

SHIRE OF KENT



DELEGATION REGISTER

Current as at 17 November 2021

OCM2122/076 - COUNCIL RESOLUTION (Officers Recommendation)

MOVED Cr JN Germain/Cr DP Gray

That Council:

1. Accepts completion as the Delegator, the 2021/22 annual statutory review of the Delegations Register.
2. Accepts the following amendments:

Delegation#	Title	Amendment	Details
All delegations	All delegations	Title change	Change of any reference to Deputy Chief Executive Officer to Manager Corporate.
All delegations	All delegations	Title change	Change of any reference to Works Manager to Manager Infrastructure.
All delegations	All delegations	Title change	Removal of any reference to Senior Finance Officer and Building Surveyor as these positions do not exist. .
3.2.1	Administration of Local Planning Scheme No.3	New delegation	There was no delegation previously.

3. Approves the revised Delegations Register as presented.

**CARRIED 8/0
By Absolute Majority**

Delegation Register

Shire of Kent



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1 ADMINISTRATION

1.1 Council to CEO

1.1.1 Appoint Authorised Persons

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
<p>Delegator: Local Government</p> <p>Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO</p>		<p>Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.24 Authorising persons under this subdivision [Part 3, Division 3, Subdivision 2 – Certain provisions about land] s.9.10 Appointment of authorised persons</p> <p>Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p>	

Description of Functions Delegated:

1. Authority to appoint persons or classes of persons as authorised persons for the purpose of fulfilling prescribed functions within the [Local Government Act 1995](#) and its subsidiary legislation, including Local Government Act Regulations, the *Local Government (Miscellaneous Provisions) Act 1960* and Local Laws made under the Local Government Act. [s.3.24 and s.9.10].
2. Authority to appoint authorised person for the purposes of the [Graffiti Vandalism Act 2016](#), which prescribes Part 9 of the *Local Government Act 1995* as the enabling power [s.15 of the *Graffiti Vandalism Act 2016*].

Council Conditions of this Delegation:

- a. A register of Authorised Persons is to be maintained as a Local Government Record.
- b. Only persons who are appropriately qualified and trained may be appointed as Authorised persons.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Shire Ranger/s
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995 and associated Regs
Local Government (Miscellaneous Provisions) Act 1960
Building Act 2011 and associated Regs
Dog Act 1976 and association Regs
Control of Off Road Vehicles Act 1978 and associated Regs
Off Road Vehicles Act 1976
Litter Act 1979 and associated Regs
Cat Act 2011
Food Act 2008
Animal Welfare Act 2002

Emergency Management Act 2005 and associated Regs
Caravan Parks and Camping Grounds Act 1995 and associated Regs
Cemeteries Act 1986 and associated Regs
Environmental Protection Act 1986 and associated Regs
Shire of Kent Local Laws
Shire of Kent Town Planning Schemes
Bush Fires Act 1954 and associated Regs
Graffiti Vandalism Act 2016

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Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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1.1.2 Appointment of Acting Chief Executive Officer

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator:
Local Government

Express Power to Delegate:
Local Government Act 1995:
s.5.42 Delegation of some powers or duties to the CEO
s.5.43 Limitations on delegations to the CEO

Express Power or Duty Delegated:

Local Government Act 1995:
s.5.36 (1) (a) Chief Executive Officer of a local government
s.5.39 Contracts for Chief Executive Officer and Senior Employees

Express Power to Sub-Delegate:
Nil

Description of Functions Delegated:

The Chief Executive Officer is delegated authority to appoint the Manager Corporate, *in the first instance, of the Manager Infrastructure* as Acting Chief Executive Officer when the Chief Executive Officer is on periods on annual leave, long service leave and sick leave.

Council Conditions of this Delegation:

- a. Period applies for over a minimum of five (5) days and up to a maximum period of ten (10) working days.
- b. For periods greater than ten (10) working days the Council is to determine whether a contract Chief Executive Officer is to be appointed for the period of leave or whether to continue the appointment of the Manager Corporate or the Manager Infrastructure to the position.

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995 and associated Regs

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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1.1.3 Powers of Entry

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.28 When this Subdivision applies s.3.32 Notice of entry s.3.33 Entry under warrant s.3.34 Entry in an emergency s.3.36 Opening fences
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to exercise powers of enter to enter onto land to perform any of the local Government functions under this Act, other than entry under a Local Law [s.3.28].
2. Authority to give notice of entry [s.3.32].
3. Authority to seek and execute an entry under warrant [s.3.33].
4. Authority to execute entry in an emergency, using such force as is reasonable [s.3.34(1) and (3)].
5. Authority to give notice and effect entry by opening a fence [s.3.36].

Council Conditions of this Delegation:

- a. Delegated authority may only be used, where there is imminent or substantial risk to public safety or property

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Environmental Health Officer Chief Bush Fire Control Officer
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government Act 1995](#):

s.9.10 Appointment of authorised persons – refer also
s.3.32(2)]

Part 3, Division 3, Subdivision 3 – prescribes statutory processes for Powers of Entry
s.3.34(2) Entry in an emergency

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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1.1.4 Declare Vehicle is Abandoned Vehicle Wreck

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.40A(4) Abandoned vehicle wreck may be taken
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Declare that an impounded vehicle is an abandoned vehicle wreck [s.3.40A(4)].

Council Conditions of this Delegation:

- a. Disposal of a declared abandoned vehicle wreck to be undertaken in accordance with Delegated Authority
1.1.4 Disposing of Confiscated or Uncollected Goods or alternatively, referred for Council decision.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Shire Ranger/s
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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1.1.5 Disposal of Sick or Injured Animals

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.47A Sick or injured animals, disposal of s.3.48 Impounding expenses, recovery of
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to determine when an impounded animal is ill or injured, that treating it is not practicable, and to humanely destroy the animal and dispose of the carcass [s.3.47A(1)].
2. Authority to recover expenses incurred for removing, impounding, and disposing of confiscated or uncollected goods [s.3.48].

Council Conditions of this Delegation:

- a. Delegation only to be used where the Delegate's reasonable efforts to identify and contact an owner have failed.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Shire Ranger/s
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



1.1.6 Administer the Shire of Kent's Local Laws

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Local Government Act 1995</i> S3.18(1) Performing executive functions Shire of Kent Local Laws
Express Power to Delegate: <i>Local Government Act 1995</i> s5.42—Delegation of some powers or duties to the CEO s5.43—Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995</i> s5.44—CEO may delegate powers and duties to other employees

Description of Functions Delegated:

The Chief Executive Officer is delegated authority to administer the Shire's Local Laws and to do all other things that are necessary or convenient to be done for, or in connection with, performing the functions of the Shire under the Shire's Local Laws.

Council Conditions of this Delegation:

Council to be provided details of any prosecutions proposed under local laws.

Sub—Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to any sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Shire of Kent Local Laws

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2024
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This Delegation is not necessary as Delegation 1.1.1 refers to authorised persons for fulfilling prescribed functions of Local Laws

Delegation Register

Shire of Kent



1.2 Council to CEO / Employees

1.2.1 Electoral Enrolment Eligibility Claims and Electoral Roll

Delegate:	MANAGER CORPORATE	Policy Reference:	N/A
<p>Delegator: Chief Executive Officer</p> <p>Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p> <p>Express Power to Sub-Delegate: Nil</p>		<p>Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.4.32(4), (5A) & (5) Eligibility to enrol under s.4.30, how to claim s.4.34 Accuracy of enrolment details to be maintained s.4.35 Decision that eligibility to enrol under s.4.30 has ended s.4.37 New roll for each election <i>Local Government (Elections) Regulations 1995:</i> r.11(1a) Nomination of co-owners or co-occupiers s.4.34 r.13(2) & (4) Register - s.4.32(6)</p>	

Description of Functions Delegated:

- Authority to require the written notice for co-owners or co-occupiers to be incorporated into Form 2 [r.11(1a)].
- Authority to decide whether or not the claimant is eligible under s.4.30(1)(a) and (b) and accept or reject the claim accordingly [s.4.32(4)].
- Authority to decide to accept or reject a claim made before the close of enrolments, but less than 14 days before the close of nominations [s.3.42(5A)].
- Authority to make any enquiries necessary in order to make a decision on an eligibility claim [s.4.32(5)].
- Authority to approve the omission of an elector's address from the Owners and Occupiers Register on the basis of a declaration from the elector that the publication of this information would place the elector's or their families safety at risk [Elections r.13(2)].
- Authority to amend the Owners and Occupiers Register from time to time to make sure that the information recorded in it is accurate [Elections r.13(4)].
- Authority to ensure that the information about electors that is recorded from enrolment eligibility claims is maintained in an up to date and accurate form [s.4.34].
- Authority to decide that a person is no longer eligible under s.4.30 to be enrolled on the Owners and Occupiers Electoral Roll [s.4.35(1)] and to give notice [s.4.35(2)] and consider submissions [s.4.35(6)], before making such determination.
- Authority to determine to take any action necessary to give effect to advice received from the Electoral Commissioner [s.4.35(5)].
- Decide, with the approval of the Electoral Commissioner, that a new electoral roll is not required for an election day which is less than 100 days since the last election day [s.4.37(3)].

Council Conditions of this Delegation:

- Decisions on enrolment eligibility are to be recorded in the Enrolment Eligibility Register in accordance with s.4.32(6) and s.4.35(7).

Sub-Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

N/A

Delegation Register

Shire of Kent



Record Keeping:

Keep a local government record as per the [State Records Act 2000](#).

Compliance Links:

Department of Local Government, Sport and Cultural Industries: [Returning Officer Manual](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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This Delegation is not necessary as Local Government Act states that CEO is responsible for administering Electoral Roll.

Delegation Register

Shire of Kent



1.2.2 Destruction of Electoral Papers

Delegate:	MANAGER CORPORATE	Policy Reference:	N/A
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Delegator: Chief Executive Officer	Express Power or Duty Delegated: Local Government (Elections) Regulations 1996: r.82(4) Keeping election papers—s4.84(a)
Express Power to Delegate: Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees	Express Power to Sub-Delegate: Nil

Description of Functions Delegated:

1. Authority to, after a period of 4 years, destroy the parcels of election papers in the presence of at least 2 other employees [Elect. r.82(4)].

Council Conditions of this Delegation:

Conditions on the original delegation also apply to the sub-delegations

Sub-Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Department of Local Government, Sport and Cultural Industries: [Returning Officer Manual](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2024
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This Delegation is not necessary as Regulations state the following:-

If, after the period mentioned in subregulation (3), the parcels are to be destroyed —

- (a) the destruction is to be carried out by or under the supervision of the CEO in the presence of at least 2 employees; or
- (b) the parcels are to be conveyed securely to a secure paper destruction company, or placed in a locked bin provided by such a company, by or under the supervision of the CEO in the presence of at least 2 employees.

Delegation Register

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1.2.3 Information to be Available to the Public

Delegate:	MANAGER CORPORATE	Policy Reference:	N/A
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Delegator: Chief Executive Officer	Express Power or Duty Delegated: <i>Local Government (Administration) Regulations 1996: r.29(2) &(3) Information to be available for public inspection (Act s.5.94) r.29B Copies of certain information not to be provided (Act s.5.96)</i> <i>Local Government Act 1995: s.9.95(1)(b) & (3)(b) Limits on right to inspect local government information</i>
Express Power to Delegate: <i>Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees</i>	Express Power to Sub-Delegate: Nil

Description of Functions Delegated:

- Authority to determine the public right to inspect information, by determining if the information requested relates to a part of a meeting that could have been closed to members of the public but was not [Admin. r.29(2)].
- Authority to determine the public right to inspect information in an agenda or minutes, by determining if the information requested would be part of the meeting which is likely to be closed to members of the public [Admin. r.29(3)].
- Authority to determine the manner and form by which a person may request copies of rates record information [s.5.94(m)] or owners and occupiers register and electoral rolls [s5.94(s)] and to make the information available, if satisfied, by statutory declaration or otherwise, that the information will not be used for commercial purposes [Admin r.29B].
- Authority to determine not to provide a right to inspect information, where it is considered that in doing so would divert a substantial and unreasonable portion of the local government's resources away from its other functions [s5.95(1)(b)].
- Authority to determine not to provide a right to inspect information contained in notice papers, agenda, minutes, or information tabled at a meeting, where it is considered that that part of the meeting could have been closed to members of the public but was not closed [s.5.94(3)(b)].
- Authority to manage public enquiries seeking statutory information, when this information is not critical during the event of a pandemic/emergency.

