

CITY OF ARMADALE

AGENDA

OF DEVELOPMENT SERVICES COMMITTEE TO BE HELD IN THE COMMITTEE ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 14 APRIL 2025 AT 7:00PM.

OFFICIAL OPENING & ACKNOWLEDGEMENT OF COUNTRY

PRESENT:

- Dr C M Wielinga (Chair)
- Cr M Silver (Deputy Chair)
- Mayor R Butterfield
- Cr J Keogh
- Cr S Peter JP
- Cr L Sargeson
- Cr G J Smith
- Cr S Stoneham

APOLOGIES: Cr M J Hancock (Leave of Absence)

OBSERVERS:

IN ATTENDANCE:

PUBLIC:

DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings to be read.

DECLARATION OF MEMBERS' INTERESTS

QUESTION TIME

Public Question Time is allocated for the asking of and responding to questions raised by members of the public.

Minimum time to be provided – 15 minutes (unless not required)

Policy and Management Practice EM 6 – Public Question Time has been adopted by Council to ensure the orderly conduct of Public Question time and a copy of this procedure can be found at <http://www.armadale.wa.gov.au/PolicyManual>

It is also available in the public gallery.

The public's cooperation in this regard will be appreciated.

DEPUTATION

CONFIRMATION OF MINUTES

RECOMMEND

Minutes of the Development Services Committee Meeting held on 17 March 2025 be confirmed.

ITEMS REFERRED FROM INFORMATION BULLETIN - ISSUE 5 - APRIL 2025

If any of the items listed in the Information Bulletin - Issue 5 – April 2025 require clarification or a report for a decision of Council, this item to be raised for discussion at this juncture.

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DEVELOPMENT SERVICES COMMITTEE

14 APRIL 2025

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***1.1 - OUTCOME OF DEVELOPMENTWA'S MAJOR REVIEW OF THE WUNGONG
URBAN WATER DEVELOPMENT CONTRIBUTION PLAN***

Grounds for Closure : Section 5.23(2) (h):
Public Interest : Discussion of this matter in an open meeting would on balance be contrary to the public interest because it deals with other matters as may be prescribed.

WARD : MINNAWARRA
RANFORD
FILE No. : M/206/25
DATE : 7 April 2025
REF : RS
RESPONSIBLE MANAGER : Executive Director
Development Services

In Brief:

- A confidential report is presented at Attachment B-1 to this Agenda.

Strategic Implications

- 1.3.1 Ensure the equitable provision of Community Facilities throughout the City.
- 2.5.4.1 Work with the DevelopmentWA and developers to resolve the transition of Development Contribution Plan to the City as part of the normalisation process.
- 2.5.4.2 Advocate for the State to address any legacy shortfall in contributions from the normalisation process.

Legal Implications

Metropolitan Redevelopment Authority Act 2011
Metropolitan Redevelopment Authority Regulations 2011
Planning and Development Act 2005
Planning and Development (Local Planning Schemes) Regulations 2015
State Planning Policy 3.6 – Infrastructure Contributions (SPP 3.6)
Armadaale Redevelopment Scheme 2
City of Armadaale Town Planning Scheme No.4 (TPS 4)

Council Policy/Local Law Implications

Nil.

Budget/Financial Implications

See report.

Consultation

DWA commenced advertising of the Wungong DCP Review on 17 November 2022 to all major landowners and developers within the Redevelopment area and other key stakeholders including the City and relevant State Government agencies.

A Confidential Report is attached for consideration.

RECOMMEND

That Council adopt the recommendation contained in the Confidential Report.

*****2.1 - REVIEW OF DELEGATIONS FOR BUILDING ACT 2011, FOOD ACT 2008
AND PUBLIC HEALTH ACT 2016 FUNCTIONS***

WARD : ALL

FILE No. : M/707/24

DATE : 7 April 2025

REF : DB

RESPONSIBLE : Executive Director
MANAGER Development Services

In Brief:

- On 25 July 2022 Council commenced a process to review all delegations of authority to the CEO, to be undertaken in two tranches (Tranche 1 and Tranche 2)
- All Council to CEO delegations in Tranche 1 (*Local Government Act 1995, Dog Act 1976 and Cat Act 2011*) were reviewed by Council in June 2023.
- Tranche 2 delegations relevant to Development Services Directorate are presented for adoption by Council, for functions arising from the *Building Act 2011, Food Act 2008* and the *Public Health Act 2016*.

Tabled Items

Nil.

Decision Type

- ☒ **Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- ☐ **Executive** The decision relates to the direction setting and oversight role of Council.
- ☐ **Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil.

Strategic Implications

The following aspiration of the City's Strategic Community Plan 2020-2030 is relevant:

Aspiration 4 - Leadership

- 4.1. Develop organisational frameworks to achieve consistency, transparency and clarity of decision making processes.*

Legal Implications

Delegations of authority are made using enabling legislation, which in this case is the –

Building Act 2011

Public Health Act 2016

Food Act 2008

– to allow Officers to exercise functions and powers that would otherwise be required to be exercised by Council. Unlike Tranche 1 delegations, the delegations made under these statutes do not contain an annual review requirement.

Council Policy/Local Law Implications

New and revised delegations should not alter the ability of the City to use local laws or policies. Some policies may require an administrative amendment to reflect a change in the name of a delegation; however, the heads of power remain the same.

Budget/Financial Implications

Nil.

Consultation

1. Directorate Managers
2. Chief Executive Officer
3. Executive Leadership Team

BACKGROUND

At the OCM of 25 July 2022, Council commenced a process to review all of its delegations of authority to the CEO (CS36/7/22). Due to the substantial amount of work involved in the undertaking it was split into two tranches:

Tranche 1 consisted of all delegations that required an annual review. This encompassed those delegations for *Local Government Act 1995*, *Dog Act 1976* and *Cat Act 2011* powers and functions.

Tranche 2 consisted of all other delegations, specifically those made for *Public Health Act 2016*, *Building Act 2011*, *Bush Fires Act 1954* and *Food Act 2008* powers and functions.

Review of all Tranche 1 delegations is complete, with the results reported to Council for adoption on 12 June and 24 June 2023. Council performed a subsequent review of those delegations on 24 June 2024 to satisfy annual review requirements prescribed by the relevant legislation that provided the heads of power to delegate.

This left the remaining delegations in Tranche 2 for review. A wide-ranging assessment of the City's remaining existing delegations that had not been subject to a detailed review has now been conducted and benchmarked against other local governments in the Perth metropolitan area, as well as against templates provided by the Western Australian Local Government Association (WALGA). Legislative requirements were reviewed, and where necessary, internal legal review on particular powers and the delegable status of those powers.

DETAILS OF PROPOSAL

The Tranche 2 delegations detailed in this report require updating to stay abreast of changes to legislation, current industry practices and better transparency around the functions provided.

In addition, the system administrators of the cloud-based Attain system, which the City uses to manage its delegations (amongst other functions) have provided an updated and improved delegated authority template to better demonstrate functions and powers that have been delegated, in detail. This was in response to requests from the City for a better template to serve a more contemporary approach to making and managing instruments of delegated authority. It was viewed as an opportunity to make changes to the City's instruments of delegation and improve their utility.

Where more than one delegation is identified that has the same head of power, generally a single replacement is proposed combining them. The remaining delegations are proposed to be replaced like-for-like with a version using the updated format.

