

5. Fire Control

5.1 Issue of burning permits – CEO

FUNCTION DELEGATED

1. The CEO is delegated authority to issue, vary or prohibit burning permits in accordance with Bush Fires Act s.18 and Bush Fires Regulations r.15(1).
2. The CEO is delegated authority to approve applications to burn a road verge vested in the care, control and management of the Shire, in accordance with the *Bush Fires Act 1954* s.18(9), subject to the applicant obtaining the approval of the Dept. of Parks and Wildlife.
3. The CEO is delegated authority, in consultation with the Chief Bush Fire Control Officer and the issuing FCO if possible, to review or vary the conditions of a permit issued or issue a permit if refused.
4. The CEO is delegated authority to issue, vary or prohibit permits to burn clover in accordance with *Bush Fires Act* s.18 and Bush Fires Regulations r.16.
5. The CEO is delegated authority, in consultation with the Chief Bush Fire Control Officer, to issue instructions, restrictions or conditions relating to burning permits to apply generally throughout the Shire.

APPLICATION

1. Points 3 to 5 above are restricted to the CEO.

OBJECTIVE

To allow for the issue of burning permits as appropriate.

STATUTORY CONTEXT

Bush Fires Act 1954 –

- s.18 – Restricted burning times
 - (1) – nothing in this section permits burning in prohibited period
 - (2) – prohibited & restricted times to be published in Government Gazette
 - (5) – Local government may vary burning periods after consultation
 - (5B) – variation for maximum of 14 days
 - (5C) – burning period restrictions apply to variation period
 - (6) – permit required to set fire to bush from either FCO or CEO
 - (7) – person issuing permit may apply requirements or conditions
 - (8) – permit holder to comply with conditions
 - (9) – permit may authorise burning of bush on adjoining road reserve
 - (10A) – local government may adopt enforceable schedule for burning
 - (11) – if fire escapes etc. expenses up to \$10,000 may be recouped

(12) – penalty on first breach \$4,500, subsequent breaches \$10,000

- s.23(2)(a)(iv) – road verge burning between constructed portion of road and established fire break only
- s.24A – clover may be burnt in prohibited burning period with permit

Bush Fire Regulations 1954 –

- r.15(1) – Permit to burn as per section 18 of the Act
- r.15(2) – If request to burn is conditional or refused, review is only by the local government or CBFCO
- r.15A – BFCO to comply with directions of local government
- r.15B – Permit holder to comply with permit conditions
- r.15C – Local Government may prohibit burning on certain days
- r.16 – CEO or specifically authorised person may permit burning of clover in prohibited period
- r.17 – permit required to burn clover
- r.18 – 7 days notice of clover burn required, under specified restrictions
- r.19A – duties of clover burning permit holder
- r.20 – local government may prohibit issue of clover burn permits
- r.21A – permit holder may be required to advertise clover burn
- r.21B – FCO may postpone clover burn

Activities on Thoroughfares and Public Places and Trading Local Law 2006 –

- cl.2.2 – Shall not light a fire on a thoroughfare except with a permit under cl.3.13
- cl.5.13 – Permit to burn thoroughfare

Local Government Property Local Law 2006 –

- cl.3.13(1) – a person shall not light a fire on a thoroughfare without a permit

CORPORATE CONTEXT

None

PRIMARY DELEGATION

CEO

SECONDARY DELEGATION PERMITTED TO

Deputy Chief Executive Officer – Points 1 & 2 only

FORMAL RECORD OF USE

Duplicate copy of permit issued

HISTORY

Former Delegation 19, 20
Adopted 18 June 2020

REFERENCES

The Act s.16(6)(a) stipulates

...obtained a permit in writing to burn the bush from a bush fire control officer of the local government in whose district the land upon which the bush proposed to be burnt is situated, or from the chief executive officer ...

Issue of burning permits may be done by an authorised person – see Delegations 1.1 and 18.1.

5.2 Firefighting – Emergency plant hire

FUNCTION DELEGATED

1. The CEO is delegated authority to commit expenditure for the private hire of plant and equipment necessary for the efficient fighting and control of fires.

APPLICATION

N/A

OBJECTIVE

To ensure adequate resources in an emergency

STATUTORY CONTEXTP

Local Government Act 1995 –

- s.6.8(1)(c) – authorisation of unbudgeted expenditure in an emergency

Bush Fires Act 1954 –

- s.38(3)(4)(5) – appointed BFCO’s may exercise specific authorities given to them

CORPORATE CONTEXT

None

PRIMARY DELEGATION

CEO

SECONDARY DELEGATION PERMITTED TO

Deputy Chief Executive Officer

Manager Works and Services

FORMAL RECORD OF USE

Report to Council via briefing papers

Duplicate copy of purchase order issued

File copy of notes

HISTORY

Former Delegation 19, 20

Adopted 18 June 2020

REFERENCES

The approval to be sought is an administrative function for expenditure purposes only and does not extend to giving of operational instructions.

Where possible, the CEO is to seek advice from the senior FCO at the fire, and approval from the President or Deputy President. However, since this delegation will only be used in emergency situations, it is acknowledged that this may not be possible.

