



Government of **Western Australia**
Department of **Local Government and Communities**

Local Government Operational Guidelines

Number 17 – January 2007

Delegations

1. Introduction

This guideline has been developed in response to enquiries from local governments regarding the nature of delegations, how to go about determining whether to use delegations and other related matters.

Within the context of government administration and administrative law, this guideline:

- explains the concept of delegation;
- explains how delegations relate to or are derived from legislation;
- explains and illustrates the associated concept of 'acting through';
- provides guidance on determining which powers and duties should be delegated;
- explains the procedure for making delegations; and
- provides examples of delegations from selected powers and duties set out in the *Local Government Act 1995*.

This guideline also contains a listing of various powers and duties in the *Local Government Act 1995* and its associated regulations, and identifies powers and duties capable of delegation and to whom.

2. Definition of 'Delegate'

The [Macquarie Dictionary Second Edition](#) (1991), The Macquarie Library Pty Ltd, Macquarie University, New South Wales (Australia), p. 469, defines 'delegate' as follows:

- to send or appoint (a person) as deputy or representative;
- to commit (powers, duties, etc.) to another as agent or deputy; and
- to commit powers or duties to others.

The [Oxford Shorter English Dictionary Third Edition](#) (1978), Oxford University Press, Oxford (England), p. 511, defines 'delegate' as follows:

- a person sent or deputed to act for or represent another or others; a deputy, commissioner;
- to send or commission (a person) as a deputy
- or representative, with power to act for another; and
- to entrust or commit (authority, etc.) to another as an agent or deputy.

Justice Wills in *Huth v Clarke* (1890) 25 QBD 391, at 395 stated:

'Delegation, as the word is generally used, does not imply a parting with powers by the person who grants the delegation, but points rather to a conferring of an authority to do things which otherwise the person would have to do himself... [It] is never used by legal writers...as implying that the delegating person parts with his power in such a manner as to denude himself of his rights...[The] word 'delegate' means little more than an agent''

The definitions and judicial commentary above illustrate that:

- to delegate is to appoint another person to exercise a power or discharge a duty; and
- a delegation does not strip the person making the delegation of the right to exercise the delegated power or discharge the delegated duty.

3. The Nature of Delegation – Decision Making

Delegations are most commonly used in organisations where:

- A particular person has authority to exercise a discretion to enforce a right or discharge a duty on behalf of the organisation;
- That person or officer has either:
 - (i) a multitude of authorities to exercise a discretion to enforce rights or discharge powers; or
 - (ii) many circumstances in which they have authority to exercise a discretion to enforce rights or discharge duties;
- The business of the organisation could not be efficiently carried on if that person were to personally exercise their discretion to enforce all the rights or discharge all the duties; and
- Through practical administration, that person needs to appoint other persons to exercise their discretion to exercise powers or discharge duties on behalf of the organisation.

Whilst there is a requirement for local government delegations to be authorised by statute (as is explained in section 6 of these guidelines), there is no limitation (unless expressly stated to the contrary

by statute) on **appointing** a person to act on **behalf** of the local government or the CEO, provided that appointment does not include the power of delegation (see section 15 of these guidelines for details).

There is a legal distinction between:

- the delegation to a person to exercise a right or discharge a duty on behalf of an organisation; and
- appointing a person to act on behalf of an organisation or another employee of that organisation.

In most circumstances, where a person:

- Is appointed only to carry out the express instructions of an employee or the governing body of an organisation; and
- Is provided with only limited discretion in carrying out those instructions,

that appointment does not constitute a delegation and does not need to be formally delegated. Please see section 4 of these guidelines which explain the concept of 'acting through'. Section 3 of this guideline has illustrated that when determining whether an appointment is a delegation or simply an appointment to act on behalf of another person, it is critical to consider whether or not the person is appointed to exercise a broad discretion to exercise a power or discharge a duty.

4. The Concept of 'Acting Through'

In addition to covering delegations, the *Local Government Act 1995* introduces the concept of 'acting through'. Section 5.45 of the Act states that in relation to delegations, nothing prevents a 'local government from performing any of its functions by acting through a person other than the CEO' or 'a CEO from performing any of his or her functions by acting through another person'. The Act does not specifically define the meaning of the term 'acting through'. However, the key difference between a delegation and 'acting through' is that a delegate exercises the delegated decision making function in his or her own right. The principal issue is that where a person has no discretion in carrying out a function, then that function may be undertaken through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

For administrative purposes, a person may sign a letter in his or her name on behalf of the CEO while, with delegated powers, the person would sign a letter in his or her own name, in accordance with the delegated authority.

An appropriate method for a council of a local government to make a decision which will be implemented by its officers, is for it to make a policy about particular functions that it performs. In that case there is no need for a delegation as it will be the role of the organisation to implement those policy decisions.

It is critical in understanding the types of functions that are appropriate for 'acting through' another person in preference to delegation. This can be demonstrated through the following example. In this case, the Council gives the CEO the power to call tenders subject to certain cost parameters. If that power is delegated, the CEO could call tenders if the CEO believed the cost parameters had been satisfied (even if the Council's opinion was different to the CEO's opinion). However, under an 'acting through' arrangement, the CEO could only call tenders if the Council was satisfied about the cost parameters.

There are several advantages in using 'acting through' rather than delegation which include:

- it will better suit particular operational processes;
- it may decrease bureaucratic arrangements;
- it will reduce additional recording; and
- it will reduce reporting requirements placed on employees who are given delegated authority.

5. Legislative Powers for Delegations in Local Government

The legislation authorising the delegation of certain local government powers or duties and requiring records to be maintained in respect of such delegations, includes the:

- *Local Government Act 1995*;
- *Local Government (Miscellaneous Provisions) Act 1960*; (*Strata Titles Act 1985*);
- *Bush Fires Act 1954*; and
- *Planning and Development Act 2005*.

6. Local Government Act 1995

The provisions of the *Local Government Act 1995* which provide for delegations by a local government or its CEO are as follows:

- Section 5.16(1), states:
'Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than this power of delegation.'
- Section 5.42(1), states:
'A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.'
- Section 5.44(1), states:
'A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.'

The Act has been framed in a way that determines whether powers and duties can be delegated or not. If the term 'council' is used then it is the council itself which must carry out that function. If the term 'local government' is used then it may be possible to use delegation, subject to any other express powers against delegation or the desirability in using 'acting through' where it may be a better way of carrying out the power or duty.

7. Local Government (Miscellaneous Provisions) Act 1960; Strata Titles Act 1995

Section 2 of the *Local Government (Miscellaneous Provisions) Act 1960* effectively incorporates the provisions of that Act into the *Local Government Act 1995*, and therefore the delegation provisions of the *Local Government Act 1995* apply to the *Local Government (Miscellaneous Provisions) Act 1960*.

Section 2 states that:

'The Local Government Act 1995 applies as if the provisions of this Act were in that Act but in construing the provisions of this Act account is to be taken of the meanings they had before the Local Government Act 1995 commenced.'

In addition to the delegation powers of the *Local Government Act 1995* which apply to the *Local Government (Miscellaneous Provisions) Act 1960*, section 374(1b) of the *Local Government (Miscellaneous Provisions) Act 1960* provides for a local government to delegate the authority to approve certain plans to its building surveyor, stating that:

'The authority to approve or refuse to approve plans and specifications submitted under [section 374] may be delegated by a local government to a person appointed to the office of building surveyor...'

Reference also needs to be made to section 23 of the *Strata Titles Act 1985* which provides for particular delegations to employees.

8. *Bush Fires Act 1954*

Section 48 of the *Bush Fires Act 1954* provides for a local government to delegate powers to its CEO, stating that:

'A local government may, in writing, delegate to its chief executive officer the performance of any of its functions under this Act.'