Draft delegations for the Health Services and Building Services are attached to this report numbering 9 in total, which are proposed to replace 10 existing. The attachments are organised as follows:

1. The proposed delegation is marked up with green and struck-out text showing the modifications to compare with what currently exists.
2. The proposed delegation without any mark up showing its final form (if Council adopts it).
3. The existing delegation(s), to be repealed, is appended last.

The order of each individual package of attachments corresponds to that listed below.

1. Building Services Delegation

3.1.1 *Building Act 2011* – Powers and duties. Replaces “NEW TBC *Building Act 2011* – Powers and Duties”. Essentially a carry over of the existing delegation into the new format and delegates the local government's permit authority functions.

2. Health Services Delegations (Food Act 2008)

7.1.1 Food Act 2008 - appoint Authorised Officers and Designated Officers. Replaces “DS 34.0 Appoint Authorised Officers and Designated Officers (*Food Act 2008*)” with additional clarity provided around the specific power to appoint officers of these prescribed classes.

7.1.2 Food Act 2008 - Prohibition Orders. The functions/powers of an enforcement agency pertaining to food businesses and issuing of prohibition orders (with associated functions) is not expressly covered by an existing delegation, rather it is encompassed as part of the overall enforcement agency functions delegated by “DS 36.0 Functions of enforcement agency”. Given the function/power in respect of prohibition orders is expressly provided by the *Food Act 2008*, it is recommended a dedicated delegation is made to encompass the relevant functions.

7.1.3 Food Act 2008 - food business registrations. Replaces “DS 35.0 Food List – Public Access” and likely part of the broad functions of DS 36.0 with an instrument that is specific to dealing with the functions around registration of food businesses, as well as the ability to make a list of food businesses available to the public.

7.1.4 Food Act 2008 - enforcement agency powers. This is a new instrument, however it is likely that it was encompassed by “DS 36.0 Functions of enforcement agency”. This delegation is specifically intended to deal with the ability to undertake proceedings for breaches of the *Food Act 2008*.

3. Health Services Delegations (*Public Health Act 2016*)

8.1.1 Public Health Act 2016 – enforcement agency functions. This proposes to replace –

- DS 30.0 Enforcement Agency Reports to the Chief Health Officer
- DS 32.0 Commence Proceedings (*Public Health Act 2016*) and
- DS 37.0 *Public Health Act 2016* and Health (*Miscellaneous Provisions Act 1911* – Power or duty of the local government (enforcement agency) under these Acts”.

The purpose of combining these delegations is to place all relevant enforcement agency functions and powers into one instrument.

DS 32.0 is proposed to be revoked without replacement. This is because the power conveyed by it (section 280 - commencing proceedings under the *Public Health Act 2016*) has been given directly to the CEO of a local government or an authorised person, thus making the delegation redundant. This change was created by an amendment to section 280 of the *Public Health Act 2016*, by way of the *Public Health Amendment (Immunisation Requirements for Enrolment) Act 2019*.

DS 37.0 is carried over, in part. References to the *Health (Miscellaneous Provisions) Act 1911* are no longer considered to be required because the *Public Health Act 2016*, by way of the transitional provisions and section 309, provides that “...A reference in a written law or document to the *Health Act 1911* or the *Health (Miscellaneous Provisions) Act 1911* may, if the context permits, be taken to be a reference to this Act.” (i.e. the *Public Health Act 2016*).

Additionally, Council has previously appointed employees of the City to ‘deputise’ specific residual functions of the *Health (Miscellaneous Provisions) Act 1911* on 24 July 2023 (D19/7/23). The deputisation power of section 26 of this legislation is the only remaining mechanism to nominate persons to perform the powers and duties of the local government and is not a function or power that can be delegated.

In a similar fashion, DS 37.0 refers to delegating an unnamed function of the Health Local Law. The powers of this local law are provided to Authorised Officers appointed by the CEO, hence a delegation is not required.

8.1.2 Public Health Act 2016 – appointment of Environmental Health Officers. Replaces “DS 33.0 Appointment of Environmental Health Officers” with additional

clarity provided around the specific power to appoint Environmental Health Officers arising from this legislation.

8.1.3 *Health (Asbestos) Regulations 1992 – appointments.* A like-for-like replacement of “DS 29.0 Appointment of Authorised or Approved Officer (*Asbestos Regs*).”

8.1.4 *Public Health Act 2016 – Designation of authorised officers.* Replaces “DS 28.0 Designate Authorised Officers (*Public Health Act 2016*)” with additional clarity provided to better reflect the legislation around this function.

COMMENT

With the passage of time, changes to relevant legislation and some of the City’s policies, it is important that these delegations are reviewed for suitability and updated.

Council will note the proposed new and replacement delegations have new designator numbers as well. This is consistent with the previous delegations of authority that were presented to Council in the Tranche 1 phase of the review of delegations.

Once all delegations have been adopted, they will all form part of a revised Register of Delegations that will be structured like a piece of legislation, with the delegated powers being separated by their respective heads of power. All will be numbered sequentially with sub-delegations similarly separated by head of power.

OPTIONS

Council has the following options:

1. Adopt the draft delegations attached and revoke the existing delegations as recommended.
2. Not adopt the delegations and request additional information or explanation.

CONCLUSION

The assessment and revision of the attached delegations and the overarching process involved represents a significant body of work to improve the City’s delegation structure and bring about a contemporary change to how the City makes and exercises its functions and powers.

For all practical purposes, little will change for Officers in the course of their day-to-day duties and the powers delegated are the same as those used currently. What these changes will do is improve transparency around how Council delegates, and what specific legislative functions are delegated, whilst creating a clear and unambiguous link between the legislation through to the proper exercise of a power.

RECOMMEND

That Council –

1. Make the following delegations of authority to the Chief Executive Officer and Officers*, for the powers and functions prescribed in the respective instruments –
 - a) 3.1.1 *Building Act 2011* – Powers and duties.
 - b) 7.1.1 *Food Act 2008* - appoint Authorised Officers and Designated Officers.
 - c) 7.1.2 *Food Act 2008* - Prohibition Orders*.
 - d) 7.1.3 *Food Act 2008* - food business registrations*.
 - e) 7.1.4 *Food Act 2008* - enforcement agency powers*.
 - f) 8.1.1 *Public Health Act 2016* – enforcement agency functions*.
 - g) 8.1.2 *Public Health Act 2016* – appointment of Environmental Health Officers.
 - h) 8.1.3 *Health (Asbestos) Regulations 1992* – appointments.
 - i) 8.1.4 *Public Health Act 2016* – Designation of authorised officers.
2. Repeal the following delegations of authority to the Chief Executive Officer and Officers –
 - a) NEW TBC *Building Act 2011* – Powers and duties
 - b) DS 34.0 Appoint Authorised Officers and Designated Officers (*Food Act 2008*).
 - c) DS 35.0 Food List – Public Access.
 - d) DS 36.0 Functions of enforcement agency.
 - e) DS 28.0 Designate Authorised Officers (*Public Health Act 2016*).
 - f) DS 29.0 Appointment of Authorised or Approved Officer (*Asbestos Regs*).
 - g) DS 30.0 Enforcement Agency Reports to the Chief Health Officer.
 - h) DS 32.0 Commence Proceedings (*Public Health Act 2016*).
 - i) DS 33.0 Appointment of Environmental Health Officers.
 - j) DS 37.0 *Public Health Act 2016* and *Health (Miscellaneous Provisions Act 1911* – Power or duty of the local government (enforcement agency) under these Acts.
3. Authorise the Chief Executive Officer to correct any minor formatting or grammatical errors that may be identified in the above instruments, provided any such corrections do not alter the content of the delegation.

