planning) policy.	Nil
2.2.3	Adopt a local (planning) policy and determine to forward to WAPC (2.3.3 (b)).	Nil
2.4	Determine to revoke a local (planning) policy	Nil
4.14	Termination of a non-conforming use	Nil
7.4.10	Determine to adopt a Structure Plan and determine, if it affects subdivision, to forward it to WAPC for endorsement	Nil
7.5.5	Determine to adopt a Development Guide Plan and determine, if it affects subdivision, to forward it to WAPC for endorsement	2
7.6.5	Determine to adopt a Detailed Area Plan and determine, if it affects subdivision, to forward it to WAPC for endorsement	2
7.7.6	Adopt a Developer contribution plan and determine if affecting subdivision to forward to WAPC for endorsement	Nil
8.1.1	Identify places and establish a Heritage List, advise the Heritage Council of Western Australia 8.1.4	Nil
8.1.6	Remove or modify the entry of a place on the heritage list	Nil
8.2.1	Designate a Heritage Area, advise the Heritage Council of Western Australia 8.2.6	Nil
8.3	Enter in to heritage agreement about land or building with agreement of the owner	Nil.
11.3	Determination of Applications	1.1 & 1.2
12.1.1(b)	Determine to acquire land or buildings	Nil
12.1.1(c)	Determine to dispose of land	Nil
12.4	Determination of compensation for injurious affection	Nil
12.5	Determine the purchase or the taking of land	Nil

## Limitations

1. Application for the subdivision of land (WAPC), but all other powers and duties of local government leading to the determination by the WAPC are delegated including the power to impose Council's accepted Standards Specifications and Financial Contributions relating to subdivision.
2. Application for determination by the DAP, but all other powers and duties of local government leading to the determination by the DAP are delegated.

## Conditions

### 1. Determination of applications

#### 1.1 Call ins

- a. The CEO may determine an item to be of significance or public interest and refer the matter for Council's determination.
- b. The Mayor may consider an item is of significance or public interest and *request* the CEO, in writing, to refer it for Council's determination.

#### 1.2 Reconsiderations

Prior to the determination of an application for reconsideration the CEO shall ensure that a copy of the reconsideration request, together with a delegated Officers report and Recommendation, is circulated to all Councillors, giving a period of not less than **seven (7)** days for any Councillor to *request* the reconsideration be referred for Council's determination.

A Councillor's *request* is to be made in writing to the CEO.

Any *request* will cause the matter to be submitted to the first practicable Council meeting for debate and determination.

If no *request* is received, within the time provided, the matter will proceed to be determined as Recommended in the Officer's report.

### 2 Adopting a Plan

The CEO may refer the *Varying a Plan* for Council determination, or otherwise is delegated to make a determination once having completed the following procedure.

Prior to determining any application or amendment, for adoption or endorsement of a Development Guide Plan and/or Detailed (Local) Area Plan the CEO shall ensure that a copy of the respective Plan, together with a delegated Officers report and Recommendation, is circulated to all Councillors, giving a period of not less than **fourteen (14)** days for any Councillor to *request* it be referred for Council's determination.

A Councillor's *request* is to be made by notice in writing to the CEO.

Any *request* will cause the matter to be submitted to the first practicable Council meeting for +9determination.

If no *request* is received, within the time provided, the matter will proceed to be determined as recommended in the officer report.

**Verification**

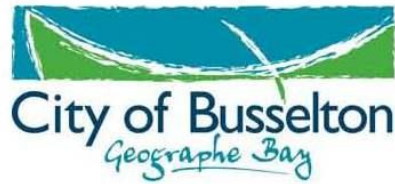
Council Resolution  
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**Review Requirements**

At Council's discretion as necessary (no statutory requirement).

**Review Dates**

##### 2014



## INSTRUMENT OF DELEGATION

<b>Ref No</b>	<b>Act Ref</b>	<b>Delegate</b>	<b>Delegation Subject</b>
LCA 1	Liquor Control Act 1988	Chief Executive Officer	Section 40 Certificates under the Liquor Control Act 1988

### Delegator

Council.

### Power/Duty

To issue certificates of compliance with planning laws, under Section 40 of the *Liquor Control Act 1988*.

