



FREEDOM OF INFORMATION STATEMENT

2020

As required under the freedom of Information Act (1992)

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INTRODUCTION

The *Freedom of Information Act 1992 (WA)* gives the public a right to access Western Australian government documents, subject to some limitations. The Department of Local Government, Sport and Cultural Industries take its obligations under the Act seriously and is committed to complying with the aims of the Act.

The aims of the *Freedom of Information Act 1992 (WA)* are to:

- enable the public to participate more effectively in governing the State, and
- make the persons and bodies that are responsible for State and local government more accountable to the public.

They are to be achieved by:

- creating a general right of access to State and local government documents
- providing means to ensure that personal information held by State and local governments is accurate, complete, up to date and not misleading, and
- requiring certain documents concerning State and local government operations be made available to the public.

This document has been prepared for the Shire of Kent to satisfy Part 5 of the Freedom of Information Act 1992, and is correct as at June 2020. Copies of this document may be obtained from:

The FOI Coordinator
Shire of Kent
24-26 Richmond Street
NYABING WA 6341

Telephone: (08) 9829 1051

Fax: (08) 9829 1083

Email : admin@kent.wa.gov.au

Further information can be provided, Monday to Friday between the hours 8:30am – 4:30pm or on the Shire's website www.kent.wa.gov.au

THE SHIRE OF KENT STRATEGIC COMMUNITY PLAN 2017-2027

Our Vision:

“A community that places a high value on essential services; communications and technology infrastructure, improved social connectedness; community involvement and participation, a need to retain and grow the population, and to strengthen economic prosperity through the diversification of the local economy.”

The Shire in the future is described as:

- * A place with a sense of community, one that is thriving, vibrant, engaging and connected.
- * A place that nurtures its youth and aging population;
- * A place that has a range of services and facilities meeting our needs.
- * A place that is growing and has employment opportunities, through local industry, which is based on the Shires local comparative advantages."

Our Mission: Provide leadership, direction and opportunities for the community.

Key Principles:

In achieving the Vision and Mission, we will set achievable goals and work with the community to maintain a reputation of openness, honesty and accountability. In doing so, we will:

- * respect the points of view of individuals and groups;
- * build on existing community involvement;
- * encourage community leadership; promote resilience, self-reliance and initiative;
- * recognise and celebrate achievement;
- * support the principles of social justice;
- * acknowledge the value of staff and volunteers

COUNCIL ORGANISATION STRUCTURE

The current Council decision making body consists of 8 Councillors, including the Shire President who is elected by the Council. Council meets on the third Wednesday of the months February to December. A meeting in the month of January will only be held when it is called under provisions of Section 5.4 of the Local Government Act 1995.

Minutes of meetings are available at the Shire office and the shire's website www.kent.wa.gov.au.

COUNCIL AND COMMITTEE MEETINGS

Council Meetings

Council Meetings afford members of the public the opportunity to ask Elected Members and staff questions about Shire matters generally.

Committees of Council

The Shire of Kent has committees and working groups that meet on a regular or semi-regular basis to oversee operations and make recommendations to the Council in their specific areas of responsibility. Council advertises for community member vacancies on Council Committees when required. A full list of Council's committees can be accessed on the Shire's website www.kent.wa.gov.au

Council Committees include:

- Audit Committee
- Bushfire Advisory Committee
- Pingrup Ground Improvement Committee
- Nyabing Sport Club Committee
- Pingrup Community Resource Centre Committee
- Great Southern Treasures Committee
- Great Southern Zone WALGA
- Great Southern Regional Road Group
- Local Emergency Management Committee
- Great Southern Recreation Advisory Committee

DELEGATIONS

The Chief Executive Officer and other officers have delegated authority from Council to make decisions on a number of specified administrative and policy matters which are subject to ongoing development. These delegations are detailed in the Delegations Register and are reviewed annually by Council.

The *Local Government Act 1995* and associated Regulations requires Council to:

- determine policies to be applied by Council in exercising its discretionary powers;
- determine the type, range and scope of projects to be undertaken by the Shire;
- develop comprehensive management plans, budgets, financial controls and performance objectives and indicators for the operations of the Shire.

In keeping with the legislative requirement, Council determines the strategic direction of the Shire, including the development of key policies and the allocation of resources to works and services. Decisions are also made to determine whether or not approvals are to be granted for applications from residents for various forms of development.