ABSOLUTE MAJORITY RESOLUTION REQUIRED

ATTACHMENTS

1. [↓](#) Building Services delegation - attachment package
2. [↓](#) Health Services delegations - Food Act 2008 - attachment package
3. [↓](#) Health Services delegations - Public Health Act 2016 - attachment package

COUNCILLORS' ITEMS

Nil

This refers to any brief updates from Councillors from their attendance at Working Group or Advisory Group meetings on which they represent Council.

EXECUTIVE DIRECTOR DEVELOPMENT SERVICES REPORT

Nil

MEETING DECLARED CLOSED AT _____

DEVELOPMENT SERVICES COMMITTEE		
SUMMARY OF ATTACHMENTS		
14 APRIL 2025		
ATT NO.	SUBJECT	PAGE
2.1	REVIEW OF DELEGATIONS FOR BUILDING ACT 2011, FOOD ACT 2008 AND PUBLIC HEALTH ACT 2016 FUNCTIONS	
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1. BUILDING SERVICES DELEGATIONS

Building Act 2011 functions

(A) 3.1.1 Building Act 2011 – Powers and duties [DRAFT]

NEW TBC Building Act 2011 – Powers and duties [EXISTING-FOR REPEAL]

(A)

DRAFT [MARKED UP]

Delegation	3.1.1 Building Act 2011 - Powers and duties [DRAFT]
Category	Development Services Directorate
Head of power	Part 3 - Building Act 2011
Delegator	Council
Express power to delegate	<p>Building Act 2011 s. 127(1) Delegation: special permit authorities and local government.</p> <p>(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.</p>
Express power or duty delegated	All powers and duties exercisable by the local government as a permit authority or as an owner of land under the <i>Building Act 2011</i> .
Function	Authorised to Exercise and discharge all or any of the powers and duties of the local government as a permit authority under the <i>Building Act 2011</i> .
Delegates	Chief Executive Officer
Conditions	<p><i>Building Act 2011</i> s.127(3) A delegation of a local government's powers or duties may be only to a local government employee. local government employee, in relation to a local government, means a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36</p> <ol style="list-style-type: none"> 1. A delegation of a local government's powers or duties may be only to a local government employee [Act, s. 127(3)] (local government employee, in relation to a local government, means a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36.) 2. The delegation must be in writing executed by or on behalf of the delegator [Act, s. 127(4)] 3. Except as provided for in subsection (6A), a person to whom a power or duty is delegated under this section cannot delegate that power or duty [Act, s. 127(5)]
Express power to subdelegate	<p>Building Act 2011: s. 127(6A) Delegation: special permit authorities and local governments</p> <p>(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 —</p> <p>(a) the CEO's power under this subsection to delegate the exercise of that power or the discharge of that duty; and</p> <p>(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.</p>
Statutory framework	Building Act 2011
Policy	Nil.

Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.
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(A)

DRAFT [NO MARKUP]

Delegation	3.1.1 Building Act 2011 - Powers and duties [DRAFT]
Category	Development Services Directorate
Head of power	Part 3 - Building Act 2011
Delegator	Council
Express power to delegate	<p>Building Act 2011 s. 127(1) Delegation: special permit authorities and local government.</p> <p>(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.</p>
Express power or duty delegated	All powers and duties exercisable by the local government as a permit authority or as an owner of land under the <i>Building Act 2011</i> .
Function	Exercise and discharge all or any of the powers and duties of the local government as a permit authority under the <i>Building Act 2011</i> .
Delegates	Chief Executive Officer
Conditions	<ol style="list-style-type: none"> 1. A delegation of a local government's powers or duties may be only to a local government employee [Act, s. 127(3)] (local government employee, in relation to a local government, means a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36.) 2. The delegation must be in writing executed by or on behalf of the delegator [Act, s. 127(4)] 3. Except as provided for in subsection (6A), a person to whom a power or duty is delegated under this section cannot delegate that power or duty [Act, s. 127(5)]
Express power to subdelegate	<p>Building Act 2011: s. 127(6A) Delegation: special permit authorities and local governments</p> <p>(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 —</p> <p>(a) the CEO's power under this subsection to delegate the exercise of that power or the discharge of that duty; and</p> <p>(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.</p>
Statutory framework	Building Act 2011
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(A)

[EXISTING]

Delegation	NEW TBC Building Act 2011 - Powers and duties
Head of power	Part 3 - Building Act 2011
Delegator	Council
Express power to delegate	<i>Building Act 2011</i> s127 Delegation: special permit authorities and local governments.
Express power or duty delegated	All powers and duties exercised by the Local Government as a permit authority under the <i>Building Act 2011</i> .
Function	Authorised to exercise and discharge all or any of the power and duties of the local government as a permit authority under the <i>Building Act 2011</i> .
Delegates	Chief Executive Officer
Conditions	<i>Building Act 2011</i> s127(3) A delegation of a local government's powers or duties may be only to a local government employee. local government employee , in relation to a local government, means a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36.
Express power to subdelegate	<i>Building Act 2011</i> s127(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.
Statutory framework	<i>Building Act 2011</i>
Policy	Nil
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	26 October 2020
Adoption references	Council Meeting of 26 October 2020 - D68/10/20

2. HEALTH SERVICES DELEGATIONS

Food Act 2008 functions

- (A) 7.1.1 Food Act 2008 - appoint Authorised Officers and Designated Officers
[DRAFT]
DS 34.0 Appoint Authorised Officers and Designated Officers (Food Act 2008)
[EXISTING-FOR REPEAL]
- (B) 7.1.2 Food Act 2008 - Prohibition Orders [DRAFT]
Nil existing
- (C) 7.1.3 Food Act 2008 - food business registrations [DRAFT]
DS 35.0 Food List – Public Access [EXISTING-FOR REPEAL]
- (D) 7.1.4 Food Act 2008 - enforcement agency powers [DRAFT]
DS 36.0 Functions of enforcement agency [EXISTING-FOR REPEAL]

(A)

DRAFT [MARKED UP]

Delegation	DS 34.0 Appoint Authorised Officers and Designated Officers (Food Act 2008) 7.1.1 Food Act 2008 - appoint Authorised Officers and Designated Officers [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	Food Act 2008 s. 118(2)(b) - Enforcement agency may delegate a function conferred on it Food Act 2008: s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	Food Act 2008 s. 12 (1) - Appointment of Authorised Officers s. 126(13) - Infringement Officers
Function	<ol style="list-style-type: none"> Authority to Appoint a person to be an Authorised Officer for the purpose of the <i>Food Act 2008</i> [Act, s. 122(1)]. Authority to Appoint an Authorised Officer, appointed under s. 122(1) of this Act, or s. 24(1) of the <i>Public Health Act 2016</i>, to be a Designated Officer for the purpose of issuing Infringement Notices under the <i>Food Act 2008</i> [Act, s. 126(13)]. Authority to appoint an Authorised Officer to be a Designated Officer (who is prohibited by s. 126(13) from also being a Designated Officer for the purpose of issuing Infringements), for the purpose of extending the time for payment or modified penalties s. 126(6) and determining withdrawal of an Infringement Notice [Act, s. 126(7)].
Delegates	Chief Executive Officer
Conditions	<p>1) In accordance with s. 118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:</p> <ol style="list-style-type: none"> Appointment of Authorised Officers as Meat Inspectors. Appointment of Authorised Officers. Appointment of Authorised Officers – Designated Officers only. Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer. <p>2) maintain a list of authorised officers Appointment is subject to any guidelines issued by the CEO, Department of Health that describe the qualifications and experience that are appropriate for a person to be appointed as an Authorised Officer.</p> <p>3) issue each Authorised Officer with a Certificate of Authority as prescribed A list of Authorised Officers appointed by the enforcement agency is to be prepared and maintained by the delegate.</p> <p>4) a Designated Officer appointed for the purpose of issuing infringements under s.126(13) is prohibited from also being a Designated Officer for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)] The enforcement agency must provide each Authorised Officer appointed by the agency with a certificate of authority as an Authorised Officer, in the form prescribed by s. 123(2).</p>
Express power to subdelegate	Nil. <i>Food Regulations 2009</i> do not provide for sub-delegation