### Conditions

Nil

### Statutory Framework

Council, as the authority responsible for Building and Health as referred to in Section 39 and as responsible for local planning matters Section 40 of the *Liquor Control Act 1988*, is exercising its power of delegation under Clause 12.2 (Delegation of Authority) of the City of Busselton Local (Town) Planning Scheme No 21.

### **Liquor Control Act 1988**

#### **40 . Certificate of planning authority as to whether use of premises complies with planning laws**

- (1) An application made to the licensing authority for the grant or removal of a licence, or for a change in the use or condition of any premises shall be accompanied by a certificate from the authority responsible for planning matters in the district in which the premises to which the application relates are situated, or are to be situated, unless the licensing authority otherwise determines.

### Verification

Council Resolution  
C1106/199

Council Resolution  
C0806/188



Council Resolution  
C0709/215

Council Resolution  
C0608/266

Council Resolution  
C0310/432

**Review Requirements**

At Council's discretion as necessary (no statutory requirement).

**Review Dates**

##### 2014

22 June, 2011

25 June, 2008.

14 November, 2007 (administrative).

26 September, 2007.

9 August, 2006.

22 October 2003.



**INSTRUMENT OF DELEGATION**

<b>Ref No</b>	<b>Act Ref</b>	<b>Delegate</b>	<b>Delegation Subject</b>
MVA1	Motor Vehicle Repairers Act 2003	Chief Executive Officer	Section 58(2) <i>Motor Vehicle Repairers Act 2003</i>

**Delegator**

Council.

**Power/Duty**

To issue certificates of compliance with planning laws, under Section 58(2) the *Motor Vehicle Repairers Act 2003*.

**Conditions**

Nil

**Statutory Framework**

Council, as the authority responsible for local planning matters as referred to in Section 58 *Motor Vehicle Repairers Act 2003*, is exercising its power of delegation under Clause 12.2 (Delegation of Authority) of the City of Busselton Local (Town) Planning Scheme No 21.

**Motor Vehicle Repairers Act 2003**

**58 . Business licence application to specify premises that comply with planning laws**

- (2) A planning certificate is a certificate —
  - (a) issued by the authority responsible for planning matters in the district in which the premises are situated; and
  - (b) showing that the proposed use of the premises will be permitted under the written laws relating to planning that apply in respect of the premises because the proposed use will either:
    - (i) comply with all relevant requirements of those laws; or
    - (ii) be a non-conforming use under those laws.

**Verification**

Council Resolution

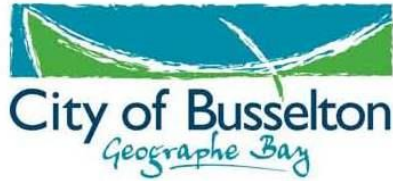
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**Review Requirements**

At Council's discretion as necessary (no statutory requirement).

**Review Dates**

##### 2014



## INSTRUMENT OF DELEGATION

<b>Ref No</b>	<b>Act Ref</b>	<b>Delegate</b>	<b>Delegation Subject</b>
STA1	s.25 of the Strata Titles Act 1985	Chief Executive Officer	Certificate of Approval

### Delegator

Council.

### Power/Duty

1. The power to issue a certificate of approval under s.25 of the *Strata Titles Act 1985*, as delegated by the WAPC s.16.1 *Planning and Development Act 2005* (Planning Bulletin 52/2009).

### Conditions

Nil

### Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO provided for in section 16.1 of the *Planning and Development Act 2005* and as delegated by the West Australian Planning Commission (**Planning Bulletin 52/2009**) the discharge of its powers and duties provided in section 25 *Strata Titles Act 1985*.

### **Strata Titles Act 1985**

#### **25 . Certificate of Commission**

- (1) Subject to this section, every strata plan and every plan of re-subdivision or consolidation for a strata scheme lodged for registration under this act shall be accompanied by a certificate of approval given by the commission unless the proposed subdivision, re-subdivision or consolidation is exempt from the requirement of such a certificate by reason of regulations made under this section.

### Verification

Council Resolution

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**Review Requirements**

At Council's discretion as necessary (no statutory requirement).

**Review Dates**

##### 2014