

APPENDIX 4

INSTRUMENT OF DELEGATION UNDER THE DOG AND CAT MANAGEMENT ACT 1995

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1. Appointment of Authorised Persons	Delegation from Council	Sub Delegation from CEO
1.1 The power pursuant to Section 25A(1) of the Dog and Cat Management Act 1995 (the Act) to appoint suitable persons (other than members of the Council) to be authorised persons for the purposes of the Act.	CEO	
1.2 The power pursuant to Section 25A(2) of the Act to make an appointment subject to conditions specified in the instrument of appointment.	CEO	
1.3 The power pursuant to Section 25A(3) of the Act to, at any time, revoke the appointment of an authorised person, or vary or revoke the conditions of appointment of an authorised person.	CEO	
2. Identification of Authorised Persons		
2.1 The power pursuant to Section 25B(1) of the Act to issue to an authorised	CEO	

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	person an identity card in a form approved by the Board.		
2.2	The power pursuant to Section 25B(2) of the Act, if the powers of the authorised person have been limited by conditions, to issue an identity card to the person containing a statement of those conditions.	CEO	
3.	Area Limitation on Authorised Persons Appointed by Councils		
3.1	The power pursuant to Section 25C(c) of the Act to arrange with another council for an authorised person appointed by the Council to exercise powers under the Act within the area of the other council.	CEO	
4.	Council Responsibility for Management of Dogs and Cats		
4.1	The power pursuant to Section 26 of the Act to administer and enforce the provisions of the Act relating to dogs and cats within the Council area and for that purpose to:	CEO	General Manager Council Services Manager Health and Public Safety
4.1.1	maintain a register of dogs containing information required by the Board (which may be kept in the form of a computer record); and		Manager Health and Public Safety Administration Officer Health & Public Safety
4.1.2	ensure that the Board is provided with information contained in the register as required by the Board from time to time; and		Manager Health and Public Safety Administration Officer Health & Public Safety
4.1.3	maintain such other registers as may be required by the Board; and		Manager Health and Public Safety Administration Officer Health &

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		Public Safety
4.1.4	make the registers kept under the Act available for inspection by members of the public in accordance with any guidelines issued by the Board; and	Manager Health and Public Safety Administration Officer Health & Public Safety
4.1.5	if guidelines issued by the Board so require, limit inspection of a register or part of a register kept under the Act by members of the public; and	Manager Health and Public Safety Administration Officer Health & Public Safety
4.1.6	appoint a suitable person to be Registrar; and	General Manager Council Services
4.1.7	make satisfactory arrangements for issuing and replacing certificates of registration and registration discs; and	Manager Health and Public Safety
4.1.8	appoint at least 1 full time authorised person or make other satisfactory arrangements for the exercise of the functions and powers of authorised persons; and	Manager Health and Public Safety
4.1.9	make satisfactory arrangements for the detention of dogs seized under the Act (and make such arrangements for cats seized under the Act); and	Manager Health and Public Safety Public Safety Officer
4.1.10	make satisfactory arrangements for fulfilling other obligations under the Act.	Manager Health and Public Safety

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		Public Safety Officer
4.2	The power pursuant to Section 26(1a) of the Act, to without limiting Section 26(2) of the Act, nominate a facility approved by the Board at which dogs or cats may be detained.	CEO Manager Health and Public Safety
4.3	The power pursuant to Section 26(4) of the Act to keep separate accounts of money received under the Act and of money expended in the administration and enforcement of the provisions of the Act relating to dogs and cats.	CEO Manager Finance
4.4	The power pursuant to Section 26(5) of the Act to pay into the Fund the percentage fixed by regulation of the dog registration fees received by the Council.	CEO Manager Finance
4.5	The power pursuant to Section 26(6) of the Act to charge:	CEO Manager Health and Public Safety
4.5.1	fees for the provision of extracts from registers kept under the Act; and	
4.5.2	fees for the receipt and management of information relating to a register contemplated by Section 26(1)(ac) of the Act; and	
4.5.3	fees which may be differential but which must not exceed an amount prescribed by the regulations for the purposes of paragraph (b) of Section 26(6) of the Act:	
4.5.3.1	for the registration of dogs or businesses under Part 4 of the Act; and	
4.5.3.2	for the late payment of registration fees; and	