Subdelegate conditions	N/A
Statutory framework	<i>Food Act 2008</i> s. 118(2)(b) - Enforcement agency may delegate a function conferred on it s. 122(1) - Appointment of Authorised Officers s. 122(3) - Requires an Enforcement Agency to maintain a list of appointed Authorised Officers s. 123(1) - Requires an Enforcement Agency to provide each Authorised Officer with a Certificate of Authority, as prescribed s. 126(13) - Infringement Officers
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(A)

DRAFT [NO MARKUP]

Delegation	7.1.1 Food Act 2008 - appoint Authorised Officers and Designated Officers [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	Food Act 2008 s. 118(2)(b) - Enforcement agency may delegate a function conferred on it
Express power or duty delegated	Food Act 2008 s. 12 (1) - Appointment of Authorised Officers s. 126(13) - Infringement Officers
Function	<ol style="list-style-type: none"> 1. Appoint a person to be an Authorised Officer for the purpose of the <i>Food Act 2008</i> [Act, s. 122(1)]. 2. Appoint an Authorised Officer, appointed under s. 122(1) of this Act, or s. 24(1) of the <i>Public Health Act 2016</i>, to be a Designated Officer for the purpose of issuing Infringement Notices under the <i>Food Act 2008</i> [Act, s. 126(13)]. 3. Authority to appoint an Authorised Officer to be a Designated Officer (who is prohibited by s. 126(13) from also being a Designated Officer for the purpose of issuing Infringements), for the purpose of extending the time for payment or modified penalties s. 126(6) and determining withdrawal of an Infringement Notice [Act, s. 126(7)].
Delegates	Chief Executive Officer
Conditions	<p>1) In accordance with s. 118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:</p> <ol style="list-style-type: none"> a) Appointment of Authorised Officers as Meat Inspectors. b) Appointment of Authorised Officers. c) Appointment of Authorised Officers – Designated Officers only. d) Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer. <p>2) Appointment is subject to any guidelines issued by the CEO, Department of Health that describe the qualifications and experience that are appropriate for a person to be appointed as an Authorised Officer.</p> <p>3) A list of Authorised Officers appointed by the enforcement agency is to be prepared and maintained by the delegate.</p> <p>4) The enforcement agency must provide each Authorised Officer appointed by the agency with a certificate of authority as an Authorised Officer, in the form prescribed by s. 123(2).</p>
Express power to subdelegate	Nil. <i>Food Regulations 2009</i> do not provide for sub-delegation
Subdelegate conditions	N/A
Statutory framework	Food Act 2008 s. 118(2)(b) - Enforcement agency may delegate a function conferred on it s. 122(1) - Appointment of Authorised Officers s. 122(3) - Requires an Enforcement Agency to maintain a list of appointed Authorised Officers s. 123(1) - Requires an Enforcement Agency to provide each Authorised Officer with a Certificate of Authority, as prescribed s. 126(13) - Infringement Officers
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(A)

[EXISTING]

Delegation	DS 34.0 Appoint Authorised Officers and Designated Officers (Food Act 2008)
Head of power	Part 7 - Food Act 2008
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Act 2008:</i> s.122(1) Appointment of authorised officers s.126(13) Infringement Officers
Function	<ol style="list-style-type: none"> 1. Authority to appoint a person to be an authorised officer for the purposes of the <i>Food Act 2008</i> [s.122(1)]. 2. Authority to appoint an Authorised Officer appointed under s.122(1) of this Act or the s.24(1) of the <i>Public Health Act 2016</i>, to be a Designated Officer for the purposes of issuing Infringement Notices under the <i>Food Act 2008</i> [s.126(13)].
Delegates	Chief Executive Officer
Conditions	<p>1) In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:</p> <ul style="list-style-type: none"> • Appointment of Authorised Officers as Meat Inspectors • Appointment of Authorised Officers • Appointment of Authorised Officers – Designated Officers only • Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer <p>2) maintain a list of appointed authorised officers.</p> <p>3) issue each Authorised Officer with a Certificate of Authority as prescribed.</p> <p>4) a Designated Officer appointed for the purpose of issuing infringements under s.126(13) is prohibited from also being a Designated Officer for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)].</p>
Express power to subdelegate	NIL – <i>Food Regulations 2009</i> do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i>
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(B)

DRAFT [MARKED UP - NIL EXISTING]

Delegation	7.1.2 Food Act 2008 - Prohibition Orders [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	Food Act 2008 s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it
Express power or duty delegated	Food Act 2008 s. 65(1) - Prohibition Order s. 66 - Certificate of Clearance to be given in certain circumstances s. 67(4) - Request for re-inspection
Function	<ol style="list-style-type: none"> 1. Serve a Prohibition Order on the proprietor of a food business [Act, s. 65(1)]. 2. Give a Certificate of Clearance, where inspection demonstrates compliance with a Prohibition Order and any relevant Improvement Notices [Act, s. 66]. 3. Give written notice to the proprietor of a food business on whom a Prohibition Order has been served, of the decision not to give a Certificate of Clearance after an inspection [Act, s. 67(4)].
Delegates	Chief Executive Officer Executive Director Development Services Manager Health Services
Conditions	In accordance with s. 118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time. Note: in the context of <i>Food Act 2008</i> functions and powers, 'CEO' means the Chief Executive Officer of the Department of Health.
Express power to subdelegate	Nil. <i>Food Regulations 2009</i> do not provide for sub-delegation.
Subdelegate conditions	N/A
Statutory framework	Food Act 2008 s. 65(1), (2) - Prohibition Order s. 66 - Certificate of Clearance to be given in certain circumstances s. 67(4) - Request for re-inspection s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it Food Regulations 2009
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(C)

DRAFT [MARKED UP]

Delegation	7.1.3 Food Act 2008 - food business registrations [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	Food Act 2008 s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it
Express power or duty delegated	Food Act 2008 s. 110 Registration of food businesses s. 112 Variation of conditions or cancellation of registration of food businesses s. 115 Register of food businesses to be maintained Food Regulations 2009 r. 51 Enforcement agency may make list of food businesses publicly available
Function	<ol style="list-style-type: none"> 1. Consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [Act, s. 110(1) and (5)]. 2. Vary the conditions or cancel the registration of a food business [Act, s. 112] 3. Maintain a register of food businesses in the district [Act, s. 115]. 4. Authority to decide to Make a list of food businesses maintained by the agency under section 115(a) or (b) of the Act, or any part of such a list, publicly available [r. 51] [DS 35.0]
Delegates	Chief Executive Officer Executive Director Development Services Manager Health Services
Conditions	<ol style="list-style-type: none"> 1. In accordance with s. 118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: <ol style="list-style-type: none"> a. Food Act 2008 Regulatory Guideline No 1 – Introduction of Regulatory Food Safety Auditing in Western Australia. Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No 1. b. WA Priority Classification System. c. Verification of Food Safety Program Guideline. 2. Where the local government is refusing an application for registration of a food business, the applicant is to be given notice of the refusal in writing setting out the reasons for the refusal [Act, s. 110(8)] 3. The registration of a food business may only be cancelled on one or more of the grounds prescribed by section 112(2), in the manner prescribed by section 112(4) and (6) of the Food Act 2008. 4. Exercise of the delegated powers may be subject to any conditions or limitations imposed by the CEO of the Health Department of Western Australia for the performance of any of the local government's functions under the Food Act 2008. <p>Note: in the context of Food Act 2008 functions and powers, 'CEO' means the Chief Executive Officer of the Department of Health.</p>
Express power to subdelegate	Nil. Food Regulations 2009 do not provide for sub-delegation.
Subdelegate conditions	N/A