LEGISLATION ADMINISTERED

The Shire of Kent functions under, the *Local Government Act 1995*. The Shire of Kent is wholly or partly responsible for administering the following Legislations and Regulations:

- *Animal Welfare Act 2002*
- *Building Act 2011*
 - * *Building Regulations 2012*
- *Bush Fires Act 1954*
 - * *Bush Fire Regulations 2012*
- *Caravan Parks and Camping Grounds Act 1995*
 - * *Caravan and Camping Grounds Regulations 1997*
- *Cat Act 2011*
 - * *Cat Regulations 2012*
- *Cemeteries Act 1986*
- *Conservation and Land Management Act 1984*
 - * *Conservation and Land Management Regulations 2002*
- *Control of Vehicles (Off Road Areas) Act 1978*
 - * *Control of Vehicles (Off Road Areas) Regulations 1979*
- *Dangerous Goods Safety Act 2004*
 - * *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007*
- *Disability Services Act 1993*
 - * *Disability Services Regulations 2004*
- *Dividing Fences Act 1961*
 - * *Dividing Fences Regulations 1971*
- *Dog Act 1976*
 - * *Dog Regulations 2013*
- *Emergency Management Act 2005*
 - * *Emergency Management Regulations 2006*
- *Environmental Protection Act 1986*
 - * *Environmental Protection Regulations 1987*
 - * *Environmental Protection (Noise) Regulations 1997*
- *Equal Opportunity Act 1984*
 - * *Equal Opportunity Regulations 1986*
- *Fire and Emergency Services Act 1998*
 - * *Fire and Emergency Services Regulations 1998*
- *Freedom of Information Act 1992*
 - * *Freedom of Information Regulations 1993*
- *Health Act 1911*
 - * *Health (Asbestos) Regulations 1992*
 - * *Health (Public Buildings) Regulations 1992*
 - * *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*
- *Heritage of Western Australia Act 1990*
- *Land Administration Act 1997*
 - * *Land Administration Regulations 1998*
- *Library Board of Western Australia Act 1951*

- * *Library Board of Western Australia Regulations 1985*
- *Liquor Control Act 1988*
 - * *Liquor Control Regulations 1989*
- *Litter Act 1979*
 - * *Litter Regulations 1981*
- *Local Government Act 1995*
 - * *Local Government (Administration) Regulations 1996*
 - * *Local Government (Audit) Regulations 1996*
 - * *Local Government (Constitution) Regulations 1998*
 - * *Local Government (Elections) Regulations 1997*
 - * *Local Government (Employee Superannuation) Regulations 2016*
 - * *Local Government (Financial Management) Regulations 1996*
 - * *Local Government (Functions and General) Regulations 1996*
 - * *Local Government (Long Service Leave) Regulations*
 - * *Local Government (Parking for People with Disabilities) Regulations 2014*
 - * *Local Government (Regional Subsidiaries) Regulations 2017*
 - * *Local Government (Rules of Conduct) Regulations 2007*
 - * *Local Government (Uniform Local Provisions) Regulations 1996*
- *Local Government (Miscellaneous Provisions) Act 1960*
- *Local Government Grants Act 1978*
- *Occupational Health and Safety Act 1984*
 - * *Occupational Health and Safety Regulations 1986*
- *Planning and Development Act 2005*
 - * *Planning and Development Regulations 2009*
 - * *Planning and Development (Local Planning Schemes) Regulations 2015*
 - * *Planning and Development (Development Assessment Panels) Regulations 2011*
- *Public Interest Disclosure Act 2003*
- *Public Interest Disclosure Regulations 2003*
- *Public Works Act 1902*
- *Rates and Charges (Rebates and Deferments) Act 1992*
 - * *Rates and Charges (Rebates and Deferments) Regulations 1992*
- *Road Traffic Administration Act 2008*
 - * *Road Traffic Administration Regulations 2014*
- *Salaries and Allowances Act 1975*
 - * *Salaries and Allowances Regulations 1975*
- *State Records Act 2000*
 - * *State Records Principles and Standards 2016*
- *Waste Avoidance and Resource Recovery Act 2007*
- *Workers Compensation and Injury Management Act 1981*
 - * *Workers Compensation and Injury Management Regulations 1982*
- *Valuation of Land Act 1978*
- *Shire of Kent Town Planning Scheme No. 2*
- *Shire of Kent Town Planning Scheme No. 3 (Draft)*
- *Shire of Kent Town Planning Local Planning Strategy No.3 (Draft)*