Council Conditions of this Delegation:

Conditions on the original delegation also apply to the sub delegations.

Sub-Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the State Records Act 2000.

Compliance Links:

Nil

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Do not see relevance in this Delegation. *Local Government (Administration) Regulations 1996: r.29(2) &(3) have been deleted (see above)*

Delegation Register

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2 FINANCE

2.1 Council to CEO

2.1.1 Power to Invest and Manage Investments

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.7
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.6.14 Power to invest <i>Local Government (Financial Management) Regulations 1996:</i> r.19 Investments, control procedures for
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to invest money held in the municipal fund or trust fund that is not, for the time being, required for any other purpose [s.6.14(1)].
2. Authority to establish and document internal control procedures to be followed in the investment and management of investments [FM r.19].

Council Conditions of this Delegation:

- a. All investment activity must comply with the Financial Management Regulation 19C and Council Policy 3.1.7 Investment.
- b. Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit **and Risk** Committee **not less than once in every 3 financial years at least once each financial year**. [Audit r.17]

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government (Financial Management) Regulations 1996 – refer r.19C Investment of money, restrictions on (Act s.6.14(2)(a))

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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2.1.2 Payments from the Municipal or Trust Funds

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.3
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government (Financial Management) Regulations 1996:</i> r.12(1)(a) Payments from municipal fund or trust fund
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to make payments from the municipal or trust funds [r.12(1)(a)].

Council Conditions of this Delegation:

- a. Authority to make payments is subject to annual budget limitations.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure
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CEO Conditions on Sub-Delegation:

1. Delegates must comply with the Procedures approved by the CEO in accordance with Financial Management Regulation 5.

Payments by Cheque and EFT transactions must be approved jointly by two Delegates, one of whom must be the Chief Executive Officer, Manager Corporate **or the** Manager Infrastructure **or the**.

2. Delegates that approve the payment must where practical, not verify the liability. The verification of incurring the liability via the purchase order, invoice and evidence of goods / service received, must where practical be undertaken independent of the payment approval.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government Act 1995](#)

[Local Government \(Audit\) Regulations 1996](#)

Department of Local Government, Sport and Cultural Industries [Operational Guideline No.11 – Use of Corporate Credit Cards](#)

[Local Government \(Financial Management\)](#)

[Regulations 1996](#) -

refer specifically r.13 Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.

[Department of Local Government, Sport and Cultural Industries: Accounting Manual](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Shire of Kent



2.1.3 Contract Price Variation

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.2
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> Shire of Kent Policy 3.1.2 – Purchasing and Creditor Control
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

The power to approve a minor price variation for a contract subject to the funds required to meet the cost of the variations are within the amount set aside in the budget adopted by Council.

Council Conditions of this Delegation:

- a. for the purposes of this delegation, a minor price variation is limited to 10% or to a maximum of \$50,000.
- b. for the purpose of this delegation, a contract is defined as a legally binding agreement between the Shire of Kent and another party for the supply of goods and/or services.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Shire of Kent Policy 3.1.2 – Purchasing and Creditor Control

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Shire of Kent



2.1.4 Confiscated or Uncollected Goods

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.46 Goods May be withheld until costs paid s.3.47 Confiscated or uncollected goods, disposal of s.3.48 Impounding expenses, recovery of
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to refuse to allow goods impounded under s.3.39 or 3.40A to be collected until the costs of removing, impounding and keeping them have been paid to the local government. [s.3.46]
2. Authority to sell or otherwise dispose of confiscated or uncollected goods or vehicles that have been ordered to be confiscated under s.3.43 [s.3.47].
3. Authority to recover expenses incurred for removing, impounding, and disposing of confiscated or uncollected goods [s.3.48].

Council Conditions of this Delegation:

- a. Disposal of confiscated or uncollected goods, including abandoned vehicles, with a market value less than \$20,000 may, in accordance with Functions and General Regulation 30, be disposed of by any means considered to provide best value, provided the process is transparent and accountable.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995
Part 3, Division 3, Subdivision 3

s.3.58 Disposing of Property – applies to the sale of goods under s.3.47 as if they were property referred to in that section.

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



2.1.5 Disposing of Property

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> S3.58(2) and (3) Disposing of Property
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

Authority to sell, by calling expressions of interest, holding of a surplus goods sale at the Shire's Depot, or any other fair means, items of surplus equipment, materials, tools, etc which are no longer required, or are outmoded or are no longer serviceable.

Council Conditions of this Delegation:

This delegation applies only to items with an estimated value up to and including **\$5,000** **\$10,000** (ex GST).

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995
s.3.58 Disposal of Property

Local Government (Functions and General) Regulations 1996

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



2.1.6 Tenders for Goods and Services

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.2
Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.11 When tenders have to be publicly invited r.13 Requirements when local government invites tenders though not required to do so r.14 Publicly inviting tenders, requirements for r.18 Rejecting and accepting tenders r.20 Variation of requirements before entry into contract r.21A Varying a contract for the supply of goods or services		

Description of Functions Delegated:

1. Authority to call tenders [F&G r.11(1)].
2. Authority to, because of the unique nature of the goods or services or for any other reason it is unlikely that there is more than one supplier, determine a sole supplier arrangement [F&G r.11(f)].
3. Authority to undertake tender exempt procurement, in accordance with the Purchasing Policy requirements, where the total consideration under the resulting contract is included in the adopted Annual Budget [F&G.r.11(2)].
4. Authority to invite tenders although not required to do so [F&G r.13].
5. Authority to determine in writing, before tenders are called, the criteria for acceptance of tenders [F&G r.14(2a)].
6. Authority to determine the information that is to be disclosed to those interested in submitting a tender [F&G r.14(4)(a)].
7. Authority to vary tender information after public notice of invitation to tender and before the close of tenders, taking reasonable steps to ensure each person who has sought copies of the tender information is provided notice of the variation [F&G r.14(5)].
8. Authority to evaluate tenders, by written evaluation, and decide which is the most advantageous [F&G r.18(4)].
9. Authority to accept, or reject tenders, **only** within **\$150,000 the \$value detailed as a condition** on this Delegation and in accordance with the requirements of the Functions and General Regulations [F&G r.18(2) and (4)].
10. Authority to determine that a variation proposed is minor in context of the total goods or services sought through the invitation to tender, subject to a maximum 10% variation and **\$10,000 within the \$value detailed as a condition** on this Delegation, and to then negotiate minor variations with the successful tenderer before entering into a contract [F&G r.20(1) and (3)].
11. Authority to seek clarification from tenderers in relation to information contained in their tender submission [F&G r.18(4a)].
12. Authority to decline any tender [F&G r.18(5)].
13. If the chosen tenderer is unable or unwilling to form a contract OR the minor variation cannot be agreed with the successful tenderer, so that the tenderer ceases to be the chosen tenderer, authority to choose the next most advantageous tender to accept [F&G r.20(2)]

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14. Authority to:

- Vary a contract that has been entered into with a successful tenderer, provided the variation/s do not change the scope of the original contract or increase the contract value beyond 10%.
- Exercise an extension option that was included in the original tender specification and contract in accordance with r.11(2)(j). [F&G r.21A].

15. Authority to accept another tender where within 6-months of either accepting a tender, a contract has not been entered into OR the successful tenderer agrees to terminate the contract [F&G r.18(6) & (7)].

Council Conditions of this Delegation:

- Sole supplier arrangements may only be approved where a record is retained that evidences:
 - A detailed specification;
 - The outcomes of market testing of the specification;
 - The reasons why market testing has not met the requirements of the specification; and rationale for why the supply is unique and cannot be sourced through other suppliers;
- Tenders may only be called where there is an adopted budget for the proposed goods or services, with the exception being in the period immediately prior to the adoption of a new Annual Budget and where the:
 - proposed goods or services are required to fulfil a routine contract related to the day to day operations of the Local Government,
 - current supply contract expiry is imminent,
 - value of the proposed new contract has been included in the draft Annual Budget proposed for adoption, and
 - The tender specification includes a provision that the tender will only be awarded subject to the budget adoption by the Council.
- In accordance with s.5.43, tenders may only be accepted and panels of pre-qualified suppliers established, where the total consideration under the resulting contract is included in the adopted Annual Budget.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government \(Functions and General\) Regulations 1996](#) – prescribe applicable statutory procedures

[**Council Policy 3.1.2 \(Purchasing and Creditor Control\)**](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



2.1.7 Donations

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.8
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government (Financial Management) Regulations 1996:</i> r.12 (1)(a) Payments from municipal fund or trust fund Council Policy 3.1.8 Requests for Donations and Financial Assistance
Express Power to Delegate: Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. The Chief Executive Officer is delegated the authority to make payments for donations where specific provisions have been made in the budget.
2. The Chief Executive Officer is delegated authority to determine requests for donations of in-kind services which have not been specifically provided for up to an amount of \$500 (ex GST) **subject to funds being allocated** **provided funds have been provided for** in the **annual** adopted budget.

Council Conditions of this Delegation:

Cash donations made under this delegation shall not exceed the amount provided for that purpose in Council's adopted budget without formal Council approval.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

<u>Local Government (Financial Management) Regulations 1996</u>	Council Policy 3.1.8 Requests for Donations and Financial Assistance
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Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

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2.1.8 Write Off Debts

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.5
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.6.12 Power to defer, grant discounts, waive or write off debts
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Waive a debt which is owed to the Shire of Kent [s.6.12(1)(b)].
2. Write off an amount of money which is owed to the Shire of Kent [s.6.12(1)(c)]

Council Conditions of this Delegation:

- a. This Delegation does not apply to debts, which are prescribed as debts that are taken to be a rate or service charge.
- b. A debt may only be written off where all necessary measures have been taken to locate / contact the debtor and where costs associated continued action to recover the debt will outweigh the net value of the debt if recovered by the Shire of Kent.
 - i. Limited to individual debts valued below \$300 400. Write off of debts greater than \$300 400 must be referred for Council decision.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Collection of Rates Debts – refer Delegations: 3.1.5 Revenue Collection

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



2.1.9 Purchase Order Threshold

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.2
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> 3.1.2 – Purchasing & Creditor Control Policy
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

To authorise officers to sign purchase orders on behalf of Council within the limits stated within the purchasing policy, provided that purchases are within Budget limits.

Council Conditions of this Delegation:

Limitations are as follows:

Chief Executive Officer	Unlimited
Manager Corporate	up to \$50,000 10,000 , however whilst Acting Chief Executive Officer, the Manager Corporate has unlimited purchasing authority within budget
Manager Infrastructure	up to \$20,000 10,000 , <i>however whilst Acting Chief Executive Officer, the Manager Infrastructure has unlimited purchasing authority within budget</i>
Leading Hand	<i>Up to \$2,000, however whilst Acting Manager Infrastructure, the Leading Hand has \$10,000 purchasing authority within budget</i>
Mechanic	up to \$5,000 2,000 purchasing authority within budget
Building Maintenance Officer	up to \$5,000 2,000 purchasing authority within budget

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

<i>Local Government Act 1995</i>	3.1.2 – Purchasing & Creditor Control
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2.1.10 Application of Regional Price Preference Policy

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.4
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government (Functions and General) Regulations 1996::</i> r.24G Adopted regional price preference policy, effect of
Express Power to Delegate: Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to decide when not to apply the regional price preference policy to a particular future tender [F&G r.24G].

Council Conditions of this Delegation:

- a. Analyse potential conditions.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Council Policy 3.1.4 Regional Price Preference

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



2.1.11 Rate Record Amendment

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.6.39(2)(b) Rate record
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to determine any requirement to amend the rate record for the 5-years preceding the current financial year [s.6.39(2)(b)].

Council Conditions of this Delegation:

- a. Delegates must comply with the requirements of s.6.40 of the Act.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government Act 1995](#) –

s.6.40 prescribes consequential actions that may be required following a decision to amend the rate record.