9. *Planning and Development Act 2005*

The *Planning and Development Act 2005* provides for a system through the Model Scheme Text as a set of general provisions for carrying out the general objects of town planning schemes.

Item 11.3.1 of the Model Scheme Text provides for a local government to delegate powers to a committee or its CEO, stating that:

'The local government may...delegate to a committee or the CEO...the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.'

Item 11.3.2 of the Model Scheme Text provides for a local government CEO to delegate their powers and duties to another employee, stating that:

'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 11.3.1.'

10. Legislative Powers to Delegate Relate Only to the Act in which they are Contained

Some local governments have mistakenly attempted to use the legislative powers of delegation contained in one Act to delegate a power or duty contained in another Act.

Unless expressly stated to the contrary, a legislative power to delegate only relates to the powers or duties under the Act in which the delegation power is located.

It is not possible to, for example, rely on section 5.42(1) of the *Local Government Act 1995* to delegate any of a local government's powers under the *Bush Fires Act 1954* to a CEO. Any delegation by a local government of its powers under the *Bush Fires Act 1954* can only be delegated by the delegation provisions of that Act.

11. The Rule Against Sub-delegation

Notwithstanding that only some of the relevant legislation expressly prohibits sub-delegation, the common law prohibits sub-delegation unless it is expressly provided for by legislation.

For the avoidance of doubt, an example of sub-delegation is where person A is delegated to exercise a power and they attempt to delegate to person B to exercise the power which was originally delegated to person A.

Another example is the *Bush Fires Act 1954*. Unlike the *Local Government Act 1995*, the *Bush Fires Act 1954* does not provide for a CEO to delegate to another employee to exercise the powers

delegated by council to the CEO under section 48 of that Act. Therefore, only the CEO may exercise the powers delegated by council to the CEO under that Act.

12. Statutory Limitations on Delegations

There are limitations on all of the above legislative provisions which provide for the delegation of powers and duties.

Many of the limitations relate to sub-delegation. Other limitations include whether the delegation must be in writing, what types of powers and duties can be delegated and what type of majority decision is required to delegate a power or duty.

Not all of the limitations can be addressed in this operational guideline, due to their number and detail. However, the majority of the limitation provisions are located close to the provisions which provide for the delegations.

As the *Local Government Act 1995* is the Act under which most delegations will be made by local government, this guideline will discuss the limitations on delegations contained within that Act.

13. Delegations to Committees

Section 5.17 of the *Local Government Act 1995* provides limitations on what powers and duties a local government can delegate to its committees. Section 5.17(1) limits the powers and duties which can be delegated to committees, according to the types of members which constitute the committees eg:

- Council members only;
- Council members and employees only;
- Council members, employees and other persons; or
- Employees and other persons only.

Section 5.17(2) prohibits absolutely the delegation of any powers or duties to committees comprised of only persons other than local government council members or employees.

14. Delegations to the CEO

Sections 5.43(a) to 5.43(h) of the *Local Government Act 1995* provide limitations on what powers and duties a local government can delegate to its CEO, stating that:

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

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;

- (g) hearing or determining an objection of a kind referred in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor; or
- (i) such other powers or duties as may be prescribed.'

Section 5.43(i) of the Act provides for regulations to prescribe further powers or duties which cannot be delegated to the CEO.

The following regulations prescribe powers and duties which cannot be delegated to a CEO:

- (a) Regulation 18G of the *Local Government (Administration) Regulations 1996* prohibits the delegation to a CEO of the powers and duties under:
 - (i) Sections 7.12A(2), 7.12A(3)(a) and 7.12A(4) of the *Local Government Act 1995* (relating to meetings with auditors); and
 - (ii) Regulations 18C and 18D (relating to the selection and appointment of CEOs and reviews of their performance).
- (b) Regulation 6 of the *Local Government (Financial Management) Regulations 1996* prohibits the delegation of the duty to conduct an internal audit to an employee (including a CEO) who has been delegated the duty of maintaining the local government's day to day accounts or financial management operations.

15. Delegations to Other Local Government Employees

Section 5.44(1) of the *Local Government Act 1995* provides for the CEO to make delegations to other employees.

The obvious main limitation of section 5.44(1) is that it expressly prohibits any sub-delegation of the power to delegate. This means that once the CEO has delegated a power or duty to an employee or employees, that power or duty cannot be on-delegated to other employees.

Just as a delegation to a CEO by a council may be done with conditions attached, when delegating to another employee a CEO may attach conditions to the delegation, provided that the CEO does not purport to delegate more powers or duties to the other employee than were delegated to the CEO.

16. Powers Under the Interpretation Act 1984

Section 59 of the *Interpretation Act 1984* explains the particular elements of the power to delegate when it appears in various Acts. It states:

'Construction of Power to Delegate

- (1) Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him under a written law –
 - (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;

- (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
 - (c) if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;
 - (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of office;
 - (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;
 - (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully acting in or performing the functions of that office.
- (2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.
- (3) Where under a written law an act or thing may or is required to be done to, by reference to or in relation to, a person and that person has under a written law delegated a relevant

function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the function has been delegated.'

It is important to be aware that under these provisions, the delegator retains the power to make decisions if need be, despite the fact that a delegation has occurred.

Also, in situations when a number of people occupy a particular office throughout either the day or week (eg ranger officers), a delegation by office enables an employee who occupies that office for the time being, to exercise the powers and duties delegated to that office.

A delegation by office will also enable an employee who temporarily occupies an office, say in an acting role whilst the normal occupier of the office is sick, to efficiently exercise the powers and duties delegated to that office, without the need to go through the delegation process again. Care needs to be taken in ensuring that the person has the appropriate qualifications where required.

When delegating by office, it is essential to ensure that the office described is a distinctly identifiable office (eg Manager, Corporate Services).

17. Records of Delegations

The major requirements to keep records of delegations to committees, CEOs and other employees are contained in sections 5.18 and 5.46 of the *Local Government Act 1995*.

In relation to delegations to committees, section 5.18 states that:

'A local government is to keep a register of the delegations made [to committees] under this Division and review the delegations at least once every financial year.'

In relation to delegations to CEOs and other employees, section 5.46 states that:

- '(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.'

The registers of delegations to committees and CEOs should include a copy of the minutes which record the delegation (and any conditions) and can be kept in an electronic or paper format. In the case of a delegation from the CEO to an officer the register should also contain a copy of the memorandum of delegation.

Obligations are imposed on the recipients of delegated powers and duties. Under section 5.46 of the *Local Government Act 1995*, regulation 19 of the *Local Government (Administration) Regulations 1996* requires delegates to keep a record

of each occasion on which they exercise the powers or discharge the duties delegated to them, stating that:

'Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of:

- (a) how the person exercised the power or discharged the duty;
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.'

This provision does not necessarily require the keeping of a register and other efficient record keeping practices would be sufficient. However, it is recommended that such systems provide for accessible accountability of the performance of these tasks.

18. Delegates to Disclose Interests and Lodge Returns

Part 5 Division 6 of the *Local Government Act 1995* (disclosure of financial interests) also applies to delegates of powers and duties.

Section 5.71 states that:

'If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and:

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

Penalty: \$10,000 or imprisonment for 2 years.'

In circumstances where the employee is carrying out a delegated function and the matter relates to his or her own projects, then another officer will need to have the authority to deal with the matter. In addition to the prohibition on delegates exercising the powers or performing the duties delegated to them, sections 5.75 and 5.76 of the *Local Government Act 1995* require employees who have been delegated powers or duties to lodge primary and annual returns. Sections 5.75 and 5.76 state:

5.75 Primary Returns

- (1) A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day.
- (2) A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day.
- (3) This section does not apply to a person who:
 - (a) has lodged a return within the previous year; or
 - (b) has, within 3 months of the start day, ceased to be a relevant person.