Additionally, the Shire is solely responsible for administering the following Shire of Kent Local Laws –

- Activities in Thoroughfares and Public Places and Trading Local Law 2011
- Cemeteries Local Law 2011
- Dogs Local Law 2011
- Extractive Industries Local Law 2011
- Fencing Local Law 2011
- Health Local Law 2011
- Local Government Amendment Property Local Law 2011
- Pest Plant Local Law 2011
- Standing Orders Local Law 2011

All of the above Local Laws are currently under review.

SERVICES TO THE COMMUNITY

The Shire of Kent is responsible for providing good governance, including legislative and executive functions. The services are provided to maintain a pleasant and safe environment for its residents and ratepayers. The activities and functions of the Shire are described as follows:

Animal Control	Parks and Reserves
Development and Building Control	Citizenship Ceremonies
Pest Control	Community Development
Playground Equipment	Community Information Service
Cemeteries	Development and Building Control
Public Seating & Public Toilets	Dual Use Paths
Recreational/Sporting Facilities	Tourism
Refuse Sites & Waste Management	Town Planning
Community Halls and Centres	Fire Prevention
Roads/Kerbing	Footpaths
Parking Bays/Street Closures	Grants and Subsidies
Street Lighting	Traffic Control Devices
Stormwater Drainage	Street Sweeping
Environmental Health Matters	Extractive Industries Control
Driver's Licences, vehicle licences and registrations	Dog and Cat Registrations

PUBLIC PARTICIPATION

Members of the public have a number of opportunities to put forward their views on particular issues before Council. These are:

Deputations - a member of the public can apply to address Council personally or on behalf of a group of residents. The application must be in writing addressed to the Chief Executive Officer. The presiding person then may approve the request or refer the request to the Council/Committee for approval.

Presentations - with prior notification and approval by the Chief Executive Officer, members of the public can address Council on any matter on the Council Meeting Agenda.

Residents are notified of some Development Applications requiring the approval of Council. When an application is publicly notified, residents can write to Council expressing their view of the application.

Petitions - written petitions can be addressed to Council on any issue within Council's jurisdiction. Petitions are required to be addressed to the Shire President according to *Standing Orders Local Law 2.5*.

Written Requests—a member of the public can write to the Shire on any Council policy, activity or service.

Public Question Time – Time is made available at every Council Meeting for members of the public to ask questions and have them responded to by Council, unless the question is outside the legislation or deemed unreasonable.

Elected Members—members of the public can contact their Elected Members to discuss any issue relevant to Council.

Notifications/Advertising – Residents may be notified of issues by advertising in the local newsletter, written notification or an onsite sign. Residents then have the opportunity to write to the Shire expressing their views.

Public correspondence and applications on any matters to be considered by Council should be received at the Shire Office 20 working days prior to the Council Meeting and should be addressed to the Chief Executive Officer.

COMMUNITY CONSULTATION

The Shire consults with local residents on particular issues as determined from time to time in accordance with its Community Strategic Plan to ensure all the community's needs and expectations are met and can be in the form of:

- Public Forums
- Submissions
- Media
- Telephone
- Interviews
- Surveys

Advising the community and stakeholders of issues can take the form of:

- Media releases
- Local Newsletter advertisements
- Council publications (including electronic media and website)
- Newsletter/direct mail outs
- Posters/flyers
- Information displays
- Public forums

COUNCIL DOCUMENTS

The Shire of Kent holds records relating to various functions of the Shire as described below:

- Integrated Planning and Reporting publications;
- Asset Management Plan
- Corporate Business Plan
- Strategic Community Plan
- Workforce Plan

- Council / Committee Agendas and Minutes
- Customer Service Charter
- Disability Access and Inclusion Plan 2017-2022
- Equal Employment Opportunity Management Plan 2020
- Local Emergency Management Arrangements Plan
- Local Laws and Local Law Enforcement
- Municipal Heritage Inventory
- Policy Manual
- Recordkeeping & Disaster Recovery Plan
- Risk Management
- Town Planning Scheme Plan and Strategy
- Strategic Waste Management Plan

COUNCIL DOCUMENTS AVAILABLE FOR INSPECTION

The following documents are available for public inspection at the Shire Office, free of charge to ratepayers. Copies of these documents may be purchased and the charges are shown below. Some of these documents are also available on the Shire's website.