Note – Decisions under this delegation may be referred for review by the State Administration Tribunal

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

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2.1.12 Agreement as to Payment of Rates and Service Charges

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	3.1.5
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.6.49 Agreement as to payment of rates and service charges
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to make an agreement with a person for the payment of rates or service charges [s.6.49].

Council Conditions of this Delegation:

- a. Agreements must be in writing and must ensure acquittal of the rates or service charge debt before the next annual rates or service charges are levied.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Council Policy 3.1.5 Revenue Collection

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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2.2 CEO to Employees

2.2.1 Financial Management Systems and Procedures

Delegate:	MANAGER CORPORATE	Policy Reference:	N/A
Delegator: Chief Executive Officer Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees	Express Power or Duty Delegated: <i>Local Government (Financial Management) Regulations 1996:</i> r.5 CEO's Duties as to financial management Express Power to Sub-Delegate: Nil		

Description of Functions Delegated:

1. Authority to establish systems and procedures which give effect to internal controls and risk mitigation for the:
 - i. Collection of money owed to the Shire of Kent;
 - ii. Safe custody and security of money collected or held by the Shire of Kent;
 - iii. Maintenance and security of all financial records, including payroll, stock control and costing records;
 - iv. Proper accounting of the Municipal and Trust Funds, including revenue, expenses and assets and liabilities;
 - v. Proper authorisation of employees for incurring liabilities, including authority for initiating Requisition Orders, Purchase Orders and use of Credit and Transaction Cards;
 - vi. Making of payments in accordance with Delegated Authority within the limits stated provided such proposed purchases are contained within the Budget and are within the officer's area of activity;
Chief Executive Officer \$1,000,000
Manager Corporate \$1,000,000
- vii. Preparation of budgets, budget reviews, accounts and reports as required by legislation or operational requirements.
[FM r.5].

Council Conditions of this Delegation:

- a. Procedures are to be systematically documented and retained in accordance with the Record Keeping Plan, and must include references that enable recognition of statutory requirements and assign responsibility for actions to position titles.
- b. Procedures are to be administratively reviewed for continuing compliance and confirmed as 'fit for purpose' and subsequently considered by the Audit and Risk Committee at least once each financial year.
[Audit r.17]

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government Act 1995](#)
[Local Government \(Financial Management\) Regulations 1996](#)

[Local Government \(Audit\) Regulations 1996](#)
Department of Local Government, Sport and Cultural Industries [Operational Guideline No.11 – Use of Corporate Credit Cards](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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2.2.2 Audit – CEO Review of Systems and Procedures

Delegate:	MANAGER CORPORATE	Policy Reference:	N/A
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Delegator: Chief Executive Officer	Express Power or Duty Delegated: <i>Local Government (Audit) Regulations 1996:</i> r.17 CEO to review certain systems and procedures
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees	Express Power to Sub-Delegate: Nil

Description of Functions Delegated:

1. Authority to conduct the review of the appropriateness and effectiveness of the Shire of Kent's systems and procedures in relation to
 - i. risk management; and
 - ii. internal controls; and
 - iii. legislative compliance [r.17(1)].

Council Conditions of this Delegation:

- a. Each matter is to be reviewed at least once in every 3 financial years, with a report on each matter to be provided to the Audit and Risk Committee that details the findings, including any identified deficiencies, and actions required.

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government \(Audit\) Regulations 1996](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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3 PLANNING & DEVELOPMENT ACT 2005

3.1 Council to CEO

3.1.1 Unauthorised/Illegal Development

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
Delegator: Local Government	Express Power or Duty Delegated: <i>Planning and Development Act 2005</i> Section 214 (2), (3) and (5)		
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 (b) Delegation of some powers or duties to the CEO s .5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees		

Description of Functions Delegated:

1. Give a written direction to the owner or any other person undertaking an unauthorised development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements;
2. Give a written direction to the owner or any other person who undertook an unauthorised development:
 - (a) to remove, pull down, take up, or alter the development; and
 - (b) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.
3. Give a written direction to the person whose duty it is to execute work to execute that work where it appears that delay in the execution of the work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order.

Council Conditions of this Delegation:

Nil

Sub – Delegate/s:	Manager Infrastructure Planning Officer
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CEO Conditions on Sub-Delegation:

1. Conditions of the original delegation to apply to the sub-delegations.
2. All prosecutions are to be authorised by the Chief Executive Officer

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Local Government \(Audit\) Regulations 1996](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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3.2 Local Planning Scheme – Council to CEO

3.2.1 Administration of Local Planning Scheme No. 3

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Planning and Development Act 2005 – Part 10 Division 2 of the Deemed Provisions for Local Planning Schemes (Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015)</i>
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: Nil

Definitions

For the purposes of this Delegation, the following definitions apply:

Deemed Provisions means the Deemed Provisions for Local Planning Schemes contained in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, as amended from time to time.

R-Codes means State Planning Policy 3.1 Residential Design Codes, as amended from time-to-time.

Scheme means Shire of Kent Local Planning Scheme No. 3, as amended from time-to-time.

Delegation

The Chief Executive Officer is delegated the authority to exercise the following powers or the discharge of the following duties under the Scheme:

1. Assess an application for a structure plan under clause 17 of the Deemed Provisions;
2. Advertise a proposed structure plan under clause 18 of the Deemed Provisions;
3. Assess an application for an activity centre plan under clause 33 of the Deemed Provisions;
4. Advertise a proposed activity centre plan under clause 34 of the Deemed Provisions;
5. Provide further services or information to the Western Australian Planning Commission as required under clauses 23 and 39 of the Deemed Provisions;
6. Assess an application for a local development plan under clause 49 of the Deemed Provisions;
7. Advertise a proposed local development plan under clause 50 of the Deemed Provisions;
8. Waive the fee payable for an application for development approval where the applicant and/or owner (as appropriate) is a registered not-for-profit organisation and the purpose of the development is for the benefit of the general community;
9. Refuse to accept for the purposes of assessment any application for development approval that has not complied with the form of application and/or accompanying material requirements of clauses 62 and 63 of the Deemed Provisions;
10. Determine the breadth and scope of accompanying material required for each application for development approval under clause 63 of the Deemed Provisions;
11. Determine the method and extent of advertising required under clause 64 of the Deemed Provisions for each application for development approval;
12. Assess and determine applications for development approval under Part 9 of the Deemed Provisions;
13. Amend or cancel a development approval under clause 77 of the Deemed Provisions, including extensions of time and renewal of periodic approvals;
14. Require the owner of an advertisement to repair an advertisement under clause 80 of the Deemed Provisions;
15. Refuse to accept an application for development approval under clause 85 of the Deemed Provisions where there is no agreement in place for the local government to use any copyrighted material provided in support of the application;
16. Determine the appropriate use class to be applied to each application for development approval under clause 4.3 of the Scheme;
17. Determine under clause 4.4.2(a) of the Scheme, that a use not specifically mentioned in the Zoning Table is consistent with the objectives of the particular zone in which the use is proposed and is therefore permitted;

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18. Determine under clause 4.4.2(b) of the Scheme, that a use not specifically mentioned in the Zoning Table may be consistent with the objectives of the particular zone in which the use is proposed and thereafter follow the advertising procedures of clause 64 of the Deemed Provisions;
19. Approve extensions and changes to a non-conforming use under clause 4.9 of the Scheme;
20. Determine under clause 4.10 of the Scheme that a non-conforming use has been discontinued for a period of 6 months;
21. Determine under clause 4.12 of the Scheme that a building used for a non-conforming use has been destroyed by a minimum of 75%;
22. Approve variations to site and development standards and requirements under clause 5.5 of the Scheme.

Council Conditions of this Delegation:

All delegations:

- i. Compliance with the *Planning and Development Act 2005* and *Local Government Act 1995* as these statutes relate to the carrying out of delegated authority.

Delegations 1-7 (Structure Plans, Activity Centre Plans and Local Development Plans):

- i. The consideration of submissions relating to structure plans, activity centre plans and local development plans under clauses 19, 35 and 51 of the Deemed Provisions is to be undertaken by Council;
- ii. Local government reports to the Western Australian Planning Commission prepared under clauses 20 and 36 of the Deemed Provisions are to be endorsed by Council prior to forwarding to the Commission; and
- iii. A decision on a local development plan under clause 52 of the Deemed Provisions is to be made by Council.

Delegation 12 (Determination of Applications for Development Approval):

- i. Any application for development approval can be approved under delegated authority, unless:
 - It has been advertised and a submission by way of objection raising matters of a material planning nature has been received, and which cannot be satisfied by either modification of the application by agreement of the applicant, or by conditions of approval;
 - The application has not required advertising, but by its nature, has potential to be contentious; or
 - It requires significant variations to the site and development standards or requirements contained in the Scheme, R-Codes or relevant adopted Local Planning Policy;
- ii. An application for development approval can be refused under delegated authority in the following circumstances:
 - The use proposed is identified as 'X' (use not permitted) in the Zoning Table at clause 4.4 of the Scheme; or
 - An adopted local planning policy provides for refusal of an application that does not comply with the requirements therein;
- iii. The exercise of this delegation is to have due regard to any limitations on delegated authority contained in an adopted Local Planning Policy that is relevant to the application; and
- iv. All determinations under delegated authority must be subject to an assessment report that outlines the level of compliance of an application with the relevant requirements of the Scheme, Local Planning Policies and Residential Design Codes of Western Australia (as applicable) and justifies the determination made.

Delegations 17 and 18 (Use-Not-Listed Applications):

- i. Approval of an application for development approval under clause 4.4.2(a) of the Scheme may be granted by delegated authority.
- ii. Approval of an application for development approval under clause 4.4.2(b) of the Scheme may be granted by delegated authority where no objections raising matters of a material planning nature have been received; and
- iii. Determination that the use is not consistent with the objectives of the particular zone and the therefore not permitted shall be made by Council.

Delegation 22 (Variations to Scheme Requirements):

- i. Any variation that is considered to be a significant departure from the relevant standard or requirement, or contrary to previous decision in similar applications, shall be considered by Council.

Delegation Register

Shire of Kent



Sub – Delegate/s: Nil

CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995

Planning and Development Act 2005

Date Adopted: 17/11/2021 **Last Reviewed:**

Delegation Register

Shire of Kent



4 ENGINEERING

4.1 Council to CEO

4.1.1 Close Roads/Thoroughfares to Vehicles

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
<p>Delegator: Local Government</p> <p>Express Power to Delegate: Local Government Act 1995: s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO</p>		<p>Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfare for repairs or maintenance s.3.51 Affected owners to be notified of certain proposals</p> <p>Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees</p>	

Description of Functions Delegated:

1. Authority to close a thoroughfare (wholly or partially) to vehicles or particular classes of vehicles for a period not exceeding 4-weeks [s.3.50(1)].
2. Authority to determine to close a thoroughfare for a period exceeding 4-weeks and before doing so, to:
 - I. give; public notice, written notice to the Commissioner of Main Roads and written notice to prescribed persons and persons that own prescribed land; and
 - II. consider submissions relevant to the road closure/s proposed [s.3.50(1a), (2) and (4)].
3. Authority to revoke an order to close a thoroughfare [s.3.50(6)].
4. Authority to partially and temporarily close a thoroughfare without public notice for repairs or maintenance, where it is unlikely to have significant adverse effect on users of the thoroughfare [s.3.50A]
5. Determine applications for the temporary closure of roads for the purpose of conducting events in accordance with the *Road Traffic (Events on Roads) Regulations 1991*.
6. To close any road within the Shire of Kent to heavy traffic when, in the opinion of the Chief Executive Officer, the weather conditions are such that further use of the road will cause, excessive damage to the Shire's road network.
7. Before doing anything to which section 3.51 applies, take action to notify affected owners and give public notice that allows reasonable time for submissions to be made and consider any submissions made before determining to fix or alter the level or alignment of a thoroughfare or draining water from a thoroughfare to private land [s3.51].
8. If directed by the Commissioner of Police, the authority to close a thoroughfare or road in the event of a pandemic or emergency.