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<p>4.5.3.3 for meeting any other requirement imposed on the Council under the Act.</p>		
<p>4.6 The power pursuant to Section 26(7) of the Act, in the case of a standard dog or cat, to, provide for a percentage rebate of a fee that would otherwise be charged for the registration of a dog or cat under the Act.</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>
<p>5. Plans of Management Relating to Dogs and Cats</p>		
<p>5.1 The power pursuant to Section 26A(1) of the Act to in accordance with Sections 26A(2) and (3) of the Act, prepare a plan relating to the management of dogs and cats within the Council area.</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>
<p>5.2 The power pursuant to Section 26A(5) of the Act to amend a plan of management at any time during the course of the 5 year period covered by the plan, with the approval of the Board.</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>
<p>6. Rectification of Register</p>		
<p>6.1 The power pursuant to Section 39 of the Act upon application by any person aggrieved by an entry in the register, to rectify the register.</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>
<p>7. Destruction and Control Orders</p>		
<p>7.1 The power pursuant to Section 50(1) of the Act to, in accordance with Division 2 of Part 5 of the Act, make an order of any of the following classes in relation to a specified dog:</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>7.1.1 a Destruction Order;</p>		
<p>7.1.2 a Control (Dangerous Dog) Order;</p>		

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7.1.3	a Control (Menacing Dog) Order;		
7.1.4	a Control (Nuisance Dog) Order;		
7.1.5	a Control (Barking Dog) Order.		
7.2	The power pursuant to Section 50(2)(b) of the Act to approve some other place to the place specified in the order for a dog to be kept or detained until destroyed.	CEO	Manager Health and Public Safety
8.	Grounds on Which Orders May be Made		
8.1	The power pursuant to Section 51 of the Act to make an order in relation to a dog under Division 3 of Part 5 of the Act, if satisfied that:	CEO	Manager Health and Public Safety Public Safety Officers
8.1.1	in the case of a Destruction Order:		
8.1.1.1	the dog is unduly dangerous; and		
8.1.1.2	the dog has attacked, harassed or chased a person or an animal or bird owned by or in the charge of a person in circumstances that would constitute an offence against the Act; or		
8.1.2	in the case of a Control (Dangerous Dog) Order:		
8.1.2.1	the dog:		
	(a) is dangerous; and		

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<p>(b) has attacked, harassed or chased a person or an animal or bird, or is likely to do so, in circumstances that would constitute an offence against the Act or any other Act; or</p>		
<p>8.1.2.2 the dog is subject to an order made under a law of another jurisdiction that corresponds with a Control (Dangerous Dog) Order; or</p>		
<p>8.1.3 in the case of a Control (Menacing Dog) Order:</p>		
<p>8.1.3.1 the dog:</p>		
<p>(a) is menacing; and</p>		
<p>(b) has attacked, harassed or chased a person or an animal or bird, or is likely to do so, in circumstances that would constitute an offence against the Act or any other Act; or</p>		
<p>8.1.3.2 the dog is subject to an order made under a law of another jurisdiction that corresponds with a Control (Menacing Dog) Order; or</p>		
<p>8.1.4 in the case of a Control (Nuisance Dog) Order:</p>		
<p>8.1.4.1 the dog:</p>		
<p>(a) is a nuisance; and</p>		
<p>(b) has attacked, harassed or chased a person or an animal or bird, or is likely to do so, in</p>		

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	circumstances that would constitute an offence against the Act or any other Act; or		
	8.1.4.2 the dog is subject to an order made under a law of another jurisdiction that corresponds with a Control (Nuisance Dog) Order; or		
	8.1.5 in the case of a Control (Barking Dog) Order:		
	8.1.5.1 the dog is a nuisance; and		
	8.1.5.2 the dog has created noise by barking or otherwise in circumstances that would constitute an offence against the Act or any other Act.		
9.	Procedure for Making and Revoking Orders		
9.1	The power pursuant to Section 52(1) of the Act to:	CEO	Manager Health and Public Safety Public Safety Officers
9.1.1	make an order under Division 3 of Part 5 of the Act on the Delegate's own initiative or on an application made in a manner and form determined by the Council or the Delegate; and		
9.1.2	to determine the manner and form of an application for an order under Division 3 of Part 5 of the Act.		
9.2	The power pursuant to Section 52(1) of the Act before making an order under Division 3 of Part 5 of the Act, to take reasonable steps:	CEO	Manager Health and Public Safety Public Safety Officers

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<p>9.2.1 to ascertain all persons who own or are responsible for the control of the dog; and</p>		
<p>9.2.2 to give each of the persons so ascertained at least 7 days written notice:</p>		
<p>9.2.2.1 identifying the dog in relation to which it is proposed that the order be made;</p>		
<p>9.2.2.2 setting out the terms of the proposed order; and</p>		
<p>9.2.2.3 inviting the owner or other person to make submissions to the Council or the Delegate in respect of the matter within 7 days or such longer period as is allowed by the Council or the Delegate.</p>		
<p>9.3 The power pursuant to Section 52(2) of the Act to:</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>9.3.1 make an order in the manner and form required by the Board; and</p>		
<p>9.3.2 note an order in the register kept by the Council under the Act.</p>		
<p>9.4 The power pursuant to Section 52(3) of the Act to take all reasonable steps to give a copy of the order to each person who owns or is responsible for the control of the dog.</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>9.5 The power pursuant to Section 52(4) of the Act to revoke an order made by the Council by written notice to the person who owns or is responsible for the</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>