Penalty: \$10,000 or imprisonment for 2 years.

5.76 Annual returns

- (1) Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.
- (2) Each year, a CEO must lodge with the mayor or president an annual return in the prescribed form by 31 August of that year.

Penalty applicable to subsections (1) and (2): \$10,000 or imprisonment for 2 years.'

'Relevant person' includes a 'designated employee' who has been delegated a power or duty.

Section 5.78 of the *Local Government Act 1995* prescribes the information which must be included in the primary and annual returns.

Where an officer acts temporarily in a position with delegated power, that person will need to complete a financial interest return unless they have only acted in that position for less than 3 months.

19. Determining What Should Be Delegated

A decision to delegate a power or duty should be made by local governments only after thorough consideration of whether the delegation will facilitate the effective operation of the local government. This will therefore depend on the particular circumstances of each local government.

A local government council is unable to deal with all of the numerous issues and duties concerning its local government. As far as is possible and reasonable, councils should be predominantly concerned with dealing with higher level policy matters for their local governments.

Duties and powers which are operational in nature, but exercise a discretion should be delegated to the CEO.

Powers and duties can be delegated to CEOs with comprehensive conditions attached. The conditions limit the exercise of powers or discharge of duties to circumstances prescribed by the council. For example, a permit application which does not satisfy the conditions attached to a delegation, must be referred to the council for determination.

The Local Laws Manual (2005), Local Laws WA, Western Australian Local Government Association, Western Australia (Australia) at Section 2, page 10, provides a useful example of a recommendation to council for the delegation of certain powers with conditions attached, as follows:

'That the administration of this Local Law including any enforcement action and collection of the annual licence fee be delegated to the CEO, but that the exercise of the following powers be reserved to the Council:

- (a) issue or refusal of a licence under clause...;
- (b) determination of a licence period under clause...;
- (c) cancellation of a licence under clause...;
- (d) renewal or refusal to renew a licence under clause...; and
- (e) determination of any security under clause...'

Delegations with conditions are also frequently made in relation to employees other than the CEO for acquiring assets on behalf of a local government. An example is where the CEO delegates an employee with the power to purchase goods and services to a value of \$10,000 - any proposed purchases which would exceed this limit would need to be referred to the CEO for approval.

Many local laws provide for the appointment of employees as 'authorised persons' for the purpose of the relevant local law. Once an employee is appointed as an 'authorised person', it is not necessary for the CEO or council to delegate any powers to that employee in order for that employee to, say, enforce the relevant local law.

It is important to again note the difference between a delegation of a power or duty and the implementation of a council or CEO decision – see section 4 of this guideline in relation to 'acting through'.

An example of carrying out a council decision (compared to exercising a delegated power or duty) is where a council approves an annual budget which includes the expenditure of \$40,000 for particular road maintenance to be carried out by employees. Employees do not need to be delegated the power to carry out their operational functions.

In the example above, if the relevant employees believe it is necessary to spend more funds than approved in the budget, they must refer that matter to the council for its approval – the adoption of an annual budget can only be done by an absolute majority of council, which under section 5.43(a) of the *Local Government Act 1995* cannot be delegated to the CEO or any other employee.

The principal consideration for a local government when deciding if it should delegate a power or duty, is whether the delegation will improve the efficiency of the local government's operations whilst ensuring that its policies are consistently implemented. See the attached schedule which lists those items where acting through would be a suitable mechanism for achieving that efficiency. Local governments also need to consider the content of their local laws and whether delegation may be necessary, in some circumstances. However, 'authorised persons' can normally carry out the 'policing' powers in local laws.

20. Procedure for Delegations by Council

Section 19 of this guideline considers how a local government can determine whether it should delegate particular powers and duties. This part considers the procedure for council to make a delegation.

When CEOs identify a duty or power of the local government which can be delegated and they believe that if it is delegated it will provide better efficiency, they should put the proposed delegation to their council, for approval.

As the earlier example from the Local Laws Manual (in section 19) demonstrates, a recommendation to council for a delegation is relatively straightforward. The essential elements of a delegation recommendation are:

- (a) correct and accurate identification of the power or duty to be delegated;
- (b) correct and accurate identification of the person or office to whom or which the power or duty is to be delegated;
- (c) correct and accurate definition of the circumstances (if any) in which the power or duty can be exercised or discharged; and
- (d) conditions on the exercise of the power or discharge of the duty.

It is important to note again that all delegations by council require an absolute majority decision.

Once a delegation has been made by council, the delegation must be recorded in the delegation register.

Under regulation 19 of the *Local Government (Administration) Regulations 1996*, the delegate must keep written records of when and how they exercise the delegated power or discharge the delegated duty, and the persons or classes of persons affected by the exercise of the power or discharge of the duty.

21. Procedure for Delegations by CEO

Similarly to delegations by councils, delegations by CEOs must accurately and correctly identify all elements of the delegation.

Employee proposals for delegations (for themselves or for other employees) should be provided to the CEO. The recommendations should be in a format similar to the recommendations for delegations by councils.

As with delegations by council, written records of delegations by the CEO must be kept in the delegations register and delegates must keep records of their exercise of delegated powers or discharge of delegated duties.

22. Schedule of Powers and Duties

The attached schedule lists the powers and duties under the *Local Government Act 1995* (with associated regulations) which cannot be delegated, those that can be delegated, and to whom the powers and duties can be delegated. It also lists those matters where 'acting through' may be the most practical way of carrying out those functions.

It is not suggested that all of the powers and duties which can be delegated should be delegated – the schedule is provided only as an indication of what can be delegated if it is appropriate for a particular local government.

Examples of Delegations

23. Issuing Notices to Owners or Occupiers of Land

Section 3.25(1) of the *Local Government Act 1995* provides for a local government to provide notice to a person requiring that person to do certain things in relation to land, stating that:

'A local government may give a person who is the owner ... of land a notice in writing relating to the land requiring the person to do anything specified in the notice that:

- (a) is prescribed in Schedule 3.1, Division 1; or
- (b) is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.'

If a council determines that the efficiency of its local government operations will be improved if its CEO is delegated to exercise the powers under section 3.25(1), the council may so delegate to the CEO either with or without any conditions.

The following is an example of a recommendation for such a delegation:

'That, under section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer be delegated to exercise the powers under section 3.25(1) of the *Local Government Act 1995*.'

As with all delegations by council:

- (a) any delegation to a CEO to exercise the powers under section 3.25 must be:
 - (i) by way of absolute majority decision;
 - (ii) recorded in the delegations register;
 - and
- (b) the CEO must keep records of the exercise of the delegated power or discharge of the delegated duty.

For reasons of policy and/or to maintain uniformity, it may be inappropriate for a CEO to delegate to other employees to exercise any section 3.25(1) powers which have been delegated to the CEO. However, other employees can be appointed to carry out a CEO's exercise of powers delegated to the CEO, without those other employees needing to be delegated.

By way of example, in times when a cyclone is approaching a district, if the CEO is delegated to exercise section 3.25(1) powers, the CEO may decide that certain items must be tied down to prevent them from causing a hazard when the cyclone hits the district, and that section 3.25(1) notices must be issued in relation to those items. Once the CEO has decided this, the CEO may then appoint any number of employees to survey the district and, when they identify items which the CEO has decided must be tied down, complete the section 3.25(1) notices and issue them to the relevant person, on behalf of the CEO.

24. Calling for and Accepting Tenders

Section 3.57(1) of the *Local Government Act 1995* states that:

'A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.'

Section 5.43 of that Act states that:

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

- (a) ...
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph.'