Statutory framework	<p><i>Food Act 2008</i></p> <p>s. 110 Registration of food businesses s. 112 Variation of conditions or cancellation of registration of food businesses s. 115 Register of food businesses to be maintained s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it s. 119 Conditions on performance of functions by enforcement agencies</p> <p><i>Food Regulations 2009</i></p> <p>r. 51 Enforcement agency may make list of food businesses publicly available</p>
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

DRAFT

(C)

DRAFT [NO MARKUP]

Delegation	7.1.3 Food Act 2008 - food business registrations [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	Food Act 2008 s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it
Express power or duty delegated	Food Act 2008 s. 110 Registration of food businesses s. 112 Variation of conditions or cancellation of registration of food businesses s. 115 Register of food businesses to be maintained Food Regulations 2009 r. 51 Enforcement agency may make list of food businesses publicly available
Function	<ol style="list-style-type: none"> 1. Consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [Act, s. 110(1) and (5)]. 2. Vary the conditions or cancel the registration of a food business [Act, s. 112] 3. Maintain a register of food businesses in the district [Act, s. 115]. 4. Make a list of food businesses maintained by the agency under section 115(a) or (b) of the Act, or any part of such a list, publicly available [r. 51]
Delegates	Chief Executive Officer Executive Director Development Services Manager Health Services
Conditions	<ol style="list-style-type: none"> 1. In accordance with s. 118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to: <ol style="list-style-type: none"> a. <i>Food Act 2008</i> Regulatory Guideline No 1 – Introduction of Regulatory Food Safety Auditing in Western Australia. Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No 1. b. WA Priority Classification System. c. Verification of Food Safety Program Guideline. 2. Where the local government is refusing an application for registration of a food business, the applicant is to be given notice of the refusal in writing setting out the reasons for the refusal [Act, s. 110(8)] 3. The registration of a food business may only be cancelled on one or more of the grounds prescribed by section 112(2), in the manner prescribed by section 112(4) and (6) of the <i>Food Act 2008</i>. 4. Exercise of the delegated powers may be subject to any conditions or limitations imposed by the CEO of the Health Department of Western Australia for the performance of any of the local government's functions under the <i>Food Act 2008</i>. <p>Note: in the context of <i>Food Act 2008</i> functions and powers, 'CEO' means the Chief Executive Officer of the Department of Health.</p>

Express power to subdelegate	Nil. <i>Food Regulations 2009</i> do not provide for sub-delegation.
Subdelegate conditions	N/A
Statutory framework	<i>Food Act 2008</i> s. 110 Registration of food businesses s. 112 Variation of conditions or cancellation of registration of food businesses s. 115 Register of food businesses to be maintained s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it s. 119 Conditions on performance of functions by enforcement agencies <i>Food Regulations 2009</i> r. 51 Enforcement agency may make list of food businesses publicly available
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

DRAFT

(C)

[EXISTING]

Delegation	DS 35.0 Food List - Public Access
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	<i>Food Regulations 2009:</i> r.51 Enforcement agency may make list of food
Function	Authority to decide to make a list of food businesses maintained under s.115(a) or (b) publicly available [r.51].
Delegates	Manager Health Services
Conditions	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
Express power to subdelegate	NIL – <i>Food Regulations 2009</i> do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i>
Record keeping	The exercise of this delegation is to be recorded in Attain
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(D)

DRAFT [MARKED UP]

Delegation	DS 36.0 Food Act 2008 – Functions of enforcement agency 7.1.4 Food Act 2008 - enforcement agency powers [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	Food Act 2008 s. 116 - Functions of the CEO s. 117 - CEO may delegate s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it s. 118(3) - Delegation subject to conditions [s. 119] and guidelines adopted [s. 120] s. 118(4) - Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	All powers exercisable by the Local Government under the Food Act 2008 and regulations made there under. Food Act 2008 s. 54 Cost of destruction or disposal of forfeited item. s. 125 Institution of proceedings.
Function	To exercise and discharge all or any of the powers and functions of the local government. 1. Functions and powers of an enforcement agency where the local government is defined as an enforcement agency pursuant to section 8 of the <i>Food Act 2008</i> . 2. Commence proceedings on behalf of the enforcement agency for an offence under the <i>Food Act 2008</i> and associated Regulations [Act, s. 125].
Delegates	Chief Executive Officer Executive Director Development Services Manager Health Services
Conditions	All powers exercised are to be accordance with the requirements of the sections under which the function is to be performed. Only the Chief Executive Officer is authorised to institute proceedings for an offence under the Food Act 2008 in accordance with s125 of the Food Act 2008. Any proceedings for an offence must be reported in accordance with s121(2) of the Food Act 2008. 1. In accordance with s. 118(3)(b), this Delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time. Note: in the context of <i>Food Act 2008</i> functions and powers, 'CEO' means the Chief Executive Officer of the Department of Health.
Express power to subdelegate	Nil. <i>Food Regulations 2009</i> do not provide for sub-delegation.
Subdelegate conditions	N/A
Statutory framework	Food Act 2008 Note – Decisions under this delegation may be referred for review by the State Administration Tribunal s. 54 Cost of destruction or disposal of forfeited item s. 118 Functions of enforcement agencies and delegation s. 125 Institution of proceedings

	<i>Food Regulations 2009.</i>
Record keeping	Exercise of the function is to be recorded in the City's records management system and Attain.

(D)

DRAFT [NO MARKUP]

Delegation	7.1.4 Food Act 2008 - enforcement agency powers [DRAFT]
Category	Development Services Directorate
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	Food Act 2008 s. 116 - Functions of the CEO s. 117 - CEO may delegate s. 118 - Functions of enforcement agencies and delegation s. 118(2)(b) - Enforcement agency may delegate a function conferred on it s. 118(3) - Delegation subject to conditions [s. 119] and guidelines adopted [s. 120] s. 118(4) - Sub-delegation permissible only if expressly provided in regulations
Express power or duty delegated	Food Act 2008 s. 54 Cost of destruction or disposal of forfeited item. s. 125 Institution of proceedings.
Function	1. Functions and powers of an enforcement agency where the local government is defined as an enforcement agency pursuant to section 8 of the <i>Food Act 2008</i> . 2. Commence proceedings on behalf of the enforcement agency for an offence under the <i>Food Act 2008</i> and associated Regulations [Act, s. 125].
Delegates	Chief Executive Officer Executive Director Development Services Manager Health Services
Conditions	1. In accordance with s. 118(3)(b), this Delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time. Note: in the context of <i>Food Act 2008</i> functions and powers, 'CEO' means the Chief Executive Officer of the Department of Health.
Express power to subdelegate	Nil. <i>Food Regulations 2009</i> do not provide for sub-delegation.
Subdelegate conditions	N/A
Statutory framework	Food Act 2008 s. 54 Cost of destruction or disposal of forfeited item s. 118 Functions of enforcement agencies and delegation s. 125 Institution of proceedings Food Regulations 2009
Record keeping	Exercise of the function is to be recorded in the City's records management system and Attain.

