



INSTRUMENT OF DELEGATION

Del No	Ref	Act Ref	Delegate	Delegation Subject
PDR 1		s.162 Planning and Development Act 2005 cl. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 <i>Deemed Provisions for local planning schemes</i> cl. 12.2 City of Busselton Local (Town) Planning Scheme 21	Chief Executive Officer	Development Control

Delegator

Council.

Power/Duty

To undertake the powers and duties of local government under cl. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 *Deemed Provisions for local planning schemes* and 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*;
- Clause. 82 Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 *Deemed Provisions for local planning schemes* 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 —

1. (a) the approval has been obtained and is in force under the planning scheme or interim development order; and
2. (b) the development is carried out in accordance with the conditions subject to which the approval was granted.

Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed Provisions for local planning schemes

82. Delegations by local government

- (1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.
- (2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.
- (3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

83. Local government CEO may delegate powers

- (1) The local government 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 functions under this Scheme other than this power of delegation.
- (2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

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, 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.

Schedule 2	Scheme 21 clause	Description	Conditions
	2.1	Initiate preparation or amendment of a local (planning) policy.	Nil
4.1		Initiate preparation or amendment of a local (planning) policy and forward to the WAPC	

	2.2.3	Adopt a local (planning) policy and determine to forward to WAPC (2.3.3 (b)).	Nil
4.3		Resolves to proceed/adopt a local (planning) policy	
6	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
19(1)		Structure Plans - consider submissions - <i>does not include 29(3) minor amendments</i>	2
20(2)(e)		Structure Plans - make report and recommendations to the WAPC - <i>does not include 29(3) minor amendments condition 2 applies</i>	2
35(1)		Activity Centre Plan- consider submissions - <i>does not include 45(3) minor amendments condition 2 applies</i>	2
36(2)(e)		Activity Centre Plan - make report and recommendations to the WAPC - <i>does not include 45(3) minor amendments condition 2 applies</i>	2
51		Local Development Plan- consider submissions - <i>does not include 59(4) minor amendments condition 2 applies</i>	2
52(1)		Local Development Plan determination <i>does not include 59(4) minor amendments condition 2 applies</i>	2
	7.7.6	Adopt a Developer contribution plan and determine if affecting subdivision to forward to WAPC for endorsement	Nil
8.3	8.1.1	Identify places and establish a Heritage List, advise the Heritage Council of Western Australia 8.1.4	Nil
8.4	8.1.6	Remove or modify the entry of a place on the heritage list	Nil
9	8.2.1	Designate a Heritage Area, advise the Heritage Council of Western Australia 8.2.6	Nil
10	8.3	Enter in to heritage agreement about land or building with agreement of the owner	Nil.
60(a)	11.3	Determination of Applications	1.1 & 1.2
	11.10	Reviews (SAT). Upon being invited by the Tribunal to reconsider a decision to either affirm, vary, or substitute a new decision	1.3
	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 JDAP, but all other powers and duties of local government leading to the determination by the J 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.

1.3 SAT Reviews

- a. The CEO may determine a Tribunal request, to reconsider a decision, is of significance or public interest and refer the matter for Council's determination.

2. Minor Amendments - Structure Plan, Activity Centre Plan, and Local Development Plans

The CEO may refer minor amendments to 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 determination.

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

#####

Review Requirements

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

Review Dates

2015