Part 4 of the *Local Government (Functions and General) Regulations 1996* regulates and provides the procedures for local government tenders for providing goods or services.

A council may delegate to its CEO to invite tenders under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*, without the necessity of setting a maximum limit on the tenders which the CEO may invite.

However, the effect of section 5.43(b) is that if a council wishes to delegate to its CEO to accept tenders under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*, it may attach a condition to the delegation that specifies the maximum limit of the tenders which the CEO may accept.

Following is an example of a recommendation to council to delegate to its CEO to invite any tenders (in accordance with council's selection criteria) and accept tenders up to a limit of \$200,000 under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*:

'That, under section 5.42 of the *Local Government Act 1995*, the Chief Executive Officer be delegated to:

- (a) Invite any tenders; and
- (b) Accept tenders up to an amount of \$200,000 in total value, under section 3.57 of the *Local Government Act 1995* and Part 4 of the *Local Government (Functions and General) Regulations 1996*.'

Local Government Act 1995

Relevant Exercisable Powers and Dischargeable Duties of a Local Government

(Refer to each section of the Act or Regulations for the full details of each power or duty to be exercised by the local government)

- This table sets out the Powers and Duties relevant to delegation and also identifies when 'acting through' the staff of the organisation may be appropriate.
- The table also indicates where delegation is not permitted and the Council is to perform that power or duty.
- See a ✓ where applicable.
- The decision to delegate will be a policy matter for each local government.
- The column headed 'Suitable for Acting Through' covers the situations where either the council has made a policy about the matter and the staff of the organisation implement that particular function or where the organisation may carry out the function administratively.

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
2.11(2)	A local government may change the method of filling the office of mayor or president		✓				
2.12A(1)(b)	Council, by motion passed by it, proposes to change method of filling office of mayor or president		✓				
2.12A(1)(c)	Local government to give public notice (of proposal to change method of filling office of mayor or president)	✓					
2.17(3)	A council with 15 councillors may retain those 15 even if a decision is made to elect the mayor/president by the electors		✓				
2.25(1)	A council may by resolution grant leave of absence to a member		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 3 – Functions of Local Government							
3.5	A local government may make local laws to perform any of its functions under the Act		✓					
3.6(1)	With the Governor's approval, a local government can apply a local law to an area that is not in a district		✓					
3.12(3)	Local government must give Statewide public notice (in relation to proposed local laws)	✓						
3.12(4)	Local government may adopt a local law		✓					
3.12(5)	Local government must publish (adopted local law in the Government Gazette)	✓						
3.12(6)	Local government must give local public notice (that a local law has been adopted)	✓						
3.15	A local government must ensure that people of its district are informed (of the purpose and effect of all its local laws)	✓						
3.16(1)	Within 8 years from the day a local law commences, a local government must review the operation of each local law following the process set out in section 3.16	✓						
3.16(2)	Local government must give Statewide public notice (in relation to the review of its local laws)	✓						
3.16(3)	After the last day for submissions in relation to the review of its local laws, a local government must consider submissions and cause a report to be submitted to council	✓						
3.16(4)	Local government may determine whether or not it considers that any of its local laws should be repealed or amended		✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 3 – Functions of Local Government							
3.21	In performing its executive function, the local government must ensure that the obligations set out in section 3.21 are complied with	✓						
3.22(1)	A local government that causes damage through the performance of its function must pay compensation to the owner or occupier							✓
3.25(1)	A local government may give an occupier a notice requiring them to do something to the land if it is specified in Schedule 3.1. The local government must also inform the owner if the occupier is not the owner							✓
3.26(2)	In order to make a person comply with a notice, a local government may do anything it considers necessary to achieve the purpose for which the notice was given	✓						✓
3.26(3)	A local government may continue to undertake works that are not carried out by the owner or occupier and recover the costs as a debt	✓						✓
3.27(1)	A local government may go onto private land in the circumstances prescribed in Schedule 3.2 and carry out works, even if it does not have the consent of the owner	✓						✓
3.31(2)	After a local government has given notice, it may authorise a person to enter land, premises or thing without consent, unless the owner or occupier has objected to the entry	✓						✓
3.34(1)	A local government may enter land in an emergency without notice or consent	✓						✓
3.34(5)	A local government must give notice (to the owner or occupier of an intended entry in an emergency whenever it is practical)	✓						

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 3 – Functions of Local Government							
3.36(3)	A local government may make an opening in a fence to do works on property subject to providing the owner or occupier with 3 days written notice	✓						✓
3.39	Local government may authorise an employee to remove and impound any goods	✓						✓
3.40(2)	If a local government impounds a vehicle to remove and impound goods, it must allow the offender to resume control of the vehicle as soon as practicable after the goods have been removed	✓						
3.40(3)	If the person entitled to resume control of the vehicle is not present, the local government must give notice (to the holder of a licence in respect of the vehicle, stating from where and when the vehicle may be collected)	✓						
3.40A(1)	Local government may authorise a person to remove and impound an abandoned vehicle wreck	✓						✓
3.40A(2)	Local government to provide notice (to the owner of a removed abandoned vehicle wreck, advising that the vehicle may be collected	✓						
3.40A(4)	Local government may declare that a vehicle is an abandoned vehicle wreck	✓						✓
3.42(1)	If a local government impounds non-perishable goods, it must either begin a prosecution against the offender or give them a notice stating from where and when the goods may be collected	✓						
3.44	Where non-perishable goods have been removed and impounded and a prosecution instituted, if the offender is not convicted or is convicted but it is not ordered that the goods be confiscated, the local government must give the alleged offender notice stating from where and when the goods may be collected	✓						