Council Conditions of this Delegation:

- a. If, under s.3.50(1), a thoroughfare is closed without giving local public notice, local public notice is to be given as soon as practicable after the thoroughfare is closed [s.3.50(8)].
- b. Maintain access to adjoining land [s.3.52(3)] (relevant to townsite only)

Sub – Delegate/s:	Manager Corporate Manager Infrastructure
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CEO Conditions on Sub-Delegation:

Conditions of the original delegation also apply to the sub-delegations.

Delegation Register

Shire of Kent



Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Local Government Act 1995

Shire of Kent Local Laws

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



4.1.2 Crossing – Construction, Repair and Removal

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Local Government	Express Power or Duty Delegated: <i>Local Government (Uniform Local Provisions) Regulations 1996:</i> r.12(1) Crossing from public thoroughfare to private land or private thoroughfare – Sch.9.1 cl.7(2) r.13(1) Requirement to construct or repair crossing – Sch.9.1 cl.7(3)
Express Power to Delegate: <i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO	Express Power to Sub-Delegate: <i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

Description of Functions Delegated:

1. Authority to approve or refuse to approve, applications for the construction of a crossing giving access from a public thoroughfare to land or private thoroughfare serving land [ULP r.12(1)].
2. Authority to determine the specifications for construction of crossings to the satisfaction of the Local Government [ULP r.12(1)(a)].
3. Authority to give notice to an owner or occupier of land requiring the person to construct or repair a crossing [ULP r.13(1)].
4. Authority to initiate works to construct a crossing where the person fails to comply with a notice requiring them to construct or repair the crossing and recover 50% of the cost of doing so as a debt due from the person [ULP r.13(2)].

Council Conditions of this Delegation:

- a. Actions under this Delegation must comply with procedural requirements detailed in the [*Local Government \(Uniform Local Provisions\) Regulations 1996*](#).

Sub – Delegate/s:	Manager Corporate Manager Infrastructure
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[*Local Government \(Uniform Local Provisions\) Regulations 1996*](#) Penalties under the Uniform Local Provisions Regulations are administered in accordance with Part 9, Division 2 of the [*Local Government Act 1995*](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



5 BUILDING ACT 2011 DELEGATIONS

5.1 Council to CEO / Employees

5.1.1 Grant a Building Permit

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
Delegator: Shire of Kent (Permit Authority)		Express Power or Duty Delegated: <i>Building Act 2011:</i> s.18 Further Information s.20 Grant of building permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit	
Express Power to Delegate: <i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government		<i>Building Regulations 2012:</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))	
Express Power to Sub-Delegate: <i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)			

Description of Functions Delegated:

1. Authority to require an applicant to provide any documentation or information required to determine a building permit application [s.18(1)].
2. Authority to grant or refuse to grant a building permit [s.20(1) & (2) and s.22].
3. Authority to impose, vary or revoke conditions on a building permit [s.27(1) and(3)].
4. Authority to determine an application to extend time during which a building permit has effect [r.23].
 - i. Subject to being satisfied that work for which the building permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)]
 - ii. Authority to impose any condition on the building permit extension that could have been imposed under s.27 [r.24(2)].
5. Authority to approve, or refuse to approve, an application for a new responsible person for a building permit [r.26].

Council Conditions on this Delegation:

- a. An application for a building permit shall be approved where it:
 - i) Meets the provisions of the relevant legislation
 - ii) Conforms to all Local Laws and various regulations in force in the district or part of the district in respect of building matters; or
 - iii) With the agreement of the proponent, be amended to comply with these requirements.
 - iv) Complies with any policy of Council that is currently in force and is relevant to the proposal.

Sub – Delegate/s:	Contract Environmental Health Officer Contract Building Officer NII
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Delegation Register

Shire of Kent



Compliance Links:

[Building Act 2011](#)

s.119 Building and demolition permits – application for review by SAT

s.23 Time for deciding application for building or demolition permit

s.17 Uncertified application to be considered by building surveyor

[Building Regulations 2012](#) – r.25 *Review of decision to refuse to extend time during which permit has effect (s.32(3))* – reviewable by SAT

[Building Services \(Registration Act\) 2011 – Section 7](#)

[Home Building Contracts Act 1991 – Part 3A, Division 2 – Part 7, Division 2](#)

[Building and Construction Industry Training Levy Act 1990](#)

[Heritage of Western Australia Act 1990](#)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



5.1.2 Occupancy Permits or Building Approval Certificates

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent (Permit Authority)	Express Power or Duty Delegated: <i>Building Act 2011:</i> s.55 Further information s.58 Grant of occupancy permit, building approval certificate s.62(1) and (3) Conditions imposed by permit authority s.65(4) Extension of period of duration
Express Power to Delegate: <i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government	Express Power to Sub-Delegate: <i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Description of Functions Delegated:

1. Authority to require an applicant to provide any documentation or information required in order to determine an application [s.55].
2. Authority to grant, refuse to grant or to modify an occupancy permit or building approval certificate [s.58].
3. Authority to impose, add, vary or revoke conditions on an occupancy permit [s.62(1) and (3)].
4. Authority to extend, or refuse to extend, the period in which an occupancy permit or modification or building approval certificate has effect [s.65(4) and r.40].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Contract Environmental Health Officer Contract Building Officer Nil
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Building Act 2011

s.59 time for granting occupancy permit or building approval certificate
s.60 Notice of decision not to grant occupancy permit or grant building approval certificate
s.121 Occupancy permits and building approval certificates – application for review by SAT

Building Services (Complaint Resolution and Administration) Act 2011 – Part 7, Division 2

Building and Construction Industry Training Levy Act 1990
Heritage of Western Australia Act 1990

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



5.1.3 Demolition Permits

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent (Permit Authority)	Express Power or Duty Delegated: <i>Building Act 2011:</i> s.18 Further Information s.21 Grant of demolition permit s.22 Further grounds for not granting an application s.27(1) and (3) Impose Conditions on Permit <i>Building Regulations 2012</i> r.23 Application to extend time during which permit has effect (s.32) r.24 Extension of time during which permit has effect (s.32(3)) r.26 Approval of new responsible person (s.35(c))
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Description of Functions Delegated:

1. Authority to require an applicant to provide any documentation or information required to determine a demolition permit application [s.18(1)].
2. Authority to grant or refuse to grant a demolition permit on the basis that all s.21(1) requirements have been satisfied [s.20(1) & (2) and s.22].
3. Authority to impose, vary or revoke conditions on a demolition permit [s.27(1) and(3)].
4. Authority to determine an application to extend time during which a demolition permit has effect [r.23].
 - i. Subject to being satisfied that work for which the demolition permit was granted has not been completed OR the extension is necessary to allow rectification of defects of works for which the permit was granted [r.24(1)]
 - ii. Authority to impose any condition on the demolition permit extension that could have been imposed under s.27 [r.24(2)].
5. Authority to approve, or refuse to approve, an application for a new responsible person for a demolition permit [r.26].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Contract Environmental Health Officer Contract Building Officer Nil
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

[Building Act 2011](#)

s.119 Building and demolition permits – application for review by SAT
s.23 Time for deciding application for building or demolition permit

[Building Services \(Complaint Resolution and Administration\) Act 2011 – Part 7, Division 2](#)

Building and Construction Industry Training Levy Act 1990
Heritage of Western Australia Act 1990

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



5.1.4 Building Orders

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent (Permit Authority)	Express Power or Duty Delegated: <i>Building Act 2011:</i> s.110(1) A permit authority may make a building order s.111(1) Notice of proposed building order other than building order (emergency) s.117(1) and (2) A permit authority may revoke a building order or notify that it remains in effect s.118(2) and (3) Permit authority may give effect to building order if non-compliance s.133(1) A permit authority may commence a prosecution for an offence against this Act
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Description of Functions Delegated:

1. Authority to make Building Orders in relation to:
 - a. Building work
 - b. Demolition work
 - c. An existing building or incidental structure [s.110(1)].
2. Authority to give notice of a proposed building order and consider submissions received in response and determine actions [s.111(1)(c)].
3. Authority to revoke a building order [s.117].
4. if there is non-compliance with a building order, authority to cause an authorised person to:
 - a. take any action specified in the order ; or
 - b. commence or complete any work specified in the order; or
 - c. if any specified action was required by the order to cease, to take such steps as are reasonable to cause the action to cease [s.118(2)].
5. Authority to take court action to recover as a debt, reasonable costs and expense incurred in doing anything in regard to non-compliance with a building order [s.118(3)].
6. Authority to initiate a prosecution pursuant to section 133(1) for non-compliance with a building order made pursuant to section 110 of the Building Act 2011.

Council Conditions on this Delegation:

Subject to the authorised officer holding this position meeting requirements for appointment to undertake this function under the *Building Act 2011* and/or *Health Act 1911*.

Sub - Delegate/s:	Contract Environmental Health Officer Contract Building Officer NII
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Building Act 2011:

Section 111 Notice of proposed building order other than building order (emergency)
Section 112 Content of building order

Section 113 Limitation on effect of building order

Section 114 Service of building order

Part 9 Review - s.122 Building orders – application for review by SAT

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



5.1.5 Designate Employees as Authorised Persons

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent (Permit Authority)	Express Power or Duty Delegated: <i>Building Act 2011:</i> s.96(3) authorised persons s.99(3) Limitation on powers of authorised person
Express Power to Delegate: <i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government	Express Power to Sub-Delegate: <i>Building Act 2011:</i> s.127(6A) Delegation: special permit authorities and local governments (powers of sub-delegation limited to CEO)

Description of Functions Delegated:

1. Authority to designate an employee as an authorised person [s.96(3)].
2. Authority to revoke or vary a condition of designation as an authorised person or give written notice to an authorised person limiting powers that may be exercised by that person [s.99(3)].

Council Conditions on this Delegation:

- a. Decisions under this delegated authority should be in accordance with r.5 of the Building Regulations 2012.

Sub – Delegate/s:	Manager Corporate
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Building Act 2011:

s.97 requires each person designated as an authorised person must have an identity card.

r.5A Authorised persons (s.3) – definition

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6 BUSH FIRES ACT 1954 DELEGATIONS

6.1 Council to CEO, President and Bush Fire Control Officer

6.1.2 Prosecution of Offences

Delegate:	CHIEF EXECUTIVE OFFICER BUSH FIRE CONTROL OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.59 Prosecution of offences s.59A(2) Alternative procedure – infringement notices
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions Delegated:

1. Authority to institute and carry on proceedings against a person for an offence alleged to be committed against this Act [s.59].
2. Authority to serve an infringement notice for an offence against this Act [s.59A(2)].

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

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

48. Delegation by local governments

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

(2) *Performance by the chief executive officer of a local government of a function delegated under subsection (1) –*

(a) *is taken to be in accordance with the terms of a delegation under this section, unless the contrary is shown; and*

(b) *is to be treated as performance by the local government.*

(3) *A delegation under this section does not include the power to subdelegate.*

(4) *Nothing in this section is to be read as limiting the ability of a local government to act through its council, members of staff or agents in the normal course of business*

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954: s.66 Proof of ownership or occupancy
s.65 Proof of certain matters

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.3 Firebreaks and Bush Fire Control

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.33 Local government may require occupier of land to plough or clear fire-breaks
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions 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, to the satisfaction of the Shire of Kent:
 - 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)].
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)].
3. 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)].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954

Bush Fires Regulations 1954

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.4 Recovery of Expenses Incurred through Contraventions of this Act

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.58 General penalty and recovery of expenses incurred
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions 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 Kent or those on behalf of the Shire of Kent to do [s.58].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954

Bush Fires Regulations 1954

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.5 Appoint Bush Fire Control Officer/s and Fire Weather Officer

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.38 Local Government may appoint bush fire control officer
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions Delegated:

1. Authority to appoint persons to be Bush Fire Control Officers for the purposes of the Bush Fires Act 1954; and
 - a. Of those Officers, appoint 2 as the Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer; and
 - b. Determine the respective seniority of the other Bush Fire Officers so appointed [s.38(1)].
2. Authority to issue directions to a Bush Fire Control Officer to burn on or at the margins of a road reserve under the care, control and management of the Shire of Kent [s.38(5A)]
3. Authority to appoint a Fire Weather Officer, selected from senior Bush Fire Control Officers previously appointed and where more than one Fire Weather Officer is appointed, define a part of the District in which each Fire Weather Officer shall have exclusive right to exercise the powers of s.38(17). [s.38(8) and (9)].
 - a. Authority to appoint deputy Fire Weather Officer/s as considered necessary and where two or more deputies are appointed, determine seniority [s.38(10)].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the State Records Act 2000.