DOCUMENT	FEE
Annual Budget	Council Office & Website
Annual Report inclusive of Annual Financial Report	Council Office & Website
Council / Committee Agendas & Minutes	Council Office & Website
Customer Service Charter	Council Office & Website
Disability Access & Inclusion Plan	Council Office & Website
Policy Manual	Council Office
Freedom of Information Statement	Council Office & Website
Integrated Planning and Reporting	Council Office & Website
Strategic Community Plan	Council Office & Website
Corporate Business Plan	Council Office & Website
Workforce Plan	Council Office & Website
Register of Burials	Council Office
Register of Gifts and Travel Contributions	Council Office & Website
Register of Interest (Elected Members)	Council Office
Register of Tenders	Council Office
Register of Fees and Charges levied by Council	Council Office & Website
Register of Local Laws	Council Office
Shire of Kent Heritage Building Inventory	Council Office & Website

Other Information Requests

Requests for information, not shown above will be considered in accordance with the *Freedom of Information Act* provisions. Under this legislation, applications must be submitted in written form and will be subject to an application fee where applicable unless the applicant is granted an exemption.

Should the application require copies of any documents inspected pursuant to a Freedom of Information request, the charges will apply. It should be noted that some documents are for viewing only and cannot be copied as such copy would breach the *Copyright Act 1968*.

FREEDOM OF INFORMATION PROCEDURES AND ACCESS ARRANGEMENTS

FOI Operations Obtaining Documents outside of Freedom of Information

Where possible the Shire of Kent will release documents outside of the Freedom of Information process. However, at times some documents can only be obtained under Freedom of Information.

Documents may comprise any written material, plans, drawings, photographs, tape recordings, films, and videotapes.

APPLICATIONS

Valid Access Application

Under the *Freedom Of Information Act section 12* requirements for a valid Freedom of Information Access Applications must:

- be in writing
- give enough information so that the documents requested can be identified (be as specific as possible; include dates or date ranges; include keywords; include as much details as possible to identify the requested documents)
- give an Australian address to which notices can be sent preferably including a contact telephone number, email address, fax number
- be lodged with the Shire of Lake Grace, and
- be accompanied by the application fee of \$30 (if one is applicable).

If your application does not comply with the requirements of section 12 the Shire of Kent has to take reasonable steps to help you to change your application so that it complies with those requirements (section 11)

If you ask for access to 'everything' on a particular subject, the Shire of Kent may ask you to narrow the scope of your application to reduce the work involved in dealing with it. The Shire of Kent is permitted to refuse to deal with your application if dealing with it would divert a substantial and unreasonable portion of its resources away from its other operations.

Applications and enquiries should be addressed to:

Freedom of Information Coordinator
Shire of Kent
PO Box 15, Nyabing, WA 6341
(08) 9829 1051
or email admin@kent.wa.gov.au

FEES AND CHARGES

Applicants are entitled to have access to documents at the lowest reasonable cost (section 4). The *Freedom Of Information Act (FOI) and Freedom Of Information Regulations* outline the charges the Shire of Kent can impose for dealing with an access application (*section 16, regulations 3 and 5 and Schedule 1 to the Regulations*).

The fees and charges are as follows:

Personal information - No fees or charges apply for applications that are limited to personal information about the applicant only.

Personal Information is defined as any information or opinion, whether true or not, about an individual, whether living or dead, that can identify or reasonably identify that person.

Applications for Personal Information can only be made by that individual and not a third party. Certified proof of identity will be required prior to processing an application for Personal Information.

Non-personal information - \$30

Documents that are not directly about the applicant are considered to be non-personal information and a \$30 application fee is payable. Where documents contain the names of third parties, those parties must be consulted prior to the documents being released.

The Information Commissioner has found that charges may be imposed for:

- consulting with third parties, if necessary;
- examining documents, exercising judgment and making decisions on access;
- deleting exempt matter where appropriate;
- preparing a notice of decision; and
- providing access in the manner required.

The Shire of Kent is not entitled to impose a charge for searching for documents. Although section 16(1) of the FOI Act clearly contemplates that a charge for conducting a routine search may be required to be paid by an applicant, no charge for searching for documents is presently prescribed by the FOI Regulations.