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	control of the dog.		Public Safety Officers
9.6	The power pursuant to Section 52(5) of the Act to enter a note of the revocation in the register kept by the Council under the Act.	CEO	Manager Health and Public Safety Public Safety Officers
9.7	The power pursuant to Section 52(6) of the Act to, at the request of the Board, note in the register kept under the Act an order made by the Board.	CEO	Manager Health and Public Safety Public Safety Officers
10.	Directions About How to Comply with Order		
10.1	The power pursuant to Section 53(1) of the Act to issue, from time to time, written directions to a person who owns or is responsible for the control of a dog subject to an order under Division 3 of Part 5 of the Act about how the order may be complied with in the area of the Council.	CEO	Manager Health and Public Safety Public Safety Officers
11.	Power of Court to Order Destruction or Control of Dog on Application		
11.1	The power pursuant to Section 59 of the Act to apply to the Magistrates Court for any order in relation to a dog that the Court could have made if the proceedings had been criminal proceedings under the Act.	CEO	Manager Health and Public Safety
12.	Prohibition Orders		
12.1	The power pursuant to Section 59A(1) of the Act to, in accordance with Division 3 of Part 5 of the Act, make a Prohibition Order against a person.	CEO	Manager Health and Public Safety Public Safety Officers

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<p>12.2 The power pursuant to Section 59A(2)(b)(ii) of the Act to approve some other place to that specified in the order for a dog to be kept or detained until destroyed or disposed of.</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>12.3 The power pursuant to Section 59A(3) of the Act upon the Delegate's own initiative or on application, to make a Prohibition Order against a person if satisfied that, subject to Section 59A(4) of the Act:</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>12.3.1 while the person owned or was responsible for the control of a dog, the dog attacked, harassed or chased a person or animal or bird owned by or in the charge of a person in circumstances that would constitute an offence against the Act; and</p>		
<p>12.3.2 -</p>		
<p>12.3.2.1 the dog was already subject to a Destruction Order or a Control (Dangerous Dog) Order; or</p>		
<p>12.3.2.2 during the 5 years preceding the event referred to in Section 59A(3)(a) of the Act, a Destruction Order or a Control (Dangerous Dog) Order was made in relation to some other dog on grounds that arose while the person owned or was responsible for the control of that other dog.</p>		
<p>12.4 The power pursuant to Section 59A(3a) of the Act to, on the Delegate's own initiative or on application, make a Prohibition Order against a person if satisfied that the person is subject to a supervision order under Section 2690 of the <i>Criminal Law Consolidation Act 1935</i>.</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>

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<p>12.5 The power pursuant to Section 59A(5) of the Act to:</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>12.5.1 make an order in the manner and form required by the Board; and</p>		
<p>12.5.2 record the order in a manner and form approved by the Board, and keep the record readily available for public inspection.</p>		
<p>12.6 The power pursuant to Section 59A(6) of the Act to revoke an order made by the Council by written notice to the person against whom the order was made.</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>12.7 The power pursuant to Section 59A(7) of the Act to enter a note of the revocation in the record kept by the Council under Section 59A of the Act.</p>	<p>CEO</p>	<p>Manager Health and Public Safety Public Safety Officers</p>
<p>13. Procedure Following Seizure of Dog</p>		
<p>13.1 The power pursuant to Section 61(4) of the Act if a dog is seized in order to prevent or stop it attacking, harassing or chasing a person or an animal or bird because it is unduly dangerous, to as soon as practicable, proceed to consider making an order in relation to the dog or applying to the Magistrates Court for an order in relation to the dog.</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>
<p>13.2 The power pursuant to Section 61(6) of the Act to recover the cost of taking action under Section 61(3) of the Act from the person who owns or is responsible for the control of the dog as a debt due to the Council.</p>	<p>CEO</p>	<p>Manager Health and Public Safety</p>

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14. Power to Seize and Detain Cats		
14.1 The power pursuant to Section 64(2)(c) of the Act to nominate a facility at which cats may be detained.	CEO	Manager Health and Public Safety
15. Certain Bodies May Microchip and Desex Detained Dogs and Cats		
15.1 The power pursuant to Section 64B(1) of the Act, despite any other provision of the Act, or any other Act or law, if the Council is detaining a dog or cat seized under the Act or any other Act, to, in accordance with any guidelines determined by the Board for the purposes of Section 64B of the Act, do 1 or more of the following:	CEO	Manager Health and Public Safety
15.1.1 microchip the dog or cat;		
15.1.2 desex the dog or cat;		
15.1.3 cause the dog or cat to be microchipped or desexed or both.		
15.2 The power pursuant to Section 64B(2) of the Act to recover the cost of taking action under Section 64B of the Act as a debt from a person who owns or is responsible for the control of the dog or cat.	CEO	Manager Health and Public Safety

SCHEDULE OF CONDITIONS

**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

Nil