Compliance Links:

Bush Fires Act 1954

Bush Fires Regulations 1954

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.6 PROHIBITED BURNING TIMES - VARY

Delegate:	SHIRE PRESIDENT/CHIEF BUSH FIRE CONTROL OFFICER (jointly)	Policy Reference:	N/A
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Delegator: Shire of Kent Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government s.17(10) Prohibited burning times may be declared by Minister (power of delegation to mayor or president and Chief Bush Fire Control Officer for ONLY powers under s.17(7) and (8))	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.17(7) Prohibited burning times may be declared by Minister Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)
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Description of Functions Delegated:

Authority, where seasonal conditions warrant it, to determine a variation of the prohibited burning times, after consultation with an authorised CALM Act officer [s.17(7)].

Council Conditions on this Delegation:

- Decisions under s.17(7) must be undertaken jointly by the Shire President and the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.17(7B) and (8).

Sub – Delegate/s:	Nil sub-delegation is prohibited by s.48(3)
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954, s.17(7) and (8).

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.7 RESTRICTED BURNING TIMES - VARY

Delegate:	Chief Executive Officer	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.18(5) Restricted burning times may be declared by FES Commissioner
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions Delegated:

Authority, where seasonal conditions warrant it and after consultation with an authorised CALM Act officer, to determine to vary the restricted burning times in respect of that year [s.18(5)].

Council Conditions on this Delegation:

The decision to vary the Restricted Burning Times is to be made in consultation with the Chief Bush Fire Control Officer and must comply with the procedural requirements of s.18(5B) of the Act.

Sub – Delegate/s:	Nil sub-delegation is prohibited by s.48(3)
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954, s.18(5) and s18(5B).

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.8 REQUEST FES COMMISSIONER – TAKE CONTROL OF A FIRE

Delegate:	Chief Executive Officer	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.13(4) Duties and powers of bush fire liaison officers
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions Delegated:

Authority to request on behalf of the Shire of Kent that the FES Commissioner authorise the Bush Fire Liaison Officer or another person to take control of fire operations [s.13(4)].

Council Conditions on this Delegation:

The decision to make a request to the FES Commissioner is to be made in consultation with the Chief Bush Fire Control Officer and must comply with the procedural requirements of clause 4.9.2 of *State Hazard Plan – Fire*.

Sub – Delegate/s:	<i>Nil sub-delegation is prohibited by s.48(3)</i>
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954, s.13(4)

State Hazard Plan – Fire Clause 4.9.2

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.9 CONTROL OF ACTIVITIES DURING PROHIBITED & RESTRICTED BURNING TIMES

Delegate:	Chief Executive Officer	Policy Reference:	N/A
<p>Delegator: Shire of Kent</p> <p>Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government</p>		<p>Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.27(2) and (3) Prohibition on use of tractors or engines except under certain conditions</p> <p><i>Bush Fires Regulations 1954:</i> r.15(2) Permit to burn (Act s.18), form of and apply for after refusal etc. r.15C Local Government may prohibit burning on certain days r.38C Harvesters, power to prohibit use of on certain days in restricted or prohibited burning times. r.39B Crop dusters etc., use of in restricted or prohibited burning times.</p> <p>Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)</p>	

Description of Functions Delegated:

1. Authority to prohibit the use of tractors, engines or self-propelled harvester, during Prohibited Burning Times or Restricted Burning Times, and to give permission for use of same subject to compliance with requirements specified in a notice [s.27(2) and (3)].
2. Authority to determine permits to burn during restricted times that have previously been refused by a Bush Fire Control Officer [r.15(2)].
3. Authority to determine to prohibit burning on Sundays or specified days that are public holidays in the District [r.15C].
4. Authority to declare that the use of any harvesting machinery on any land under crop during the whole or any part of any Sunday or public holiday in the whole or a specified part of the District during Restricted Burning Times is prohibited, unless written consent of a Bush Fire Control Officer is obtained [r.38C].

Council Conditions on this Delegation:

Any decision by the CEO under this delegation is to be made in consultation with the Chief Bush Fire Control Officer.

Sub – Delegate/s:	Nil sub-delegation is prohibited by s.48(3)
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954:
s.22(6) and (7)
s27(2) and (3)

Bush Fire Regulations 1954:
r.15(2)
r.15C
r.38C
r.39B

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.10 CONTROL AND EXTINGUISHMENT OF BUSH FIRES

Delegate:	Chief Executive Officer	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.46 Bush fire control officer or forest officer may postpone lighting fire
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions Delegated:

1. Authority to prohibit or postpone the lighting of a fire where in the opinion of the Delegate the lighting of a fire would be or become a source of danger by escaping from the land on which it is proposed to be lit [s.46(1A)(a)].
2. Authority to direct the owner or occupier of land on which a fire is burning where in the opinion of the Delegate the fire is in danger of escaping from that land to take all reasonable steps to extinguish the fire or to prevent the fire from spreading. [s.46(1A)(b)].

Council Conditions on this Delegation:

Any decision by the CEO under this delegation is to be made in consultation with the Chief Bush Fire Control Officer.

Sub – Delegate/s:	Nil sub-delegation is prohibited by s.48(3) (note: Bush Fire Control Officers have powers under s.46 of the Bush Fires Act.)
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954:
s.46

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.11 BURNING GARDEN REFUSE/OPEN AIR FIRES

Delegate:	Chief Executive Officer	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> S.24F Burning garden refuse during limited burning times s.24G Minister or local government may further restrict burning of garden refuse s.25 No fire to be lit in open air unless certain precautions taken s.25A Power of Minister to exempt from provisions of section 25 <i>Bush Fire Regulations 1954:</i> r.27(3) Permit, issue of
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Description of Functions Delegated:

1. Authority to prohibit or impose restrictions on the burning of garden refuse that is otherwise permitted under s.24F [s.24G(2), (4) and (5)].
2. Authority to provide written approval, during prohibited times and restricted times, for fires to be lit for the purposes of:
 - a. Camping ~~or~~ cooking [s.25(1) (a) ~~(b)~~].
 - b. Conversion of bush into charcoal or for the production of lime, in consultation with an authorised CALM Act officer [s.25(1)(b)].
3. Authority to prohibit the lighting of fires in the open air for the purposes of camping or cooking for such period during the prohibited burning times as specified in a note published in the Gazette and newspaper circulating in the District and authority to vary such notice [s.25(1a) and (1b)].
4. Authority to serve written notice on a person to whom an exemption has been given under s.25 for lighting a fire in open air, prohibiting that person from lighting a fire and to determine conditions on the notice [s.25A(5)].

Council Conditions on this Delegation:

N/A

Sub – Delegate/s:	Nil sub-delegation is prohibited by s.48(3)
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954:

s.24F
s.24G
s.25
s.25A

Bush Fires Regulations 1954:

r.27(3)

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



6.1.12 RECOVERY OF EXPENSES (ESCAPED PERMIT BURNS ETC)

Delegate:	Chief Executive Officer	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Bush Fires Act 1954:</i> s.18(11) Restricted burning times may be declared by FES Commissioner s.28(4) and (5) Occupier of land to extinguish bush fire occurring on own land
Express Power to Delegate: <i>Bush Fires Act 1954:</i> s.48 Delegation by local government	Express Power to Sub-Delegate: NIL – Sub-delegation is prohibited by s.48(3)

Description of Functions Delegated:

1. Authority, where a permitted burn fire escapes or is out of control in the opinion of the Bush Fire Control Officer or an officer of the Bush Fire Brigade, to determine to recoup bush fire brigade expenses arising from preventing extension of or extinguishing an out of control permitted burn [s.18(11)].
2. Authority to recover the cost of measures taken by the Shire of Kent or Bush Fire Control Officer, to extinguish a fire burning during Restricted Burning Times, where the occupier of the land has failed to comply with requirements under s.28(1) to take all possible measures to extinguish a fire the land they occupy [s.28(4)], including authority to recover expenses in any court of competent jurisdiction [s.28(5)].

Council Conditions on this Delegation:

N/A

Sub – Delegate/s:	Nil sub-delegation is prohibited by s.48(3)
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CEO Conditions on Sub-Delegation:

N/A

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Bush Fires Act 1954:
s.18(11)
s.28(4) and (5)

Date Adopted:	18/11/2020	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



7 CAT ACT 2011 DELEGATIONS

7.1 Council to CEO

7.1.1 Cat Registrations

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Cat Act 2011:</i> s.9 Registration s.10 Cancellation of registration s.11 Registration numbers, certificates and tags <i>Cat Regulations 2012</i> Schedule 3, cl.1(4) Fees Payable
Express Power to Delegate: <i>Cat Act 2011:</i> s.44 Delegation by local government	Express Power to Sub-Delegate: <i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to grant, or refuse to grant, a cat registration or renewal of a cat registration [s.9(1)].
2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.9(6)].
3. Authority to cancel a cat registration [s.10].
4. Authority to give the cat owner a new registration certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.11(2)].
5. Authority to reduce or waive a registration or approval to breed fee, in respect of any individual cat or any class of cats within the Shire of Kent's District [Reg. Sch. 3 cl.1(4)].

Council Conditions on this Delegation:

- a. Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the *Cat Act 2011*.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Ranger
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub-delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Cat Regulations 2012 r.11 Application for registration (s.8(2)), prescribes the Form of applications for registration. r.12 Period of registration (s.9(7)) r.11 Changes in registration	r.14 Registration certificate (s.11(1)(b)) r.15 Registration tags (s.76(2)) Decisions are subject to Objection and Review by the State Administration Tribunal rights – refer Part 4, Division 5 of the <i>Cat Act 2011</i>
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Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



7.1.2 Approval to Breed Cats

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Cat Act 2011:</i> s.37 Approval to Breed Cats s.38 Cancellation of approval to breed cats s.39 Certificate to be given to approved cat breeder
Express Power to Delegate: <i>Cat Act 2011:</i> s.44 Delegation by local government	Express Power to Sub-Delegate: <i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to grant or refuse to grant approval or renew an approval to breed cats [s.37(1) and (2)].
2. Authority to refuse to consider an application for registration or renewal where an applicant does not comply with a requirement to give any document or information required to determine the application [s.37(4)].
3. Authority to cancel an approval to breed cats [s.38].
4. Authority to give an approved breeder a new certificate or tag, if satisfied that the original has been stolen, lost, damaged or destroyed [s.39(2)].

Council Conditions on this Delegation:

- a. Notices of decisions must include advice as to Objection and Review rights in accordance with Part 4, Division 5 of the *Cat Act 2011*.

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Cat Regulations 2012: r.21 Application for approval to breed cats (s.36(2)) r.22 Other circumstances leading to refusal of approval to breed cats (s.37(2)(f))	r.23 Person who not be refused approval to breed cats (s.37(5)) r.24 Duration of approval to breed cats (s.37(6)) r.25 Certificate given to approved cat breeder (s.39(1))
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Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



7.1.3 Appoint Authorised Persons

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Cat Act 2011:</i> s. 48 Authorised persons
Express Power to Delegate: <i>Cat Act 2011:</i> s.44 Delegation by local government	Express Power to Sub-Delegate: <i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Description of Functions Delegated:

- Authority to appoint authorised persons by issuing a certificate of authorisation [s.48].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Ranger
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Cat Act 2011

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



7.1.4 Cat Control Notices

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Cat Act 2011:</i> s.26 Cat control notice may be given to cat owner
Express Power to Delegate: <i>Cat Act 2011:</i> s.44 Delegation by local government	Express Power to Sub-Delegate: <i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to give a cat control notice to a person who is the owner of a cat ordinarily kept within the Shire of Kent's District [s.26].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Manager Corporate <u>Manager Infrastructure</u> Ranger
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Cat Regulations 2012 – r.20 Cat control notice [s.23(3)], prescribes the Form of the notice.