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Suitable for Acting Through	Delegation Prohibited	Applicable Delegation			
				To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.46(1)	A local government may refuse to allow goods impounded under sections 3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid	✓					
3.46(2)	A local government may refuse to allow goods removed under sections 3.40 or 3.40A to be collected until the costs of removing and keeping them have been paid	✓					
3.47(1)	The local government may sell or otherwise dispose of any goods that have been ordered to be confiscated under section 3.43	✓					✓
3.47(2)	The local government may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3) or 7 days of a declaration being made that a vehicle is an abandoned vehicle wreck	✓					✓
3.47(2a)	The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in section 3.47(2b) of the date a notice is given under sections 3.42(1) (b) or 3.44	✓					✓
3.47A(1)	If an impounded animal is ill or injured to such an extent that treating it is not practicable, the local government may humanely destroy the animal and dispose of the carcass	✓					✓
3.48	If goods are removed or impounded under section 3.39 and the offender is convicted, the local government may recover any expenses incurred in removing and impounding the goods	✓					✓
3.50(1)	A local government may close a thoroughfare to vehicles, wholly or partially, for a period not exceeding 4 weeks	✓					✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 3 – Functions of Local Government							
3.50(1a) and 3.50(4)	A local government may, after providing public notice of its intention and reasons, inviting submissions and then considering submissions, order a thoroughfare to be wholly or partially closed to vehicles for a period exceeding 4 weeks							✓
3.50(6)	An order to close a thoroughfare may be revoked by the local government	✓						✓
3.50(8)	If a thoroughfare is closed without local public notice, the local government must give such notice as soon as practicable after its closure	✓						
3.50A	A local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure is for the purpose of carrying out repairs or maintenance and is unlikely to have a significant adverse effect on users of the thoroughfare	✓						✓
Functions & General Reg 6(3)	A local government may, by local public notice, revoke an order under regulation 6(1) that closed a thoroughfare or alter it to make it less restrictive	✓						✓
3.51(3)	Before fixing, altering or realigning a public thoroughfare or draining water onto adjoining land, the local government must give notice of its proposal, invite submissions and consider those submissions	✓						✓
3.52(2)	Except if they are closed or have restricted use, local governments are to ensure that public thoroughfares are kept open for public use	✓						
3.52(3)	When fixing, altering or realigning a public thoroughfare, the local government must ensure vehicle access to adjoining land is provided	✓						
3.53(3)	If an unvested facility lies within 2 or more districts, the local governments concerned can agree on its control and management			✓	✓			✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.54(1)	A local government may do anything it could do under the <i>Parks and Reserves Act 1895</i> if it were a Board appointed under that Act, to control and manage any land reserved under the <i>Land Act 1933</i> and vested in or placed under the control and management of the local government	✓		✓	✓	✓	✓
3.57(1)	A local government must invite tenders before it enters into a contract for goods or services with a value of \$100,000 or more (Functions and General Reg 11)			✓	✓	✓	✓
Functions & General Reg 14(2a)	Where a local government is inviting tenders, the local government must determine in writing the criteria for accepted tenders			✓	✓		✓
Functions & General Reg 11(2)(d)	Tenders do not have to be publicly invited if the contract is to be entered into by auction after being expressly authorised by a resolution of the council		✓				
Functions & General Reg 14(4)(a)	Such information as a local government decides should be disclosed to those interested in submitting a tender		✓				
Functions & General Reg 18(4) & (5)	A local government must consider any tender that has not been rejected and decide which one to accept. It may decline to accept any tender			✓	✓	✓	✓
Functions & General Reg 19	The local government must give each tenderer written notice stating the successful tender or advising that no tender was accepted	✓					
Functions & General Reg 20	A local government may, with the approval of the tenderer, make a minor variation in a contract for goods or services before it enters the contract with the successful tenderer	✓	Limited	✓	✓	✓	✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
Functions & General Reg 20 (2)	If the successful tenderer does not want to accept the contract with the variation or the local government and the tenderer cannot reach agreement, the local government can select the next most appropriate tenderer			✓ Limited	✓ Limited	✓ Limited	✓ Limited
Functions & General Reg 21 (1)	A local government may seek expressions of interest before entering the tender process			✓ Limited	✓ Limited	✓ Limited	✓ Limited
Functions & General Reg 21(3)	A local government must give statewide public notice (that it seeks expressions of interest before entering the tender process)	✓					
Functions & General Reg 23(3)	A local government must consider any submissions of interest that have not been rejected and decide which ones could satisfactorily supply the goods or services			✓ Limited	✓ Limited	✓ Limited	✓ Limited
Functions & General Reg 24	A local government must give each person who submitted an expression of interest written notice (of the outcome of its decision)	✓					
Functions & General Reg 24E(1)	Where local government intends to give a regional price preference the local government is to prepare a regional price preference policy	✓		✓	✓	✓	✓
Functions & General Reg 24(E)(4)	A local government cannot adopt a regional price policy until the local government has considered submissions received	✓		✓	✓	✓	✓
3.58(2)	A local government can only dispose of property to the highest bidder at public auction or the most suitable public tender			✓ Limited	✓ Limited	✓ Limited	✓ Limited

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 3 – Functions of Local Government						
3.58(3)	A local government can dispose of property by private treaty but must follow the process set out in section 3.58(3)			✓	Limited	Limited	✓
Functions & Gen Reg 30(2)(a)(ii)	A disposition of land is an exempt of disposition of the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee	✓					✓
3.59(2)	A local government must prepare a business plan before it enters into a major trading undertaking, a major land transaction or a land transaction that is preparatory to a major land transaction	✓					
3.59(4)	A local government must give Statewide public notice (stating its proposal to enter into a major trading undertaking, a major land transaction or a land transaction that is preparatory to a major land transaction, where the plan may be inspected or obtained, and call for submissions on the plan within 6 weeks)	✓					
3.59(5)	The local government must consider submissions and then decide whether to proceed with the major trading undertaking, major land transaction or land transaction that is preparatory to a major land transaction		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 4 – Elections and Other Polls						
4.9(1)	If the mayor or president has not already done so, the council must fix the day on which a poll is held for an extraordinary election		✓				
4.16(4)	The council may decide, with the Electoral Commissioner's approval, that the election day for a vacancy that has occurred under section 2.32 before the first Saturday in August in the year prior to an ordinary election but after the first Saturday in February in an ordinary election year, is to be on the ordinary election day for that year		✓				
4.17(2)	The council may decide, with the Electoral Commissioner's approval, that a vacancy may remain unfilled if it occurred under section 2.32 before the first Saturday in August in the year prior to the election year in which the term would have ended under the Table to section 2.28, but after the first Saturday in February in that election year		✓				
4.20(2)	A local government may, with the approval of the person concerned and the Electoral Commissioner, appoint a person as the returning officer instead of the CEO		✓				
4.20(4)	A local government may, with the Electoral Commissioner's agreement, declare the Electoral Commission to be responsible for the conduct of an election		✓				
4.57(3)	A local government may appoint an eligible person (who is willing to accept the appointment) to any unfilled office if, at the close of nominations for an extraordinary election, under section 4.57(1) or (2), the number of candidates is less than the number of offices		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation		
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte
	Part 4 – Elections and Other Polls			To a 5.9(2) (b) Ctte
				To a 5.9(2) (c) - (e) Ctte
4.61(2)	Local government may decide to use postal voting for an election	✓	✓	
Elections Reg 9(1)	The fees to be paid to an electoral officer for conducting an election are those agreed between the local government and the electoral officer	✓		
Elections Reg 28(1b) (b)	If a candidate's deposit has not been refunded within 28 days after notice is given of the result of the election, the local government is to credit that amount to a fund of the local government	✓		
				To the CEO

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 5 – Administration							
5.2	The council of a local government must ensure there is an appropriate structure for administering the local government		✓					
5.3(1)	The council must hold ordinary meetings and may hold special meetings		✓					
5.4	The council may decide to hold an ordinary or special meeting		✓					
5.8	A local government may establish committees of 3 or more people to assist the council in exercising its powers and duties		✓					
5.15	A local government may reduce the quorum for a committee meeting		✓					
5.16(1)	A local government may delegate to a committee, under and subject to section 5.17, any of its powers and duties other than this power of delegation		✓					
5.18	A local government must keep a register of all delegations made to a committee (at least once each financial year)	✓						
5.18	A local government must review all delegations made to a committee	✓		✓	✓			✓
Admin Reg 12(1)	At least once every year a local government must give local public notice (of the date, time and place of all its ordinary council meetings and any committee meetings that must or are proposed to be open to the public, that are to be held in the next 12 months)	✓						
Admin Reg 12(2)	A local government must give local public notice (if any of the dates, times or places in the notice under regulation 12(1) change)	✓						
Admin Reg 12(3)	A local government must give local public notice (of the date, time and place of a special meetings of council that must be open to the public)	✓						

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 5 – Administration							
Admin Reg 14(1)	A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents tabled at the meeting or which have been produced for presentation at the meeting are made available to the public at the same time as they are available to council and committee members	✓						
Admin Reg 14A(1)(c)	A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if the council has approved of the arrangement by absolute majority		✓					
5.27(2)	General meeting of electors to be held on a day selected by a local government but not more than 56 days after the local government accepts the annual report for the previous financial year	✓						✓
5.36(1)	A local government must employ a CEO		✓					
5.36(4)	If the position of CEO becomes vacant, a local government must advertise the position in the manner and containing such information as prescribed	✓						
5.37(1)	A local government may designate any employee to be a senior employee			✓	✓			✓
5.37(2)	The council may reject or accept a recommendation by the CEO to employ or dismiss a senior employee. If it rejects a recommendation it must provide the CEO with its reasons		✓					
5.37(3)	If the position of a senior employee becomes vacant, a local government must advertise the position in the manner and containing such information as prescribed	✓						✓
5.38	The performance of each employee employed more than 1 year, needs to be reviewed	✓						