Charges

A scale of fees and charges set under the FOI Act Regulations. Apart from the application fee for non-personal information (information that is not personal information about the applicant) all charges are discretionary. The fees and charges are as follows.

Personal information about the applicant	No fee and no charges
Application fee (for non-personal information)	\$30.00
Charge for time dealing with the applicant (per hour, or pro rata)	\$30.00
Access time supervised by staff (per hour, or pro rata)	\$30.00
Photocopying staff time (per hour, or pro rata)	\$30.00
Per photocopy A4	\$0.20
Transcribing from tape, film or computer (per hour, or pro rata)	\$30.00
Duplicating a tape, film or computer information	Actual cost
Delivery, packaging and postage	Actual Cost

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Estimate of charges

In cases where charges are expected to exceed \$25, applicants will be provided with an estimate of charges as soon as possible. The Shire of Kent has the right to request a deposit of between 25-75 per

cent of the estimate. Where charges are applied, no documents will be released to the applicant until all charges are paid.

There is a 25 per cent reduction in charges for financially disadvantaged applicants or those in receipt of health or social welfare benefits. Proof of evidence will be required.

Deposits

- Advance deposit may be required of the estimated charges 25%
- Further advance deposit may be required to meet the charges for dealing with the application 75%
- For financially disadvantaged applicants or those issued with prescribed pensioner concession cards, the charge payable is reduced by 25%

Payment Processing

Payment may be made by cash, cheque or electronic transfer. All cheques must be made out to: Shire of Kent. Online banking details are available on request.

ACCESS ARRANGEMENTS

Access to documents can be granted by way of inspection, a copy of a document, a copy of an audio or video tape, a computer disk, a transcript of a recorded, shorthand or encoded document from which words can be reproduced.

NOTICE OF DECISION

As soon as possible but in any case, within 45 days the applicant will be provided with a notice of decision which will include details such as –

- The date which the decision was made
- The name and the designation of the officer who made the decision

If the document is an exempt document the reasons for classifying the matter exempt; or the fact that access is given to an edited document.

Information on the right to review and the procedures to be followed to exercise those rights as soon as possible, but within 45 days of an application being deemed valid, applicants will be provided with a Notice of Decision. This notice is designed to enable the applicant to understand what information was taken into account when making the decision and will include details such as:

- the date on which the decision was made
- the name and designation of the officer who made the decision
- details of any charges
- information on the right of review and the procedures to be followed to exercise those rights, and
- reasons for the type of access allowed or for refusal to documents.

REFUSAL OF ACCESS

Not all documents held by the Shire of Kent will be able to be released with access being refused on a range of grounds. Applicants who are dissatisfied with a decision of the agency are entitled to ask for an internal review by the agency. Application should be made in writing within 30 days of receiving the notice of decision. These grounds are set out in the Freedom of Information Act. If this is the case the Notice of Decision will provide the reason for refusal of access.

RIGHT OF REVIEW

Applicants have the right of review if they do not agree with a decision made by the department's decision maker. In the first instance, Shire of Kent will conduct an internal review. There are no fees or charges for requesting an internal review.

A request for an internal review must be received within 60 days of the receipt of the Notice of Decision and must set out the parts of the decision to be reviewed. An independent decision maker will deal with the application for internal review. The outcome of an internal review may result in a confirmation, variation or reversal of the initial decision under review. Applicants will be advised of the outcome of the review within 15 days.

If the applicant disagrees with the result of the internal review, an applicant can request an external review from the Office of the Information Commissioner on contact details below. There are no fees or charges for requesting an external review.

All review rights and procedures to exercise those rights are set out in the Notice of Decision.

DELIVERY OF DOCUMENTS

Arrangements for access to the documents are negotiable between the Shire of Kent and the applicant. Where a large number of documents are to be released and there is no charge for photocopying, the documents may be provided on a USB drive.

AMENDMENT OF PERSONAL INFORMATION

Applicants have the right to amend personal information held by the DLGSC, which the applicant considers incomplete, inaccurate, misleading, or not up to date.

Applicants must provide details and, if necessary, documentation to support any claim on the information sought to be amended. In addition, the applicant must indicate how the amendment is to be made, which may include:

- altering information
- striking out or deleting information
- inserting information, or
- inserting a note in relation to the information