

Delegations and Authorisations

INTRODUCTION

BACKGROUND TO DELEGATIONS AND AUTHORISATIONS

- Delegations and authorisations are the means by which decision making bodies can access the power to undertake certain statutory functions.
- When a person or body exercises delegated authority they do so “on behalf” of the delegator and in doing so the person or body exercising delegated authority forms the relevant state of mind to make the decision “on behalf” of the delegator. An authorised person or body exercises a statutory function in their own right.

BACKGROUND TO DELEGATIONS AND AUTHORISATIONS

- The Western Australian local government statutory regime also provides for the Council and CEO to “act through” other officers, agents and bodies to achieve statutory functions. “Acting through” in this manner is not the exercise of delegated authority or an authorised power and must be handled differently.

Delegations

- A delegation is the conferral of the ability to exercise a power or duty to a person or body from a person or body that is vested with the responsibility to exercise that power or duty.

The Power to Delegate

- The ability to delegate a statutory function, power or duty must be described in a piece of legislation and is known as the power of delegation. This is the first statutory requirement for an effective delegation; the ability to delegate powers. The following powers of delegation are contained in legislation relevant to local government.

Authorisations

- An authorisation is the designation of an officer or a body as a person or body that is capable of exercising a specific statutory power or duty.

Types of Authorisation

- Authorised By Council
- Authorised By CEO

Authorised By Council

- These authorisations are derived from legislation that does not have delegation provisions
- Therefore the Council authorises the positions
- Then CEO appoints a person into the position upon employment
- These authorisations must be submitted to Council for approval
- eg, Dog Act has no delegation provision, so Council authorises Cashier position for Dog registrations, and CEO appoints Joe Blogs as a Dog registration officer upon employ

Authorised By CEO

- There are two classes under this type
 - a) Council to CEO authorisations
 - b) CEO authorisations

a) Council to CEO

- These authorisations are under legislation that allows for delegation
- Council delegates the CEO the power to authorise
- Then CEO authorises and appoints the officer
- eg Bush Fire Act 1954 allows authorisation pwr to be delegated to CEO, and CEO authorises Bushfire Control Officers
- These authorisations do not need to go to Council

b) CEO authorisations

- These authorisations are expressly mentioned in the enacting legislation
- The enacting Acts give the power to authorise officers directly
- CEO then uses his power to authorise officers
- These authorisations do not need to go to Council
- eg, CEO has the power to authorise officers under the City's Local Laws