Adequate resources to fight a fire, for the safety of fire fighters, and for the protection of life and property have the highest priority and are not to be unnecessarily jeopardised by delay.

5.3 Restricted burning periods – Variations

FUNCTION DELEGATED

1. The CEO is delegated authority to exercise the powers of Council under the *Bush Fires Act 1954* s.18(5) to vary the restricted burning times,

APPLICATION

1. Prior to advertising the variation, the CEO is to consult with –
 - a) an authorised CALM Act officer in accordance with s.18(5), and
 - b) the Chief BFCO is unavailable, or Deputy Chief BFCO if Chief BFCO is unavailable.

OBJECTIVE

To permit variation of restricted burning times according to seasonal conditions

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.18(5) – authority to vary restricted burning time
- s.18(5B) – time may not be varied by more than 14 days
- s.18(5C) – compliance requirements as per s.17(8), (9), (10), (11)
- s.48(1) – authority to delegate to CEO

CORPORATE CONTEXT

None

PRIMARY DELEGATION

CEO

SECONDARY DELEGATION PERMITTED TO

Not permitted

FORMAL RECORD OF USE

File copy of variations approved

HISTORY

Former Delegation	N/A
Adopted	18 June 2020

REFERENCES

Nil

5.4 Firebreaks

FUNCTION DELEGATED

1. Authority to give written notice to an owner or occupier of land or all owners or occupiers of land within the District requiring:
 - a) clearing of firebreaks as determined necessary and specified in the notice; and
 - b) act in respect to anything which is on the land and is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire; and
 - c) as a separate or coordinated action with any other person carry out similar actions [s.33(1)].
 - d) determine that these matters have been acted upon to the satisfaction of the Shire of Cunderdin.
2. Authority to direct a Bush Fire Control Officer or any other employee to enter onto the land of an owner or occupier to carry out the requisitions of the notice which have not been complied with [s.33(4)].
 - a) Authority to recover any costs and expenses incurred in doing the acts, matters or things required to carry out the requisitions of the notice [s.33(5)].

APPLICATION

1. Written notice to an owner or occupier of land or all owners or occupiers of land will be given annually in the form of the Shire of Cunderdin Firebreaks Notice disseminated with the first issue of the Shires rates notice to owners last postal address known to the Shire of Cunderdin in the rate record kept by the Shire.

OBJECTIVE

To clearly advertised and enforce requirements for adherence to the annual distributed Shire of Cunderdin Firebreak Notice.

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.48 Delegation by local government
- s.33 Local government may require occupier of land to plough or clear fire-breaks

CORPORATE CONTEXT

None

PRIMARY DELEGATION

CEO

SECONDARY DELEGATION PERMITTED TO

Not permitted

FORMAL RECORD OF USE

Annual Firebreak Notice to be published on the Shires official website annually.

HISTORY

Former Delegation	N/A
Adopted	27 November 2024

REFERENCES

Nil

5.5 Recovery of Expenses Incurred through Contraventions of the Bush Fires Act 1954

FUNCTION DELEGATED

1. Authority to recover expenses incurred as a result of an offence against the Bush Fires Act, being expenses incurred through the fulfilment of a duty or doing anything for which the Act empowered or required the Shire of Cunderdin or those on behalf of the Shire of Cunderdin to do [s.58].

APPLICATION

1. All actions performed under delegation are registered through Shire of Cunderdin records management procedures.

OBJECTIVE

1. To provide appropriate, efficient, and effective processes for performance of Shire functions.

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.48 Delegation by local government
- s.58 General penalty and recovery of expenses incurred

CORPORATE CONTEXT

None

PRIMARY DELEGATION

CEO

SECONDARY DELEGATION PERMITTED TO

Not permitted

FORMAL RECORD OF USE

All actions performed under delegation are registered through Shire of Cunderdin records management procedures.

HISTORY

Former Delegation	N/A
Adopted	27 November 2024

REFERENCES

Nil

5.6 Prosecution of Offences

FUNCTION DELEGATED

1. Authority to institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59].

APPLICATION

1. Authority to serve an infringement notice for an offence against this Act [s.59A(2)].

OBJECTIVE

1. To provide appropriate, efficient, and effective processes for performance of Shire functions.

STATUTORY CONTEXT

Bush Fires Act, 1954 –

- s.59(3) Prosecution of offences
- s.59 Prosecution of offences
- s.59A(2) Alternative procedure – infringement notices

CORPORATE CONTEXT

None

PRIMARY DELEGATION

CEO

WA Contract Rangers

Chief Emergency Services Manager

Commented [SP1]: @Stuart Hobley are these ok for this delegation? Or do you just want it to be the Rangers?

SECONDARY DELEGATION PERMITTED TO

NIL – Sub-delegation is prohibited by s.48(3)

FORMAL RECORD OF USE

All actions performed under delegation are registered through Shire of Cunderdin records management procedures.

HISTORY

Former Delegation N/A

Adopted 27 November 2024

REFERENCES

Nil