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



7.1.5 Applications to Keep Additional Cats

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Cat (Uniform Local Provisions) Regulations 2013:</i> r.8 Application to keep additional number of cats r.9 Grant of approval to keep additional number of cats
Express Power to Delegate: <i>Cat Act 2011:</i> s.44 Delegation by local government	Express Power to Sub-Delegate: <i>Cat Act 2011:</i> s.45 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to require any document or additional information required to determine an application [r.8(3)].
2. Authority to refuse to consider an application if the applicant does not comply with a requirement to provide any document or information required to determine an application [r.8(4)].
3. Authority to grant or refuse approval for additional number of cats specified in an application to be kept at the prescribed premises and to determine any condition reasonably necessary to ensure premises are suitable for the additional number of cats [r.9].

Council Conditions on this Delegation:

- a. Notices of decisions must include advice as to Review rights in accordance with r.11 of the *Cat (Uniform Local Provisions) Regulations 2013*.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Ranger
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Cat Regulations 2012

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



8 DOG ACT 1974 DELEGATIONS

8.1 Dog Act Delegations Council to CEO

8.1.1 Appoint Authorised Persons

Delegate: CHIEF EXECUTIVE OFFICER	Policy Reference: N/A
Delegator: Shire of Kent Express Power to Delegate: <i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties	Express Power or Duty Delegated: <i>Dog Act 1976:</i> s.11(1) Staff and Services Express Power to Sub-Delegate: <i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (<i>NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation</i>)

Description of Functions Delegated:

1. Authority to appoint Registration Officers to exercise the powers and duties conferred on a Registration Officer by this Act [s.3].
2. Authority to appoint authorised persons to exercise the powers conferred on an authorised person by this Act [s.11(1)].

Council Conditions on this Delegation:

- a. The Chief Executive Officer may further delegate (sub-delegate) to employees which the CEO has determined as being suitably capable of fulfilling the powers and duties contained in this Delegation.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Ranger
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Dog Act 1976

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



8.1.2 Refuse or Cancel Registration

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Dog Act 1976:</i> s.15(2) and (4A) Registration periods and fees s.16(3) Registration procedure s.17A(2) If no application for registration made s.17(4) and (6) Refusal or cancellation of registration
Express Power to Delegate: <i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties	Express Power to Sub-Delegate: <i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (<i>NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation</i>)

Description of Functions Delegated:

1. Authority to determine to refuse a dog registration and refund the fee, if any [s.16(2)].
2. Authority to direct the registration officer to refuse to effect or renew or to cancel the registration of a dog, and to give notice of such decisions, where:
 - i. the applicant, owner or registered owner has been convicted of an offence or paid a modified penalty within the past 3-years in respect of 2 or more offences against this Act, the *Cat Act 2011* or the *Animal Welfare Act 2002*; or
 - ii. the dog is determined to be destructive, unduly mischievous or to be suffering from a contagious or infectious disease or
 - iii. the delegate is not satisfied that the dog is or will be effectively confined in or at premises where the dog is ordinarily kept
 - iv. the dog is required to be microchipped but is not microchipped; or
 - v. the dog is a dangerous dog [s.16(3) and s.17A(2)].
3. Authority to discount or waive a registration fee, including a concessional fee, for any individual dog or any class of dogs within the Shire of Kent's District [s15(4A)].
4. Authority to apply to a Justice of the Peace for an order to seize a dog where, following a decision to refuse or cancel a registration and the applicant / owner has not applied to the State Administration Tribunal for the decision to be reviewed. [s.17(4)].
 - i. Authority, following seizure, to determine to cause the dog to be detained or destroyed or otherwise disposed of as though it had been found in contravention of section 31, 32 or 33A and had not been claimed [s.17(6)]

Council Conditions on this Delegation:

- a. The Chief Executive Officer may further delegate (sub-delegate) to employees which the CEO has determined as being suitably capable of fulfilling the powers and duties contained in this Delegation.

Sub – Delegate/s:	Manager Corporate Manager Infrastructure Ranger
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CEO Conditions on Sub-Delegation:

Conditions on the original delegation also apply to the sub delegations.

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Delegation Register

Shire of Kent



Compliance Links:

Dog Act 1976

s.17A If no application for registration made –
procedure for giving notice of decision under s.16(3)

Note – Decisions under this delegation may be referred for review by the State Administration Tribunal – s.16A, s.17(4) and (6)

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



9 FOOD ACT 2008 DELEGATIONS

9.1 Council to CEO

9.1.1 Prohibition Orders

Delegate:	ENVIRONMENTAL HEALTH OFFICER EMPLOYED OR CONTRACTED BY THE SHIRE OF KENT	Policy Reference:	N/A
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Delegator: Shire of Kent Express Power to Delegate: <i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations	Express Power or Duty Delegated: <i>Food Act 2008:</i> s.65(1) Prohibition orders s.66 Certificate of clearance to be given in certain circumstances s.67(4) Request for re-inspection Express Power to Sub-Delegate: NIL – Food Regulations 2009 do not provide for sub-delegation.
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Description of Functions Delegated:

1. Authority to serve a prohibition order on the proprietor of a food business in accordance with s.65 of the Food Act 2008 [s.65(1)].
2. Authority to give a certificate of clearance, where inspection demonstrates compliance with a prohibition order and any relevant improvement notices [s.66].
3. Authority to give written notice to proprietor of a food business on whom a prohibition order has been served of the decision not to give a certificate of clearance after an inspection [s.67(4)].

Council Conditions on this Delegation:

- a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Note – Decisions under this delegation may be referred for review by the State Administration Tribunal

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



9.1.2 Food Business Registrations

Delegate:	ENVIRONMENTAL HEALTH OFFICER EMPLOYED OR CONTRACTED BY THE SHIRE OF KENT	Policy Reference:	N/A
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Delegator: Shire of Kent Express Power to Delegate: <i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations	Express Power or Duty Delegated: <i>Food Act 2008:</i> s.110(1) and (5) Registration of food business s.112 Variation of conditions or cancellation of registration of food businesses Express Power to Sub-Delegate: NIL – Food Regulations 2009 do not provide for sub-delegation.
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Description of Functions Delegated:

1. Authority to consider applications and determine registration of a food business and grant the application with or without conditions or refuse the registration [s.110(1) and (5)].
2. Authority to vary the conditions or cancel the registration of a food business [s.112].

Council Conditions on this Delegation:

- a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:
 - Food Act 2008 Regulatory Guideline No.1 Introduction of Regulatory Food Safety Auditing in WA
 - Food Unit Fact Sheet 8 – Guide to Regulatory Guideline No.1
 - WA Priority Classification System
 - Verification of Food Safety Program Guideline

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Note – Decisions under this delegation may be referred for review by the State Administration Tribunal

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



9.1.3 Appoint Authorised Officers and Designated Officers

Delegate:	CHIEF EXECUTIVE OFFICER ENVIRONMENTAL HEALTH OFFICER EMPLOYED OR CONTRACTED BY THE SHIRE OF KENT	Policy Reference:	N/A
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Delegator: Shire of Kent Express Power to Delegate: <i>Food Act 2008:</i> s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations	Express Power or Duty Delegated: <i>Food Act 2008:</i> s.122(1) Appointment of authorised officers s.126(6), (7) and (13) Infringement Officers Express Power to Sub-Delegate: NIL – Food Regulations 2009 do not provide for sub-delegation.
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Description of Functions Delegated:

1. Authority to appoint a person to be an authorised officer for the purposes of the Food Act 2008 [s.122(2)].
2. Authority to appoint an Authorised Officer appointed under s.122(2) of this Act or the s.24(1) of the Public Health Act 2016, to be a Designated Officer for the purposes of issuing Infringement Notices under the Food Act 2008 [s.126(13)].
3. Authority to appoint an Authorised Officer to be a Designated Officer (who is prohibited by s.126(13) from also being a Designated Officer for the purpose of issuing infringements), for the purpose of extending the time for payment of modified penalties [s.126(6)] and determining withdrawal of an infringement notice [s.126(7)].

Council Conditions on this Delegation:

- a. In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time, including but not limited to:
 - Appointment of Authorised Officers as Meat Inspectors
 - Appointment of Authorised Officers
 - Appointment of Authorised Officers – Designated Officers only

Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties of an Authorised Officer

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

s.122(3) requires an Enforcement Agency to maintain a list of appointed authorised officers

s.123(1) requires an Enforcement Agency to provide each Authorised Officer with a Certificate of Authority as prescribed

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



10 GRAFFITI VANDALISM ACT 2016 DELEGATIONS

10.1 Council to CEO

10.1.1 Give Notice Requiring Obliteration of Graffiti

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.18(2) Notice requiring removal of graffiti s.19(3) & (4) Additional powers when notice is given
Express Power to Delegate: <i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government	Express Power to Sub-Delegate: <i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to give written notice to a person who is an owner or occupier of property on which graffiti is applied, requiring the person to ensure that the graffiti is obliterated in an acceptable manner, within the time set out in the notice [s.18(2)].
2. Authority, where a person fails to comply with a notice, to do anything considered necessary to obliterate the graffiti in an acceptable manner [s.19(3)] and to take action to recover costs incurred as a debt due from the person who failed to comply with the notice [s.19(4)].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Note – Decisions under this delegation may be referred for review by the State Administration Tribunal

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



10.1.2 Obliterate Graffiti on Private Property

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.25(1) Local government graffiti powers on land not local government property
Express Power to Delegate: <i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government	Express Power to Sub-Delegate: <i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to determine to obliterate graffiti applied without consent of the owner or occupier, even though the land on which it is done is not local government property and the local government does not have consent [s.25(1)].

Council Conditions on this Delegation:

- a. Subject to exercising Powers of Entry.

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Graffiti Vandalism Act 2016

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



10.1.3 Powers of Entry

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Local Government Act 1995:</i> s.28 Notice of entry s.29 Entry under warrant
Express Power to Delegate: <i>Graffiti Vandalism Act 2016:</i> s.16 Delegation by local government	Express Power to Sub-Delegate: <i>Graffiti Vandalism Act 2016:</i> s.17 Delegation by CEO of local government

Description of Functions Delegated:

1. Authority to give notice of an intended entry to the owner or occupier of land, premises or thing, specifying the purpose for which entry is required [s.28].
2. Authority to obtain a warrant to enable entry onto any land, premises or thing for the purposes of this Act [s.29].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Graffiti Vandalism Act 2016

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



11 Public Health Act 2015 Delegations

11.1 Council to CEO

11.1.1 Enforcement Agency Reports to the Chief Health Officer

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Public Health Act 2016</i> s.22 Reports by and about enforcement agencies
Express Power to Delegate: <i>Public Health Act 2016</i> : s.21 Enforcement agency may delegate	Express Power to Sub-Delegate: Nil – Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].

Description of Functions Delegated:

1. Authority to prepare and provide to the Chief Health Officer, the Local Government's report on the performance of its functions under this Act and the performance of functions by persons employed or engaged by the Shire of Kent [s.22(1)]
2. Authority to prepare and provide to the Chief Health Officer, a report detailing any proceedings for an offence under this Act [s.22(2)].

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Public Health Act 2016
s.20 Conditions on performance of functions by enforcement agencies.

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



11.1.2 Designate Authorised Officers

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Public Health Act 2016</i> s.24(1) and (3) Designation of authorised officers
Express Power to Delegate: <i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate	Express Power to Sub-Delegate: Nil – Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].

Description of Functions Delegated:

1. Authority to designate a person or class of persons as authorised officers for the purposes of:
 - i. The Public Health Act 2016 or other specified Act
 - ii. Specified provisions of the Public Health Act 2016 or other specified Act
 - iii. Provisions of the Public Health Act 2016 or another specified Act, other than the specified provisions of that Act.

Including:

 - a. an environmental health officer or environmental health officers as a class; OR
 - b. a person who is not an environmental health officer or a class of persons who are not environmental health officers, OR
 - c. a mixture of the two. [s.24(1) and (3)].

Council Conditions on this Delegation:

- a. Subject to each person so appointed being:
 - Appropriately qualified and experienced [s.25(1)(a)]; and
 - Issued with a certificate, badge or identity card identifying the authorised officer [s.30 and 31]
- b. A Register (list) of authorised officers is to be maintained in accordance with s.27.

