

APPENDIX 21

INSTRUMENT OF DELEGATION UNDER THE ROAD TRAFFIC ACT 1961, THE ROAD TRAFFIC (MISCELLANEOUS) REGULATIONS 2014 AND THE ROAD TRAFFIC (ROAD RULES – ANCILLARY AND MISCELLANEOUS PROVISIONS) REGULATIONS 2014

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. Direction as to installation etc of traffic control devices
1.1 The duty pursuant to Section 18(5) of the Road Traffic Act 1961 (“the Act”) to carry out a direction which the Minister directs the Council (as a road authority) to carry out pursuant to Section 18(6) of the Act in circumstances where another road authority has failed to comply with the direction.
1.2 The power pursuant to Section 18(7) of the Act where the Minister has directed the Council to carry out a direction pursuant to Section 18(6) of the Act, to recover as a debt due from the defaulting road authority any expenses incurred in carrying out the direction under Section 18(6) of the Act, subject to Section 18(8) of the Act.
2. Action to deal with false devices or hazards to traffic
2.1 The power pursuant to Section 31(2) of the Act to remove from any road the care, control or management of which is vested in the Council and dispose of any false traffic control device or any device, structure or thing that the Delegate is satisfied might constitute a hazard to traffic.
2A. Road Closing and Exemptions for Certain Events
2A.1 The power pursuant to Section 33(2) of the Act, to consent to an order under Section 33(1) of the Act to close a road in the Council’s area.

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3. Notice of Removal of Vehicle and Disposal of Vehicle if Unclaimed
3.1 The duty pursuant to Section 40P(3) of the Act and subject to Section 40P(4) to offer a vehicle, which was removed by an officer of the Council under Section 40N of the Act and for which there had been notice given according to Section 40P(2) of the Act and the owner of the vehicle failed to take possession of the vehicle and pay all expenses in connection with the removal, custody and maintenance of the vehicle and of serving, posting or publishing the notice, within one month after service or publication of the notice in accordance with Section 40P(2) of the Act, for sale by public auction.
3.2 The power pursuant to Section 40P(4) of the Act, where a vehicle is offered for sale by public auction but is not sold at the auction or the relevant authority reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle, to dispose of the vehicle in such manner as the Delegate thinks fit.
3.3 The duty pursuant to Section 40P(5) of the Act to apply the proceeds of the sale of a vehicle as follows:
3.3.1 firstly, in payment of the costs of and incidental to the sale;
3.3.2 secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vehicle and of the notice served, posted or published under this section; and
3.3.3 thirdly, in payment of the balance to the owner of the vehicle.
3.4 The power pursuant to Section 40P(6) of the Act, if after reasonable inquiry following sale of the vehicle the owner of the vehicle cannot be found, to pay the balance of the proceeds of the sale to the Council.
3A. Council May Determine That Ticket for Parking be Obtained Without Fee
3A.1 The power pursuant to Section 86 of the Act, if the Council has installed, or determined that it will install, permissive parking signs to apply to a length of road or area, to (in addition to any other action the Council may be empowered to take by or under the Act):
3A.1.1 determine that a ticket must be obtained for parking in the length of road or the area through the operation of parking ticket-vending machines installed or to be installed in or near the length of road or area without payment of a fee; or
3A.1.2 vary or revoke a determination made under Section 86 of the

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Act.
4. Compensation Orders for Damage to Road Infrastructure
The power, pursuant to Section 163ZC(2) of the Act and in accordance with Section 163ZC(5) of the Act to make an application for a compensation order.
4A. Assessment of Compensation
4A.1 The power pursuant to Section 163ZD(2) of the Act and in accordance with Section 163ZE of the Act to use in proceedings for the court to take into account in assessing the amount of any compensation:
4A.1.1 any evidence not adduced in connection with the prosecution of the offence but adduced in connection with the making of the proposed order; and
4A.1.2 any certificate of the Council, as the road authority stating that the Council maintains the road concerned; and
4A.1.3 any other certificate of the Council as the road authority, such as a certificate:
4A.1.3.1 estimating the monetary value of all or any part of the road infrastructure or of the damage to it; or
4A.1.3.2 estimating the cost of remedying the damage; or
4A.1.3.3 estimating the extent of the offender's contribution to the damage.
4B. Service of Certificates
4B.1 The duty, pursuant to Section 163ZE(1) of the Act, if the Council, as the road authority, proposes to use a certificate referred to in Section 163ZD in proceedings, to serve a copy of the certificate on the defendant at least 28 working days before the day on which the matter is set down for hearing.
5. Exemptions
5.1 The power pursuant to Section 174C(1) of the Act to exempt any person, or any persons of specified class, or any specified vehicle, or any vehicles of a specified class, from compliance with a prescribed provision of the Act, subject to the payment of such fee and to such other conditions (if any) as the Delegate thinks fit and specifies in the exemption.

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6. Event Management Plan

6.1 The power pursuant to Regulation 6(2) of the Road Traffic (Miscellaneous) Regulations 2014 to consult with an applicant in the preparation of an event management plan for the purpose of Section 33(1) of the Act.

6.2 The power pursuant to Regulation 6(2) of the Road Traffic (Miscellaneous) Regulations 2014 to consult with the Commissioner of Police or the Commissioner of Highways in the preparation of an event management plan for the purpose of Section 33(1) of the Act.

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7. Permit Zones

7.1 The power pursuant to Regulation 17(2) of the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014 to determine –

7.1.1 the class of permits required for vehicles to stop in a permit zone established by the Council;

7.1.2 the persons entitled to such permits;

7.1.3 any fees to be paid for such permits;

7.1.4 the conditions to which the permits will be subject (which may include conditions as to the period for which such permits remain in force and conditions as to the display of permits in vehicles).

and to vary any such determination.

7.2 The power pursuant to Regulation 17(3) of the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014 to issue permits in respect of permit zones to persons entitled to them, on payment of a fee (if any) and subject to the conditions, determined by the Delegate.

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8. Parking and Parking Ticket-Vending Machines or Parking Meters

- 8.1 The power pursuant to Regulation 22(2) of the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014 if the Council has installed or determined that it will install permissive parking signs to apply to a length of road or an area, to determine fees that will be payable for parking in the length of road or the area by the operation of parking ticket-vending machines or parking meters, installed or to be installed in or near the length of road or area, and the power to vary such fees.

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SCHEDULE OF CONDITIONS

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

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
Nil	