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
Admin Reg 18C	A local government is to approve a process for selection and appointment of the CEO			✓	✓		
Admin Reg 18D	A local government is to consider, accept or reject a review of the CEO's performance			✓	✓		
5.42(1) & 5.43	A local government may delegate to the CEO any of its powers and duties under this Act except those in section 5.43 and this power of delegation		✓				
5.50(1)	A local government must prepare a policy for employees whose employment is finishing, setting out the circumstances in which the local government would pay a gratuity and how that gratuity would be assessed, and give local public notice of the policy			✓	✓		✓
5.50(2)	A local government may make a payment to an employee whose employment is finishing, that is in addition to the amount set out in its policy, provided that local public notice of the payment is given			✓	✓		✓
5.53(1)	A local government must prepare an annual report for each financial year	✓					
5.54(1)	A local government must accept the annual report by 31 August after that financial year		✓				
5.56	A local government is to prepare a Plan for the Future	✓		✓	✓		✓
Admin Reg 19C(4)	A local government is to review its current plan for the future every 2 years			✓	✓		
Admin Reg 19C(7)	A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future and when preparing any modifications of a plan	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
Admin Reg 19D(1)	After a plan for the future, or modifications to a plan, are adopted a local government is to give local public notice	✓					
Admin Reg 19D(5)	A Council is to adopt the plan for the future		✓				
Admin Reg 29A(2)	Information prescribed as confidential but that, under 5.95(7), may be available for inspection if a local government so resolves			✓	✓		✓
5.98(1)(b)	A local government may set a fee, within the prescribed range, to be paid to a council member who attends a council or committee meeting		✓				
5.98(2)(b)	A local government may approve expenses which are to be reimbursed to its councillors, provided that the expenses are of the kind prescribed as those which the local government can approve for reimbursement [subject to section 5.98(3)]			✓	✓		✓
5.98(4)	A local government may approve the reimbursement to a council member of an approved expense, either generally or in a particular case			✓	✓		✓
5.98A	A local government may decide to pay its deputy mayor or deputy president an allowance of up to the prescribed percentage of the annual local government allowance to which the mayor or president is entitled under section 5.98(5)		✓				
5.99	The local government may decide to pay council members attending council and committee meetings an annual meeting fee instead of an individual meeting fee		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 5 – Administration						
5.99A	A local government may decide that instead of reimbursing council members, under section 5.98(2), for all of a particular type of expense, it will instead pay all council members an allowance for that type of expense		✓				
5.100(2)	A local government may decide to reimburse expenses to committee members who are not council members or employees			✓	✓		✓
5.101(2)	A local government may reimburse an employee for an expense that was incurred in relation to a matter affecting the local government			✓	✓		✓
5.102	A local government may make a cash advance to a person for an expense which can be reimbursed			✓	✓		✓
5.103(1)	A local government must prepare or adopt a code of conduct to be observed by council members, committee members and employees			✓	✓		✓
5.103(2)	A local government must review its code of conduct within 12 months of every ordinary elections day			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
Financial M'gment Reg 8(1)	A local government must maintain separate accounts for monies required to be held in the municipal fund, the trust fund, the reserve accounts, or monies relating to major land or major trading undertakings that will or are expected to span more than 2 financial years	✓					
Financial M'gment Reg 11(1)	A local government must develop procedures for cheques, credit cards, computer encryption devices and passwords, purchasing cards and petty cash systems	✓					
Financial M'gment Reg 11(2)	A local government must develop procedures for the approval of accounts	✓					
Financial M'gment Reg 13(2)	A list of accounts for approval to be paid must be prepared for each month, including the date of the meeting of council to which the list is to be presented	✓					
Financial M'gment Reg 19(1)	A local government must establish and document internal control procedures to ensure control over investments	✓		✓	✓		✓
6.2(1)	A local government must prepare by 31 August in each financial year, an annual budget for its municipal fund for the next financial year	✓					
6.2(1)	A local government must adopt the budget prepared		✓				
6.3	A local government must prepare a budget if a general valuation or a rate or service charge is quashed by a court or the State Administrative Tribunal, or if it intends to impose supplementary general rate or specified area rate for the remainder of a financial year	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation							
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO		
	Part 6 – Financial Management								
6.3	A local government must adopt the budget prepared (Budget for other circumstances)		✓						
6.4(1)	A local government must prepare an annual financial report for the preceding financial year and such other reports as are required	✓							
6.4(3)	By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor the accounts of the local government and the annual financial report	✓							
Financial M'gnt Reg 33A(3)	A council is to consider a budget review submitted to it and is to determine by absolute majority whether or not to adopt the review, any parts of the review on any recommendations made in the review		✓						
Financial M'gnt Reg 34(2)(c)	Each statement of financial activity is to be accompanied by documents containing such other supporting information as is considered relevant by the local government	✓							
Financial M'gnt Reg 34(1)	A local government must prepare monthly financial reports	✓							
6.9(3)	A local government must pay or deliver to the person entitled to it any money and its interest and any property	✓							
6.9(4)	A local government may transfer money held in trust for 10 years to its municipal fund, but must repay it to a person who establishes a right to the repayment, together with any interest earned on the investment	✓							✓
6.11(1)	A local government must establish and maintain a reserve account for each purpose for which it wishes to set aside money	✓							