(D)

[EXISTING]

Delegation	DS 36.0 Food Act 2008 - Functions of enforcement agency
Head of power	Part 7 - Food Act 2008
Delegator	Council
Express power to delegate	<i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it
Express power or duty delegated	All powers exercisable by the Local Government under the <i>Food Act 2008</i> and regulations made there under.
Function	To exercise and discharge all or any of the powers and functions of the local government.
Delegates	Chief Executive Officer Manager Health Services
Conditions	All powers exercised are to be accordance with the requirements of the sections under which the function is to be performed. Only the Chief Executive Officer is authorised to institute proceedings for an offence under the <i>Food Act 2008</i> in accordance with s125 of the <i>Food Act 2008</i> . Any proceedings for an offence must be reported in accordance with s121(2) of the <i>Food Act 2008</i> .
Express power to subdelegate	NIL – <i>Food Regulations 2009</i> do not provide for sub-delegation.
Statutory framework	<i>Food Act 2008</i> Note – Decisions under this delegation may be referred for review by the State Administration Tribunal
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

3. HEALTH SERVICES DELEGATIONS

Public Health Act 2016 functions

- (A) 8.1.1 Public Health Act 2016 – enforcement agency functions [DRAFT]
DS 30.0 Enforcement Agency Reports to the Chief Health Officer [EXISTING]
DS 32.0 Commence Proceedings (Public Health Act 2016) [EXISTING]
DS 37.0 Public Health Act 2016 and Health (Miscellaneous Provisions Act 1911
– Power or duty of the local government (enforcement agency) under these Acts
[EXISTING]
- (B) 8.1.2 Public Health Act 2016 – appointment of Environmental Health Officers
[DRAFT]
DS 33.0 Appointment of Environmental Health Officers [EXISTING]
- (C) 8.1.3 Health (Asbestos) Regulations 1992 – appointments [DRAFT]
DS 29.0 Appointment of Authorised or Approved Officer (Asbestos Regs)
[EXISTING]
- (D) 8.1.4 Public Health Act 2016 – Designation of authorised officers [DRAFT]
DS 28.0 Designate Authorised Officers (Public Health Act 2016) [EXISTING]

(A)

DRAFT [MARKED UP]

Delegation	8.1.1 Public Health Act 2016 - enforcement agency functions [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Public Health Act 2016 s. 21(1)(c) - Enforcement agency may delegate
Express power or duty delegated	Public Health Act 2016 s. 22 Reports by and about enforcement agencies [DS 30.0] s. 24 An enforcement agency may designate a person or class of persons as authorised officers s. 27 List of authorised officers to be maintained s. 46 Publication of current local public health plans s. 68 Registration of registrable activity s. 71 Variation of conditions, suspension or cancellation of registration s. 72 Provisions related to suspension of registration s. 76 Register of activities and premises to be maintained s. 78 Granting an activity licence s. 82 Variation of conditions, suspension or cancellation of activity licence s. 83 Further provisions relating to suspension of activity licence s. 86 Register of licence holders to be maintained s. 216 Issue of enforcement orders s. 218 Extend period of compliance with enforcement order s. 219 Enforcement agency may implement an enforcement order s. 221 Recovery of costs incurred by or on behalf of enforcement agency s. 223 Certificate of clearance to be given in certain circumstances s. 224 Request for assessment Section 260 Return of seized item s. 262 Cost of destruction or disposal of forfeited item s. 263 Return of forfeited item s. 264 Compensation s. 294 Fees and charges may be fixed and recovered by enforcement agencies that are local governments
Function	Functions and powers of an enforcement agency as defined by section 4(1) of the Public Health Act 2016 (as amended).
Delegates	Chief Executive Officer Coordinator Health Services Executive Director Development Services Manager Health Services
Conditions	Nil.
Express power to subdelegate	Nil. Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated.
Subdelegate conditions	Nil. Ability to sub-delegate is not provided by the <i>Health Act 2016</i> .
Statutory framework	Public Health Act 2016: s. 20 - Conditions on performance of functions by enforcement agencies.
Policy	N/A
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(A)

DRAFT [NO MARK UP]

Delegation	8.1.1 Public Health Act 2016 - enforcement agency functions [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Public Health Act 2016 s. 21(1)(c) - Enforcement agency may delegate
Express power or duty delegated	Public Health Act 2016 s. 22 Reports by and about enforcement agencies s. 24 An enforcement agency may designate a person or class of persons as authorised officers s. 27 List of authorised officers to be maintained s. 46 Publication of current local public health plans s. 68 Registration of registrable activity s. 71 Variation of conditions, suspension or cancellation of registration s. 72 Provisions related to suspension of registration s. 76 Register of activities and premises to be maintained s. 78 Granting an activity licence s. 82 Variation of conditions, suspension or cancellation of activity licence s. 83 Further provisions relating to suspension of activity licence s. 86 Register of licence holders to be maintained s. 216 Issue of enforcement orders s. 218 Extend period of compliance with enforcement order s. 219 Enforcement agency may implement an enforcement order s. 221 Recovery of costs incurred by or on behalf of enforcement agency s. 223 Certificate of clearance to be given in certain circumstances s. 224 Request for assessment Section 260 Return of seized item s. 262 Cost of destruction or disposal of forfeited item s. 263 Return of forfeited item s. 264 Compensation s. 294 Fees and charges may be fixed and recovered by enforcement agencies that are local governments
Function	Functions and powers of an enforcement agency as defined by section 4(1) of the Public Health Act 2016 (as amended).
Delegates	Chief Executive Officer Coordinator Health Services Executive Director Development Services Manager Health Services
Conditions	Nil.
Express power to subdelegate	Nil. Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated.
Subdelegate conditions	Nil. Ability to sub-delegate is not provided by the <i>Health Act 2016</i> .
Statutory framework	Public Health Act 2016: s. 20 - Conditions on performance of functions by enforcement agencies.
Policy	N/A
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(A)
[EXISTING]

Delegation	DS 30.0 Enforcement Agency Reports to the Chief Health Officer
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Public Health Act 2016</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s. 22 Reports by and about enforcement agencies
Function	<ol style="list-style-type: none">1. Authority to prepare and provide to the Chief Health Officer, the Local Government's report on the performance of its functions under this Act and the performance of functions by persons employed or engaged by the City of Armadale [s.22(1)]2. Authority to prepare and provide to the Chief Health Officer, a report detailing any proceedings for an offence under this Act [2.22(2)].
Delegates	Manager Health Services
Express power to subdelegate	Nil - Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorised a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies.
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(A)

[EXISTING]

Delegation	DS 32.0 Commence Proceedings (Public Health Act 2016)
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.280 Commencing Proceedings
Function	Authority to commence proceedings for an offence under the <i>Public Health Act 2016</i> [s.280]
Delegates	Chief Executive Officer
Express power to subdelegate	Nil – Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s.20 Conditions on performance of functions by enforcement agencies.
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(A)
[EXISTING]