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

Public Health Act 2016

s.20 Conditions on performance of functions by enforcement agencies.

s.25 Certain authorised officers required to have qualifications and experience.

s.26 Further provisions relating to designations

s.27 Lists of authorised officers to be maintained s.28 When designation as authorised officer ceases

s.29 Chief Health Officer may issue guidelines about qualifications and experience of authorised officers

s.30 Certificates of authority

s.31 Issuing and production of certificate of authority for purposes of other written laws

s.32 Certificate of authority to be returned.

s.136 Authorised officer to produce evidence of authority *Criminal Investigation Act 2006*, Parts 6 and 13 – refer s.245 of the *Public Health Act 2016*

The Criminal Code, Chapter XXVI – refer s.252 of the *Public Health Act 2016*

Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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Delegation Register

Shire of Kent



11.1.3 Commence Proceedings

Delegate:	CHIEF EXECUTIVE OFFICER	Policy Reference:	N/A
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Delegator: Shire of Kent	Express Power or Duty Delegated: <i>Public Health Act 2016</i> s.280 Commencing Proceedings
Express Power to Delegate: <i>Public Health Act 2016:</i> s.21 Enforcement agency may delegate	Express Power to Sub-Delegate: Nil – Unless a Regulation enacted under the Public Health Act 2016, specifically authorises a delegated power or duty of an enforcement agency to be further delegated [s.21(4)].

Description of Functions Delegated:

- Authority to commence proceedings for an offence under the *Public Health Act 2016* [s.280]

Council Conditions on this Delegation:

Nil

Sub – Delegate/s:	Nil
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CEO Conditions on Sub-Delegation:

Nil

Record Keeping:

Keep a local government record as per the *State Records Act 2000*.

Compliance Links:

<i>Public Health Act 2016</i>	s.20 Conditions on performance of functions by enforcement agencies.
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Date Adopted:	17/04/2019	Last Reviewed:	17/11/2021
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12 STATUTORY AUTHORISATIONS AND DELEGATIONS TO LOCAL GOVERNMENT FROM STATE GOVERNMENT ENTITIES

12.1 Environmental Protection Act 1986

12.1.1 Noise Control – Environmental Protection Notices [Reg.65(1)]

Published by:
Environment

GOVERNMENT GAZETTE
Western Australia
[Previous](#) [Close](#) [Next](#)

No. 47, 19-Mar-2004
Page: 919 [Pdf](#) - 476kb

EV401

ENVIRONMENTAL PROTECTION ACT 1986 **Section 20** Delegation No. 52

Pursuant to section 20 of the *Environmental Protection Act 1986*, the Chief Executive Officer hereby delegates as follows—

Powers and duties delegated—

All the powers and duties of the Chief Executive Officer, where any noise is being or is likely to be emitted from any premises not being premises licensed under the Act, to serve an environmental protection notice under section 65(1) in respect of those premises, and where an environmental protection notice is so served in such a case, all the powers and duties of the Chief Executive Officer under Part V of the Act in respect of that environmental protection notice.

Persons to whom delegation made—

This delegation is made to any person for the time being holding or acting in the office of Chief Executive Officer under the *Local Government Act 1995*.

Pursuant to section 59(1)(e) of the *Interpretations Act 1984*, Delegation No. 32, dated 4 February 2000 is hereby revoked.

Dated this 9th day of January 2004.

Approved—

FERDINAND TROMP, A/Chief Executive Officer.

Dr JUDY EDWARDS MLA, Minister for the Environment.

Delegation Register

Shire of Kent



12.1.2 Noise Management Plans – Keeping Log Books, Noise Control Notices, Calibration and Approval of Non-Complying Events

Published by:
Environment

GOVERNMENT GAZETTE
Western Australia
[Previous](#) [Close](#) [Next](#)

No. 232. 20-Dec-2013
Page: 6282 [Pdf](#) - 3Mb

EV402

ENVIRONMENTAL PROTECTION ACT 1986

Delegation No. 112

I, Jason Banks, in my capacity as Acting Chief Executive Officer of the Department of Environment Regulation responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to any person for the time being holding or acting in the office of a Chief Executive Officer under the *Local Government Act 1995*, my powers and duties under the *Environmental Protection (Noise) Regulations 1997*, other than this power of delegation, in relation to--

- (a) waste collection and other works--noise management plans relating to specified works under regulation 14A or 14B;
- (b) bellringing or amplified calls to worship--the keeping of a log of bellringing or amplified calls to worship requested under regulation 15(3)(c)(vi);
- (c) community activities--noise control notices in respect of community noise under regulation 16;
- (d) motor sport venues--noise management plans in relation to motor sport venues under Part 2 Division 3;
- (e) shooting venues--noise management plans in relation to shooting venues under Part 2 Division 4;
- (f) calibration results--requesting, under regulation 23(b), details of calibration results undertaken and obtained under Schedule 4;
- (g) sporting, cultural and entertainment events--approval of events or venues for sporting, cultural and entertainment purposes under Part 2 Division 7, subject to the following limitation--
 - (i) Subregulation 18(13)(b) is not delegated.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 68, gazetted 22 June 2007 is hereby revoked.

Dated the 12th day of December 2013.

JASON BANKS, Acting Chief Executive Officer.

Approved by--

JOHN DAY, Acting Minister for Environment; Heritage.

Delegation Register

Shire of Kent



12.1.3 Noise Management Plans – Construction Sites

Published by:
Environment

GOVERNMENT GAZETTE
Western Australia
[Previous](#) [Close](#) [Next](#)

No. 71, 16-May-2014
Page: 1548 [Pdf](#) - [2Mb](#)

EV405

ENVIRONMENTAL PROTECTION ACT 1986

Delegation No. 119

I, Jason Banks, in my capacity as the Acting Chief Executive Officer of the Department responsible for the administration of the *Environmental Protection Act 1986* ("the Act"), and pursuant to section 20 of the Act, hereby delegate to the holder for the time being of the offices of:-

- (a) Chief Executive Officer under the *Local Government Act 1995*; and
- (b) to any employee of the local government under the *Local Government Act 1995* who is appointed as an Authorised Person under section 87 of the Act,

all my powers and duties in relation to noise management plans under regulation 13 of the *Environmental Protection (Noise) Regulations 1997*, other than this power of delegation.

Under section 59(1)(e) of the *Interpretation Act 1984*, Delegation No. 111, gazetted 20 December 2013, is hereby revoked.

Dated the 1st day of May 2014.

JASON BANKS, Acting Chief Executive Officer.

Delegation Register

Shire of Kent



12.2 Planning and Development Act 2005

12.2.1 Instrument of Authorisation - Sign Development Applications for Crown Land as Owner

DoL FILE 1738/2002v8; 858/2001v9

PLANNING AND DEVELOPMENT ACT 2005

INSTRUMENT OF AUTHORISATION

I, **Donald Terrence Redman MLA**, Minister for Lands, a body corporate continued by section 7(1) of the *Land Administration Act 1997*, under section 267A of the *Planning and Development Act 2005*, HEREBY authorise, in respect of each local government established under the *Local Government Act 1995* and listed in Column 2 of the Schedule, the person from time to time holding or acting in the position of Chief Executive Officer of the relevant local government, to perform the powers described in Column 1 of the Schedule subject to the conditions listed in Column 3 of the Schedule.

Dated the 2nd day of June 2016



**HON DONALD TERRENCE REDMAN MLA
MINISTER FOR LANDS**

Delegation Register

Shire of Kent



SCHEDULE

This is the Schedule referred to in an Instrument of Authorisation relating to Development Applications under the *Planning and Development Act 2005*

Column 1

The power to sign as owner in respect of Crown land that is:

- a reserve managed by the local government pursuant to section 46 of the *Land Administration Act 1997* and the development is consistent with the reserve purpose and the development is not for a commercial purpose; or
- the land is a road of which the local government has the care, control and management under section 55(2) of the *Land Administration Act 1997* and where there is no balcony or other structure proposed to be constructed over that road unless that structure comes within the definition of a "minor encroachment" in the *Building Regulations 2012* (Regulation 45A), or is an "awning, verandah or thing" (Regulation 45B), or is a ground anchor, and where the development is consistent with the use of the land as a road,

in respect of development applications being made under or referred to in:

- section 99(2) of the *Planning and Development Act 2005* in respect of development for which approval is required under a regional interim development order (as that term is defined in that Act);
- section 103(2) of the *Planning and Development Act 2005* in respect of development for which approval is required under a local interim development order (as that term is defined in that Act);
- section 115 of the *Planning and Development Act 2005* in respect of development within a planning control area (as that term is defined in that Act);
- section 122A of the *Planning and Development Act 2005* in respect of which approval is required under an improvement scheme (as that term is defined in that Act);
- section 162 of the *Planning and Development Act 2005* in respect of developments for which approval is required under a planning scheme or interim development order (as those terms are defined in that Act);
- section 163 of the *Planning and Development Act 2005* in respect of development on land which is comprised within a place entered in the Register maintained by the Heritage Council under the *Heritage of Western Australia Act 1990*, or of which such a place forms part;
- section 171A of the *Planning and Development Act 2005* in respect of a prescribed development application (as that term is defined in that section of that Act).

Column 2

City of Albany
City of Armadale
Shire of Ashburton
Shire of Augusta-Margaret River
Town of Bassendean
City of Bayswater
City of Belmont
Shire of Beverley
Shire of Boddington
Shire of Boyup Brook
Shire of Bridgetown-Greenbushes
Shire of Brookton
Shire of Broomé
Shire of Broomehill-Tambellup
Shire of Bruce Rock
City of Bunbury
Shire of Busselton
Town of Cambridge
City of Canning
Shire of Capel
Shire of Carnamah
Shire of Carnarvon
Shire of Chapman Valley
Shire of Chittering
Shire of Christmas Island
Town of Claremont
City of Cockburn
Shire of Cocos (Keeling) Islands
Shire of Collie
Shire of Coolgardie
Shire of Coorow
Shire of Corrigin
Town of Cottesloe
Shire of Cranbrook
Shire of Cuballing
Shire of Cue
Shire of Cunderdin
Shire of Dalwallinu
Shire of Dandaragan
Shire of Dardanup
Shire of Denmark
Shire of Derby/West Kimberley
Shire of Donnybrook-Balingup
Shire of Dowerin
Shire of Dumbleyung
Shire of Dundas
Town of East Fremantle
Shire of East Pilbara
Shire of Esperance
Shire of Exmouth
City of Fremantle
City of Greater Geraldton

Shire of Gingin
Shire of Gnowangerup
Shire of Goomalling
City of Gosnells
Shire of Hale Creek
Shire of Harvey
Shire of Irwin
Shire of Jerramungup
City of Joondalup
Shire of Kalamunda
City of Kalgoorlie-Boulder
Shire of Katanning
Shire of Kellerberrin
Shire of Kent
Shire of Kojonup
Shire of Kondinin
Shire of Koorda
Shire of Kulin
City of Kwinana
Shire of Lake Grace
Shire of Laverton
Shire of Leonora
City of Mandurah
Shire of Manjimup
Shire of Meekatharra
City of Melville
Shire of Menzies
Shire of Merredin
Shire of Mingenew
Shire of Moora
Shire of Morawa
Town of Moosman Park
Shire of Mount Magnet
Shire of Mt Marshall
Shire of Mukinbudin
Shire of Mundaring
Shire of Murchison
Shire of Murray

Column 3

In accordance with and subject to approved Government Land policies.

Any signature subject to the following endorsement:
Signed only as acknowledgement that a development application is being made in respect of a proposal that includes Crown land, Crown reserves under management for the purpose, or a road and to permit this application to be assessed under the appropriate provision of the *Planning and Development Act 2005* (including any planning scheme). The signature does not represent approval or consent for planning purposes. Further, in the event that development approval is granted for the proposal, the above signature should not be taken as an acknowledgement of or consent to the commencement or carrying out of the proposed development or to any modification of the tenure or reservation classification of the Crown land component.