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 6 – Financial Management							
6.11(2)	A local government may change the purpose of a reserve account or use money held in a reserve account for another purpose		✓					
6.11(2)	A local government must give one month local public notice of a proposal to change the purpose of a reserve account or use money held in a reserve account for another purpose	✓						
6.12(1)(a)	A local government may, when adopting the annual budget, grant a discount or incentive for early payment of any money [subject to section 6.12(2)]		✓					
6.12(1)(b)	A local government may waive or grant concessions in relation to any amount of money or write off any amount of money that is owed to the local government [subject to section 6.12(2)]			✓	✓			✓
6.12(3)	The local government may determine what conditions apply to the granting of a concession			✓	✓			✓
6.13(1)	A local government may resolve to apply interest to any money that it has been owed [subject to section 6.13(6)], other than for rates and service charges		✓					
6.14(1)	A local government may invest money in its municipal or trust funds that is not being used, in accordance with Part III of the <i>Trustees Act 1962</i>	✓		✓	✓			✓
6.16(1)	A local government may impose a fee or charge for any goods or services it provides, except for a service for which a service charge has been imposed		✓					
6.16(3)	As well as imposing fees and charges when adopting the annual budget, a local government may impose fees and charges during the year or amend, from time to time, fees and charges throughout the year		✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.19	If a local government wishes to impose a fee or charge under Part 6 Division 5 Subdivision 2 after the annual budget has been adopted, it must provide local public notice of its intention to do so and the date from which the amended fees or charges will be imposed	✓					
6.20(1)	A local government may borrow or re-borrow money, obtain credit or extend its financial accommodation in other ways		✓				
6.20(2)	If a local government proposes to exercise its power to borrow but it is not budgeted for, unless the proposal is of a prescribed kind, it must give one month public notice of the proposal	✓					
6.20(2)	If a local government proposes to exercise its power to borrow but it is not budgeted for, it must make the resolution to do so by absolute majority		✓				
6.20(3)(a)	If a local government exercises its power to borrow and then decides not to proceed with the proposal or it does not use all of the money, credit or financial accommodation, after giving one month local public notice it may resolve to use it for another purpose		✓				
6.20(3)(b)	If a local government exercises its power to borrow and then decides not to proceed with the proposal or it does not use all of the money, credit or financial accommodation, it may resolve to use it for another purpose		✓				
6.20(3)	One months public 'notice' must be given	✓					
6.26(3)	If Co-operative Bulk Handling Ltd and a local government cannot reach an agreement, under section 6.26(2)(i), the local government may refer the matter to the Minister for determination			✓	✓	✓	✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 6 – Financial Management							
6.29(2)	A local government must impose a rate on the basis of unimproved value to any tenement, licence or permit that is located in a district for which only rates on the basis of gross rental value apply		✓					
6.32(1)	When adopting the annual budget, a local government may, in order to make up a budget deficiency, impose a general rate on rateable land within its district, and may impose a specified area rate or a minimum payment on rateable land within its district, and may impose a service charge on land within its district		✓					
6.32(3)	A local government may, in an emergency after rates in a financial year have been imposed, impose a supplementary general rate or specified area rate for the unexpired portion of the current financial year, and is to impose a new general rate, specified area rate or services charge if a court or the State Administrative Tribunal quashes a general valuation, rate or service charge		✓					
6.33(1)	Local government may impose differential general rates		✓					
6.35(1)	Local government may impose on any rateable land in its district a minimum payment		✓					
6.36(1)	A local government must give local public notice (of its intention to impose any differential general rates or minimum payment applying to a differential rate category under section 6.35(6)(c))	✓						
6.37(1)	Local government may impose a specified area rate on rateable land		✓					
6.38(1) Financial M'gment Reg 54	A local government may impose a service charge on owners or occupiers to meet the cost of providing television and radio rebroadcasting, volunteer bush fire brigades, underground electricity etc		✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 6 – Financial Management							
6.39(1)	As soon as practicable after a local government resolves to impose rates, it must compile a record of all rateable land in the district and all land which has a service charge imposed	✓						
6.39(2)	A local government must, from time to time, amend the current rate record to ensure it is accurate and correct and may amend the rate record for the 5 years preceding the current financial year	✓						
6.40(1)	If the rateable value, rateability or the rate imposed on any land is amended in the rate record, under section 6.39(2), the local government must reassess the rates payable and give notice to the owner of the land of any change in the amount of rates payable	✓						
6.40(2)	If a service charge on any land is amended in the rate record, under section 6.39(2), the local government must reassess the service charge and give notice to the owner of the land of any change of the amount of service charge payable	✓						
6.40(3)	If rates are reduced, under section 6.40(1), a local government must refund the owner of the land on request or credit the amount for rates or service charges	✓						
6.40(4)	If a service charge is reduced, under section 6.40(2), and the service charge had already been paid by the owner, the owner may request and then the local government must pay the overpaid amount to the owner or, alternatively, the overpaid portion is credited against any future amounts payable. If the service charge was paid by the occupier, the local government must pay the overcharged portion to the person who paid it	✓						
6.41(1)	A local government must give a rate notice to the owner of rateable land and the owner or occupier (as the case requires) of land on which a service charge is imposed, containing the particulars required	✓						

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.45(1) Financial M'gnt Reg 64(2)	When adopting its annual budget, a local government must determine the due date for payment of instalments after the first instalment		✓				
6.45(3) & Financial M'gnt Reg 67	A local government may impose an additional charge (including by way of interest) where payment of a rate or service is by instalments and that additional charge is taken to be a rate or service charge		✓				
6.46	A local government may, when imposing a rate or service charge, resolve to grant a discount or incentive for its early payment		✓				
6.47	A local government may, at the time of imposing rates and service charges, resolve to waive a rate or service charge or grant a concession	✓					
6.49	A local government may make an agreement with a person to pay their rates and service charges	✓					✓
Financial M'gnt Reg 66(2)	If an instalment remains unpaid after the day on which the next instalment becomes due the local government may revoke the ratepayer's right to pay by instalments	✓					
Financial M'gnt Reg 66(3)(b)	The local government must in writing immediately notify the ratepayer of the revocation	✓					
6.50(1) and 6.50(2)	A local government may determine the due date that rates and charges become due, but which date cannot be sooner than 35 days after the date noted on the rate notice	✓					✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.51(1) & Financial M'gmt Reg 70	A local government may resolve to impose interest (not to exceed 13%) on a rate, service charge and any costs of recovery that remains unpaid		✓				
6.56(1)	A local government may recover an unpaid rate or service charge and the cost of proceedings in court of competent jurisdiction	✓					✓
6.60(2)	A local government may give notice (to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay its rent to the local government in satisfaction of the rate or service charge)	✓					✓
6.60(3)	If a local government gives notice to a lessee, under section 6.60(2), the local government must give a copy of the notice to the lessor	✓					✓
6.60(4)	If a local government gives notice to a lessee, under section 6.60(2), and the lessee fails to pay rent to the local government, the local government may recover the rate or service charge as a debt from the lessee	✓					✓
6.61(1)	A local government may request an occupier, an agent or the person who receives the rent of a property, to give the name and address of the owner to the local government	✓					
6.64(1)	If any rates or service charges have remained unpaid for at least 3 years, a local government may take possession of the land and hold the land against a person having an estate or interest in the land, and may lease or sell the land or transfer it to the Crown or itself			✓	✓		✓ subject to 5.43(d)
6.64(2)	A local government that takes possession of land, under section 6.64(1), must give the owner such notice as prescribed and then affix the notice to a conspicuous part of the land in the form prescribed	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation						
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO	
	Part 6 – Financial Management							
6.64(3)	A local government may lodge a caveat in respect of any land for which rates and service charges are outstanding	✓						✓
6.69(2)	A local government may accept payment of any outstanding rates or service charges on such terms and conditions as are agreed between the parties, up to the time of actual sale of the relevant land but not more than 7 days prior to same	✓						
6.69(3)	If a local government accepts payment of outstanding rates or service charges, under sections 6.69(1) or 6.69(2), the local government is required to make such notifications and take such measures as are prescribed to cancel the proposed sale	✓						✓
6.71(1)	If a local government is unable to sell land under Part 6 Division 6 Subdivision 6 within 12 months, it may transfer the land to the Crown or itself					✓	✓	✓ subject to 5.43(d)
6.71(3)	If a local government transfers land to itself, under section 6.71(1) (b), it must pay any sum owed under a mortgage, lease, tenancy, encumbrance or charge in favour of the Crown in right of the State or a department, agency or instrumentality of the Crown	✓						
6.74(1)	A local government may apply in the prescribed form to the Minister to have land revested in the Crown if it is rateable vacant land and rates or service charges in respect of it have remained unpaid for at least 3 years					✓	✓	✓
Financial M'gmt Reg 77(1)	Before applying to have land revested under section 6.74, a local government must give notice to the owner of the land and any other interested persons and publish the notice in the Gazette	✓						
Financial M'gmt Reg 77(3)	A local government must consider any objections it receives in relation to a revestment under regulation 77					✓	✓	✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 6 – Financial Management						
6.76(4)	A local government may extend the time for a person to make an objection in relation to the rate record	✓		✓	✓		✓
6.76(5)	The local government must consider any objections to the rates record and may disallow or allow the objection either wholly or in part			✓	✓		✓
6.76(6)	The local government is to provide the person with notice of its decision	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 7 – Audit						
7.1A(1) & 7.1A(2)	Local government to establish an audit committee, appoint members to the committee with a minimum of 3 members and a majority of which are council members		✓				
7.1B	Despite section 5.16, a local government can delegate to an audit committee only those powers and duties contained in Part 7		✓				
7.3(1) & (2)	A local government must appoint one or more persons, on the recommendation of the audit committee, to be its auditor		✓				
7.6(2)(f)	A local government may terminate the appointment of an auditor by written notice			✓	Audit Ctte		
Audit Reg 8(1)	Where a local government has terminated an agreement with its auditor, it must give notice and reasons for the termination to the Executive Director within 30 days	✓					
7.6(3)	If the auditor's registration as a company auditor is suspended or the auditor is unable or unwilling to carry out their duties, a local government must appoint a person to conduct or complete its audit		✓				
7.12A(2)	A local government must meet with its auditor at least once a year			✓	Audit Ctte		
7.12A(3)	A local government is to examine the auditor's report, under section 7.9(1) and any report under section 7.9(3), and must determine if any matters raised by the report require action and ensure that appropriate action is taken			✓	Audit Ctte		

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 7 – Audit						
7.12A(4)	A local government must prepare a report on any action taken in response to an auditor’s or section 7.9(3) report, and provide it to the Minister			✓ Audit Ctte			
Audit Reg 14(1)	A local government must carry out a compliance audit for the period 1 January to 31 December in each year	✓					
Audit Reg 14(3)	A compliance audit return must be presented to the council at a meeting of the council, adopted by the council and recorded in the minutes of the meeting at which it is adopted		✓				

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
Part 8 – Scrutiny of the Affairs of Local Governments							
8.2(2)	Upon receiving a request from the Minister for information, a local government must provide the information to the Minister within the specified time of the notice	✓					✓
8.14(3)	A local government must give the Minister advice of what things it has done or will do to comply with an enquiry report from the Minister or a person authorised by the Minister, within 35 days of receiving the report			✓	✓		✓
8.23(4)	A local government must give the Minister advice of what things it has done, or will do, to comply with an Inquiry Panel's report within 35 days of receiving the report, or give its comment on a recommendation to dismiss the council			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Part 9 – Miscellaneous Provisions						
9.6(1)	An objection under Part 9 is to be dealt with by the council or a committee authorised by council to deal with it	✓	✓				
9.6(5)	The local government must give the person who made the objection notice of how it was disposed of and reasons why	✓					✓
9.9(3)	As soon as a decision under section 9.9(1)(b) is made, the local government must give the affected person written notice stating the reasons for the decision	✓					✓
9.10(1) & (2)	The local government may appoint persons or classes of persons to be authorised to perform certain functions and must issue them with a certificate stating they are authorised	✓				✓	✓
9.60(4)	A local government is to administer any regulation made under section 9.60 as if it were a local law	✓					
9.63(1)	If a dispute has arisen between 2 or more local governments, a local government may refer the matter to the Minister to resolve					✓	✓
9.68(5)	A local government may recover accruing rates from a principal or agent who has failed to give a notice to the local government in accordance with section 9.68	✓					✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
	<p>Schedule 2.1 – Provisions about Creating, Changing the Boundaries of, and Abolishing Districts</p>	Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
11(2)	Any local governments affected by an order made under clause 2.1 are to negotiate any adjustment or transfer between them of property, rights and liabilities			✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Schedule 2.2 – Provisions about Wards and Representation						
4(1)	A local government must consider any submissions made under clause 3			✓	✓		✓
4(2)	If a council believes that a submission is of a minor nature or one which would not require public submissions, it may either propose to the Advisory Board that a submission be rejected or itself deal with it under clause 5(b)		✓				
4(3)	If it is a council's opinion that a submission is substantially similar to a submission in respect of which the local government made a decision in the last 2 years, or the majority of affected electors who made the submission no longer support it, the local government may reject the submission		✓				
4(4)	Unless a local government decides to deal with a submission under clause 5(b) or rejects it or proposes to reject it under clauses 4(1) or 4(2), the local government must carry out a review as to whether or not the order sought should, in the council's opinion, be made		✓				
5	Whether or not it has received a submission, a local government may carry out a review as to whether or not an order under clauses 2.2, 2.3(3) or 2.18, should, in the council's opinion, be made, or propose to the Advisory Board the making of an order under clauses 2.2(1), 2.3(3) or 2.18(3), if, in the opinion of the council, the proposal is of a minor nature or one which would not require public submissions, or propose to the Minister the making of an order changing the name of a district		✓				
6	A local government must carry out a review of its ward boundaries and the number of councillors per ward every 8 years or as directed by the Advisory Board	✓		✓	✓		✓

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
7	Schedule 2.2 – Provisions about Wards and Representation A local government is to provide local public notice (advising that it is about to review its wards and inviting submissions)	✓					
8	The council must have regard to community of interests, physical and topographical features, demographic trends, economic factors and the ratio of councillors to electors in respect of considerations about wards			✓			
9	When a ward review is complete, the local government must prepare a report for the Advisory Board and may propose the making of an order under clauses 2.2(1), 2.3(3) or 2.18(3)			✓			

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Schedule 6.1 – Provisions Relating to the Phasing-In of Valuation						
1(1)	When imposing general rates, a local government may resolve that a general valuation, which results in an increase, can be phased in over 3 years		✓				
1(5)	If a local government makes a resolution, under clause 1(1), it must request the Valuer General, at the same time as the Valuer General determines an interim valuation that will come into force in the district during the first 2 years of the phasing in period, to determine a valuation under subclause (6). The local government must give the Valuer General immediate written notice when the valuation is no longer required	✓					
2(1)	When imposing general rates, a local government may resolve that gross rental valuations can be phased in over 3 years		✓				
2(5)	If a local government makes a resolution under clause 2(1), it must request the Valuer General, at the same time as the Valuer General determines an interim valuation that will come into force in the district during the first 2 years of the phasing in period, to determine a valuation under subclause (6). The local government must give the Valuer General immediate written notice when the valuation is no longer required	✓					

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
1(1)	<p>Schedule 6.2 – Provisions Relating to Lease of Land where Rates or Service Charges Unpaid</p> <p>A local government may lease the land with any conditions for a term that does not exceed 7 years</p>	Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
		✓		✓	✓		✓ subject to 5.43(d)

Section/ Regulation	Relevant Exercisable Power or Dischargeable Duty of Local Government	Applicable Delegation					
		Suitable for Acting Through	Delegation Prohibited	To a 5.9(2) (a) Ctte	To a 5.9(2) (b) Ctte	To a 5.9(2) (c) - (e) Ctte	To the CEO
	Schedule 6.3 – Provisions Relating to the Sale or Transfer of Land where Rates or Service Charges Unpaid						
1(1)	Before exercising its power of sale, a local government must give the owner, or any other person who has a recorded interest in the land, opportunity to pay the rates or service charges. It must send them notice by certified mail and place a notice [with the contents prescribed in clause 1(2)] on its notice board for a minimum of 35 days	✓					
1(3)	A local government must give local public notice (if the owner or other interested parties do not have a recorded address)	✓					
1(4)	The local government must appoint a time at which the land may be offered for sale by public auction, not less than 3 months and not more than 12 months from the service of the notice under clauses 1(1) or 1(2)			✓	✓		✓
2(1)	The local government must give (Statewide public notice of the sale)	✓					
2(3)	The local government must give the Registrar of Titles or the Registrar of Deeds a memorial of the Statewide notice	✓					
4(1)	A local government may transfer or convey to the purchaser of the land an indefeasible estate in fee simple			✓	✓		✓ subject to 5.43(d)
7(2)	If the land has not been sold within 12 months, the local government may begin the process again in accordance with this Schedule	✓					

These guidelines are also available on the Department's website at www.dlgc.wa.gov.au



About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

Department of Local Government and Communities

Gordon Stephenson House, 140 William Street, Perth WA 6000

GPO Box R1250, Perth WA 6844

Telephone: (08) 6551 8700 Fax: (08) 6552 1555

Freecall (Country only): 1800 620 511

Email: info@dlgc.wa.gov.au Website: www.dlgc.wa.gov.au

Translating and Interpreting Service (TIS) – Tel: 13 14 50