Delegation	DS 37.0 Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911 - Power or duty of the local government (enforcement agency) under these Acts
Head of power	Part 9 - Planning and Development Act 2005
Delegator	Council
Express power to delegate	<i>Public Health Act 2016</i> s21(1)(c) Enforcement agency may delegate <i>Health (Miscellaneous Provisions) Act 1911</i> s26 Powers of Local Government
Express power or duty delegated	All powers exercisable by the Local Government under the <i>Public Health Act 2016</i> , the <i>Health (Miscellaneous Provisions) Act 1911</i> and regulations made there under, and the City's Health Local Laws.
Function	To exercise and discharge all or any of the powers and functions of the local government.
Delegates	Chief Executive Officer Manager Health Services
Conditions	Not to expend funds for the carrying out of works in default of a notice services under this Act without separate budget approval.
Express power to subdelegate	This authority is not to be sub delegated.
Statutory framework	<i>Public Health Act 2016</i> <i>Health (Miscellaneous Provisions) Act 1911</i>
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(B)

DRAFT [MARKED UP]

Delegation	DS 33.0 Appointment of Environmental Health Officers 8.1.2 Public Health Act 2016 - appointment of Environmental Health Officers [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Public Health Act 2016 s. 21 - Enforcement agency may delegate
Express power or duty delegated	Public Health Act 2016 s. 17 - Appointment of Environmental Health Officers
Function	1) Appoint one or more persons as environmental health officers; 2) An appointee may be— a) a person employed by the local government under the Local Government Act 1995 section 5.36; or b) a person engaged by the local government under a contract for services. Appoint one or more persons as an Environmental Health Officer [Act, s. 17].
Delegates	Chief Executive Officer
Conditions	A local government must not appoint a person as an environmental health officer unless the person has the qualifications and experience approved by the Chief Health Officer under section 18 of the Public Health Act 2016. 1. A person cannot be appointed as an Environmental Health Officer unless the person's qualifications and experience are approved by the Chief Health Officer, Department of Health [Act, s. 18]. 2. An appointee may be a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36; or a person engaged by the local government under a contract for services [Act, s. 17(2)]
Express power to subdelegate	Nil. Unless a Regulation enacted made under the <i>Public Health Act 2016</i> specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)] .
Subdelegate conditions	N/A
Statutory framework	Public Health Act 2016 s. 17 - Appointment of environmental health officers s. 18 - Chief Health Officer to approve qualifications and experience required by environmental health officers s. 21 - Enforcement agency may delegate Local Government Act 1995 s. 5.36 - Local government employees
Policy	Nil.
Record keeping	The exercise of the delegation is to be recorded in the City's records management system and Attain.

(B)

DRAFT [NO MARK UP]

Delegation	8.1.2 Public Health Act 2016 - appointment of Environmental Health Officers [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Public Health Act 2016 s. 21 - Enforcement agency may delegate
Express power or duty delegated	Public Health Act 2016 s. 17 - Appointment of Environmental Health Officers
Function	Appoint one or more persons as an Environmental Health Officer [Act, s. 17].
Delegates	Chief Executive Officer
Conditions	<ol style="list-style-type: none"> 1. A person cannot be appointed as an Environmental Health Officer unless the person's qualifications and experience are approved by the Chief Health Officer, Department of Health [Act, s. 18]. 2. An appointee may be a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36; or a person engaged by the local government under a contract for services [Act, s. 17(2)]
Express power to subdelegate	Nil. Unless a Regulation made under the <i>Public Health Act 2016</i> specifically authorises a delegated power or duty of an enforcement agency to be further delegated
Subdelegate conditions	N/A
Statutory framework	Public Health Act 2016 s. 17 - Appointment of environmental health officers s. 18 - Chief Health Officer to approve qualifications and experience required by environmental health officers s. 21 - Enforcement agency may delegate Local Government Act 1995 s. 5.36 - Local government employees
Policy	Nil.
Record keeping	The exercise of the delegation is to be recorded in the City's records management system and Attain.

(B)
[EXISTING]

Delegation	DS 33.0 Appointment of Environmental Health Officers
Delegator	Council
Express power to delegate	<i>Public Health Act 2016</i> s21 Enforcement Agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.17 Appointment of environmental health officers
Function	1) Appoint one or more persons as environmental health officers; 2) An appointee may be - a) a person employed by the local government under the <i>Local Government Act 1995</i> section 5.36; or b) a person engaged by the local government under a contract for services.
Delegates	Chief Executive Officer
Conditions	A local government must not appoint a person as an environmental health officer unless the person has the qualifications and experience approved by the Chief Health Officer under section 18 of the <i>Public Health Act 2016</i> .
Express power to subdelegate	Nil – Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s17 Appointment of environmental health officers <i>Local Government Act 1995</i> s5.36 Local government employees
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(C)

DRAFT [MARKED UP]

Delegation	DS 29.0 Appointment of Authorised or Approved Officer (Asbestos Regs) 8.1.3 Health (Asbestos) Regulations 1992 – appointments [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Health (Miscellaneous Provisions) Act 1911 s.26 Powers of Local Government Health (Asbestos) Regulations 1992 r. 15D(7) - Infringement Notices.
Express power or duty delegated	Health (Asbestos) Regulations 1992 r. 15D - Infringement notices (5) A local government may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the <i>Criminal Procedure Act 2004</i> Part 2.
Function	Authority to Appoint a person or classes of persons as an Authorised Officer or Approved Officer for the purposes of the <i>Criminal Procedure Act 2004</i> [r. 15D(5)].
Delegates	Chief Executive Officer
Conditions	<ol style="list-style-type: none"> 1. A person cannot be appointed as both an authorised officer and an approved officer. 2. Subject to each person so appointed being issued with a certificate, badge or identity card identifying the Officer as a person authorised to issue Infringement Notices [Reg. 15D(6)]. 3. This Delegation is subject to relevant Department of Health Chief Health Officer Guidelines, as amended from time to time.
Express power to subdelegate	Nil. <i>Health (Asbestos) Regulations 1992</i> do not provide a power to sub delegate.
Statutory framework	Health (Asbestos) Regulations 1992 r. 15D - Infringement notices Criminal Procedure Act 2004
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(C)

DRAFT [NO MARK UP]

Delegation	8.1.3 Health (Asbestos) Regulations 1992 – appointments [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Health (Asbestos) Regulations 1992 r. 15D(7) - Infringement Notices.
Express power or duty delegated	Health (Asbestos) Regulations 1992 r. 15D - Infringement notices (5) A local government may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the <i>Criminal Procedure Act 2004</i> Part 2.
Function	Appoint a person or classes of persons as an Authorised Officer or Approved Officer for the purposes of the <i>Criminal Procedure Act 2004</i> [r. 15D(5)].
Delegates	Chief Executive Officer
Conditions	<ol style="list-style-type: none"> 1. A person cannot be appointed as both an authorised officer and an approved officer. 2. Subject to each person so appointed being issued with a certificate, badge or identity card identifying the Officer as a person authorised to issue Infringement Notices [Reg. 15D(6)]. 3. This Delegation is subject to relevant Department of Health Chief Health Officer Guidelines, as amended from time to time.
Express power to subdelegate	Nil. <i>Health (Asbestos) Regulations 1992</i> do not provide a power to sub delegate.
Statutory framework	Health (Asbestos) Regulations 1992 r. 15D - Infringement notices Criminal Procedure Act 2004
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(C)
[EXISTING]

Delegation	DS 29.0 Appointment of Authorised or Approved Officer (Asbestos Regs)
Delegator	Council
Express power to delegate	<i>Health (Miscellaneous Provisions) Act 1911</i> s.26 Powers of Local Government
Express power or duty delegated	<i>Health (Asbestos) Regulations 1992</i> r.15D(5) Infringement Notices
Function	Authority to appoint a person or classes of persons as an authorised officer or approved officer for the purposes of the <i>Criminal Procedure Act 2004</i> Part 2 [r.15D(5)].
Delegates	Chief Executive Officer
Conditions	a) Subject to each person so appointed being issued with a certificate or identity card identifying the officer as a person authorised to issue infringement notices [r.15D(6)].
Express power to subdelegate	Nil - the <i>Health (Asbestos) Regulations 1992</i> do not provide a power to sub-delegate
Statutory framework	<i>Health (Miscellaneous Provisions) 1911</i> <i>Health (Asbestos) Regulations 1992</i> <i>Criminal Procedure Act 2004</i> - Part 2
Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report Item 1.3

(D)

DRAFT [MARKED UP]

Delegation	DS 28.0 Designate Authorised Officers (Public Health Act 2016) 8.1.4 Public Health Act 2016 - Designation of authorised officers [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Public Health Act 2016 s. 21 - Enforcement agency may delegate
Express power or duty delegated	Public Health Act 2016 s. 24(1) and (3) Designation of authorised officers
Function	<p>1) Designate a person or class of persons as authorised officers for the purposes of enforcing —</p> <p>(a) for the purposes of the <i>Public Health Act 2016</i> or another specified Act; or</p> <p>(b) for the purposes of the specified provisions of the <i>Public Health Act 2016</i> or another specified Act; or</p> <p>(c) for the purposes of the provisions of the <i>Public Health Act 2016</i> or another specified Act other than the specified provisions of that Act [Act, s. 24(1)]</p> <p>2) Issue to each person designated by the local government a certificate of authority as an authorised officer [Act, s. 30(1)]</p> <p>Including:</p> <p>a) an environmental health officer or environmental health officers as a class; OR</p> <p>b) a person who is not an environmental health officer or a class of persons who are not environmental health officers; OR</p> <p>c) a mixture of the two. [s.24(1) and (3)].</p>
Delegates	Chief Executive Officer
Conditions	<p>a) Subject to each person so appointed being;</p> <p>• Appropriately qualified and experienced [s.25(1)(a)]; and</p> <p>• Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31].</p> <p>b) A Register (list) of authorised officers is to be maintained in accordance with s.27.</p> <p>An enforcement agency must not designate a person or class of persons under section 24(1) unless the enforcement agency —</p> <p>(a) considers that the person or, as the case requires, the persons in that class have appropriate qualifications and experience to perform the particular functions that the person or class of persons are to perform as authorised officers; and</p> <p>(b) has regard to any guidelines issued under section 29.</p>
Subdelegate conditions	Nil N/A. Unless expressly provided by Regulations made under the Public Health Act 2016, sub-delegation is not provided for by s. 21.
Statutory framework	Public Health Act 2016 s. 20 Conditions on performance of functions by enforcement agencies s. 25 Certain authorised officers required to have qualifications and experience s. 26 Further provisions relating to designations s. 27 Lists of authorised officers to be maintained s. 28 When designation as authorised officer ceases s. 29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(D)

DRAFT [NO MARK UP]

Delegation	8.1.4 Public Health Act 2016 - Designation of authorised officers [DRAFT]
Category	Development Services Directorate
Head of power	Part 8 - Public Health Act 2016 and Health (Miscellaneous Provisions) Act 1911
Delegator	Council
Express power to delegate	Public Health Act 2016 s. 21 - Enforcement agency may delegate
Express power or duty delegated	Public Health Act 2016 s. 24(1) and (3) Designation of authorised officers
Function	<p>1) Designate a person or class of persons as authorised officers —</p> <p>(a) for the purposes of the <i>Public Health Act 2016</i> or another specified Act; or</p> <p>(b) for the purposes of the specified provisions of the <i>Public Health Act 2016</i> or another specified Act; or</p> <p>(c) for the purposes of the provisions of the <i>Public Health Act 2016</i> or another specified Act other than the specified provisions of that Act [Act, s. 24(1)]</p> <p>2) Issue to each person designated by the local government a certificate of authority as an authorised officer [Act, s. 30(1)]</p>
Delegates	Chief Executive Officer
Conditions	<p>An enforcement agency must not designate a person or class of persons under section 24(1) unless the enforcement agency —</p> <p>(a) considers that the person or, as the case requires, the persons in that class have appropriate qualifications and experience to perform the particular functions that the person or class of persons are to perform as authorised officers; and</p> <p>(b) has regard to any guidelines issued under section 29.</p>
Subdelegate conditions	Nil N/A. Unless expressly provided by Regulations made under the Public Health Act 2016, sub-delegation is not provided for by s. 21.
Statutory framework	Public Health Act 2016 s. 20 Conditions on performance of functions by enforcement agencies s. 25 Certain authorised officers required to have qualifications and experience s. 26 Further provisions relating to designations s. 27 Lists of authorised officers to be maintained s. 28 When designation as authorised officer ceases s. 29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers
Policy	Nil.
Record keeping	Exercise of the authority is to be recorded in the City's records management system and Attain.

(D)
[EXISTING]

Delegation	DS 28.0 Designate Authorised Officers (Public Health Act 2016)
Delegator	Enforcement Agency (means Local Government as defined within the Act)
Express power to delegate	<i>Public Health Act 2016</i> s21 Enforcement agency may delegate
Express power or duty delegated	<i>Public Health Act 2016</i> s.24(1) and (3) Designation of authorised officers
Function	1. Authority to designate a person or class of persons as authorised officers for the purposes of enforcing: i. The <i>Public Health Act 2016</i> or other specified Act ii. Specified provisions of the <i>Public Health Act 2016</i> or other specified Act iii. Provisions of the <i>Public Health Act 2016</i> or another specified Act, other than the specified provisions of that Act. Including: a) an environmental health officer or environmental health officers as a class; OR b) a person who is not an environmental health officer or a class of persons who are not environmental health officers, OR c) a mixture of the two. [s.24(1) and (3)].
Delegates	Chief Executive Officer
Conditions	a) Subject to each person so appointed being; • Appropriately qualified and experienced [s.25(1)(a)]; and • Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31]. b) A Register (list) of authorised officers is to be maintained in accordance with s.27.
Express power to subdelegate	Nil – Unless a Regulation enacted under the <i>Public Health Act 2016</i> , specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].
Statutory framework	<i>Public Health Act 2016</i> s20 Conditions on performance of functions by enforcement agencies. s25 Certain authorised officers required to have qualifications and experience. s26 Further provisions relating to designations s27 Lists of authorised officers to be maintained s28 When designation as authorised officer ceases s29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers s30 Certificates of authority s31 Issuing and production of certificate of authority for purposes of other written laws s32 Certificate of authority to be returned. s.136 Authorised officer to produce evidence of authority <i>Criminal Investigation Act 2006</i> , Parts 6 and 13 – refer s.245 of the <i>Public Health Act 2016</i> The Criminal Code, Chapter XXVI – refer s.252 of the <i>Public Health Act 2016</i>
Policy	Nil

Record keeping	The exercise of this delegation is to be recorded in Attain.
Date adopted	6 April 2020
Adoption references	SCM CEO's Report - Item 1.3

Amendments			
Date	Type	Amendment	References
6 Apr 2020	Amended delegation	Amended to elaborate on the function.	SCM CEO's Report - Item 1.3