Delegation Register

Shire of Kent



Shire of Nannup
Shire of Narembeen
Shire of Narrogin
Town of Narrogin
City of Nedlands
Shire of Ngaanyatjarraku
Shire of Northam
Shire of Northampton
Shire of Nungarin
Shire of Peppermint Grove
Shire of Perenjori
City of Perth
Shire of Pingelly
Shire of Plantagenet
Town of Port Hedland
Shire of Quairading
Shire of Ravensthorpe
City of Rockingham
Shire of Roebourne
Shire of Sandstone
Shire of Serpentine Jarrahdale
Shire of Shark Bay
City of South Perth
City of Stirling
City of Subiaco
City of Swan

Shire of Tammin
Shire of Three Springs
Shire of Toodyay
Shire of Trayning
Shire of Upper Gascoyne
Town of Victoria Park
Shire of Victoria Plains
Town of Vincent
Shire of Wagin
Shire of Wandering
City of Wanneroo
Shire of Waroona
Shire of West Arthur
Shire of Westonia
Shire of Wickepin
Shire of Williams
Shire of Wiluna
Shire of Wongan-Ballidu
Shire of Woodanilling
Shire of Wyalkatchem
Shire of Wyndham-East Kimberley
Shire of Yalgoo
Shire of Yilgarn
Shire of York

A handwritten signature in black ink.

HON DONALD TERRENCE REDMAN MLA
MINISTER FOR LANDS

2nd day of June 2016

Delegation Register

Shire of Kent



12.2.2 WA Planning Commission – Section 25 of the Strata Titles Act 1985

Published by:
Planning and Infrastructure

GOVERNMENT GAZETTE Western
Australia
[Previous](#) [Close](#) [Next](#)

No. 98. 09-Jun-2009
Page: 1936 [Pdf](#) - 429kb

PI409

PLANNING AND DEVELOPMENT ACT 2005 Instrument of Delegation Del 2009/03 Powers of Local Governments

**Delegation to local governments of certain powers and functions of the
Western Australian Planning Commission relating to the issuing of certificates of
approval under section 25 of the *Strata Titles Act 1985***

Preamble

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function under the Act or any other written law to a local government, a committee established under the *Local Government Act 1995* or an employee of a local government.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or imposed on the WAPC by the Act or any other written law as the case requires.

Resolution under section 16 of the Act (delegation)

On 26 May 2009, pursuant to section 16 of the Act, the WAPC RESOLVED—

A TO DELEGATE to local governments, and to members and officers of those local governments, its powers and functions under section 25 of the *Strata Titles Act 1985* as set out in clause 1 of Schedule, within their respective districts, subject to the conditions set out in clause 2 of Schedule 1.

TONY EVANS, Western Australian Planning Commission.

SCHEDULE 1

1. Applications made under section 25 of the *Strata Titles Act 1985*

Power to determine applications for the issuing of a certificate of approval under section 25 of the *Strata Titles Act 1985* for a plan of subdivision, re-subdivision or consolidation, except those applications that—

- (a) propose the creation of a vacant lot;
- (b) propose vacant air stratas in multi-tiered strata scheme developments;
- (c) in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing, relate to—
 - (i) a type of development; and/or
 - (ii) land within an area,

which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

2. Reporting requirements

A local government that exercises the power referred to in clause 1 is to provide WAPC with data on all applications determined under this Instrument of Delegation at the conclusion of each financial year in the format prescribed by the WAPC.

Delegation Register

Shire of Kent



12.3 Main Roads Act 1930

12.3.1 Traffic Management - Events on Roads

A list of local governments authorised for Traffic Management for Events can be found on the Main Roads WA website [here](#)

WESTERN AUSTRALIA
ROAD TRAFFIC CODE 2000
REGULATION 297(2)
INSTRUMENT OF AUTHORISATION

RELATING TO
TRAFFIC MANAGEMENT FOR EVENTS

Pursuant to Regulation 297(2) of the *Road Traffic Code 2000* the Commissioner of Main Roads ("the Commissioner") hereby authorises (Insert name of Local Government) (Authorised Body) by itself, its employees, consultants, agents and contractors (together "Representatives") to, from the date indicated below, erect, establish, display, alter or take down such road signs of whatsoever type or class (except for permanent traffic control signals) as may be required for the purpose and duration of any:

- i) "event" subject to an order from the Commissioner of Police pursuant to Part VA of the *Road Traffic Act 1974*;
- ii) race meeting or speed test for which the Minister referred to in section 83 of the *Road Traffic Act 1974* has, under that provision, temporarily suspended the operation of any provisions of the *Road Traffic Act 1974* or regulations made under that Act; or
- iii) public meeting or procession the subject of a permit granted by the Commissioner of Police under the *Public Order in Streets Act 1984*;

or as may be required for the purpose of controlling traffic on a road adjacent to, or in the vicinity of, any event or organised activity approved by the Authorised Body under its local laws, on a road (other than a main road or highway) within its jurisdiction,
SUBJECT ALWAYS to the following terms and conditions:

- (a) the Authorised Body shall at all times observe, perform and comply with the provisions of the "Traffic Management for Events Code of Practice" (as amended or replaced from time to time in consultation with the Traffic Management for Events Advisory Group) issued by Main Roads Western Australia ("the Code") referring to the version which is current at the time of the event, a copy of which can be obtained from Main Roads Western Australia from www.mainroads.wa.gov.au or by contacting Main Roads by phone;
- (b) the Authorised Body shall develop and implement procedures that will satisfy the Commissioner that traffic management implemented by the Authorised Body, its employees, agents and contractors will in all respects conform to and comply with the requirements of the Code; and
- (c) the Authorised Body shall ensure that its Representatives comply with the terms and conditions identified above at paragraphs (a) and (b) as if they were named in those paragraphs in place of the Authorised Body.

By executing and returning the acknowledgment at the foot of this authorisation, the Authorised Body agrees to observe, perform and comply with the above terms and conditions.

The powers in this Instrument of Authorisation do not change or replace:

- 1) any prior Instrument of Authorisation from the Commissioner of Main Roads for the purposes of undertaking traffic management for works on roads; and
- 2) any powers and responsibilities of a local government provided in regulation 9 of the *Road Traffic (Events on Roads) Regulations 1991*.

Delegation Register

Shire of Kent



Dated:

THE COMMON SEAL OF THE
COMMISSIONER OF MAIN ROADS

WAS AFFIXED BY

COMMISSIONER OF MAIN ROADS

FOR THE TIME BEING IN THE
PRESENCE OF:

Signature of Witness

Name of Witness (please print)

ACKNOWLEDGMENT BY AUTHORISED BODY

.....(Insert name of Local Government)..... agrees to unconditionally observe, perform and be bound by the above conditions.

THE COMMON SEAL of

[Insert name of Local Government]

Was hereunto affixed pursuant to a
resolution of the Council in the
presence of:

Signature of Chief Executive Officer

Signature of Witness

Name of Witness (please print)

Delegation Register

Shire of Kent



12.3.2 Traffic Management – Road Works

A list of Local Governments authorised for the purposes of Road Traffic Code 2000 r.297(2) are available on Main Roads WA website [here](#)

**WESTERN AUSTRALIA
ROAD TRAFFIC CODE 2000
REGULATION 297(2)
INSTRUMENT OF AUTHORISATION**

Pursuant to Regulation 297(2) of the Road Traffic Code 2000 the Commissioner of Main Roads (“the Commissioner”) hereby authorises (“Authorised Body”) by itself, its employees, consultants, agents and contractors (together “Representatives”) to, from the date indicated below, erect, establish, display, alter or take down such traffic signs and traffic control devices of whatsoever type or class (except for permanent traffic control signals) as may be required for the purpose and duration of any works, survey or inspection, associated with the construction, maintenance or repair on a road (other than a main road or highway), any adjoining land or any portion thereof within its jurisdiction, SUBJECT ALWAYS to the following terms and conditions:

- (a) the Authorised Body shall at all times observe, perform and comply with the provisions of the “Traffic Management for Works on Roads Code of Practice” (as amended or replaced from time to time in consultation with the Traffic Management for Roadworks Advisory Group) issued by Main Roads Western Australia (“the Code”) referring to the version which is current at the time of the relevant works, a copy of which can be obtained from Main Roads Western Australia from www.mainroads.wa.gov.au or by contacting Main Roads by phone;
- (b) the Authorised Body shall develop and implement procedures that will satisfy the Commissioner that traffic management implemented by the Authorised Body, its employees, agents and contractors will in all respects conform to and comply with the requirements of the Code; and
- (c) the Authorised Body shall ensure that its Representatives comply with the terms and conditions identified above at paragraphs (a) and (b) as if they were named in those paragraphs in place of the Authorised Body.

By executing and returning the acknowledgment at the foot of this authorisation, the Authorised Body agrees to observe, perform and comply with the above terms and conditions.

This Instrument of Authorisation replaces any prior Instrument of Authorisation under Regulation 297(2) of the Road Traffic Code 2000 between the Commissioner and the Authorised Body. The Commissioner’s delegation dated 17 July 1975 to a number of Local Governments outside the Perth metropolitan area, is not affected by this Instrument of Authorisation except that this Instrument of Authorisation prevails wherever roadworks are concerned. That 1975 delegation was made under Regulation 301 of the Road Traffic Code 1975 and related to non-regulatory signage.

Delegation Register

Shire of Kent



Dated:

THE COMMON SEAL OF THE)
COMMISSIONER OF MAIN ROADS)
WAS AFFIXED BY)
)
)
)
COMMISSIONER OF MAIN ROADS)
FOR THE TIME BEING IN THE PRESENCE OF:)

Signature of Witness

Name of Witness

ACKNOWLEDGMENT BY AUTHORISED BODY

..... agrees to observe, perform and be bound by the above conditions.

THE COMMON SEAL OF THE)
)
WAS AFFIXED PURSUANT TO A RESOLUTION)
OF THE COUNCIL IN THE PRESENCE OF)

Chief Executive Officer

Witness

Delegation Register

Shire of Kent



12.4 Road Traffic (Vehicles) Act 2012

12.4.1 Approval for Certain Local Government Vehicles as Special Use Vehicles



Government of Western Australia
Department of Transport
Driver and Vehicle Services

ROAD TRAFFIC (VEHICLES) ACT 2012

Road Traffic (Vehicles) Regulations 2014

RTVR-2017-202046

APPROVAL UNDER REGULATION 327(4)(f) FOR CERTAIN LOCAL GOVERNMENT VEHICLES AS SPECIAL USE VEHICLES

Pursuant to the *Road Traffic (Vehicles) Regulations 2014* (the *Regulations*), I, Christopher Davers, Assistant Director Strategy and Policy, Driver and Vehicle Services, Department of Transport, and delegate of the Chief Executive Officer of the Department of Transport by way of a delegation instrument dated 7 August 2017, hereby approve vehicles owned by a local government and ordinarily used by persons authorised or appointed by that local government to perform functions on its behalf under:

- (a) the *Local Government Act 1995*;
- (b) regulations made under the *Local Government Act 1995*;
- (c) a local law;
- (d) any other legislation empowering a local government to authorise or appoint persons to perform functions on the behalf of the local government (including but not limited to the *Dog Act 1976*); or
- (e) any combination of the above paragraphs (a) to (d);

as special use vehicles for the purposes of paragraph "f" of the definition of "special use vehicle" in regulation 327(4) of the *Regulations*, with the effect that those vehicles may be fitted with one or more yellow flashing lights under regulation 327(3)(b) of the *Regulations*, subject to the following conditions:

CONDITIONS

1. Those lights must emit rotating, flashing yellow coloured light(s) and must not be a strobe light.
2. At least one flashing light shall be mounted on top of the vehicle and when lit, shall be visible in normal daylight up to a distance of not less than 200 metres to vehicles approaching from any direction.
3. No part of the lens of the flashing lights is visible either directly or indirectly to the driver when seated in the normal driving position.
4. If more than one flashing light is fitted, they must be placed symmetrically about the centre line of the vehicle or combination of vehicles.
5. An on/off switch for the flashing lights must be installed so as to be easily operated from the driver's seat.
6. Any additional equipment fitted to the vehicle must not interfere with the overall safe operation of the vehicle.
7. Any vehicle fitted with flashing lights for the purposes of this approval must: