



AGENDA
FOR RESOURCES AND GOVERNANCE COMMITTEE MEETING TO BE HELD
ON
18 SEPTEMBER 2017 AT CONCLUSION OF BUDGET AND FINANCE
COMMITTEE
IN COMMITTEE ROOM 1, 12 JAMES STREET, SALISBURY

MEMBERS

Cr S Bedford (Chairman)
Mayor G Aldridge (ex officio)
Cr D Balaza
Cr B Brug
Cr D Bryant
Cr L Caruso
Cr R Cook (Deputy Chairman)
Cr D Pilkington
Cr D Proleta

REQUIRED STAFF

General Manager Business Excellence, Mr C Mansueto
General Manager City Development, Mr T Sutcliffe
Acting Manager Governance, Ms J Rowett
Manager Communications and Customer Relations, Mr M Bennington

APOLOGIES

An apology has been received from Cr D Bryant.

LEAVE OF ABSENCE

Leave of absence for this meeting was previously granted to Cr R Cook.

PRESENTATION OF MINUTES

Presentation of the Minutes of the Resources and Governance Committee Meeting held on 21 August 2017.

Presentation of the Minutes of the Confidential Resources and Governance Committee Meeting held on 21 August 2017.

REPORTS

Administration

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OTHER BUSINESS

CLOSE



**MINUTES OF RESOURCES AND GOVERNANCE COMMITTEE MEETING HELD IN
COMMITTEE ROOM 1, 12 JAMES STREET, SALISBURY ON**

21 AUGUST 2017

MEMBERS PRESENT

Mayor G Aldridge (ex officio)
Cr D Balaza
Cr B Brug
Cr D Bryant
Cr L Caruso
Cr D Pilkington
Cr D Proleta

STAFF

General Manager Business Excellence, Mr C Mansueto
General Manager City Development, Mr T Sutcliffe
Manager Governance, Ms T Norman
Manager Strategic Procurement, Mr M Harris
Team Leader General Inspectorate, Mr B Scholefield

The meeting commenced at 7.45 pm.

In the absence of the Chairman and the Deputy Chairman the Manager Governance called for a nomination to the position of Chairman for this meeting.

Appointment of Chairman for the duration of this meeting

Moved Mayor G Aldridge
Seconded Cr D Proleta

1. That Cr Damien Pilkington be appointed as Chairman for the duration of this meeting.

CARRIED

The Chairman welcomed the members, staff and the gallery to the meeting.

APOLOGIES

Apologies were received from Cr S Bedford and Cr R Cook.

LEAVE OF ABSENCE

Nil

PRESENTATION OF MINUTES

Moved Cr L Caruso
Seconded Mayor G Aldridge

The Minutes of the Resources and Governance Committee Meeting held on 17 July 2017, be taken and read as confirmed.

CARRIED

REPORTS

Administration

3.0.1 Future Reports for the Resources and Governance Committee

Moved Cr D Proleta
Seconded Cr L Caruso

1. The information be received.

CARRIED

3.2.1 Appointment of the Council Assessment Panel and Options for a Regional Assessment Panel

Moved Mayor G Aldridge
Seconded Cr D Proleta

1. That the following persons be appointed as Independent Members of the City of Salisbury Council Assessment Panel for the period of 1 October 2017 to 31 May 2019:
 - Mr Doug Wallace – Presiding Member
 - Mr Ross Bateup - Independent Member
 - Ms Stephanie Johnston - Independent Member
 - Mr John Watson - Independent Member
2. The Remuneration for the term of appointment for members is set at \$430 for the Presiding Member, \$320 for Independent Members and Additional Members, and \$220 for the Elected Member.
3. In exercise of the powers contained in Sections 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the Delegations Register (Delegations Register, pages 1 - 3) as set out in Attachment 2 to this report (Resources and Governance 3.2.1, 21/08/2017) are hereby delegated to the Council’s Council Assessment Panel from 1 October 2017, subject to any conditions specified herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.
4. That the “Appointment of the Council Assessment Panel Procedure” forming Attachment 1 to the 21/8/17 Resources and Governance Committee Agenda Item 3.2.1 be endorsed.
5. That Council not pursue the option of a Regional Assessment Panel at this time.

CARRIED

3.2.2 Appointment of an Elected Member and Deputy Elected Member to the Council Assessment Panel

Cr L Caruso declared a material conflict of interest due to being nominated as the Elected Member to be appointed to the Council Assessment Panel. Cr L Caruso left the meeting at 7:50 pm.

Moved Cr D Balaza
Seconded Mayor G Aldridge

1. That Cr Linda Caruso be appointed as the Elected Member appointment to the Council Assessment Panel for the term 1 October 2017 to 30 November 2018.
2. That Cr Steve White be appointed as the Deputy Elected Member appointment to the Council Assessment Panel for the term 1 October 2017 to 30 November 2018.

**CARRIED
UNANIMOUSLY**

Cr L Caruso returned to the meeting at 7:51 pm.

Health, Animal Management and By-laws

3.3.1 St Kilda Dog Signs

Moved Mayor G Aldridge
Seconded Cr D Bryant

1. The information be received.
2. Staff finalise a signage design and install the additional signage to the existing bin container infrastructure at the St Kilda Adventure Play-space as presented in Attachment 2 to Item 3.3.1 of the Resources and Governance Committee agenda of 21 August 2017.

With leave of the meeting and consent of the seconder Mayor G Aldridge VARIED the MOTION as follows:

1. The information be received.
2. Staff finalise a signage design and install the additional signage to the existing bin container infrastructure at the St Kilda Adventure Play-space as presented in Attachment 2 to Item 3.3.1 of the Resources and Governance Committee agenda of 21 August 2017 with a further 3 signs to be installed in the Northern car park.

CARRIED

FURTHER MOTION – Dedicated Dog Park at St Kilda

Moved Cr L Caruso
Seconded Cr D Proleta

1. That staff report back on options for installation of a dedicated dog park at St Kilda.

CARRIED

External Relations

3.4.1 Nominations Sought for the South Australian Boating Facility Advisory Committee

Moved Cr D Proleta
Seconded Cr D Balaza

1. Cr Chad Buchanan be nominated as a Local Government Member on the South Australian Boating Facility Advisory Committee.

CARRIED

3.4.2 Nominations Sought for the Dog and Cat Management Board

Cr D Balaza declared a material conflict of interest due to being nominated for the position. Cr D Balaza left the meeting at 08:05 pm.

Mayor G Aldridge declared a conflict of interest due to being nominated for the position. Mayor G Aldridge left the meeting at 08:05 pm.

Moved Cr D Proleta
Seconded Cr D Bryant

1. Cr David Balaza and Mayor Gillian Aldridge be nominated as a Local Government Member on the Dog and Cat Management Board.

CARRIED

*Cr D Balaza returned to the meeting at 08:06 pm.
Mayor G Aldridge returned to the meeting at 08:06 pm.*

3.4.3 Nominations Sought for the Local Government Transport Advisory Panel

Moved Cr D Proleta
Seconded Cr D Balaza

1. No nomination be made as a 'Metro Council' Member on the Local Government Transport Advisory Panel.

CARRIED

3.4.4 Nominations Sought for the South Australian Heritage Council

Moved Cr L Caruso
Seconded Cr D Balaza

1. Cr Shiralee Reardon be nominated as a Local Government member on the South Australian Heritage Council.

**CARRIED
UNANIMOUSLY**

Corporate Management

3.5.1 Elected Member Development Program - Evaluation Report

Moved Cr L Caruso
Seconded Cr B Brug

1. The information be received.

**CARRIED
UNANIMOUSLY**

3.5.2 Strategic Procurement - Procurement Policy

Moved Cr B Brug
Seconded Cr D Bryant

1. That the information be received.
2. That the Procurement Policy as set out in Attachment 1 to this report (Item No 3.5.2, Resources and Governance Committee, 21/08/2017), be endorsed.

CARRIED

Corporate Governance

3.6.1 Annual Review of Delegations

Moved Mayor G Aldridge
Seconded Cr B Brug

1. The information be received.
2. That, having conducted its annual review of its Delegations Register in accordance with Section 44(6) of the Local Government Act 1999, the Council:

Revocations

- a. Hereby revokes its previous delegations to the Chief Executive Officer, effective from 18th day of September 2017, of those powers and functions under the following:
 - i. Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014
 - ii. Community Titles Act 1996
 - iii. Development Act 1993 and Development Regulations 1993/2008
 - iv. Dog and Cat Management Act 1995
 - v. Electronic Conveyancing National Law (South Australia) Act 2013

- vi. Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010
- vii. Expiation of Offences Act 1996
- viii. Fences Act 1975
- ix. Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005
- x. Food Act 2001
- xi. Freedom of Information Act 1991
- xii. Heavy Vehicle National Law (South Australia) Act 2013
- xiii. Land Acquisition Act 1969 and Land Acquisition Regulations 2004
- xiv. Land and Business (Sale and Conveyancing) Act 1994
- xv. Liquor Licensing Act 1997
- xvi. Local Government Act 1999
- xvii. Local Nuisance and Litter Control Act 2016 and Local Nuisance and Litter Control Regulations 2017
- xviii. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions – Levies) Regulations 2005
- xix. Planning, Development and Infrastructure Act 2016
- xx. Real Property Act 1886
- xxi. Roads (Opening and Closing) Act 1991
- xxii. Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014
- xxiii. Safe Drinking Water Act 2011
- xxiv. South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013
- xxv. Strata Titles Act 1988
- xxvi. Supported Residential Facilities Act 1992
- xxvii. Unclaimed Goods Act 1987
- xxviii. Water Industry Act 2012 and Water Industry Regulations 2012
- xxix. Work Health and Safety Act 2012

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- b. Hereby revokes its previous delegations to its Development Assessment Panel, effective from 18th day of September 2017, under the Development Act 1993 and Development Regulations 2008.

Delegations made under Local Government Act 1999

3. In exercise of the power contained in Section 44 of the Local Government Act 1999 the powers and functions under the following Acts and specified in the Delegations Register are hereby delegated from the 19th day of September 2017 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified within the Delegations Register:
- i. Burial and Cremations Act 2013 and Burial and Cremation Regulations 2014 (Delegations Register pages 4 - 16)
 - ii. Community Titles Act 1996 (Delegations Register pages 17 - 32)
 - iii. Dog & Cat Management Act 1995 (Delegations Register pages 158 - 169)
 - iv. Electronic Conveyancing National Law (South Australia) Act 2013 (Delegations Register page 170)
 - v. Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010 (Delegations Register pages 171 - 173)
 - vi. Expiation of Offences Act 1996 (Delegations Register pages 174 - 184)
 - vii. Fences Act 1975 (Delegations Register pages 185 - 186)
 - viii. Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005 (Delegations Register pages 187 - 196)
 - ix. Freedom of Information Act 1991 (Delegations Register pages 197 - 215)
 - x. Heavy Vehicle National Law (South Australia) Act 2013 (Delegations Register pages 216 - 221)
 - xi. Land Acquisition Act 1969 and Land Acquisition Regulations 2004 (Delegations Register pages 222 - 233)
 - xii. Land and Business (Sale and Conveyancing) Act 1994 (Delegations Register page 234)
 - xiii. Liquor Licensing Act 1997 (Delegations Register pages 235 - 236)

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- xiv. Local Government Act 1999 (Delegations Register pages 237 - 357)
 - xv. Local Nuisance and Litter Control Act 2016 and Local Nuisance and Litter Control Regulations 2017 (Delegations Register pages 358 - 430)
 - xvi. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions – Levies) Regulations 2005 (Delegations Register pages 431 - 441)
 - xvii. Planning, Development and Infrastructure Act 2016 (Delegations Register pages 442 - 447)
 - xviii. Real Property Act 1886 (Delegations Register pages 448 - 466)
 - xix. Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014 (Delegations Register pages 467 - 472)
 - xx. Roads (Opening and Closing) Act 1991 (Delegations Register pages 480 - 490)
 - xxi. Safe Drinking Water Act 2011 (Delegations Register pages 491 - 497)
 - xxii. South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013 and South Australian Public Health (General) Regulations 2013 (Delegations Register pages 498 - 530)
 - xxiii. Strata Titles Act 1988 (Delegations Register pages 531 - 537)
 - xxiv. Unclaimed Goods Act 1987 (Delegations Register pages 551 - 553)
 - xxv. Water Industry Act 2012 and Water Industry Regulations 2012 (Delegations Register pages 554 - 578)
 - xxvi. Work Health and Safety Act 2012 (Delegations Register pages 579 - 584)
4. Such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the Local Government Act 1999 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.

Delegations made under Development Act 1993

5. In exercise of the powers contained in Sections 20 and 34(23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the Delegations Register (Delegations Register, pages 33 – 157) are hereby delegated from the 19th day of September 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.
6. Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.
7. In exercise of the powers contained in Sections 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the Delegations Register (Delegations Register, pages 1 - 3) are hereby delegated to the Council's Development Assessment Panel, subject to any conditions specified herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.

Delegations Made under Food Act 2001

8. In exercise of the powers contained in Section 91 of the Food Act 2001, the powers and functions under the Food Act 2001 contained in the Delegations Register (Delegations Register, pages 473 – 479) are hereby delegated from the 19th day of September 2017 to the person occupying the office of Chief Executive Officer (“the head of the enforcement agency” for the purposes of the Food Act 2001), subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Food Act 2001.
9. Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Food Act 2001.

Delegations under Supported Residential Facilities Act 1992

10. In exercise of the power contained in Section 9 of the Supported Residential Facilities Act 1992, the powers and functions under the Supported Facilities Act 1992 and Supported Residential Facilities Regulations 2009 contained in the Delegations Register (Delegations Register, pages 539 - 550) are hereby delegated from the 19th day of September 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
11. Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.

Authorisations and Sub-delegation under the Road Traffic Act 1961

12. In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the 'instrument') the Council authorises the following persons pursuant to Clause A.7 of the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such persons shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements.
 - i. Patrick Trimboli, Senior Traffic Engineer
 - ii. Dameon Roy, Manager Technical Services
 - iii. Tony Calandro, Senior Traffic Engineer
13. In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following persons are experienced traffic engineering practitioners for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument:
 - i. Patrick Trimboli, Senior Traffic Engineer
 - ii. Dameon Roy, Manager Technical Services
 - iii. Tony Calandro, Senior Traffic Engineer

14. In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in Section 33(1) of the Road Traffic Act 1961 and delegated to the Council pursuant to Clause G of the Instrument and contained in the Delegations Register (Delegations Register, page 586) is hereby sub-delegated from the 19th day of September 2017 to the person occupying the office of Chief Executive Officer of the Council subject to:
 - a. The conditions contained in the Instrument; and
 - b. Any conditions contained in this Resolution or in the Instrument of Sub-delegation; and
 - c. The creation of a separate instrument in writing reflecting such sub-delegation under the Instrument and this Resolution.
15. In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following persons have an appropriate level of knowledge and expertise in the preparation of traffic management plans:
 - i. Patrick Trimboli, Senior Traffic Engineer
 - ii. Dameon Roy, Manager, Technical Services
 - iii. Tony Calandro, Senior Traffic Engineer

Delegations under Safe Drinking Water Act 2011 (of enforcement agency)

16. In exercise of the power contained in Section 43 of the Safe Drinking Water Act 2011 the powers and functions of the Council as a relevant authority under the Safe Drinking Water Act 2011 contained in the Delegations Register (Delegations Register, pages 491 - 497) are hereby delegated from the 19th day of September 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.
17. Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.

Delegations under Fire and Emergency Services Act 2005 to a Fire Prevention Officer

18. In exercise of the power contained in Section 93 of the Fire and Emergency Services Act 2005 the powers and functions under the Fire and Emergency Services Act contained in the Delegations Register (Delegations Register, Page 585) are hereby delegated from the 19th day of September 2017 to the person appointed Fire Prevention Officer of the Council under the Fire and Emergency Services Act 2005 subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Fire and Emergency Services Act 2005.
19. Such powers and functions may be further delegated by the Fire Prevention Officer as the Fire Prevention Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Fire and Emergency Services Act 2005.
20. The Development Act 1993 and Development Regulations Delegations Policy as set out in Attachment 3 to this report (Resources and Governance 3.6.1, 21/08/2017), be endorsed.

**CARRIED
UNANIMOUSLY**

3.6.2 Annual Report on Internal Reviews of Council decisions in the year ending 30 June 2017 under Section 270 of the Local Government Act 1999

Moved Cr D Bryant
Seconded Cr L Caruso

1. The information be received.

CARRIED

3.6.3 Summary Report for Attendance at Training and Development Activity - Cr Linda Caruso

Moved Cr L Caruso
Seconded Mayor G Aldridge

1. The information be received.

CARRIED

3.6.4 Summary of Elected Member Training and Development Expenditure and Outstanding Summary Reports

Moved Mayor G Aldridge
Seconded Cr D Proleta

1. The information be received.

**CARRIED
UNANIMOUSLY**

3.6.5 Purchasing of Vehicles

Moved Mayor G Aldridge
Seconded Cr D Proleta

1. Information be received.

CARRIED

3.6.6 Local Government Finance Authority Annual General Meeting: 16 November 2017 - Council Representatives and Notices of Motion

Moved Mayor G Aldridge
Seconded Cr B Brug

1. The information be received.
2. Cr Linda Caruso be appointed as Council Representative (Voting Delegate) to the 16 November 2017 Local Government Finance Authority Annual General Meeting, with Cr Sean Bedford as their deputy.
3. No Notice of Motion be submitted to the Local Government Finance Authority Annual General Meeting being held on 16 November 2017.

**CARRIED
UNANIMOUSLY**

OTHER BUSINESS

Nil

CONFIDENTIAL ITEMS

**3.8.1 Appointment of Independent Member - Audit Committee
Appointment of Chairman - Audit Committee**

Moved Mayor G Aldridge
Seconded Cr D Balaza

1. *Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999, the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:*
 - *it relates to information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*
2. *In weighing up the factors related to disclosure,*
 - *disclosure of this matter to the public would demonstrate accountability and transparency of the Council's operations*
 - *non disclosure will protect personal information of applicants for the position of independent member of the Audit Committee*

*On that basis the public's interest is best served by not disclosing the **Appointment of Independent Member - Audit Committee Appointment of Chairman - Audit Committee** item and discussion at this point in time.*
3. *Pursuant to Section 90(2) of the Local Government Act 1999 it is recommended the Council orders that all members of the public, except staff of the City of Salisbury on duty in attendance, be excluded from attendance at the meeting for this Agenda Item.*

CARRIED

The meeting moved into confidence at 8.21 pm.

The meeting moved out of confidence and closed at 8.23 pm.

CHAIRMAN.....

DATE.....

ITEM	3.0.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 September 2017
HEADING	Future Reports for the Resources and Governance Committee
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This item details reports to be presented to the Resources and Governance Committee as a result of a previous Council resolution. If reports have been deferred to a subsequent month, this will be indicated, along with a reason for the deferral.

RECOMMENDATION

1. The information be received.

ATTACHMENTS

There are no attachments to this report.

1. BACKGROUND

- 1.1 Historically, a list of resolutions requiring a future report to Council has been presented to each committee for noting.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Report authors and General Managers.
- 2.2 External
 - 2.2.1 Nil.

3. REPORT

3.1 The following table outlines the reports to be presented to the Resources and Governance Committee as a result of a Council resolution:

Meeting Item	Heading and Resolution	Officer
22/06/2015 3.3.2	Amendments to the Dog and Cat Management Act 3. Council note that staff will review the need for a cat by-law 12 months after the implementation of the proposed Bill and provide a further report to Council. Due: July 2019	John Darzanos
28/09/2015 3.6.1	Review of Provision of Elected Member IT Equipment 2. A revised Elected Member Allowances, Facilities and Support Policy be brought back to Council in July 2018. Due: July 2018	Joy Rowett
27/06/2016 3.6.2	Mobile Food Van Policy 3. Once the State Government position in relation to Food Trucks has been finalised a report be prepared setting out a Mobile Food Van Policy for endorsement. Due: December 2017	Tim Starr
30/01/2017 3.6.4	Review of the Procurement Policy to incorporate use of Australian Made steel for Council construction projects 2. A review of the implications of the adoption of a variation to the Procurement Policy to use to use Australian made steel as set out in Part 1 (Item 3.6.4, Resources and Governance Committee, 23/01/2017) be undertaken in 12 months. Due: January 2018	Matt Harris
26/06/2017 3.3.1	Proposal to Amend the Australian Road Rules to enable parking on Council verges 4. A report be presented to Council on the impact of the changes set out in parts 1 to 3 (Item 3.3.1, Proposal to Amend the Australian Road Rules to enable parking on Council Verges, Council meeting 26/06/2017) to existing Council's policies. Due: September 2017 Deferred to: January 2018 Reason: Awaiting legislative amendments to progress.	John Darzanos
24/07/2017 NOM2	Change to Audio Recording Management for Committee/Council Meetings 1. That staff report back on: b. requirements and costs for installation of equipment to facilitate audio recording of all standing committee meetings. c. Staff also report on the costs associated with implementation of live streaming for Council meetings. Due: October 2017	David Bevan

Meeting Item	- Heading and Resolution	Officer
24/07/2017 3.6.1 Due:	White Ribbon Australia – Consideration of Workplace Accreditation 2. A further report be prepared to identify other bodies (for example Beyond Blue) that Council could become accredited in. October 2017	Gail Page
28/08/2017 NOM3 Due:	Provision of telephone for use in case of domestic violence / other emergency situations 2. That, as part of the consideration of White Ribbon Australia Workplace Accreditation (refer Council resolution 1893/2017), staff investigate options and costs associated with the establishment of a telephone(s) located outside of council buildings which can be used by people fleeing domestic violence or other emergencies situations to obtain assistance from relevant emergency service providers. October 2017	Gail Page

4. CONCLUSION / PROPOSAL

- 4.1 Future reports for the Resources and Governance Committee have been reviewed and are presented to Council for noting.

CO-ORDINATION

Officer: EXEC GROUP GMBE
Date: 11/09/2017

ITEM	3.6.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 September 2017
PREV REFS	Resources and Governance 3.6.5 Committee 19/06/2017
HEADING	Local Government Act Order Making Policy
AUTHOR	John Darzanos, Manager Environmental Health & Safety, City Development
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	The Draft Local Government Act Order Making Policy was presented to Council in June (Item 3.6.5) where it was endorsed for public consultation. The consultation process has concluded and this report presents the Policy for Council consideration and endorsement.

RECOMMENDATION

1. The Information be received.
2. The Local Government Act Order Making Policy as set out in Attachment 1 to the Resources and Governance Committee 18/9/17 agenda report (Item No. 3.6.1) be endorsed.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Local Government Act Order Making Policy
2. Local Government Act Order Making Policy - with tracked changes

1. BACKGROUND

- 1.1 The review of the Local Government Act Order Making Policy as set out in Attachment 1 was carried out to reflect Council's Policy Framework that provides for Council Policies to be reviewed every two years. Council is required to adopt an Order Making Policy under the Local Government Act 1999.
- 1.2 The Policy was amended to reflect the legislative change brought about by the Local Nuisance and Litter Control Act, and inclusion of order making provisions under Section 216 and 218 of the Local Government Act. Attachment 2 to this report provides a tracked changes version for reference.

2. REPORT

- 2.1 As per the consultation framework a Public notice was placed in local newspapers inviting comment on the draft policy and copies made available online and at the Council offices.
- 2.2 No comments or responses were received during the consultation period, and as a result the Draft Policy as presented in Resources and Governance Committee Item 3.6.5 in June 2017 and made available for public consultation has not been changed.

3. CONCLUSION / PROPOSAL

- 3.1 The Local Government Act Order Making Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 05/09/2017



Local Government Act - Order Making Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2073, 2008/1314, 2011/469, 2013/1754
Approval Date:	24 April 2006	Most Recent Approval:	19 September 2017
Review Date:	19 September 2017	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health & Safety
Function:	5 - Environmental Management	Responsible Officer:	Manager, Environmental Health & Safety

A - PREAMBLE

Power to Make Orders

1. The *Local Government Act 1999* requires the Council to prepare and adopt a policy for the operation of its order-making power. The policy is subject to public consultation, review and evaluation.
2. This Policy will apply to the matters set out in the *Local Government Act 1999* including:
 - a. Section 254 which empowers the Council to order a person to do or refrain from doing a thing under certain circumstances, namely:
 - i. Prevent or eliminate hazards on lands adjoining a public place
 - ii. Prevent the inappropriate use of vehicle (as a place of habitation).
 - b. Section 216 which empowers the Council to order the owner of a private road to carry out specified roadwork to repair or improve the road.
 - c. Section 218 which empowers the Council to order the owner of adjoining land to carry out specified work to construct, remove or repair a crossing place from the road to the land.
3. This Policy does not apply to other circumstances provided for in the *Local Government Act 1999* and other South Australian Legislation that specifically empower the Council to make orders, when appropriate and as the need arises.
4. The exercise of the Council's order-making power, in accordance with this Policy and relevant statutes, co-exists with the Council's other regulatory powers. For example, the Council has power to make and enforce by-laws in certain circumstances and to enforce compliance with the requirements of the *Local Government Act 1999* and a range of other legislation.
5. This policy is also to be read in conjunction with Councils Enforcement Policy.

B - SCOPE

1. This policy applies to all owners or occupiers of lands within the City of Salisbury Council boundaries.

Matters to Which Policy Applies

1. The matters to which this Policy applies are set out in Section 254 and Section 216 and 218 of the *Local Government Act 1999*.

Section 254:

2. The following table is an extract from the Act. The matters are stated in general terms with particular examples for illustration. These examples are not intended to be an exhaustive list of the circumstances in which the Policy will apply. They are included to assist the community to understand the purpose and intent of this Policy and the way in which it will be applied.

Section 254 Power to make orders, states:

254. A council may order a person to do or to refrain from doing a thing specified in Column 1 of the following table if in the opinion of the council the circumstances specified opposite it in Column 2 of the table exist and the person comes within the description opposite it in Column 3 of the table.

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
1. Hazards on lands adjoining a public place		
(1) To fence, empty, drain fill or cover land (including land on which there is a building or other structure).	(1) A hazard exists that is, or is likely to become, a danger to the public.	(1) The owner or occupier of the land.
(2) To remove overgrown vegetation, cut back overhanging branches, or to remove a tree.	(2) The vegetation, branches or tree create, or are likely to create, danger or difficulty to persons using a public place.	(2) The owner or occupier of the land.
(3) To remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.	(3) The relevant object or structure creates, or is likely to create, danger or difficulty to persons using a public place.	(3) The owner or occupier of the land.
(4) Where the public place is a road to take action necessary to protect the road or to remove a hazard to road users. Examples (1) To fill an excavation, or to prevent drainage of water across the road. (2) To construct a retaining wall or to remove or modify a fence. (3) To fence land to prevent the escape of animals. (4) To remove a structure or vegetation near an intersection.	(4) A situation exists that is causing, or is likely to cause, damage to the road or a hazard to road users.	(4) The owner or occupier of the land.

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
2. Inappropriate use of vehicle		
To refrain from using a caravan or vehicle as a place of habitation. Refer Attachment A for further information and guidelines.	A person is using a caravan or vehicle as a place of habitation in circumstances that (a) present a risk to the health or safety of an occupant; or (b) cause a threat of damage to the environment; or (c) detract significantly from the amenity of the locality.	The owner or occupier of the land or a person apparently occupying the caravan or vehicle.

Section 216

Section 216 Power to order owner of private road to carry out specified roadwork, states:

- a. (1) A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.

Section 218

Section 218 Power to require owner of adjoining land to carry out specified work, states:

- a. (1) A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.

C – POLICY PURPOSE/OBJECTIVES

1. The City of Salisbury ("the Council") is responsible to provide for the government and management of its area at a local level. In particular it is the function of the Council to provide for the welfare, wellbeing and interests of the members of the community and to take measures to protect the area from hazards and to improve amenity.
2. To fulfill its functions, the Council has a range of statutory powers. These powers enable the Council to exercise its regulatory functions by making policies, orders and by-laws. The Council has resolved to develop an order-making policy in relation to the exercise of the Council's powers pursuant to Part 2 of Chapter 12 of the *Local Government Act 1999*, to promote the health, safety and well-being of our community and good governance. This policy sets out the matters about which orders will be made. The relevant principles, procedures and penalties that will be applied are also set out in this policy.

D - DEFINITIONS

1. "The Act" means the Local Government Act 1999

E - POLICY STATEMENT**Principles**

1. The Council will apply the following principles in the exercise of its powers to make orders:
2. In each situation in which the Council is considering making an order to require a person to act or to refrain from acting, within its powers to do so, the Council will investigate and consider (to the extent that is relevant and necessary) the following circumstances:
 - The severity of the incident or circumstance;
 - The hazard or danger posed to the community;
 - The risk to health and safety of the community;
 - Detraction from the amenity of the locality;
 - The number of occurrences of the activity or incident;
 - The impact of any previous actions to deal with the activity or incident;
 - The significance of the breach, any other public interest or wellbeing considerations;
 - The availability of a more appropriate response by the Council.

Procedures to be followed

1. The procedures to be followed in the issuing an order must be in accordance with the requirements of Section 255 of the Act. Before making an order, unless the circumstances are urgent, the Council will take the following actions:
2. Give the person to whom an order is intended to be directed a notice in writing stating the:
 - Proposed action;
 - Terms of the proposed order;
 - Period within which compliance with the order would be required;
 - Reasons for the proposed order;
 - Invite the person notified to make representations, within a specified time, as to why the penalties for non-compliance;
 - Penalties for non-compliance.
3. The Council will take reasonable steps, within available resources, to resolve cases requiring an order by negotiation and agreement before issuing an order, except in cases of threat to life, an immediate threat to public health or safety or an emergency situation.
4. Where notice of a proposed order has been given to a person who is not the owner of the relevant land, the Council must take reasonable steps to serve a copy of the notice on the owner of the land.
5. After considering the representations made by the person to whom notice of the order is directed, the Council may
 - make an order in terms of the original proposal or
 - a modification of the original proposal or
 - Determine not to proceed with making an order.
 - the council is not required to give notice of an order with modifications
6. Upon issuing an order the Council may:
 - include two or more orders in the same instrument, or
 - direct two or more persons to do something specified in the order jointly
7. An order that is issued must:
 - specify a reasonable period within which the order must be complied with, and
 - state the reasons for the order.

8. An order must be served by the Council on the person to whom it is addressed. If the person to whom the notice and order are addressed is not the owner of the land, the Council must take reasonable steps to serve a copy of the notice and order on the owner of the land.
9. Service of orders is subject to the requirements of the Local Government Act Section 279— Service of documents by councils etc.
10. If the land is owned or occupied by more than one person, the order is not invalid merely because:
 - It is not directed to all the owners, and
 - an owner or occupier who complies with an order may recover a fair contribution from the other owners or occupiers
11. The Council may at the request or agreement of the person to whom the order is directed, vary any order or may on its own initiative, revoke an order if satisfied it is appropriate to do so.
12. If the Council in particular case considers:
 - An activity constitutes or is likely to constitute a threat to life or public health or safety, or
 - An emergency situation exists,It may
 - Proceed to make an order without giving notice, and
 - Require immediate compliance with the order.

Rights of Review

1. In accordance with Section 256 of the Act an order must include a statement setting out the rights of review. The review process includes:
 - The person to whom an order is directed may apply to the District Court for a review of the order within 14 days after service of the order.
 - The operation of an order continues pending the determination of an application for review, unless the order is suspended in accordance with the next clause.
 - The District Court or the Council may, if it thinks fit, make an interim order suspending the operation of an order.
 - Upon review, the District Court may, if satisfied that it is appropriate and just in the circumstances, vary or set aside an order.
 - The District Court may be constituted of a magistrate.

Action on Non-Compliance with an Order

1. Section 257 of the Act provides details of action to be taken in the case of non-compliance of the order.
2. If the requirements of an order are not complied with in the time fixed for compliance or, if there is an application for review, within 14 days after the determination of the review, the council may (subject to the outcome of any review) take the action required by the order.
3. The Council or an employee of Council or another person authorized by Council, may, if the requirements of an order are not complied with within the time specified in the order, carry out the requirements of an order.
4. The reasonable costs and expenses of the Council in carrying out the requirements of an order may be recovered by the Council from the person who failed to comply with the order as a debt.

5. Where an amount is recoverable from a person by the Council, the Council may give that person notice in writing to pay the amount within no less than 28 days from the date of the notice.
6. If the person fails to pay the amount that person is liable to pay interest and, if the person is the owner of the land to which the order relates, the Council may impose a charge on the land for the unpaid amount and interest.
7. No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this section.

Penalties

1. Non-compliance with an order of the Council will constitute a breach of Section 258 of the Act and a person may incur statutory penalties provided for in the Act. The maximum penalty is \$2500. The Expiation fee is \$210. All orders of the Council will include the specific statutory penalty relevant to a breach of that particular order, and will advise of any applicable appeal rights.

Council Endorsement of the Policy

1. Any amendment or alteration to the Policy or a substitution of a new Policy is subject to public consultation provisions in Section 259(2) of the Local Government Act 1999. Council must, before adopting an amendment to a policy, commence public consultation unless the Council determines that the amendment is of only minor significance.

Availability of the Policy

1. This Policy will be available for inspection at the Council's principal office during ordinary business hours. Copies will also be provided to interested members of the community upon request, and upon payment of such fee (if any) as the Council may, in its discretion, fix.

F - LEGISLATION

1. *Local Government Act 1999*, Section 254 to 259 inclusive, Section 216 and Section 218

H - ASSOCIATED PROCEDURES

1. Responsibility for Order Making Provisions, Section 254 *Local Government Act 1999* (Refer to attachment B)
2. City of Salisbury Enforcement Policy

Document Control

Document ID	Local Government Act - Order Making Policy
Prepared by	John Darzanos
Version	4.0
Document Status	Draft
Issue Date	

ATTACHMENTS

Attachment A: Guideline for the Operation of Section 254 of the Local Government Act 1999***Pertaining to the "Inappropriate use of a Vehicle"***

The Council may make orders directed to an owner or occupier of land or a person apparently occupying a caravan or vehicle, which is used, as a place of habitation, to refrain from using the caravan or vehicle as a place of habitation if the following circumstances exist:

- Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant;
- Use of the vehicle as habitation causes a threat of damage to the environment;
- Use of the vehicle as habitation detracts significantly from the amenity of the locality.

Council has developed a list of guidelines that can be used by residents to assess their compliance with the above circumstances.

Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant

- Caravans or vehicles used for habitation must be of a suitable standard with regards to, structural soundness, cleanliness and hygiene.
- The caravan or vehicles, walls, ceiling and floors must be constructed of adequate and sound materials, and be weatherproofed.
- There has to be adequate provision for lighting and natural ventilation.
- The fixtures, fittings and furniture must be clean and sanitary.
- Connections to a mains power supply must be in accordance with the provisions of the relevant power authority.
- The number of occupants must not exceed the recommended capacity of the van
- Adequate sanitary facilities and ablution facilities (toilet and shower) must be provided for the occupant.

Please note that the sanitary facilities and ablution facilities on the caravan or vehicle must not be used unless adequately connected to sewer. (Approval may be required for this)

Use of the vehicle as habitation causes a threat of damage to the environment

- Areas of concern may include any impact on the environment including, air, water, soil or noise pollution, including;
- The improper discharge of solid or liquid wastes from the caravan or vehicle
- The emission of any offensive materials or odours from the caravan or vehicle
- The emission of excessive noise from the caravan or vehicle, or occupants

Use of the vehicle as habitation detracts significantly from the amenity of the locality.

- Areas of concern that could be considered to detract significantly from the amenity of the locality, include:
- Locating the caravan or vehicle in the front yard
- Locating the caravan or vehicle up against a neighbouring fence, (a minimum distance of 600mm should be maintained between the caravan and fence, or 900mm if there is a window in the caravan that faces the neighbouring property.
- An unsightly appearance of the caravan or vehicle

- Note: Some allotments may not be suitable to accommodate a caravan or vehicle due to the size and shape.

Development Controls

In situations where;

- Occupancy of a caravan or vehicle for a period of greater than 12 months, or
- Where the subject land does not presently contain a lawfully habitable dwelling,
- Formal Development Approval is required from the Council

Other Provisions

The above examples are not to be considered to be absolute. Council may take other things into consideration when investigating an “Inappropriate use of a vehicle”. Each assessment will take into consideration relevant local factors and circumstances.

Further Information

If you require further information regarding the above matters please contact Council’s City Development Department on 84068221.

Attachment B: - Responsibility for Order Making Provisions

Section 254 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Other Information
3.1 Hazard on Land Adjoining Public Place	A dangerous fence adjoining any road, community land or public place	General Inspector	Development-Services to be consulted if potential structural concerns
	Where there are overhanging branches, overgrown vegetation or structures on land adjoining a public place which obstruct streets;	General Inspector	Development-Services to be consulted if potential structural concerns or City Infrastructure
	Where there is drainage of water across the road;	General Inspector	Development-Services for storm water related issues, or Environmental Health
	Where a flag, banner, flagpole or sign intrudes into a public place;	General Inspector	Development Services to be consulted if potential structural concerns or Development approval required
3.2 Inappropriate use of Vehicle	<p>Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant;</p> <p>Use of the vehicle as habitation causes a threat of damage to the environment;</p> <p>Use of the vehicle as habitation detracts significantly from the amenity of the locality.</p>	Environmental Health and Safety Section	Development Services to be Consulted, for location issues and amenity

Section 216 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Other Information
Power to order owner of private road to carry out specified roadwork	A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.	City Infrastructure	Development Engineering as required Inspectorate support as required relating to enforcement and orders

Section 218 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Other Information
Power to require owner of adjoining land to carry out specified work	A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.	City Infrastructure	Development Engineering as required Inspectorate support as required relating to enforcement and orders



DRAFT Local Government Act - Order Making Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2073, 2008/1314, 2011/469, 2013/1754
Approval Date:	24 April 2006	Most Recent Approval:	23 March 2015 TBD
Review Date:	23 March 2017 26 June 2017	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health & Safety
Function:	5 - Environmental Management	Responsible Officer:	Manager, Environmental Health & Safety

A - PREAMBLE

Power to Make Orders

1. The *Local Government Act 1999* requires the Council to prepare and adopt a policy for the operation of its order-making power. The policy is subject to public consultation, review and evaluation.
2. This Policy will apply to the matters set out in the *Local Government Act 1999* ~~at~~ **including:**
 - a. ~~Section 254 and Section 299~~ which empowers the Council to order a person to do or refrain from doing a thing under certain circumstances, **namely:**
 - i. **Prevent or eliminate hazards on lands adjoining a public place**
 - ii. **Prevent the inappropriate use of vehicle (as a place of habitation).**
 - b. **Section 216 which empowers the Council to order the owner of a private road to carry out specified roadwork to repair or improve the road.**
 - c. **Section 218 which empowers the Council to order the owner of adjoining land to carry out specified work to construct, remove or repair a crossing place from the road to the land.**
- ~~1.3.~~ This Policy does not apply to other circumstances provided for in the *Local Government Act 1999* and other South Australian Legislation that specifically empower the Council to make orders, when appropriate and as the need arises.
- ~~2.4.~~ The exercise of the Council's order-making power, in accordance with this Policy and relevant statutes, co-exists with the Council's other regulatory powers. For example, the Council has power to make and enforce by-laws in certain circumstances and to enforce compliance with the requirements of the *Local Government Act 1999* and a range of other legislation.
- ~~3.5.~~ This policy is also to be read in conjunction with Councils Enforcement Policy.

Comment [Cos1]: Section 299 Deleted from Local Government Act March 2016

B - SCOPE

1. This policy applies to all owners or occupiers of lands within the City of Salisbury Council boundaries.

Matters to Which Policy Applies

1. The matters to which this Policy applies are set out in Section 254 ~~and Section 299 and Section 216 and 218~~ of the *Local Government Act 1999*.

Section 254 Power to make orders, states:

~~3.2.~~ The following table is an extract from the Act. The matters are stated in general terms with particular examples for illustration. These examples are not intended to be an exhaustive list of the circumstances in which the Policy will apply. They are included to assist the community to understand the purpose and intent of this Policy and the way in which it will be applied.

Section 254 Power to make orders, states:

254. A council may order a person to do or to refrain from doing a thing specified in Column 1 of the following table if in the opinion of the council the circumstances specified opposite it in Column 2 of the table exist and the person comes within the description opposite it in Column 3 of the table.

~~Footnote 1 A reference in the table to an animal or animals includes birds and insects.~~

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
1. Unsightly condition of land To take action considered by the council to be necessary to ameliorate an unsightly condition. Refer Attachment A for further information and guidelines.	Land, or a structure or object on land, is unsightly and detracts significantly from the amenity of the locality in which the land is situated.	The owner or occupier of the land.
12. Hazards on lands adjoining a public place		
(1) To fence, empty, drain fill or cover land (including land on which there is a building or other structure).	(1) A hazard exists that is, or is likely to become, a danger to the public.	(1) The owner or occupier of the land.
(2) To remove overgrown vegetation, cut back overhanging branches, or to remove a tree.	(2) The vegetation, branches or tree create, or are likely to create, danger or difficulty to persons using a public place.	(2) The owner or occupier of the land.
(3) To remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.	(3) The relevant object or structure creates, or is likely to create, danger or difficulty to persons using a public place.	(3) The owner or occupier of the land.

Comment [Cos2]: Deleted due to Local Government Act 2016

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
<p>(4) Where the public place is a road to take action necessary to protect the road or to remove a hazard to road users.</p> <p>Examples</p> <p>(1) To fill an excavation, or to prevent drainage of water across the road.</p> <p>(2) To construct a retaining wall or to remove or modify a fence.</p> <p>(3) To fence land to prevent the escape of animals.</p> <p>(4) To remove a structure or vegetation near an intersection.</p>	<p>(4) A situation exists that is causing, or is likely to cause, damage to the road or a hazard to road users.</p>	<p>(4) The owner or occupier of the land.</p>
<p>3. Animals that may cause a nuisance or hazard</p> <p>To do or to refrain from doing the thing specified in the order in order to abate a nuisance or a hazard to health or safety associated with a live or dead animal or animals, or otherwise to deal with an animal or animals.</p> <p>Refer Attachment B for further information and guidelines.</p>	<p>A person is keeping or dealing with (or failing to deal with) an animal or animals (whether the animal or animals are alive or dead) so as to cause, or to be likely to cause, a nuisance or a hazard to health or safety.</p> <p>A person is the owner or occupier of land where an animal or animals are located which may cause, or be likely to cause, a nuisance or a hazard to health or safety, or otherwise to become a pest.</p> <p>Examples</p> <p>(1) The slaughtering of animals in a town or urban situation.</p> <p>(2) Keeping an excessive number of insects, birds or other animals.</p> <p>(3) Keeping bees in close proximity to other property.</p> <p>(4) Keeping animals so as to generate excessive noise, dust or odours, or to attract pests or vermin.</p> <p>(5) Keeping an aggressive animal, or keeping an animal in a situation where it cannot be adequately contained or may cause danger to the public.</p> <p>(6) Failing to deal with a wasp's nest.</p>	<p>The owner or occupier of land or any person apparently engaged in promoting or conducting an activity.</p>
<p>24. Inappropriate use of vehicle</p> <p>To refrain from using a caravan or vehicle as a place of habitation.</p> <p>Refer Attachment AC for further information and guidelines.</p>	<p>A person is using a caravan or vehicle as a place of habitation in circumstances that</p> <p>(a) present a risk to the health or safety of an occupant; or</p> <p>(b) cause a threat of damage to the environment; or</p> <p>(c) detract significantly from the amenity of the locality.</p>	<p>The owner or occupier of the land or a person apparently occupying the caravan or vehicle.</p>

Comment [Cos3]: Deleted due to Litter Nuisance and Litter Control Act 2016

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
5 Encroaching Vegetation. (Section 299)		
To remove or cut back vegetation encroaching on to the relevant land	The vegetation, branches or tree create, or are likely to create, danger or difficulty to persons using a public place.	The owner or occupier of the land.

~~299—Vegetation clearance~~

~~(1) A council may, on the application of the owner or occupier of the land (the **relevant land**), by order under this section, require the owner or occupier of adjoining land to remove or cut back vegetation encroaching on to the relevant land.~~

~~(2) Divisions 2 and 3 of Part 2 of Chapter 12 apply with respect to—~~

~~(a) any proposal to make an order; and~~

~~(b) if an order is made, any order,~~

~~under subsection (1).~~

Comment [Cos4]: Section Deleted from Local Government Act March 2016

Section 216

3. Section 216 Power to order owner of private road to carry out specified roadwork, states:

a. (1) A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.

Section 218

4. Section 218 Power to require owner of adjoining land to carry out specified work, states:

a. (1) A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.

C – POLICY PURPOSE/OBJECTIVES

1. The City of Salisbury ("the Council") is responsible to provide for the government and management of its area at a local level. In particular it is the function of the Council to provide for the welfare, ~~our~~ **well-being** and interests of the members of ~~our~~ **the** community and to take measures to protect ~~the~~ **our** area from hazards and to improve amenity.
2. To fulfill its functions, the Council has a range of statutory powers. These powers enable the Council to exercise its regulatory functions by making policies, orders and by-laws. The Council has resolved to develop an order-making policy in relation to the exercise of the Council's powers pursuant to Part 2 of Chapter 12 of the *Local Government Act 1999*, to promote the health, safety and well-being of our community **and good governance**. This policy sets out the matters about which orders will be made. The relevant principles, procedures and penalties that will be applied are also set out in this policy.

D - DEFINITIONS

1. "The Act" means the Local Government Act 1999

E - POLICY STATEMENT

Principles

1. The Council will apply the following principles in the exercise of its powers to make orders:
2. In each situation in which the Council is considering making an order to require a person to act or to refrain from acting, within its powers to do so, the Council will investigate and consider (to the extent that is relevant and necessary) the following circumstances:
 - The severity of the incident or circumstance;
 - The hazard or danger posed to the community;
 - The risk to health and safety of the community;
 - Detraction from the amenity of the locality;
 - The number of occurrences of the activity or incident;
 - The impact of any previous actions to deal with the activity or incident;
 - The significance of the breach, any other public interest or wellbeing considerations;
 - The availability of a more appropriate response by the Council.

Procedures to be followed

1. The procedures to be followed in the issuing an order must be in accordance with the requirements of Section 255 of the Act. Before making an order, unless the circumstances are urgent, the Council will take the following actions:
2. Give the person to whom an order is intended to be directed a notice in writing stating the:
 - Proposed action;
 - Terms of the proposed order;
 - Period within which compliance with the order would be required;
 - Reasons for the proposed order;
 - Invite the person notified to make representations, within a specified time, as to why the penalties for non-compliance;
 - Penalties for non compliance.
3. The Council will take reasonable steps, within available resources, to resolve cases **requiring an order of local nuisance** by negotiation and agreement before issuing an order, except in cases of threat to life, an immediate threat to public health or safety or an emergency situation.
4. Where notice of a proposed order has been given to a person who is not the owner of the relevant land, the Council must take reasonable steps to serve a copy of the notice on the owner of the land.
5. After considering the representations made by the person to whom notice of the order is directed, the Council may
 - make an order in terms of the original proposal or
 - a modification of the original proposal or
 - Determine not to proceed with making an order.
 - the council is not required to give notice of an order with modifications
6. Upon issuing an order the Council may:
 - include two or more orders in the same instrument, or

- direct two or more persons to do something specified in the order jointly
7. An order that is issued must:
 - specify a reasonable period within which the order must be complied with, and
 - state the reasons for the order.
 8. An order must be served by the Council on the person to whom it is addressed. If the person to whom the notice and order are addressed is not the owner of the land, the Council must take reasonable steps to serve a copy of the notice and order on the owner of the land.
 9. Service of orders is subject to the requirements of the Local Government Act Section 279— Service of documents by councils etc.
 10. If the land is owned or occupied by more than one person, the order is not invalid merely because:
 - It is not directed to all the owners, and
 - an owner or occupier who complies with an order may recover a fair contribution from the other owners or occupiers
 11. The Council may at the request or agreement of the person to whom the order is directed, vary any order or may on its own initiative, revoke an order if satisfied it is appropriate to do so.
 12. If the Council in particular case considers:
 - An activity constitutes or is likely to constitute a threat to life or public health or safety, or
 - An emergency situation exists,
 It may
 - Proceed to make an order without giving notice, and
 - Require immediate compliance with the order.

Rights of Review

1. In accordance with Section 256 of the Act an order must include a statement setting out the rights of review. The review process includes:
 - The person to whom an order is directed may apply to the District Court for a review of the order within 14 days after service of the order.
 - The operation of an order continues pending the determination of an application for review, unless the order is suspended in accordance with the next clause.
 - The District Court or the Council may, if it thinks fit, make an interim order suspending the operation of an order.
 - Upon review, the District Court may, if satisfied that it is appropriate and just in the circumstances, vary or set aside an order.
 - The District Court may be constituted of a magistrate.

Action on Non-Compliance with an Order

1. Section 257 of the Act provides details of action to be taken in the case of non compliance of the order.
2. If the requirements of an order are not complied with in the time fixed for compliance or, if there is an application for review, within 14 days after the determination of the review, the council may (subject to the outcome of any review) take the action required by the order.
3. The Council or an employee of Council or another person authorized by Council, may, if the requirements of an order are not complied with within the time specified in the order, carry out the requirements of an order.

4. The reasonable costs and expenses of the Council in carrying out the requirements of an order may be recovered by the Council from the person who failed to comply with the order as a debt.
- ~~5. The regulations may limit the amount of costs and expenses recoverable under subsection (3) in a case involving a European wasp's nest.~~
- 6.5. Where an amount is recoverable from a person by the Council, the Council may give that person notice in writing to pay the amount within no less than 28 days from the date of the notice.
- 7.6. If the person fails to pay the amount that person is liable to pay interest and, if the person is the owner of the land to which the order relates, the Council may impose a charge on the land for the unpaid amount and interest.
- 8.7. No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this section.
- ~~9. In this section European wasp's nest means the nest of an insect of the species *Vespa germanica*.~~

Penalties

1. Non-compliance with an order of the Council will constitute a breach of Section 258 of the Act and a person may incur statutory penalties provided for in the Act. The maximum penalty is \$2500. The Expiation fee is \$210. All orders of the Council will include the specific statutory penalty relevant to a breach of that particular order, and will advise of any applicable appeal rights.

Council Endorsement of the Policy

- ~~1. This Policy was last reviewed by Council on the 24th November 2008.~~
- 2.1. Any amendment or alteration to the Policy or a substitution of a new Policy is subject to public consultation provisions in Section 259(2) of the Local Government Act 1999. Council must, before adopting an amendment to a policy, commence public consultation unless the Council determines that the amendment is of only minor significance.

Availability of the Policy

1. This Policy will be available for inspection at the Council's principal office during ordinary business hours. Copies will also be provided to interested members of the community upon request, and upon payment of such fee (if any) as the Council may, in its discretion, fix.

F - LEGISLATION

1. *Local Government Act 1999*, Section 254 to 259 inclusive, ~~Section 216 and Section 218 and Section 299~~

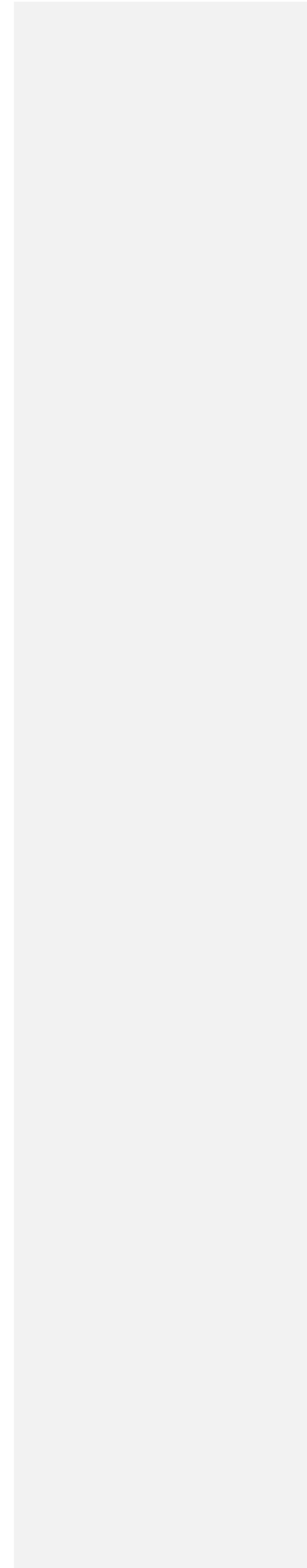
H - ASSOCIATED PROCEDURES

1. Responsibility for Order Making Provisions, Section 254 ~~and 299~~ *Local Government Act 1999* (Refer to attachment **BP**)
2. City of Salisbury Enforcement Policy

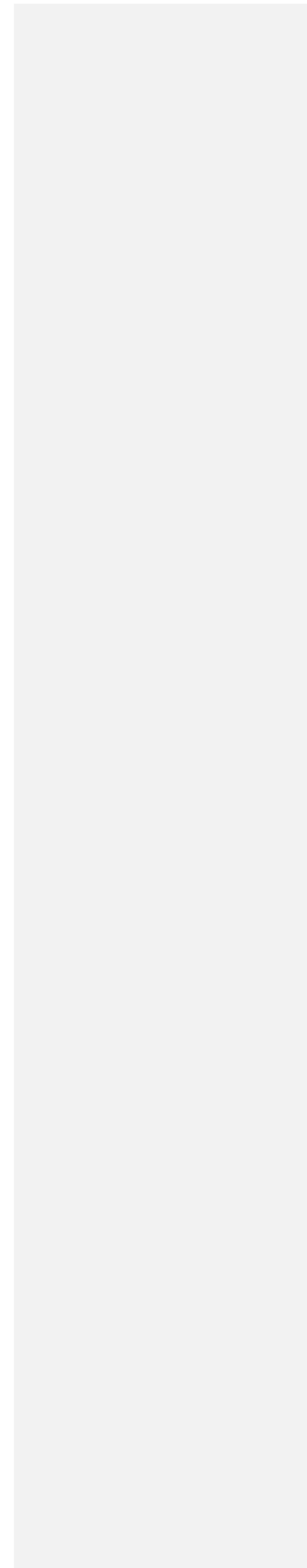
Document Control

Document ID	Local Government Act - Order Making Policy
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Prepared by	John Darzanos
Version	4.3 .0
Document Status	Draft
Issue Date	



ATTACHMENTS



Attachment A: Guideline for the Operation of Section 254 of the Local Government Act 1999 Pertaining to the "Unightly Condition of Land"

The Council may make orders directed to an owner or occupier of land or a person apparently occupying the land, where the condition of the land, or a structure or object on land, is unsightly and detracts significantly from the amenity of the locality in which the land is situated.

This Policy applies in situations where the condition of the land, or a structure or object is considered to be unsightly and the land, or a structure or object is visible from a street, road or public place. Land, structure and or object are defined as, but not limited to, the following:

- **Unightly condition of Land** may include excessive vegetation and or undergrowth, which exceeds 600mm in height and is considered to detract from the amenity of the locality.
- **Unightly condition of a structure** may include any building or structure erected on the land including fencing and or signs.
- **Unightly condition of an Object** may include any object placed on the land which includes:
 - vehicle, vehicle parts, tyres and or accessories,
 - items of general household goods, materials and or furniture

Where Council has formed the opinion that the land, or a structure or object is considered to be unsightly and detracts from the amenity of the locality, Council may, at its discretion require residents to ameliorate the unsightly condition of the land, structure or object by either:

- Removing the cause of the unsightly condition
- Screening the cause of the unsightly condition from the view of the general public (suitable screening includes landscaping, fencing and/or lattice structures to screen the land)
- Covering the cause of the unsightly condition.
- Taking any other action as required by Council

Home Activity

If the unsightly condition is a result of an activity, the activity must be undertaken in accordance with Council's *Home Activity Guidelines*. Copies can be obtained from Council's Development Services Section.

Development Controls

Where activities are in breach of the Home Activity Guidelines they are not permitted in residential areas or may require *formal Development Approval*. Please contact Council's Development Services Section for further information or assistance.

Other Provisions

The above examples are not to be considered to be absolute. Council may take other things into consideration when investigating a matter involving an "Unightly Condition of Land, or a Structure or Object". Council will take into consideration relevant local factors and circumstances when applying the purpose and intent of this Policy.

Further Information

If you require further information regarding the above matters please contact Council's City Development Department on 8406 8209.

Attachment B: Guideline for the Operation of Section 254 of the Local Government Act 1999***Animals that may cause a nuisance or hazard***

For the prevention of the keeping of animals birds and insects so as to be a nuisance or injurious to health, and for the prevention and suppression of nuisances

Definitions

In these Standards and Guidelines—

- “Approved material” means material approved by the Council;
- “Fowls” include hens, roosters and chickens;
- “Pigeons” include feral pigeons; and
- “Poultry” includes fowls, ducks, geese, turkeys, pigeons, peacocks, guinea fowls and other domestic birds of either sex.

No animal or bird to be nuisance

No person shall keep or allow to remain on any land of which he is the owner or occupier any animal or bird so as to be a nuisance or injurious to health by reason of:

- the numbers of animals or birds;
- the noise, dust or odour generated by the presence of the animal or bird;
- the attraction of flies, rats, mice or other vermin;
- the aggressive nature of the animal or bird;
- the nature and location of housing facilities for the animal or bird;
- the animal or bird not being adequately contained on the land; or
- the animal or bird being allowed to wander or fly from or to the land either alone or in numbers;
- droppings emanating from animal or bird; or
- for any other reason

Fowl shelters

No person shall keep or allow to remain on any land of which he is the owner or occupier any fowls unless they are contained within a structure which:

- Together with its location is either approved by the Council so that the keeping of fowls within it will not cause a nuisance or be injurious to health;
- or which— has a floor space of at least 0.4 square metres for each fowl therein; is constructed of sound timber, wire netting and sheet metal or other approved material to a minimum height of 1.5m and in such manner as to render the said accommodation rat proof, weatherproof and which allows adequate ventilation therein;
- is enclosed with a framework covered with wire netting or other approved material, and surrounded with sheet metal or other approved material extending from at least 200mm below ground level to not less than 400mm above ground level; has an internal floor surface constructed of or paved with concrete or other approved material to a smooth, hard, impervious finish;
- has at least one door opening above a solid step which shall be at least 400mm above the floor level.

- has a rainproof roof which is provided with efficient drainage so that all storm water is carried away from the structure;
- is maintained at all times in good order and repair and in a clean and sanitary condition free from rats, vermin, offensive odours or conditions;

and which is not located –

- less than 1m from any fence, tree or hedge;
- less than 1.5m from any other structure
- less than 12m from any street, road, dwelling, shop, factory, public building or other structure used by persons for living or working, or any building to which the public ordinarily has access, provided that such distance may be 7.5m if 12 fowls or less are kept; or
- further forward on the property than the rear half thereof or the rear alignment of any house thereon.

Ducks, geese and turkeys

No person shall keep or allow to remain on land of which he is the owner or occupier, any ducks, geese or turkeys over the age of 4 weeks of either sex unless such birds are contained within a yard which –

- Together with its location is either approved by the Council so that the keeping of such birds within it will not cause a nuisance or be injurious to health; or which –
- is properly enclosed and constructed of wire netting or other approved material to a height of at least 1.5m;
- encloses an area of not less than 7 square metres of open space for each bird;
- in addition to open space, provides at least 0.2 square metres of open roofed shelter for each bird;

and which is not located –

- less than 1m from any fence, tree or hedge;
- less than 1.5m from any other structure; or
- less than 20m from any street, road, dwelling, shop, factory, public building or other structure used by persons for living or working, or any building to which the public ordinarily has access.

Pigeons

No person shall keep or allow to remain on land of which he is the owner or occupier, any pigeons –

Unless the pigeons are contained within a shed or loft which –

- together with its location is either approved by the Council so that the keeping of pigeons within it will not cause a nuisance or be injurious to health;
- or which –
- is constructed of approved material in such a manner as to prevent the ingress and egress of rats;
- is maintained in good repair and condition, clean and free from offensive odours at all times; and
- is not located less than 15m from any dwelling house;

Pigeons Nuisance

No person shall keep or allow to remain on land of which he is the owner or occupier, any pigeons—

- If a nuisance is being caused to any occupier of a property in the neighbourhood by virtue of any of those pigeons entering onto that property of flying overhead and depositing droppings therein.

Food Storage

No person shall keep or allow to remain on land of which he is the owner or occupier any poultry unless—

- Vermin proof receptacles are provided for storing bran, pollard, grain or other matter intended for the feeding of such poultry;
- and—
- such receptacles are at all times kept clean, sanitary and in good order and condition; and
- no food for poultry is allowed to remain outside of such receptacles unless for the purposes of immediate consumption; and
- that person keeps the land free of vermin.

Dead animals or birds

No person shall—

- neglect to bury or otherwise lawfully dispose of in a sanitary manner any dead animal or bird belonging to him or her, or in his or her charge of keeping forthwith upon the death of that animal or bird; or
- suffer or allow any dead animal or bird to remain on any premises in his or her occupation unburied or not otherwise lawfully disposed of in a sanitary manner.

Bees

No person shall without permission keep any bees within 50 metres of or on—

- any building in the occupation of another person;
- any street road or public place;
- any area set aside for predominantly residential use in that part of the Development Plan applicable to the Council's area.

Bee keeping nuisance

- No person shall without permission keep any bees in any part or parts of the area where the keeping of bees is or may be a nuisance or danger to persons therein.

Further Information

- For further information and advice regarding the keeping of animals and birds please contact the City Development Department at the City of Salisbury on 8406 8222.

Attachment AC: Guideline for the Operation of Section 254 of the Local Government Act 1999***Pertaining to the "Inappropriate use of a Vehicle"***

The Council may make orders directed to an owner or occupier of land or a person apparently occupying a caravan or vehicle, which is used, as a place of habitation, to refrain from using the caravan or vehicle as a place of habitation if the following circumstances exist:

- Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant;
- Use of the vehicle as habitation causes a threat of damage to the environment;
- Use of the vehicle as habitation detracts significantly from the amenity of the locality.

Council has developed a list of guidelines that can be used by residents to assess their compliance with the above circumstances.

Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant

- Caravans or vehicles used for habitation must be of a suitable standard with regards to, structural soundness, cleanliness and hygiene.
- The caravan or vehicles, walls, ceiling and floors must be constructed of adequate and sound materials, and be weatherproofed.
- There has to be adequate provision for lighting and natural ventilation.
- The fixtures, fittings and furniture must be clean and sanitary.
- Connections to a mains power supply must be in accordance with the provisions of the relevant power authority.
- The number of occupants must not exceed the recommended capacity of the van
- Adequate sanitary facilities and ablution facilities (toilet and shower) must be provided for the occupant.

Please note that the sanitary facilities and ablution facilities on the caravan or vehicle must not be used unless adequately connected to sewer. (Approval may be required for this)

Use of the vehicle as habitation causes a threat of damage to the environment

- Areas of concern may include any impact on the environment including, air, water, soil or noise pollution, including;
- The improper discharge of solid or liquid wastes from the caravan or vehicle
- The emission of any offensive materials or odours from the caravan or vehicle
- The emission of excessive noise from the caravan or vehicle, or occupants

Use of the vehicle as habitation detracts significantly from the amenity of the locality.

- Areas of concern that could be considered to detract significantly from the amenity of the locality, include:
- Locating the caravan or vehicle in the front yard
- Locating the caravan or vehicle up against a neighbouring fence, (a minimum distance of 600mm should be maintained between the caravan and fence, or 900mm if there is a window in the caravan that faces the neighbouring property.
- An unsightly appearance of the caravan or vehicle

- Note: Some allotments may not be suitable to accommodate a caravan or vehicle due to the size and shape.

Development Controls

In situations where;

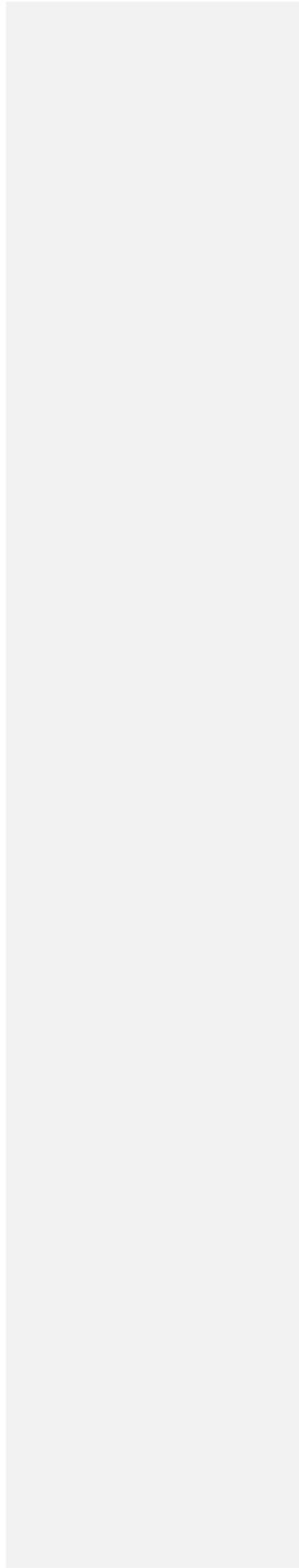
- Occupancy of a caravan or vehicle for a period of greater than 12 months, or
- Where the subject land does not presently contain a lawfully habitable dwelling,
- Formal Development Approval is required from the Council

Other Provisions

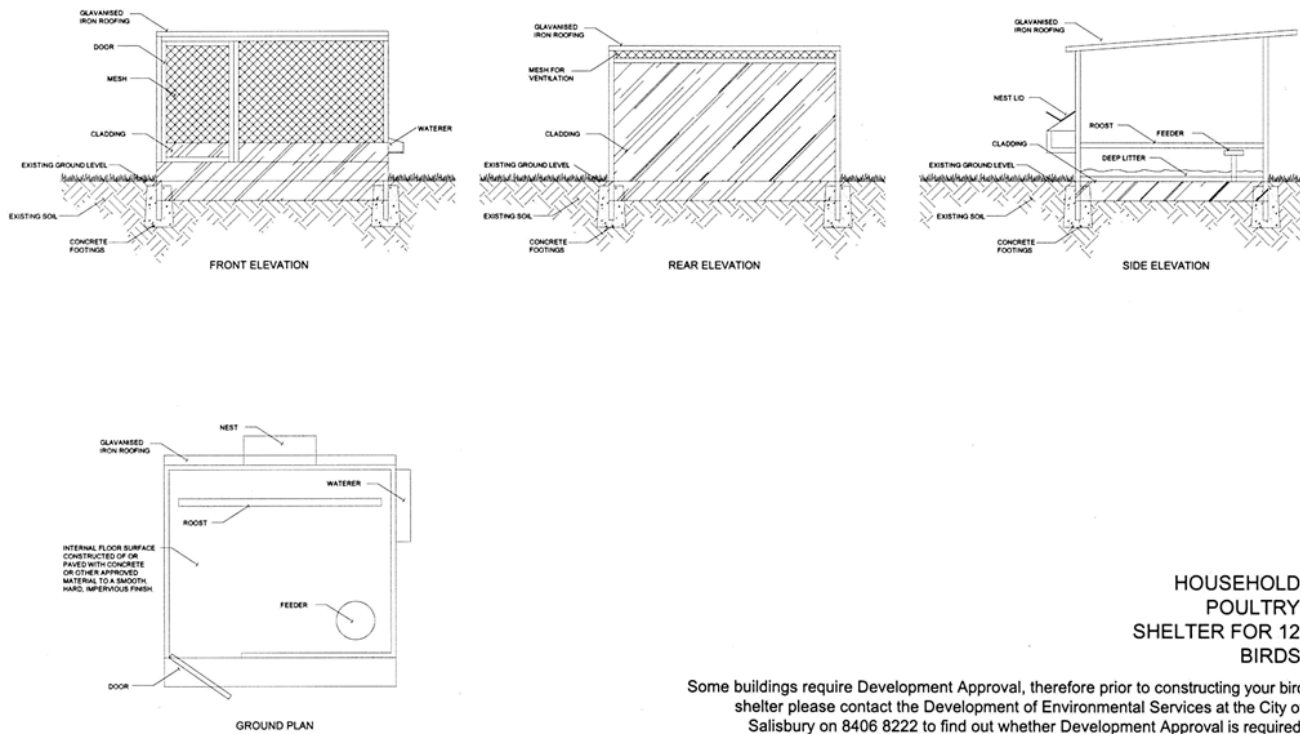
The above examples are not to be considered to be absolute. Council may take other things into consideration when investigating an “Inappropriate use of a vehicle”. Each assessment will take into consideration relevant local factors and circumstances.

Further Information

If you require further information regarding the above matters please contact Council’s City Development Department on 84068221.



Sample Poultry Shed



HOUSEHOLD
POULTRY
SHELTER FOR 12
BIRDS

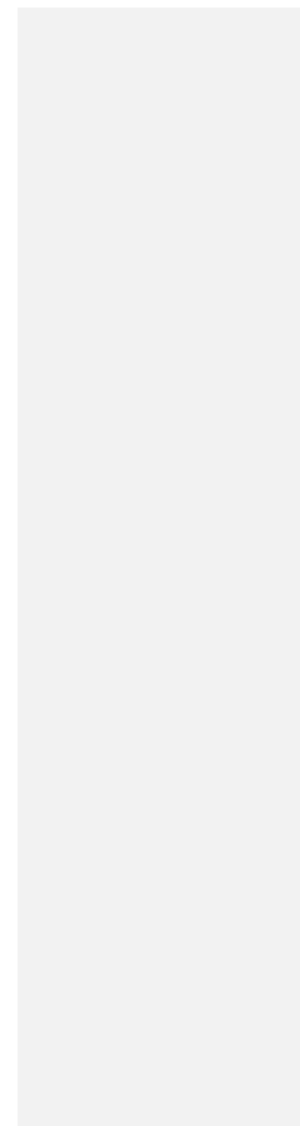
Some buildings require Development Approval, therefore prior to constructing your bird shelter please contact the Development of Environmental Services at the City of Salisbury on 8406 8222 to find out whether Development Approval is required.

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Attachment ~~BD~~ - Responsibility for Order Making Provisions

Section 254 ~~and 299~~ Local Government Act 1999

Order Provision	Details	Primary Responsibility	Other Information
3.1 Unsightly condition of land	Unsightly condition of Land may include excessive vegetation and or undergrowth, which exceeds 600mm in height and is considered to detract from the amenity of the locality.	Development Services	Environmental Health to investigate vermin issues and/or vegetation in rear yard
-	Unsightly condition of a structure may include any building or structure erected on the land including fencing and or signs.	Development Services	-
-	Unsightly condition of an Object may include any object placed on the land which includes: - vehicle, vehicle parts, tyres and or accessories, - items of general household goods, materials and or furniture	Development Services	-
3.12 Hazard on Land Adjoining Public Place	A dangerous fence adjoining any road, community land or public place	General Inspector /Compliance Officer	Development-Services to be consulted if potential structural concerns
	Where there are overhanging branches, overgrown vegetation or structures on land adjoining a public place which obstruct streets;	General Inspector /Compliance Officer	Development-Services to be consulted if potential structural concerns or City Infrastructure
	Where there is drainage of water across the road;	General Inspector /Compliance Officer	Development-Services for storm water related issues, or Environmental Health
	Where a flag, banner, flagpole or sign intrudes into a public place;	General Inspector Development Services	Development Services to be consulted if potential structural concerns <u>or Development approval required</u> General inspectorate



Order Provision	Details	Primary Responsibility	Other Information consultation for encroachment on Local government land
3.3 Animals -	Slaughtering of animals in an urban situation;	Environmental Health Section	-
	Keeping an excessive number of insects, birds or other animals;	Inspectorial Services	Environmental Health for any insanitary conditions
	Keeping animals which generate excessive noise, dust or odour or attract pests or vermin;	Inspectorial Services	Environmental Health for odour and vermin related issues
	Keeping an aggressive animal or keeping an animal in a situation where it cannot be adequately contained or may cause danger to the public;	Inspectorial Services	-
	Failing to deal with a wasps nest;	City Infrastructure	
	Failure to bury or otherwise lawfully dispose of in a sanitary manner any dead animal or bird;	Environmental Health Section	-
	Failing to keep poultry in an appropriate structure constructed of appropriate materials so as to render the structure rat proof, weather proof and which allows adequate ventilation and is free from vermin and offensive odours so as to cause a nuisance or be injurious to health;	Inspectorial Services	-
	The keeping of bees in close proximity to other property;	Inspectorial Services	-
3.24 Inappropriate use of Vehicle	Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant; Use of the vehicle as habitation causes a threat of	Environmental Health and Safety Section	Development Services to be Consulted, for location issues and amenity

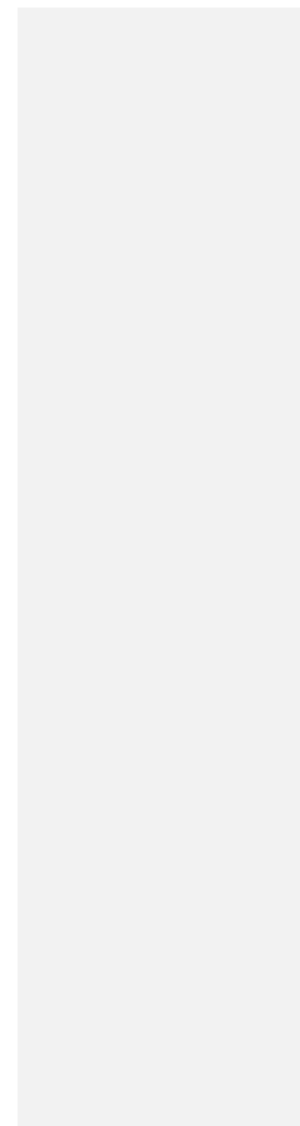
Order Provision	Details	Primary Responsibility	Other Information
	damage to the environment; Use of the vehicle as habitation detracts significantly from the amenity of the locality.		
<u>3.5 Encroaching Vegetation. (Section 299)</u>	<u>To remove or cut back vegetation encroaching on to the relevant land</u>	<u>City Infrastructure</u>	

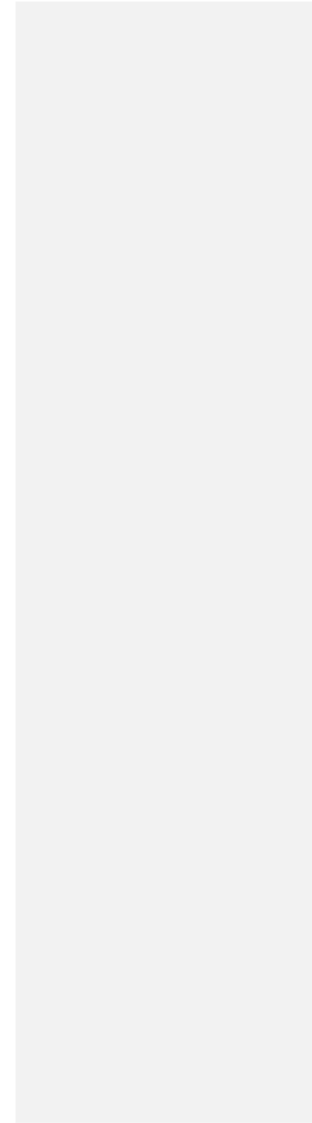
Section 216 Local Government Act 1999

<u>Order Provision</u>	<u>Details</u>	<u>Primary Responsibility</u>	<u>Other Information</u>
<u>Power to order owner of private road to carry out specified roadwork</u>	<u>A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.</u>	<u>City Infrastructure</u>	<u>Development Engineering as required</u> <u>Inspectorate support as required relating to enforcement and orders</u>

Section 218 Local Government Act 1999

<u>Order Provision</u>	<u>Details</u>	<u>Primary Responsibility</u>	<u>Other Information</u>
<u>Power to require owner of adjoining land to carry out specified work</u>	<u>A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.</u>	<u>City Infrastructure</u>	<u>Development Engineering as required</u> <u>Inspectorate support as required relating to enforcement and orders</u>





ITEM	3.6.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 September 2017
PREV REFS	Resources and Governance 3.6.2 Committee 17/07/2017
HEADING	Review of Code of Practice - Access to Meetings and Associated Documents - Results of Public Consultation
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents the results of community consultation for the Draft Code of Practice – Access to Meetings and Associated Documents in accordance with Section 92(5) of the <i>Local Government Act 1999</i> (the Act) and seeks Council endorsement of the Draft Code.

RECOMMENDATION

1. The information be received.
2. The Code of Practice – Access to Meetings and Associated Documents as set out in Attachment 1 to this report (Resources and Governance 3.6.2, 18/09/2017) be endorsed

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Code of Practice for Access to Meetings and Associated Documents

1. BACKGROUND

- 1.1 At its meeting on 24 July 2017, Council considered the review of the Code of Practice – Access to Meetings and Associated Documents and resolved:
 1. *The information be received.*
 2. *The Draft Code of Practice – Access to Meetings and Associated Documents (as set out in Attachment 2, Resources and Governance Committee, Item No. 3.6.2, 17/07/2017) be approved for public consultation in accordance with Section 95(2) of the Local Government Act 1999.*

Resolution 1916/2017

- 1.2 In accordance with the Act, public consultation was carried out for a period of 21 days from 2 August to 23 August 2017.
- 1.3 No feedback was received on the draft Code during the consultation period.
- 1.4 The draft Code of Practice for – Access to Meetings and Associated Documents, previously presented to Council in July 2017 is now presented as a final version to Council for endorsement.

2. REPORT

- 2.1 At its July 2017 meeting, Council approved the Draft Code for public consultation in accordance with the provisions of the Act. This Code provides information to the community on the City of Salisbury's commitment to providing access to meetings and associated documents of Council, as prescribed by the *Local Government Act 1999* (the Act).
- 2.2 There are times when, in the broader community interest, it is necessary to restrict public access to discussions or documents and this Code summarises the legal position in relation to such access.
- 2.3 As detailed in the July 2017 report, the review resulted in the following modifications:
 - 2.3.1 additional grounds that should not be considered as a reason to go into confidence and which build on existing grounds (incorporated into clause F4);
 - 2.3.2 more information to be recorded in the minutes when a confidentiality order is made (incorporated into clause F5.d);
 - 2.3.3 Council to adopt a policy in relation to the holding of informal gatherings (these provisions are incorporated into clause F6);
 - 2.3.4 Minor typographical and administrative amendments made to the Code in addition to amendments to bring the Code into line with the Local Government Association's Model Code of Practice for Access to Council and Committee Meetings and Documents and Confidentiality Guidelines.
- 2.4 Pursuant to Section 95(2) of the Act, the Code must be made available for public consultation prior to its adoption by Council. Section 50(4) of the Act determines that public consultation must occur for a minimum of 21 days.
- 2.5 Public consultation was undertaken for a 21 day period, from 2 August to 23 August 2017. This consultation took the form of a public notice posted in the Northern Messenger as well as in the Civic Centre inviting interested persons to make submissions within the period stated in the notice in accordance with Council's Public Consultation Policy. In addition, copies of the Code were made available for inspection or purchase at the James Street Civic Centre.
- 2.6 No feedback was received on the draft Code during the consultation period.
- 2.7 The draft Code, previously presented to Council in July 2017, is now presented to Council for endorsement.

3. CONCLUSION / PROPOSAL

- 3.1 The Code of Practice – Access to Meetings and Associated Documents has been updated to reflect legislative and other necessary changes to support application of effective procedures with respect to providing access to meetings and documents of Council.
- 3.2 In accordance with Section 95(2) of the Act, the Code was made available for public consultation prior to its adoption by Council.
- 3.3 Council is now asked to endorse the updated Code of Practice – Access to Meetings and Associated Documents.

CO-ORDINATION

Officer: Executive
Group

Date:



Code of Practice for Access to Meetings and Associated Documents

Policy Type:	Policy	Decision No:	
Approved By:	Council	635, 2011/521	
Approval Date:	22 October 2007	Most Recent Approval:	25 July 2011 July 2017
Review Date:	25 July 2013 July 2019	Internal Reference No.:	
Department:	CEO and Governance	Division:	CEO and Governance
Function:	9 - Governance	Responsible Officer:	Manager Governance

A - PREAMBLE

1. In fulfilling the role of an effective Council that is responsive to the needs of the community and which operates within the legal framework as prescribed by the *Local Government Act 1999*, the City of Salisbury is fully committed to open and transparent government. It recognises, however, on some occasions it may be necessary, in the broader community interest, to restrict public access to discussions or documents. This only happens after due consideration is given to the matter by the Chief Executive Officer.
2. This Code sets out the commitment of the City of Salisbury to provide public access to meetings of Council and associated documents, and outlines the policies and procedures the City of Salisbury will use the provisions in accordance with relevant provisions of the *Local Government Act 1999* to restrict public access. The Code includes:
 - 2.1 Information on the relevant provisions of the *Local Government Act 1999*;
 - 2.2 Council's principles on public access and participation;
 - 2.3 The process that will be adopted when public access is restricted; and
 - 2.4 Grievance procedures if a member of the public believes that the Council has unreasonably restricted public access on a particular matter.

B - SCOPE

1. This Code of Practice applies to all meetings of Council and associated documents.

C - CODE PURPOSE/OBJECTIVES

1. This Code of Practice clearly states the City of Salisbury's commitment to transparent decision making and provides the community with certainty in relation to access to meetings and associated documents.

D - DEFINITIONS

1. **'Associated documents'** refers to agendas, reports, attachments and minutes of meetings of Council.
2. **'Clear Days'** means the days between the:

- Posting of a notice of a meeting and the day the meeting is held excluding both the day on which the notice is given and the day of the meeting, e.g. when notices are given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday; or
- Holding of a meeting and the day the minutes are released excluding the day of the meeting and the day the minutes are released.

4.3. 'Meetings of Council' refers to sub-committee, committee and council meetings held in accordance with Chapter 6 (Meetings) of the *Local Government Act 1999*.

E – LOCAL GOVERNMENT ACT PROVISIONS

1. Chapter 6 of the *Local Government Act 1999* sets out the arrangements for Meetings of Council. These meetings are to be held in public except where special circumstances exist as prescribed in the Act and a Council or Committee orders that the public be excluded.
2. There are very strict circumstances in which a discussion or document considered in a meeting of Council can be kept confidential. These provisions are covered in the following sections of the Act:
 - 83(5) Council and 87(10) Committee – the Chief Executive may, after consultation with the principal member of Council, or in the case of a Committee the presiding member, indicate on a document or report provided to the members of the Council or the Committee that the matter may, if the Council or Committee so determines, be considered in confidence. The Chief Executive is required to specify at the same time the basis on which such an order can be made.
 - 90(2) and (3) - circumstances where Council may order that the public can be excluded from attendance at a meeting, or part of it, to enable a matter to be considered in confidence. Appendix 1 provides a list of matters which fall into this category.
 - 91(7) – circumstances where a document considered in confidence can be ordered to remain confidential.
 - 91(8) – circumstances where a Council must **not** order that a document remain confidential.
 - 91(9) – the Council or Committee must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order will be reviewed. The power to revoke an order can also be delegated to an employee of Council.
 - 92 – requires the Council to prepare and adopt a Code of Practice relating to access to meetings and documents. Prior to adoption, alteration or substitution the proposed Code (or changes) must be available for inspection and purchase. Council is also required to follow the relevant steps set out in its public consultation policy.
 - 94 – provides that the Ombudsman may, on receipt of a complaint, investigate the use of these provisions.

F - POLICY STATEMENT

1. The City of Salisbury will:
 - 1.1 Act in the best interest of the community, with honesty, integrity and transparency;
 - 1.2 Represent the interests of the Salisbury community through responsible, open and accessible government;
 - 1.3 Ensure confidentiality provisions will only be utilised when considered absolutely necessary;

- 1.4 Ensure that in all cases, the information be made publicly available at the earliest possible opportunity.
2. The City of Salisbury will conduct all formal meetings of Council in public and will provide public access to all documents considered at those meetings, except where the meeting of Council is clearly satisfied that the need for confidentiality outweighs the principle of open decision making.

At the City of Salisbury the following procedures and practices will apply when considering whether to restrict public access to a Council or Council Committee meeting or a report presented to these meetings:

- 2.1 Where the Chief Executive Officer believes that a matter should be considered in confidence, the nature of the matter and the reasons why it should be considered in confidence will be clearly stated on the agenda for the meeting which is made available to the public.
- 2.2 Information of a confidential nature will be placed in attachments to reports, where possible, so that the report itself can be made available to the public.
- 2.3 Recommendations and resolutions will be framed, where possible, so that public access to the minutes of these meetings does not need to be restricted.
- 2.4 Public access will be restricted for the minimum period of time necessary to allow the matter to be resolved.
- 2.5 Council reports on assessment of tenders for the provision of goods and services to Council will become public as soon as the contract documentation is executed and finalised.
- 2.6 Council and Committee items declared confidential will be recorded in a *Register of Confidential Items* listing the following information:
- title of the item
 - date of the Council or Committee meeting;
 - reason for holding the matter confidential and the legislative provision to which it applies;
 - dated of release from confidentiality
- and the *Register* will be made available for public inspection.
- 2.7 Council will consider objections by a member of the public that a matter is subject to restricted access and will advise that person of their right to seek a review by the Ombudsman if they disagree with a decision to restrict access.

3. Agenda for Council and Committee Meetings

One of the main opportunities for the community to obtain information about the business of Council is from the agendas for Council and Committee meetings and associated reports and attachments. Therefore public access to Council agenda papers is encouraged. In the City of Salisbury the following procedures apply to encourage public access:

- At least three clear days before an ordinary meeting of Council or Council Committee meeting, a copy of the Agenda for the meeting will be placed on public display in the foyer of the Municipal Council Offices (the Agenda is defined as being a list of items of business to be considered).
- A copy of associated reports, attachments and recommendations prepared by Council Officers to be considered by the Members will be available for public inspection at the same time and place as the Agenda. Members of the public may request a copy of a particular report or reports for a small fee to cover the costs of duplication.
- ~~Business papers~~Copies of agendas, reports, attachments and minutes of all meetings of Council will be published on Council's Internet site – www.salisbury.sa.gov.au.

- If, in the opinion of the Chief Executive Officer, a matter is likely to be required to be dealt with in confidence, that matter will be noted on the Agenda together with the reason that it may need to be discussed in confidence. The reason must fall ~~under~~ within the provisions of Section 90(3) of the Local Government Act 1999 (as outlined in Attachment 1 to this Policy).
- Where a report has been considered in confidence and restricted from public access, the report will be reviewed internally twice a year being January and July to determine its confidential status for possible release to the public.

3.4. Public Access to Meetings

~~At~~ In the City of Salisbury, public access to meetings of Council and Council Committees is guaranteed always available, except where indicated on the Agenda that a matter may need to be discussed in confidence as outlined above. Examples where the public may be excluded include:

- The Council is intending to bid at auction to acquire land and would not want others involved such as the vendor to have prior knowledge of what the Council was setting as an upper limit to bid at the auction, as to do so would prejudice the position of the Council and disadvantage the community [s.90(3)(b)].
- Matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person. [s.90(3)(c)]

The public will only be excluded when considered absolutely necessary and the need for confidentiality outweighs the principle of open decision making.

Section 90(4) of the Act stipulates that Council and Council Committees cannot make an order, that the public be excluded from a meeting only on the basis that discussion of a matter in public may:

- Cause embarrassment to Council, the Committee, Elected Members, independent members of a Committee or employees of the City of Salisbury; or
- Cause a loss of confidence in Council; or
- Involve discussion of a matter that is controversial within the Council area; or
- Make the Council susceptible to adverse criticism.

4.5. Process to Exclude the Public

The meeting will adopt the following procedure and practices before deciding to exclude the public:

- Before a meeting excludes the public from discussion of a particular matter presented in confidence in the Agenda, the meeting will formally determine if this is necessary and that it falls within the relevant provisions of Section 90 (3) of the Act as a matter justifying treatment in confidence. The meeting will then pass an appropriate resolution to exclude the public.
- The debate on whether or not the public should be excluded will be held in public.
- The public will only be excluded after a motion to that effect is carried.
- If a resolution to exclude the public is made, the grounds for this will be communicated to the public present at the meeting and will be recorded in the Minutes together with the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made and if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
- If this occurs then the public must leave the room in which the meeting is being held.
- f. For the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, the matter is to be placed last on the agenda and deferred until all other business has been dealt with. This avoids the need to ask the public to leave the room and wait until the matter is concluded and then allow them to return to the meeting room with the possibility of the same process being repeated for a subsequent matter.

- g. Once debate on the matter is concluded, the meeting will then consider if it is necessary to make an order that some or all documents associated with the matter remains confidential. In determining this, the meeting will have regard to the provisions of the Act and this Code. If an order is made the meeting will also determine for what period, or for what circumstances (e.g settlement of land division) the document or portion of the document will remain restricted from public access.
- h. Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting. If there is a further matter to be considered in confidence it will be necessary to again undertake the formal determination process and to resolve to exclude the public as outlined above.

6. Informal Gatherings

Designated informal Gatherings or discussions mean an event organised and conducted by or on behalf of the council or chief executive officer to which members of the council or council committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the council or council committee.

Section 90(8) of the Local Government Act 1999 allows designated informal gatherings or discussions to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a Council meeting.

A decision to close an informal gathering or discussion will consider the nature of information to be discussed including:

- a. whether the content to be discussed falls within the confidentiality provisions of s.90(3) of the Local Government Act 1999;
- b. whether the information to be presented constitutes a Training and Development Activity;
- c. a request from an external party involved in the presentation of information that the Informal Gathering not be open to the public.

Where the Chief Executive Officer determines the need for private consideration of information to be discussed at the informal gathering or discussion outweighs the need to provide access to members of the public the informal gathering or discussion will be closed. The reason for this decision will be briefly stated on the City of Salisbury website.

7. Person Requesting a Matter to be kept Confidential

Where a person provides information to the Council and requests that it be kept confidential the Council is not able to even consider this request unless the matter is one that falls within the provisions of Section 90(2) of the Act. If this is the case, Council will then be in a position to consider the request on its relative merits in accordance with the Act and this Code.

5.8. Public Access to Documents

The City of Salisbury will only order that a document associated with a discussion from which the public are excluded will remain confidential, if it is considered absolutely necessary in the broader community interest. Council can only make orders in relation to documents that were considered in confidence under section 90(3) of the *Local Government Act 1999*.

Any inquiries in relation to the process for seeking access to documents held by the Council should be directed to the Freedom of Information Officer on 8406 8222 or email: city@salisbury.sa.gov.au.

6.9. Reviewing and Revoking Confidential Orders

Where keeping a document confidential is considered absolutely necessary, a resolution to this effect is required, which shall include the grounds for confidentiality and the duration of the order or circumstances in which the order will cease to apply or when the order must be reviewed.

It is the general practice of this Council to review all confidential orders twice a year (refer paragraph 2.). Depending on the nature of the material, the confidentiality order may be lifted at the time of review, thereby providing access by the public, or another review period may be set.

Council may delegate to an officer or employee the authority to revoke a confidential order, and if relevant, may add conditions as to when the delegation can be used.

Example

Council resolved to bid \$100,000 at auction for a parcel of land. An order that this discussion be confidential could be made in accordance with section 90(3)(b). Council resolved that the document containing information on the value of land remain confidential in accordance with section 91(7). Council could delegate that the CEO have the authority to make this information public following the completion of the acquisition of the land in accordance with section 91(9)(c).

9. Person Requesting a Matter to be Kept Confidential

Where a person provides information to the Council and requests that it be kept confidential, the Council is not able to even consider the request unless the matter is one that falls within section 90(3). If this is the case, Council will then be in a position to consider the request on its relative merits.

10. Accountability and Reporting to the Community

Council ~~has undertaken to will~~ report on an annual basis in the Annual Report on ~~the-its~~ use of all confidentiality provisions. The report will include the following information:

- Number of occasions each of the provisions of section 90(3) and section 91(7) were utilised.
- Number of occasions each of the provisions of section 90(3) and section 91(7) were utilised, expressed as a percentage of total agenda items considered.
- An indication of any particular issues that contributed to the use of confidentiality provisions on more than one occasion e.g. a proposal to acquire parcel of land x was considered on 4 separate occasions.
- An indication of the categories of section 90(3) that were used most frequently.
- Number of occasions that information originally declared confidential has subsequently been made publicly available.

The Annual Report is available on Council's website – www.salisbury.sa.gov.au. Copies can be provided on request.

11. Grievances

In the first instance, any questions or complaints about the use of confidentiality provisions should be raised with the Manager Governance ~~and Customer Service~~. The question or complaint should be made in writing (wherever possible) to ensure all grievances are considered and acted upon in a proper manner. Questions or complaints should be marked to the attention of the Manager Governance ~~and Customer Service~~, City of Salisbury, PO Box 8, Salisbury SA 5108 or via email city@salisbury.sa.gov.au.

Initially information on the application of confidential provisions and full explanation of the details and circumstances relating to the complaint will be provided. It is anticipated that most, if not all, questions or complaints will be resolved through this process.

Should this not resolve the matter, a formal application for internal review of this decision can be made. This will be dealt with in accordance with Council's Internal Review of Council Decisions Process.

If ~~you-a person~~ remains aggrieved about an action of Council, ~~you-they~~ have the option of seeking to have the Ombudsman review the matter ~~as an independent umpire~~. It is hoped that all grievances can be resolved with Council, but if not, Council ~~Staff's Contact Officer~~ can provide details of how to contact the Ombudsman if required.

12. Review

The City of Salisbury is required, by the *Local Government Act 1999*, to review this code within 12 months of a periodic election. Council has the ability to review this code at any time if considered necessary.

In accordance with the City of Salisbury's Public Consultation Policy, when being reviewed, a notice will be published in a paper circulating the area and inviting interested persons to make submissions to Council on the code within a period being at least twenty one (21) days from the date of the notice.

13. Further Information

The Contact Officer for further information at the City of Salisbury is the Manager Governance ~~and Customer Service~~, or in their absence the Governance Coordinator, telephone 8406 8222 or email: city@salisbury.sa.gov.au.

G - LEGISLATION

1. Section 92 of the Local Government Act 1999
2. Chapter 6 of the Local Government Act 1999

H - REFERENCES

1. Internal Review of Council Decisions - *Section 270 Local Government Act 1999*
2. [City of Salisbury Code of Practice for Meeting Procedures](#)
3. [City of Salisbury Informal Gatherings Policy](#)
4. [Local Government Association - Model Code of Practice for Access to Council and Committee Meetings and Documents](#)
5. [Local Government Association - Confidentiality Guidelines: How to Apply Section 90 of the Local Government Act 1999](#)

Document Control

Document ID	Code of Practice for Access to Meetings and Associated Documents
Prepared by	Michelle Woods Joy Rowett
Release	2 4.0
Document Status	Approved Draft
Issue Date	

APPENDIX 1**MATTERS FOR WHICH COUNCIL, OR A COMMITTEE, CAN ORDER THAT THE PUBLIC BE EXCLUDED**

Council, or a committee may order that the public be excluded in the following circumstances:

- a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- b. information the disclosure of which-
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and
 - (ii) would, on balance, be contrary to the public interest;
- c. information the disclosure of which would reveal a trade secret;
- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which-
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest.
- e. matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
- f. information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- g. matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- h. legal advice;
- i. information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
- j. information the disclosure of which-
 - (i) would divulge information provided on a confidential basis by or to a Minister of the crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) would, on balance, be contrary to the public interest;
- k. tenders for supply of goods, the provision of services or the carrying out of works;
- m. information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;
- n. information relevant to the review of a determination of a council under the Freedom of Information Act 1991.

The Act provides for a definition of “personal affairs” being a person’s financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person’s employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person.

(Local Government Act 1999 – Section 90)

ITEM	3.6.3
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 September 2017
HEADING	Local Government Association Annual General Meeting 16/11/2017 - Call for Notices of Motion
AUTHOR	Michelle Woods, Projects Officer Governance, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents information with respect to the Annual General Meeting (AGM) of the Local Government Association (LGA) to be held on Thursday 16 November 2017, information on voting delegates and seeks information concerning any Notices of Motion that Council wishes to submit.

RECOMMENDATION

1. The information be received.

ATTACHMENTS

There are no attachments to this report.

1. BACKGROUND

- 1.1 The LGA Annual General Meeting will be held on Thursday 16 November 2017 at Adelaide Oval. A draft program for this event will be available shortly, which all Elected Members will have an opportunity to review to determine if they wish to attend.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Chief Executive Officer and General Managers.
- 2.2 External
 - 2.2.1 Nil.

3. REPORT

Notices of Motion

- 3.1 The 2017 LGA AGM will be held on the morning of Thursday 16 November 2017. Pursuant to Clause 25 of the LGA Constitution, all Council Notices of Motion for the LGA AGM must be received by the LGA no later than 42 days prior to the meeting, ie **by COB on Thursday 5 October 2017**.
- 3.2 At the time of writing this report the Chief Executive Officer was not aware of any issues that warrant a Notice of Motion being submitted by the City of Salisbury.
- 3.3 Should Council determine a Notice of Motion is to be submitted to the 2017 LGA AGM, a recommendation to that effect will need to be added.

Voting Delegates

- 3.4 In February 2015, Council resolved Mayor Aldridge be appointed as Voting Delegate to the LGA for the remainder of this term of Council. At the same time, the Deputy Mayor (currently Cr Donna Proleta) was appointed as Proxy Voting Delegate for the remainder of this term of Council.
- 3.5 Council also resolved that it direct the City of Salisbury's voting delegate in relation to voting on Local Government Association (LGA) General Meeting (including Annual General Meeting) recommendations. To give effect to this resolution a report will be prepared prior to each LGA Annual and Ordinary General Meeting that provides a summary of the matters being considered and puts forward a recommended position for each matter, based on advice from the Chief Executive Officer.
- 3.6 In October last year, Council further resolved:

FURTHER RECOMMENDATION/MOTION

1. *Council has a special meeting to give advice to the Council voting delegate for the Local Government Association General Meeting when there is not enough time to provide guidance at an ordinary Council meeting based on release of the general meeting agenda.*

***CARRIED
1391/2016***

- 3.7 Under the LGA Constitution the AGM Agenda is due to be distributed 30 days before the meeting (ie 17/10/2017 at the latest).
- 3.8 If for example the Agenda is distributed by the LGA on the last possible day (17/10/2017), papers for the October Council Meeting will need to be finalised by COB Wednesday 18/10/2017, therefore not providing enough time for staff input into the material and for the Chief Executive Officer to provide advice to Members.
- 3.9 If this was the case, a Special Council Meeting would be held (possibly ??) to enable Council to provide direction to the voting delegate prior to the 16/11/2017 LGA AGM and to effect Resolution 1391/2016 above.

ITEM	3.6.4
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 September 2017
HEADING	Variations to Delegations
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	<p>The Local Government Association (LGA) periodically distributes information relating to delegations that require changes to be actioned by Council. These changes are usually as a result of legislative amendment or to correct errors that have been identified.</p> <p>Norman Waterhouse is engaged by the LGA to provide advice and assistance in relation to the delegations templates and has updated these to reflect changes to legislation as contained within LGA Circular 36.8 dated 5 September 2017.</p> <p>This report sets out changes required to City of Salisbury delegations in response to legislative changes and as reflected in the updated delegations templates provided by the LGA.</p>

RECOMMENDATION

1. Having conducted a review of Delegations in accordance with Section 44(6) of the *Local Government Act 1999*, the Council hereby revokes its previous delegations to the Chief Executive Officer, effective from 3 October 2017 of those powers and functions under the following:
 - 1.1 *Heavy Vehicles National Law (SA) Act 2014*
 - Section 174(2)
 - 1.2 *Local Government Act 1999*
 - Section 187(1)
 - 1.3 *Work, Health and Safety Act 2012*
 - Sections 65(1) and 229(1)
2. In exercise of the power contained in Section 44 of the *Local Government Act 1999* the powers and functions under the following Acts contained in the proposed Instruments of Delegation forming attachments to this report (Attachments 2-6, Item No. 3.6.4, Resources and Governance Committee, 18/09/2017), are hereby delegated from 4 October 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions and / or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the following Acts:
 - 2.1 *Heavy Vehicles National Law (SA) Act 2014*
 - Section 174(2)
 - 2.2 *Local Government Act 1999*
 - Section 187(1), Clauses 2(1), 2(3), 2(4), 4, 5(1), 5(2), 6(1), 6(2), 7(2), 7(3), 9(1), 9(2), 9(3), 10(2), 10(3), 13(1), 13(3) of Schedule 1B

- 2.3 *Planning, Development and Infrastructure Act 2016*
 - Sections 73(2)(b)(iv), 73(6), 73(8), 73(9), 74(8), 82(d), 83(i), 83(1)(h), 83(1)(i), 83(2), 84(1)(c)(ii)(B) and 86(2)(a)
- 2.4 *Road Traffic Act 1961*
 - Section 33(2)
- 2.5 *Work, Health and Safety Act 2012*
 - Sections 65(1) and 229(1)
- 3. Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated in the conditions and/or limitations specified in the Delegations Register.

ATTACHMENTS

This document should be read in conjunction with the following attachments:

1. Table of Updates for Delegations Templates
2. Instrument of Delegation under the Heavy Vehicles National Law (SA) Act 2014
3. Instrument of Delegation under the Local Government Act 1999
4. Instrument of Delegation under the Planning Development and Infrastructure Act 2016
5. Instrument of Delegation under the Road Traffic Act 1961
6. Instrument of Delegation under the Work Health and Safety Act 2012

1. BACKGROUND

- 1.1 The LGA regularly advises Council of amendments to delegations due to changes in legislation as well as corrections to templates provided for recording the delegations.
- 1.2 This report deals with variations to the delegations as a result of the following LGA Circulars:
 - 1.2.1 LGA Circular 36.8 dated 5 September 2017 which sets out new and amended provisions under various pieces of legislation.

2. REPORT

- 2.1 Section 44 of the *Local Government Act 1999* (the Act) provides Council may delegate a power or function vested or conferred upon it by this or another Act. Such powers and functions may be further delegated by the person occupying the office of Chief Executive Officer in accordance with Sections 44 and 101 of the Act as the Chief Executive Officer sees fit. A delegation made pursuant to Section 44 of the Act is revocable at will and does not prevent the Council from acting in a matter.

2.2 This report deals with variations to the Delegations as a consequence of:

2.2.1 **Review of Delegations Templates by Norman Waterhouse in LGA Circular 36.8 dated 5 September 2017.**

Due to legislative amendments, Norman Waterhouse conducted a review of relevant legislation which necessitated amendments to the Instrument of Delegation (Attached) for the following legislation:

Heavy Vehicles National Law (SA) Act 2014

Section 174(2)

The amendments to existing provisions are as per the shaded areas in the Instrument of Delegation contained within Attachment 2.

Local Government Act 1999

Section 187(1), Clauses 4, 5(1), 5(2), 7(2), 7(3), 9(1), 9(2), 9(3), 10(2), 10(2), 10(3), of Schedule 1B

The amendment and additions to existing provisions as a result of the newly introduced Building Upgrade Agreements are as per the shaded areas in the Instrument of Delegation contained within Attachment 3.

Planning, Development and Infrastructure Act 2016

Sections 73(2)(b)(iv), 73(6), 73(8), 73(9), 74(8), 82(d), 83(i), 83(1)(h), 83(1)(i), 83(2), 84(1)(c)(ii)(B) and 86(2)(a)

The additions to existing provisions under the newly introduced *Planning, Development and Infrastructure Act 2016* are as per the shaded areas in the Instrument of Delegation contained within Attachment 4.

Road Traffic Act 1961

Section 33(2)

The addition to existing provisions, previously omitted from the LGA Template, are as per the shaded area in the Instrument of Delegation contained within Attachment 5.

Work, Health and Safety Act 2012

Sections 65(1) and 229(1)

The amendments to existing provisions, relating to the transfer of matters previously heard by the Industrial Relations Tribunal to the SA Employment Tribunal, are as per the shaded areas in the Instrument of Delegation contained within Attachment 6.

2.3 Process to be followed

2.3.1 Usually, in order for the statements contained in the Instruments of Delegation to come into effect, Council must first resolve to revoke the existing delegations relevant to those that have been added or amended. Council then resolves to adopt the amended and new delegations contained in the highlighted sections of the Instruments of Delegations attached to this report.

- 2.3.2 Any sub-delegations that have been made in relation to the existing delegations become void as soon as the head delegation is revoked. In order to ensure that Council Officers have necessary powers to continue their day to day activities, the resolution is worded so that the revocation of any existing delegations occurs on Tuesday 3 October 2017 and new delegations come into force from Wednesday 4 October 2017. The new delegations will take effect immediately prior to the Chief Executive Officer's approval of the sub-delegations.
- 2.3.3 The exercise of powers and functions delegated by Council shall be undertaken in accordance with existing Council Policies. Even though Council may delegate its powers, functions and duties, this does not prevent Council from acting in the same matters at any time should the need arise.

3. CONCLUSION / PROPOSAL

- 3.1 A review of Council Delegations has been conducted following the introduction of new and amended provisions under the *Heavy Vehicles National Law (SA) Act 2014, Local Government Act 1999, Planning, Development and Infrastructure Act 2016, Road Traffic Act 1961, Work, Health and Safety Act 2012* and is presented to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP MG

Date:

**LOCAL GOVERNMENT ASSOCIATION
UPDATES OF DELEGATION TEMPLATES ON WEBSITE**

(Note: Paragraph references below refer to updated version – As at 1 August 2017)

Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
Webpage entitled – 'Delegations – Introduction'						
Webpage entitled – 'General Information'						
Instrument of Delegation under the Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014						
Instrument of Delegation under the Community Titles Act						
Instrument of Delegation under the Development Act, Development (Development Plans) Amendment Act 2006 and Development Regulations 2008						
Instrument of Delegation under the Dog & Cat Management Act						
Instrument of Delegation under the Electronic Conveyancing National Law (South Australia) Act 2013						

FXD\TABLE OF UPDATES FOR DELEGATIONS TEMPLATES.DOC

Item 3.6.4 - Attachment 1 - Table of Updates for Delegations Templates

Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
Instrument of Delegation under the Environment Protection Act						
Instrument of Delegation under the Expiation of Offences Act						
Instrument of Delegation under the Fences Act						
Instrument of Delegation under the Fire & Emergency Services Act						
Instrument of Delegation under the Food Act						
Instrument of Delegation under the Freedom of Information Act						
Instrument of Delegation under the Heavy Vehicle National Law Act	11.2	174(2)	Amendment	Legislative amendment	1 August 2017	Adopt immediately if seeking to exercise delegated power otherwise use updated Instrument at next review.
Instrument of Delegation under the Land & Business (Sale & Conveyancing) Act						
Instrument of Delegation under the Liquor Licensing Act						
Instrument of Delegation under the Local Government Act 1999	79	Section 187(1)	Amendment	Legislative amendment	1 August 2017	Adopt immediately if seeking to exercise delegated power otherwise use updated Endorsed
	157.1	Clause 2(1) of Schedule 1B	Addition	Legislative amendment		

FXD\TABLE OF UPDATES FOR DELEGATIONS TEMPLATES.DOC

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
	157.2	Clause 2(3) of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		by Council – Item 1.2.1 August 2017
	157.3	Clause 2(4) of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		
	158.1	Clause 4 of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		
	159.1	Clause 5(1) of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		
	159.2	Clause 5(2) of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		

FXD\TABLE OF UPDATES FOR DELEGATIONS TEMPLATES.DOC

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
	160.1	Clause 6(1) of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		Previously Endorsed by Council – Item 1.2.1 August 2017
	160.2	Clause 6(2) of Schedule 1B	Addition (Note: may only be delegated to CEO and cannot be subdelegated)	Legislative amendment		Previously Endorsed by Council – Item 1.2.1 August 2017
	161.1	Clause 7(2) of Schedule 1B	Addition	Legislative amendment		
	161.2	Clause 7(3) of Schedule 1B	Addition	Legislative amendment		
	162.1	Clause 9(1) of Schedule 1B	Addition	Legislative amendment		
	162.2	Clause 9(2) of Schedule 1B	Addition	Legislative amendment		
	162.3	Clause 9(3) of Schedule 1B	Addition	Legislative amendment		
	163.1	Clause 10(2) of Schedule 1B	Addition	Legislative amendment		
	163.2	Clause 10(3) of Schedule 1B	Addition	Legislative amendment		

FXD\TABLE OF UPDATES FOR DELEGATIONS TEMPLATES.DOC

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
	164.1	Clause 13(1) of Schedule 1B	Addition	Legislative amendment		Previously Endorsed by Council – Item 1.2.1 August 2017 Endorsed by Council – Item 1.2.1 August 2017
	164.2	Clause 13(3) of Schedule 1B	Addition	Legislative amendment		
						≡
Instrument of Delegation under the Local Nuisance and Litter Control Act 2016 and Local Nuisance and Litter Control Regulations 2017						
Instrument of Delegation under the Natural Resources Management Act						
Instrument of Delegation under the Planning, Development and Infrastructure Act 2016	6A.1	73(2)(b)(iv)	Addition	Legislative provision coming into effect	1 August 2017	Adopt immediately if seeking to exercise delegated power otherwise use updated instrument at next review.
	6A.2	73(6)	Addition	Legislative provision coming into effect		
	6A.3	73(8)	Addition	Legislative provision coming into effect		
	6A.4	73(9)	Addition	Legislative provision coming into effect		
	6B.1	74(8)	Addition	Legislative provision coming into effect		

FXD\TABLE OF UPDATES FOR DELEGATIONS TEMPLATES.DOC

Item 3.6.4 - Attachment 1 - Table of Updates for Delegations Templates

Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
	6C.1	82(d)	Addition	Legislative provision coming into effect		
	6D.1	83(i)	Addition	Legislative provision coming into effect		
	6D.2	83(1)(h)	Addition	Legislative provision coming into effect		
	6D.3	83(1)(i)	Addition	Legislative provision coming into effect		
	6D.4	83(2)	Addition	Legislative provision coming into effect		
	6E.1	84(1)(c)(ii)(B)	Addition	Legislative provision coming into effect		
	6F.1	86(2)(a)	Addition	Legislative provision coming into effect		
Instrument of Delegation under the Public & Environmental Health Act 1987, the Public & Environmental Health (Waste Control) Regulations 2010 and the Public & Environmental Health (Legionella) Regulations 2008						
Instrument of Delegation under the Real Property Act						

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
Instrument of Delegation under the Roads (Opening & Closing) Act						
Instrument of Delegation under the Road Traffic Act 1961, Road Traffic (Miscellaneous_ Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014	2A	33(2)	Addition	Not previously included in template	1 August 2017	Adopt immediately if seeking to exercise delegated power otherwise use updated instrument at next review.
Subdelegations to Chief Executive Officer under the Road Traffic Act 1961						
Authorisations under Road Traffic Act 1961						
Instrument of Delegation under the Safe Drinking Water Act 2011						
Instrument of Delegation under the South Australian Public Health Act 2011						
Instrument of Delegation under the South Australian Public Health (Legionella) Regulations 2013						
Instrument of Delegation under the South Australian Public Health (Wastewater) Regulations 2013						
Instrument of Delegation under the Strata Titles Act 1988						

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Item 3.6.4 - Attachment 1 - Table of Updates for Delegations Templates

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
Instrument of Delegation under the Supported Residential Facilities Act						
Instrument of Delegation under the Water Industry Act 2012 and Water Industry Regulations 2012						
Instrument of Delegation under the Work Health Safety Act 2012	65	65(1)	Amendment	Legislative amendment	1 August 2017	Adopt immediately if seeking to exercise delegated power otherwise use updated instrument at next review.
	229	229(1)	Amendment	Legislative amendment		
Instrument of Delegation under the Unclaimed Goods Act 1987						
Webpage entitled – 'Guide for use – Template Resolutions'						
Draft Resolutions for the making of Delegations	3.4	-	Deletion	Legislative amendment	1 August 2017	Use updated Resolutions at next review.
Webpage entitled – 'Documents for Making Subdelegations'						
Template Instrument of Subdelegation						
Notification of Subdelegations for Council Officers						
Notification of delegations to Officers who are 'acting' in a position						

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
Webpage entitled – 'Legislative Requirements'						
Webpage entitled – 'Best Practice Recommendations'						

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ATTACHMENT 2**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA)
ACT 2013****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. Deciding Request for Consent Generally
1.1 The power pursuant to Section 156(1) of the <i>Heavy Vehicle National Law (South Australia) Act 2013 (the Act)</i> , to, subject to Sections 156(2), (3) (4) and (6) of the Act, if the Regulator asks for the Council's consent to the grant of a mass or dimension authority, decide to give or not to give the consent:
1.1.1 within:
1.1.1.1 28 days after the request is made, unless Section 156(1)(a)(ii) of the Act applies; or
1.1.1.2 if Section 156 of the Act applies because the Council gave the Regulator a notice of objection to the grant under Section 167 of the Act – 14 days after giving the notice of objection; or
1.1.2 within a longer period, of not more than 6 months after the request is made, agreed to by the Regulator.
1.2 The power pursuant to Section 156(2) of the Act, to ask for a longer period under Section 156(1)(b) of the Act only if:
1.2.1 consultation is required under a law with another entity (including, for example, for the purpose of obtaining that entity's approval to give the consent); or

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Last amended: 1 August 2017

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

1.2.2	the delegate considers a route assessment is necessary for deciding whether to give or not to give the consent; or
1.2.3	the Council is the road authority for the participating jurisdiction and the delegate considers that a local government authority that is not required under a law to be consulted should nevertheless be consulted before deciding whether to give or not to give the consent.
1.3	The power pursuant to Section 156(2)(c) of the Act to, in relation to the Regulator obtaining the consent of the road manager for a road for the purpose of granting a mass or dimension authority make submissions where the road manager is the road authority for the participating jurisdiction and considers that the Council, whilst not required under a law to be consulted should nevertheless be consulted before the road manager decides whether to give or not to give consent.
1.4	The power pursuant to Section 156(3) of the Act to decide not to give the consent only if the delegate is satisfied:
1.4.1	the mass or dimension authority will, or is likely to:
1.4.1.1	cause damage to road infrastructure; or
1.4.1.2	impose adverse effects on the community arising from noise, emissions or traffic congestion or from other matters stated in approved guidelines; or
1.4.1.3	pose significant risks to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions; and
1.4.2	it is not possible to grant the authority subject to road conditions or travel conditions that will avoid, or significantly minimise:
1.4.2.1	the damage or likely damage; or
1.4.2.2	the adverse effects or likely adverse effects; or
1.4.2.3	the significant risks or likely significant risks.
1.5	The power pursuant to Section 156(4) of the Act, in deciding whether or not to give the consent, to have regard to:

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Last amended: 1 August 2017

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

1.5.1	for a mass or dimension exemption – the approved guidelines for granting mass or dimension exemptions; or
1.5.2	for a class 2 heavy vehicle authorisation – the approved guidelines for granting class 2 heavy vehicle authorisations.
1.6	The power pursuant to Section 156(6) of the Act, if the delegate decides not to give consent to the grant of the authority, to give the Regulator a written statement that explains the delegate's decision and complies with Section 172 of the Act.
2.	Action Pending Consultation with Third Party
2.1	The power pursuant to Section 158(2) of the Act, if the consultation with the other entity is not yet completed, to, as far as practicable, deal with the request for consent and decide to give or not to give the consent (even though the consultation with the other entity is not completed).
2.2	The power pursuant to Section 158(4) of the Act, if:
2.2.1	the consultation with the other entity is completed and the other entity's approval is required; and
2.2.2	the delegate has not yet decided to give or not to give the consent,
To -	
2.2.3	decide not to give the consent, on the ground that the consent would be inoperative; or
2.2.4	decide to give the consent.
3.	Deciding Request for Consent if Route Assessment Required
3.1	The power pursuant to Section 159(1) and (2) of the Act to, form the opinion a route assessment is necessary for deciding whether to give or not to give the consent and notify the Regulator of the following:
3.1.1	that a route assessment is required for deciding whether to give or not to give the consent;
3.1.2	the fee payable (if any) for the route assessment under a law of

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

	the jurisdiction in which the road is situated.
3.2	The power pursuant to Section 159(4) of the Act, if a fee is payable for the route assessment under a law of the jurisdiction in which the road is situated to stop considering whether to give or not to give the consent until the fee is paid.
4.	Imposition of Road Conditions
4.1	The power pursuant to Section 160(1) of the Act and in accordance with Section 160(2) of the Act, to consent to the grant of the authority subject to:
4.1.1	except in the case of a class 2 heavy vehicle authorisation (notice) – the condition that a stated road condition is imposed on the authority; or
4.1.2	in the case of a class 2 heavy vehicle authorisation (notice) – the condition that a stated road condition of a type prescribed by the national regulations is imposed on the authority.
4.2	The power pursuant to Section 160(2) of the Act to, if the delegate consents to the grant of the authority subject to a condition as mentioned in Section 160(1)(a) of the Act to give the Regulator a written statement that explains the decision to give consent to the grant of the authority subject to the condition and complies with Section 172 of the Act.
5.	Imposition of Travel Conditions
5.1	The power pursuant to Section 161(1) of the Act, to, consent to the grant of the authority subject to the condition that a stated travel condition is imposed on the authority.
5.2	The power pursuant to Section 161(2) of the Act, if the delegate consents to the grant of the authority as mentioned in Section 161(1) of the Act to give the Regulator a written statement that explains the decision to give consent to the grant of the authority subject to the condition and complies with Section 172 of the Act.
6.	Imposition of Vehicle Conditions
6.1	The power pursuant to Section 162(1) of the Act, where the delegate gives consent to the grant of the authority to ask the Regulator to impose

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

	a stated vehicle condition on the authority.
7.	Expedited Procedure for Road Manager's Consent for Renewal of Mass or Dimension Authority
7.1	The power pursuant to Section 167(2)(b) of the Act, to give the Regulator a notice of objection to the application of Section 167 of the Act to the proposed replacement authority within the period of:
7.1.1	14 days after the request for consent is made; or
7.1.2	28 days after the request for consent is made if the delegate seeks the extension of time within the initial 14 days.
8.	Granting Limited Consent for Trial Purposes
8.1	The power pursuant to Section 169(1) of the Act to give consent to the grant of a mass or dimension authority for a trial period of no more than 3 months specified by the delegate.
9.	Renewal of Limited Consent for Trial Purposes
9.1	The power pursuant to Section 170(3) of the Act to give the Regulator a written objection within the current trial period to the renewal of a mass or dimension authority for a further trial period of no more than 3 months.
10.	Amendment or Cancellation on Regulator's Initiative
10.1	The power pursuant to Section 173(3)(d) of the Act to make written representations about why the proposed action should not be taken.
11.	Amendment or Cancellation on Request by Relevant Road Manager
11.1	The power pursuant to Section 174(1) of the Act to form the opinion and be satisfied that the use of heavy vehicles on a road under the authority:
11.1.1	has caused, or is likely to cause, damage to road infrastructure; or
11.1.2	has had, or is likely to have, an adverse effect on the community arising from noise, emissions or traffic congestion or from other matters stated in approved guidelines; or

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

11.1.3	has posed, or is likely to pose, a significant risk to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.
11.2	The power pursuant to Section 174(2) of the Act to ask the Regulator to:
11.2.1	amend the mass or dimension authority by:
11.2.1.1	amending the category of vehicle to which the authority applies; or
11.2.1.2	amending the type of load that may be carried by vehicles to which the authority applies; or
11.2.1.3	amending the areas or routes to which the authority applies; or
11.2.1.4	amending the days or hours to which the authority applies; or
11.2.1.5	imposing or amending road conditions or travel conditions; or
11.2.2	cancel the authority.
12.	Amendment or Cancellation on Application by Permit Holder
12.1	The power pursuant to Section 176(4)(c) of the Act to consent to the amendment of a mass or dimension authority.
13.	Amendment or Cancellation on Request by Relevant Road Manager
13.1	The power pursuant to Section 178(1) of the Act to form the opinion and be satisfied that the use of heavy vehicles on a road under the authority:
13.1.1	has caused, or is likely to cause, damage to road infrastructure; or
13.1.2	has had, or is likely to have, an adverse effect on the community arising from noise, emissions or traffic congestion or from other matters stated in approved guidelines; or

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

13.1.3	has posed, or is likely to pose, a significant risk to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.
13.2	The power pursuant to Section 178(2) of the Act to ask the Regulator to:
13.2.1	amend the mass or dimension authority, including, for example, by:
13.2.1.1	amending the areas or routes to which the authority applies; or
13.2.1.2	amending the days or hours to which the authority applies; or
13.2.1.3	imposing or amending road conditions or travel conditions on the authority; or
13.2.2	cancel the authority.

**INSTRUMENT OF DELEGATION UNDER THE
HEAVY VEHICLE NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

SCHEDULE OF CONDITIONS

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

Section(s) in Act to which conditions/ limitations apply	Conditions / Limitations

ATTACHMENT 3**INSTRUMENT OF DELEGATION UNDER THE
LOCAL GOVERNMENT ACT 1999****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. Composition and Wards
1.1 The power pursuant to Section 12(1) of the Local Government Act 1999 ('the Act') to, by notice in the Gazette, after complying with the requirements of Section 12 of the Act,
1.1.1 alter the composition of the Council;
1.1.2 divide, or redivide, the area of the Council into wards, alter the division of the area of the Council into wards, or abolish the division of the area of the Council into wards.
1.2 The power pursuant to Section 12(2) of the Act, also by notice under Section 12 of the Act, to
1.2.1 change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council;
1.2.2 alter the name of:
1.2.2.1 the Council;
1.2.2.2 the area of the Council;
1.2.3 give a name to, or alter the name of, a ward, (without the need to comply with Section 13 of the Act).
1.3 The duty pursuant to Section 12(3) of the Act to, before publishing a notice, conduct and complete a review under Section 12 of the Act for the purpose of determining whether the Council's community would benefit from an alteration to the Council's composition or ward

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INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

	structure.
1.4	The power pursuant to Section 12(4) of the Act to review a specific aspect of the composition of the Council, or of the wards of the Council, or of those matters generally and the duty to ensure that all aspects of the composition of the Council, and the issue of the division, or potential division, of the area of the Council into wards, are comprehensively reviewed at least once in each relevant period that is prescribed by the regulations.
1.5	Deliberately left blank.
1.6	Deliberately left blank.
1.7	The duty pursuant to Section 12(5) of the Act to initiate the preparation of a representation options paper by a person who, in the opinion of the Delegate, is qualified to address the representation and governance issues that may arise with respect to the matters under review.
1.8	The duty pursuant to Section 12(7) of the Act to give public notice of the preparation of a representation options paper and notice in a newspaper circulating within the Council's area, and to ensure that the notice contains an invitation to interested persons to make written submissions to the Council or the Delegate on the subject of the review within a period specified by the Council or the Delegate, being a period of at least six weeks.
1.9	The duty pursuant to Section 12(8) of the Act to make copies of the representation options paper available for public inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council during the period that applies under Section 7(a)(ii).
1.10	At the conclusion of public consultation under Section 12(7)(a), the duty pursuant to Section 12(8a) of the Act to prepare a report that:
1.10.1	provides information on the public consultation process undertaken by the Council and the Council's or the Delegate's response to the issues arising from the submissions made as part of that process; and
1.10.2	sets out:
1.10.2.1	any proposals that the Council or the Delegate considers should be carried into effect under Section 12 of the Act; and
1.10.2.2	in respect of any such proposal - an analysis of how the proposal relates to the principles under Section 26(1)(c) of the Act and the matters referred to in

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	Section 33 of the Act (to the extent that may be relevant); and
1.10.3	sets out the reasons for the Council's or the Delegate's decision insofar as a decision of the Council or the Delegate is not to adopt any change under consideration as part of the representation options paper or the public consultation process.
1.11	The duty pursuant to Section 12(9) of the Act to make copies of the report available for public inspection at the principal office of the Council and to give public notice, by way of a notice in a newspaper circulating in its area, informing the public of its preparation of the report and its availability and inviting interested persons to make written submissions on the report to the Council or the Delegate within a period specified by the Council or the Delegate, being not less than three weeks.
1.12	The duty pursuant to Section 12(10) of the Act to give any person who makes written submissions in response to an invitation under Section 12(9), an opportunity to appear personally or by representative before the Council or a Council committee or the Delegate and to be heard on those submissions.
1.13	The duty pursuant to Section 12(11) of the Act to finalise the report including recommendations with respect to such related or ancillary matters as it sees fit.
1.14	With respect to a proposal within the ambit of Section 12(11a), the power pursuant to Section 12(11b) of the Act:
1.14.1	insofar as may be relevant in the particular circumstances, to separate a proposal (and any related proposal), from any other proposal contained in the report; and
1.14.2	to determine to conduct the relevant poll in conjunction with the next general election for the Council or at some other time.
1.15	Where a poll is required under Section 12(11a) of the Act the duty pursuant to Section 12(11c)(b) of the Act to:
1.15.1	prepare a summary of issues surrounding the proposal to assist persons who may vote at the poll; and
1.15.2	obtain a certificate from the Electoral Commissioner that he or she is satisfied that the Council or the Delegate has taken reasonable steps to ensure the summary is a fair and comprehensive overview of the arguments for and against the proposal; and
1.15.3	after obtaining the certificate of the Electoral Commissioner,

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INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

	ensure that copies of the summary are made available for public inspection at the principle office of the Council, and on the internet and distributed in any other manner as may be directed by the Electoral Commissioner.
1.16	The duty pursuant Section 12(12) of the Act having then taken into account the operation of Section 12(11d) of the Act to refer the report to the Electoral Commissioner.
1.17	The duty pursuant to Section 12(12a) of the Act to send with the report copies of any written submissions received by the Council or the Delegate under Section 12(9) of the Act that relate to the subject matter of the proposal.
1.18	The power pursuant to Section 12(15)(b) of the Act to provide by notice in the <i>Gazette</i> , for the operation of any proposal that is recommended in the report, where a certificate is given by the Electoral Commissioner.
1.19	The power and duty pursuant to Section 12(16) of the Act to take such action as is appropriate in circumstances (including the power, as the Delegate thinks fit, to alter the report) where the matter is referred back to the Council by the Electoral Commissioner and the power to then refer the report back to the Electoral Commissioner.
1.20	Where the Council or the Delegate makes an alteration to the report under Section 12(16)(a) of the Act, the duty pursuant to Section 12(17) of the Act to comply with the requirements of Sections 12(9) and (10) of the Act as if the report, as altered, constituted a new report, unless the Council or the Delegate determines the alteration is of a minor nature only.
1.21	The duty pursuant to Section 12(24) of the Act to undertake a review of ward representation within a period specified by the Electoral Commissioner, where the Electoral Commissioner notifies the Council in writing that the number of electors represented by a councillor for a ward varies from the ward quota by more than 20%.
2.	Status of a Council or Change of Various Names
2.1	The power pursuant to Section 13(1) of the Act, to, by notice in the <i>Gazette</i> , after complying with the requirements of Section 13 of the Act:
2.1.1	change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council;
2.1.2	alter the name of:

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

2.1.2.1	the Council;
2.1.2.2	the area of the Council;
2.1.3	alter the name of a ward.
2.2	The duty, pursuant to Section 13(2) of the Act, to, before publishing a notice, comply with the following requirements:
2.2.1	to give public notice of the proposal and invite any interested persons to make written submissions on the matter within a specified period, being no less than six weeks;
2.2.2	publish the notice in a newspaper circulating within the area; and
2.2.3	give any person who makes written submissions in response to the invitation an opportunity to appear personally or by representative before the Council, Council committee or the Delegate and be heard on those submissions.
3.	Deliberately left blank
	Deliberately left blank
4.	Deliberately left blank
	Deliberately left blank
5.	Council Initiated Proposal
5.1	Deliberately left blank
5.2	Deliberately left blank
5.2.1	Deliberately left blank
5.2.2	Deliberately left blank
5.2.3	Deliberately left blank
5.2.4	Deliberately left blank
5.3	Deliberately left blank
5.3.1	Deliberately left blank
5.3.2	Deliberately left blank
6.	Public Initiated Submissions

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Last amended: 1 August 2017

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

6.1	The power pursuant to Section 28(6) of the Act, on the receipt of a submission under Section 28(2) of the Act, to consider the issues determined by the Council or the Delegate to be relevant to the matter and to then decide whether or not it is willing to:
6.1.1	conduct a review in relation to the matter under Division 2 of Part 1 of the Act; or
6.1.2	formulate (or participate in the formulation of) a proposal in relation to the matter under Division 4 of Part 2 of the Act.
6.2	Where the Council is affected by a public initiated proposal under Chapter 3 of the Act, the duty to ensure that copies of the summary prepared by the Minister are made available for public inspection at the principal office of the Council and distributed to electors in accordance with the directions of the Minister, pursuant to Section 28(23)(f) and (g).
7. General Powers and Capacities	
7.1	The power pursuant to Section 36(1)(a)(i) of the Act to enter into any kind of contract or arrangement where the common seal of the Council is not required.
7.2	The power pursuant to Section 36(1)(c) of the Act to do anything necessary, expedient or incidental but within any policy or budgetary constraints set by the Council to perform or discharge the Council's functions or duties or to achieve the Council's objectives.
7.3	The power pursuant to Section 36(2) of the Act to act outside the Council's area:
7.3.1	to the extent considered by the Delegate to be necessary or expedient to the performance of the Council's functions; or
7.3.2	in order to provide services to an unincorporated area of the State.
7.4	The duty pursuant to Section 36(3) of the Act to take reasonable steps to separate the Council's regulatory activities from its other activities in the arrangement of its affairs.
8. Provision Relating to Contract and Transactions	
8.1	The power pursuant to Section 37(b) of the Act to authorise another officer, employee or agent of the Council to enter into a contract, on behalf of the Council, where the common seal of the Council is not required.
9. Committees	

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Last amended: 1 August 2017

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

9.1	The power pursuant to Section 41(1) and (2) of the Act to establish committees.
9.2	The power pursuant to Section 41(3) of the Act to determine the membership of a committee.
9.3	The power pursuant to Section 41(4) of the Act to appoint a person as a presiding member of a committee, or to make provision for the appointment of a presiding member.
9.4	The power pursuant to Section 41(6) of the Act to appoint the principal member of the Council as an ex officio member of a committee.
9.5	The power and duty pursuant to Section 41(8) of the Act, to, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.
10. Delegations	
10.1	The duty pursuant to Section 44(6) of the Act to cause a separate record to be kept of all delegations under the Act.
10.2	The duty pursuant to Section 44(7) of the Act to make available the record of delegations for inspection (without charge) by the public at the principal office of the Council during ordinary office hours.
11. Principal Office	
11.1	The duty pursuant to Section 45(1) of the Act to nominate a place as the principal office of the Council for the purposes of the Act.
11.2	The power and duty pursuant to Section 45(2) of the Act to determine the hours the principal office of the Council will be open to the public for the transaction of business and the duty to keep the principal office of Council open to the public for the transaction of business during hours determined by the Delegate or the Council.
11.3	The power pursuant to Section 45(3) of the Act to consult with the local community in accordance with Council's public consultation policy about the manner, places and times at which the Council's offices will be open to the public for the transaction of business and about any significant changes to those arrangements.
12. Commercial Activities	
12.1	Subject to the Act, the power pursuant to Section 46(1) of the Act to, in the performance of the Council's functions, engage in a commercial activity or enterprise ('a commercial project').

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

12.2	The power pursuant to Section 46 (2) of the Act, to, in connection with a commercial project:
12.2.1	establish a business;
12.2.2	participate in a joint venture, trust, partnership or other similar body.
13. Interests in Companies	
13.1	The power pursuant to Section 47(2)(b) of the Act to participate in the formation of, or to become a member of a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.
14. Prudential Requirements for Certain Activities	
14.00	The power and duty pursuant to Section 48(aa1) of the Act and in accordance with Section 48(a1) of the Act, to develop and maintain prudential management policies, practices and procedures for the assessment of projects to ensure that the Council -
14.00.1	acts with due care, diligence and foresight; and
14.00.2	identifies and manages risks associated with a project; and
14.00.3	makes informed decisions; and
14.00.4	is accountable for the use of Council and other public resources.
14.0	The duty pursuant to Section 48(a1) of the Act to ensure the prudential management policies, practices and procedures developed by the Council for the purposes of Section 48(aa1) of the Act, are consistent with any regulations made for the purposes of Section 48(a1) of the Act.
14.1	Without limiting Section 48(aa1) of the Act, the power and duty pursuant to Section 48(1) of the Act to obtain and consider a report, that addresses the prudential issues set out at Section 48(2) of the Act, before the Council:
14.1.1	Deliberately left blank.
14.1.2	engages in any project (whether commercial or otherwise and including through a subsidiary or participation in a joint venture, trust, partnership or other similar body) -

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INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

14.1.2.1	where the expected operating expenses calculated on an accrual basis of the Council over the ensuing five years is likely to exceed 20 per cent of the Council's average annual operating expenses over the previous five financial years (as shown in the Council's financial statements); or
14.1.2.2	where the expected capital cost of the project over the ensuing five years is likely to exceed \$4,000,000.00 (indexed); or
14.1.2.3	where the Council or Delegate considers that it is necessary or appropriate.
14.2	Deliberately left blank.
14.3	The power and duty pursuant to Section 48(5) of the Act to make a report under Section 48(1) of the Act available for public inspection at the principal office of the Council once the Council has made a decision on the relevant project (and the power to make the report available at an earlier time unless the Council orders that the report be kept confidential until that time).
15. Contracts and Tenders Policies	
15.0	The power and duty pursuant to Section 49(a1) of the Act to develop and maintain procurement policies, practices and procedures directed towards:
15.0.1	obtaining value in the expenditure of public money; and
15.0.2	providing for ethical and fair treatment of participants; and
15.0.3	ensuring probity, accountability and transparency in procurement operations.
15.1	Without limiting Section 49(a1) of the Act, the power and duty pursuant to Section 49(1) of the Act to prepare and adopt policies on contracts and tenders including policies on the following:
15.1.1	the contracting out of services; and
15.1.2	competitive tendering and the use of other measures to ensure that services are delivered cost effectively; and
15.1.3	the use of local goods and services; and
15.1.4	the sale or disposal of land or other assets.

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15.2	The power and duty pursuant to Section 49(2) of the Act to ensure that any policies on contracts and tenders:
15.2.1	identify circumstances where the Council will call for tenders for the supply of goods, the provision of services or the carrying out of works, or the sale or disposal of land or other assets; and
15.2.2	provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and
15.2.3	provide for the recording of reasons for entering into contracts other than those resulting from the tender process; and
15.2.4	are consistent with any requirement prescribed by the regulations.
15.3	The power pursuant to Section 49(3) of the Act to, at any time, alter a policy under Section 49 of the Act, or substitute a new policy or policies (but not so as to affect any process that has already commenced).
15.4	The duty pursuant to Section 49(4) of the Act to make available for inspection (without charge) a policy adopted under this Section at the principal office of Council during office hours.
16. Public Consultation Policies	
16.1	The power and duty pursuant to Section 50(1) and (2) of the Act to prepare and adopt a public consultation policy which sets out the steps the Council will follow:
16.1.1	in cases where the Act requires the Council to follow its public consultation policy; and
16.1.2	in other cases involving Council decision making, if relevant.
16.2	The duty pursuant to Section 50(3) of the Act to include in the steps set out in the public consultation policy reasonable opportunities for interested persons to make submissions in cases where the Act requires the Council to follow its public consultation policy and to make other arrangements appropriate to other classes of decisions, within the scope of the policy.
16.3	The duty pursuant to Section 50(4) of the Act to ensure that the public consultation policy, in cases where the Act requires the policy to be followed, provides for:
16.3.1	the publication of a notice:
16.3.1.1	in a newspaper circulating within the area of the

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	Council; and
	16.3.1.2 on a website determined by the Chief Executive Officer,
	describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and
	16.3.2 the consideration of any submissions made in response to that invitation.
16.4	The power pursuant to Section 50(5) of the Act, to, from time to time, alter the Council's public consultation policy, or substitute a new policy.
16.5	Before the Council or the Delegate adopts a public consultation policy or alters, or substitutes a public consultation policy, the duty pursuant to Section 50(6) of the Act to:
16.5.1	prepare a document that sets out its proposal in relation to the matter; and
16.5.2	publish in a newspaper circulating within the area of the Council, a notice of the proposal inviting interested persons to make submissions on the proposal within a period stated in the notice, which must be at least one month;
16.5.3	consider any submissions made in response to an invitation made under Section 50(6)(d) of the Act.
16.6	The power pursuant to Section 50(7) of the Act to determine if the alteration of a public consultation policy is of minor significance that would attract little or no community interest.
16.7	The duty pursuant to Section 50(8) of the Act to ensure the public consultation policy is available for inspection (without charge) at the principal office of Council during ordinary office hours.
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18. Inspection of Register	
18.1	The duty pursuant to Section 70(1) of the Act to make available for inspection (without charge) the Register of Interests at the principal office of the Council during ordinary office hours.
19. Reimbursement of Expenses	
19.1	The power pursuant to Section 77(1)(b) of the Act to reimburse to members of the Council expenses of a kind prescribed for the purposes of Section 77(1)(b) of the Act and approved by the Council (either specifically or under a policy established by the Council for these purposes) incurred in performing or discharging official functions and duties.
19.2	The duty pursuant to Section 77(3) of the Act to make available for inspection (without charge) any policy of Council concerning these reimbursements at the principal office of the Council during ordinary office hours.
20. Register of Allowances and Benefits	
20.1	The duty pursuant to Section 79(3) of the Act to make available for inspection (without charge) the Register of Allowances and Benefits, at the principal office of the Council during ordinary office hours.
21. Insurance of members	
21.1	The duty pursuant to Section 80 of the Act to take out a policy of insurance insuring every member of the Council and a spouse, domestic partner or another person who may be accompanying a member of the Council, against risks associated with the performance or discharge of official functions and duties by members.
22. Training and Development	
22.1	The power and duty pursuant to Section 80A(1) of the Act to prepare and adopt a training and development policy in accordance with Section 80A(2) of the Act for the Council's members.
22.2	The duty pursuant to Section 80A(2) of the Act to ensure that the Council's training and development policy is aimed at assisting the Council's members in the performance and discharge of their functions and duties.
22.3	The power pursuant to Section 80A(3) of the Act to, from time to time, alter the Council's training and development policy or substitute a new policy.

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22.4	The duty pursuant to Section 80A(4) and (5) of the Act to make available the training and development policy for inspection (without charge) at the principal office of the Council during ordinary office hours and for purchase (on payment of a fee fixed by the Council).
23. Committee Meetings	
23.1	The power pursuant to Section 87(1) of the Act and in accordance with Section 87(2) of the Act to determine the times and places of ordinary meetings of Council committees.
23.2	The duty pursuant to Section 87(2) of the Act in appointing a time for the holding of an ordinary meeting of a Council committee to take into account:
23.2.1	the availability and convenience of members of the committee; and
23.2.2	the nature and purpose of the committee.
24. Meetings To Be Held in Public Except in Special Circumstances	
24.1	The duty pursuant to Section 90(7) of the Act to make a note in the minutes of the making of an order under Section 90(2) of the Act and the grounds on which it was made.
24.2	The power pursuant to Section 90(8a)(a) of the Act to adopt a policy on the holding of informal gatherings or discussions subject to Section 90(8b) of the Act.
24.3	The power pursuant to Section 90(8c) of the Act, to, from time to time, alter the Council's policy or substitute a new policy.
25. Minutes and Release of Documents	
25.1	The duty pursuant to Section 91(3) to supply each member of the Council with a copy of all minutes of the proceedings of the Council or Council committee meeting, within 5 days after that meeting.
25.2	Subject to Section 91(7), the duty pursuant to Section 91(4) of the Act to place a copy of the minutes of a meeting of the Council on public display in the principal office of the Council within 5 days after the meeting and to keep those minutes on display for a period of 1 month.
25.3	Subject to Section 91(7) of the Act, the duty pursuant to Section 91(5) of the Act to make available for inspection, without payment of a fee, at the principal office of the Council:
25.3.1	minutes of the Council and Council committee meetings; and

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25.3.2	reports to the Council or to a Council committee received at a meeting of the Council or Council committee; and
25.3.3	recommendations presented to the Council in writing and adopted by resolution of the Council; and
25.3.4	budgetary or other financial statements adopted by the Council.
26. Access to Meetings and Documents – Code of Practice	
26.1	The power and duty pursuant to Section 92(1) of the Act, and subject to Section 92(4) of the Act, to prepare and adopt a Code of Practice relating to the principles, policies, procedures and practices that the Council will apply for the purposes of the operation of Parts 3 and 4 of Chapter 6 of the Act.
26.2	The power and duty pursuant to Section 92(2) of the Act to review the operation of the Council's Code of Practice within 12 months after the conclusion of each periodic election.
26.3	The power pursuant to Section 92(3) of the Act, to, at any time, alter the Council's code of practice or substitute a new code of practice.
26.4	The duty pursuant to Section 92(5) of the Act to ensure that before the Council or the Delegate adopts, alters or substitutes a code of practice that:
26.4.1	copies of the proposed code, alterations or substitute code (as the case may be) are made available for inspection or purchase at the Council's principal office and available for inspection on a website determined by the Chief Executive Officer; and
26.4.2	the relevant steps set out in the Council's Public Consultation Policy are followed.
26.5	The duty pursuant to Section 92(6) and (7) of the Act to ensure that the Code of Practice is available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of Council during ordinary office hours.
27. Meetings of Electors	
27.1	The power pursuant to Section 93(1) of the Act to convene a meeting of electors of the area or part of the area of the Council.
27.2	The duty pursuant to Section 93(11) of the Act to provide each member of the Council with a copy of the minutes of any meeting of electors within 5 days of that meeting.

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27.3	The power pursuant to Section 93(14) of the Act to determine the procedure for the purposes of making a nomination under Sections 93(3)(a)(ii) or 93(3)(b)(ii).
28. Obstructing of Meetings	
28.1	The power pursuant to Section 95 of the Act to take proceedings under the Act against a person who intentionally obstructs or hinders proceedings at a meeting of the Council or a Council committee or at a meeting of electors.
29. Register of Remuneration Salaries and Benefits	
29.1	The duty pursuant to Section 105(3) of the Act to make available the Register of Salaries of employees of the Council for inspection by the public at the principal office of the Council during ordinary office hours.
30. Certain Periods Of Service To Be Regarded As Continuous	
30.1	The duty pursuant to Sections 106(2) and 106(2a) of the Act to ensure any other council receives within one month of the Council having received written notice requiring payment, the appropriate contribution to an employee's service benefits.
30.2	The duty pursuant to Section 106(4) of the Act to supply to any other council, at its request, details of the service of an employee or former employee of the Council.
30.3	The duty pursuant to Section 106(5) of the Act to hold and apply a payment or contribution received by the Council under Section 106 in accordance with the Regulations.
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32. Application of Division	
32.1	The power pursuant to Section 111(b) of the Act to declare any other officer, or any other officer of a class, to be subject to the operation of

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Chapter 7, Part 4, Division 1 of the Act.	
33. Certain Aspects of Strategic Management Plans	
33.1	The duty pursuant to Section 122(6) of the Act to develop a process or processes to ensure that members of the public are given a reasonable opportunity to be involved in the Council's development and review of its strategic management plans.
33.2	The duty pursuant to Section 122(7) of the Act to ensure that copies of the Council's strategic management plans are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
34. Annual Business Plans and Budgets	
34.1	Before the Council adopts an annual business plan, the duty pursuant to Section 123(3) of the Act to, -
34.1.1	prepare a draft annual business plan; and
34.1.2	follow the relevant steps set out in the Council's public consultation policy, taking into account and complying with the requirements of Section 123(4) of the Act.
34.2	The duty pursuant to Section 123(5) of the Act to ensure that copies of the draft annual business plan are available at the meeting arranged pursuant to and in accordance with Section 123(4)(a)(i) and (4)(b) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council and on the website at least 21 days before the date of that meeting.
34.3	The duty pursuant to Section 123(5a) of the Act to ensure that provision is made for:
34.3.1	a facility for asking and answering questions; and
34.3.2	the receipt of submissions,
	on the Council's website during the public consultation period.
34.4	After the Council has adopted an annual business plan and a budget, the duty, pursuant to Section 123(9) of the Act, to:
34.4.1	ensure:
34.4.1.1	that a summary of the annual business plan is prepared in accordance with the requirements set out at Sections 123(10), (11) and (12) of the Act, so as to assist in promoting public awareness of the nature of

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	the Council's services and the Council's rating and financial management policies, taking into account its objectives and activities for the ensuing financial year; and
34.4.1.2	that a copy of the summary of the annual business plan accompanies the first rates notice sent to ratepayers after the declaration of the Council's rates for the financial year; and
34.4.2	ensure:
34.4.2.1	that copies of the annual business plan and the budget (as adopted) are available for inspection (without charge) or purchase (on payment of a fee fixed by the Council); and
34.4.2.2	that copies of the summary of the annual business plan are available for inspection and to take (without charge), at the principal office of the Council; and
34.4.3	ensure that electronic copies of the annual business plan and the budget (as adopted) are published on a website determined by the Chief Executive Officer.
35. Accounting Records to be Kept	
35.1	The duty pursuant to Section 124(1) of the Act to:
35.1.1	keep such accounting records as correctly and adequately record and explain the revenues, expenses, assets and liabilities of the Council;
35.1.2	keep the Councils accounting records in such manner as will enable:
35.1.2.1	the preparation and provision of statements that fairly present financial and other information; and
35.1.2.2	the financial statements of the Council to be conveniently and properly audited.
35.2	The power pursuant to Section 124(2) to determine the form or forms and the place or places (within the state) to keep the accounting records of the Council.
36. Internal Control Policies	

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36.1	The duty pursuant to Section 125 of the Act to ensure that appropriate policies, practices and procedures of internal control are implemented and maintained in order to assist the Council to carry out its activities in an efficient and orderly manner, to achieve its objectives, to ensure adherence to management policies, to safeguard the Council's assets, and to secure (as far as possible) the accuracy and reliability of the Council's records.
37. Audit Committee	
37.1	The power and duty pursuant to Section 126(1) of the Act to appoint an audit committee in accordance with Section 126(2) of the Act.
37.2	If an audit committee is appointed by the Delegate or the Council, the power to determine the membership of any audit committee in accordance with Section 126(2) of the Act.
38. Financial Statements	
38.1	The duty pursuant to Section 127(1) of the Act to prepare for each financial year:
38.1.1	financial statements and notes in accordance with standards prescribed by the regulations; and
38.1.2	other statements and documentation referring to the financial affairs of the Council required by the Regulations.
38.2	The duty pursuant to Section 127(2) of the Act to ensure that the financial statements prepared for the Council pursuant to Section 127(1) of the Act:
38.2.1	are prepared as soon as is reasonably practicable after the end of the relevant financial year and in any event before the day prescribed by the Regulations; and
38.2.2	comply with standards and principles prescribed by the Regulations; and
38.2.3	include the information required by the Regulations.
38.3	The duty pursuant to Section 127(3) of the Act to submit for auditing by the Council's auditor the statements prepared for each financial year.
38.4	The duty pursuant to Section 127(4) of the Act to submit a copy of the auditor's statements to the persons or bodies prescribed by the Regulations on or before the day prescribed by the Regulations.
38.5	The duty pursuant to Section 127(5) of the Act to ensure that copies of

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	the Council's audited statements are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
39. The Auditor	
39.1	The power and duty pursuant to and in accordance with Section 128(2), (3), (4), (4a), (5), (6), (7) and (8) of the Act to appoint an auditor on the recommendation of the Council's audit committee.
39.2	The duty pursuant to Section 128(8) of the Act to comply with any requirements prescribed by the Regulations with respect to providing for the independence of the auditor.
39.3	The duty pursuant to Section 128(9) of the Act to ensure that the following information is included in the Council's annual report:
39.3.1	information on the remuneration payable to the Council's auditor for work performed during the relevant financial year, distinguishing between:
39.3.1.1	remuneration payable for the annual audit of the Council's financial statements; and
39.3.1.2	other remuneration;
39.3.2	if a person ceases to be the auditor of the Council during the relevant financial year, other than by virtue of the expiration of his or her term of appointment and is not being reappointed to the office - the reason or reasons why the appointment of the Council's auditor came to an end.
40. Conduct of Audit	
40.1	The duty pursuant to Section 129(9) of the Act to ensure the opinions under Section 129(3) of the Act provided to Council under Section 129 of the Act accompany the financial statements of the Council.
41. Other Investigations	
41.1	The power, pursuant to and in accordance with Sections 130A(1) and (2) of the Act, as the Delegate thinks fit, to request the Council's auditor, or some other person determined by the Delegate to be suitably qualified in the circumstances, to examine and report on any matter relating to financial management, or the efficiency and economy with which the Council manages or uses its resources to achieve its objectives, that would not otherwise be addressed or included as part of an annual audit under Division 4 of Chapter 8 of the Act and that is considered by the Delegate to be of such significance as to justify an

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	examination under this Section.
41.2	Unless Section 130A(7) of the Act applies, the duty pursuant to Section 130A(6) of the Act to place the report prepared pursuant to Section 130A(1) of the Act on the agenda for consideration:
41.2.1	unless Section 130A(6)(b) of the Act applies – at the next ordinary meeting of the Council in accordance with Section 130A(6)(a), of the Act;
41.2.2	if the agenda for the next ordinary meeting of the Council has already been sent to members of the Council at the time that the report is provided to the principal member of the Council – at the ordinary meeting of the Council next following the meeting for which the agenda has already been sent unless the principal member of the Council determines, after consultation with the Chief Executive Officer, that the report should be considered at the next meeting of the Council as a late item on the agenda in accordance with Section 130A(6)(b) of the Act.
42. Annual Report to be Prepared and Adopted	
42.1	The duty pursuant to Section 131(1) of the Act and in accordance with Sections 131(2) and (3) of the Act, to prepare and adopt on or before 30 November each year, an annual report relating to the operations of the Council for the financial year ending on the preceding 30 June.
42.2	The duty pursuant to Section 131(2) and (3) of the Act to include in that report the material, and include specific reports on the matters, specified in Schedule 4 as amended from time to time by regulation.
42.3	The duty pursuant to Section 131(4) of the Act to provide a copy of the annual report to each member of the Council.
42.4	The duty pursuant to Section 131(5) of the Act to submit a copy of the annual report to:
42.4.1	the Presiding Member of both Houses of Parliament; and
42.4.2	to the persons or body prescribed by the Regulations,
	on or before the date determined under the Regulations.
42.5	The power pursuant to Section 131(7) of the Act to provide to the electors for the area an abridged or summary version of the annual report.
42.6	The duty pursuant to Section 131(8) of the Act to ensure that copies of Council's annual report are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public

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	at the principal office of the Council.
43. Access to Documents	
43.1	The duty pursuant to Section 132(1) of the Act to ensure a member of the public is able:
43.1.1	to inspect a document referred to in Schedule 5 of the Act at the principal office of the Council during ordinary office hours without charge; and
43.1.2	to purchase a document referred to in Schedule 5 to the Act at the principal office of the Council during ordinary office hours for a fee fixed by the Council.
43.2	The power pursuant to Section 132(2) of the Act to make a document available in electronic form for the purposes of Section 132(1)(a).
43.3	The power and duty, pursuant to and in accordance with Section 132 (3) of the Act, to make the following documents available for inspection on a website determined by the Chief Executive Officer within a reasonable time after they are available at the principal office of the Council:
43.3.1	agendas for meetings of the Council or Council committees;
43.3.2	minutes of meetings of the Council or Council committees;
43.3.3	codes of conduct or codes of practice adopted by the Council under this Act or the Local Government (Elections) Act 1999;
43.3.4	the Council's contract and tenders policies, public consultation policy and order-making policies;
43.3.5	the Council's draft annual business plan, annual business plan (as adopted by the council) and the summary of the annual business plan required under Part 2 of this Chapter;
43.3.6	the Council's budget (as adopted by the Council for a particular year);
43.3.7	a list of fees and charges imposed by the Council under this Act;
43.3.8	by-laws made by the Council and any determination in respect of a by-law made under Section 246(3)(e) of the Act;
43.3.9	procedures for the review of decisions established by the Council under Part 2 of Chapter 13;

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43.3.10 the audited financial statements of the Council;
43.3.11 the annual report of the Council;
43.3.12 the Council's most recent information statement under the Freedom of Information Act 1991, unless the Council provides it as part of the annual report of the Council.
44. Related Administrative Standards
44.1 The power and duty pursuant to Section 132A of the Act to ensure that appropriate policies, practices and procedures are implemented and maintained in order:
44.1.2 to ensure compliance with any statutory requirements; and
44.1.2 to achieve and maintain standards of good public administration.
45. Sources of Funds
45.1 Subject to the Act, the power pursuant to Section 133 of the Act to obtain funds as permitted under the Act or another Act and as may otherwise be appropriate in order to carry out the Council's functions under the Act or another Act.
46. Ability of a Council to Give Security
46.1 The power pursuant to Section 135(1) of the Act and subject to Section 135(2) of the Act to provide various forms of security, including:
46.1.1 guarantees (including guarantees relating to the liability of a subsidiary of the Council);
46.1.2 debentures charged on the general revenue of the Council (including to support a guarantee provided under Section 135(1) of the Act);
46.1.3 bills of sale, mortgages or other charges (including to support a guarantee provided under Section 135(1)(a) of the Act.
46.2 The power and duty pursuant to Section 135(2) of the Act, if the Council or the Delegate proposes to issue debentures on the general revenue of the Council to:
46.2.1 assign a distinguishing classification to the debentures to be included in the issue so as to distinguish them from those included or to be included in previous or subsequent issues; and

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46.2.2	if the debentures are being offered generally to members of the public, appoint a trustee for the debenture holders.
47. Expenditure of Funds	
47.1	Subject to the Act or another Act, the power pursuant to Section 137 of the Act to expend the Council's approved budgeted funds in the exercise, performance or discharge of the Council's powers, functions or duties under the Act or other Acts.
48. Investment Powers	
48.1	The power pursuant to Section 139(1) of the Act to invest money under the Council's control.
48.2	The duty pursuant to Section 139(2) of the Act in exercising the power of investment, to:
48.2.1	exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
48.2.2	avoid investments that are speculative or hazardous in nature.
48.3	The duty pursuant to Section 139(3) of the Act to take into account when exercising the power of investment, so far as is appropriate in the circumstances and without limiting the matters which may be taken into account, the following matters:
48.3.1	the purposes of the investment;
48.3.2	the desirability of diversifying Council investments;
48.3.3	the nature of and risk associated with existing Council investments;
48.3.4	the desirability of maintaining the real value of the capital and income of the investment;
48.3.5	the risk of capital or income loss or depreciation;
48.3.6	the potential for capital appreciation;
48.3.7	the likely income return and the timing of income return;
48.3.8	the length of the term of a proposed investment;
48.3.9	the period for which the investment is likely to be required;
48.3.10	the liquidity and marketability of a proposed investment during,

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	and on determination of, the term of the investment;
48.3.11	the aggregate value of the assets of the Council;
48.3.12	the likelihood of inflation affecting the value of a proposed investment;
48.3.13	the costs of making a proposed investment;
48.3.14	the results of any review of existing Council investments.
48.4	Subject to the matters specified in Section 139(3) of the Act, the power pursuant to Section 139(4) of the Act, so far as may be appropriate in the circumstances, to have regard to:
48.4.1	the anticipated community benefit from an investment; and
48.4.2	the desirability of attracting additional resources into the local community.
48.5	The power pursuant to Section 139(5) of the Act to obtain and consider independent and impartial advice about the investment of funds or the management of the Council's investments from the person whom the Delegate reasonably believes to be competent to give the advice.
49. Review of Investment	
49.1	The duty pursuant to Section 140 of the Act to review the performance (individually and as a whole) of the Council's investments, at least once in each year.
50. Gifts to a Council	
50.1	Within the confines of Section 44(3) of the Act:
50.1.1	the power pursuant to Section 141(1) of the Act to accept a gift made to the Council;
50.1.2	the power pursuant to Section 141(2) of the Act to carry out the terms of any trust (if any) that affects a gift to Council;
50.1.3	the power pursuant to Section 141(3) of the Act to apply to the Supreme Court for an order varying the terms of a trust for which the Council has been constituted a trustee;
50.1.4	where a variation is sought in the terms of a trust, the duty pursuant to Section 141(4) of the Act to give notice describing the nature of the variation by public notice and in any other such manner as may be directed by the Supreme Court; and

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50.1.5	the duty pursuant to Section 141(6) of the Act to publish a copy of any order of the Supreme Court to vary the terms of the trust, in the <i>Gazette</i> , within 28 days after that order is made.
51. Duty to Insure Against Liability	
51.1	The duty pursuant to Section 142 of the Act to take out and maintain insurance to cover the Council's civil liabilities at least to the extent prescribed by the Regulations.
52. Writing off Bad Debts	
52.1	The power pursuant to Section 143(1) of the Act to write off any debts owed to the Council:
52.1.1	if the Council has no reasonable prospect of recovering the debts; or
52.1.2	if the costs of recovery are likely to equal or exceed the amount to be recovered,
	up to and including an amount of \$5,000.00 in respect of any one debt.
52.2	The duty pursuant to Section 143(2) of the Act to ensure that no debt is written off unless the Chief Executive Officer has certified:
52.2.1	reasonable attempts have been made to recover the debt; or
52.2.2	the costs of recovery are likely to equal or exceed the amount to be recovered.
53. Recovery of Amounts due to Council	
53.1	The power pursuant to Section 144(1) of the Act to recover as a debt, by action in a Court of competent jurisdiction, any fee, charge, expense or other amount recoverable from a person or payable by a person under this or another Act.
53.2	The power pursuant to Section 144(2), (3) and (4) of the Act to recover any fee, charge, expense or other amount as if it were a rate declared on the property, after giving at least 14 days notice requiring payment, where the fee, charge, expense or other amount payable to the Council relates to something done in respect of rateable or other property.
54. Land Against Which Rates May be Assessed	
54.1	The power and duty pursuant to Section 148(2) of the Act to make decisions about the division of land and the aggregation of land for the purposes of Section 148(1) of the Act fairly and in accordance with

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	principles and practices that apply on a uniform basis across the area of the Council.
55. Basis of Rating	
55.1	Before the Council:
55.1.1	changes the basis of the rating of any land (including by imposing differential rates on land that has not been differentially rated in the preceding financial year, or by no longer imposing differential rates on land that has been differentially rated in the preceding financial year); or
55.1.2	changes the basis on which land is valued for the purposes of rating; or
55.1.3	changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land;
	the power and duty pursuant to Section 151(5)(d) and (e) of the Act to:
55.1.4	prepare a report on the proposed change in accordance with Section 151(6) of the Act; and
55.1.5	follow the relevant steps set out in its public consultation policy in accordance with Section 151(7) of the Act.
55.2	The duty pursuant to Section 151(8) of the Act to ensure that copies of the report required under Section 151(5)(d) of the Act are available at the meeting held under Section 151(7)(a)(i) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.
56. General Rates	
56.1	The power pursuant to Section 152(2)(d) and (3) of the Act to determine, on application, if two or more pieces of rateable land within the area of the Council constitute a single farm enterprise.
57. Service Rates and Service Charges	
57.1	The duty pursuant to Section 155(6) of the Act, subject to Section 155(7) of the Act, to apply any amounts held in a reserve established in connection with the operation of Section 155(5) of the Act for purposes associated with improving or replacing Council assets for the purposes of the relevant prescribed service.
57.2	The power pursuant to Section 155(7) of the Act, if a prescribed service

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	under Section 155(6) of the Act is, or is to be, discontinued, to apply any excess funds held by the Council for the purposes of the service (after taking into account any expenses incurred or to be incurred in connection with the prescribed service) for another purpose specifically identified in the Council's annual business plan as being the purpose for which the funds will now be applied.
58. Basis of Differential Rates	
58.1	The power pursuant to Section 156(3), (9), (10), (11) of the Act to attribute the use of the land for any basis for a differential rate and to decide objections to any of those attributions.
58.2	The power and duty pursuant to Section 156(14a) of the Act, before the Council changes from declaring differential rates in relation to any land on the basis of a differentiating factor under either paragraphs (a), (b) or (c) of Section 156(1) of the Act to a differentiating factor under another of those paragraphs, to -
58.2.1	prepare a report on the proposed change in accordance with Section 156(14b) of the Act; and
58.2.2	follow the relevant steps set out in its public consultation policy in accordance with Section 156(14d) of the Act.
58.3	The duty pursuant to Section 156(14e) of the Act to ensure that copies of the report required under Section 156(14a)(a) of the Act are available at the meeting held under Section 156(14d)(a)(i); and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.
59. Notice of Differentiating Factors	
59.1	If the Council declares differential rates, the duty pursuant to Section 157 of the Act in each rates notice, to specify the differentiating factor or combination of factors that governs the calculation of rates on the land to which the account relates.
60. Preliminary	
60.1	The power pursuant to Section 159(1) of the Act to determine the manner and form and such information as the Delegate may reasonably require, for a person or body to apply to the Council to determine if grounds exist for the person or body to receive a rebate of rates.
60.2	The power pursuant to Section 159(3) to grant a rebate of rates if satisfied that it is appropriate to do so (whether on application or on the

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	Delegate's own initiative).
60.3	The power pursuant to Section 159(4) of the Act to increase the rebate on the Delegate's initiative, if a rebate specifically fixed by Division 5 Chapter 10 of the Act is less than 100%.
60.4	The power pursuant to Section 159(10) of the Act to determine, for proper cause, that an entitlement to a rebate of rates in pursuance of Division 5 no longer applies.
61. Rebate of Rates - Community Services	
61.1	The power pursuant to Section 161(1) and (3) of the Act to grant a rebate of more than 75% of the rates on land being predominantly used for service delivery or administration (or both) by a community service organisation, where that organisation:
61.1.1	is incorporated on a not-for-profit basis for the benefit of the public; and
61.1.27	provides community services without charge or for charge that is below the cost to the body of providing their services; and
61.1.3	does not restrict its services to persons who are members of the body.
62. Rebate of Rates - Educational Purposes	
62.1	The power pursuant to Section 165(1) and (2) of the Act to grant a rebate of rates at more than 75% on land:
62.1.1	occupied by a Government school under a lease or license and being used for educational purposes; or
62.1.2	occupied by non-Government school registered under the Education and Early Childhood Services (Registration and Standards) Act 2011 and being used for educational purposes; or
62.1.3	land being used by University or University College to provide accommodation and other forms of support for students on a not-for-profit basis.
63. Discretionary Rebates of Rates	
63.1	The duty pursuant to Section 166(1a) of the Act to take into account, in deciding an application for a rebate under Section 166(1)(d), (e), (f), (g), (h), (i) or (j):
63.1.1	the nature and extent of the Council's services provided in

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	respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in its area; and
63.1.2	the community need that is being met by activities being carried out on the land for which the rebate is sought; and
63.1.3	the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons;
63.1.4	any other matter considered relevant by the Council or the Delegate.
63.2	The power pursuant to Section 166(1), (2) and (4) of the Act and taking into account Section 166(1a) of the Act and in accordance with Section 166(3b) of the Act to grant a rebate of rates or service charges on such conditions as the Delegate sees fit and such rebate may be up to and including 100% of the relevant rates or service charge, in the following cases:
63.2.1	where the rebate is desirable for the purpose of securing the proper development of the area or part of the area;
63.2.2	where the rebate is desirable for the purpose of assisting or supporting a business in the area;
63.2.3	where the rebate will be conducive to the preservation of buildings or places of historic significance;
63.2.4	where the land is being used for educational purposes;
63.2.5	where the land is being used for agricultural, horticultural or floricultural exhibitions;
63.2.6	where the land is being used for a hospital or health centre;
63.2.7	where the land is being used to provide facilities or services for children or young persons;
63.2.8	where the land is being used to provide accommodation for the aged or disabled;
63.2.9	where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1997 (Commonwealth) or a day therapy centre;
63.2.10	where the land is being used by an organisation which, in the opinion of the Delegate, provides a benefit or a service to the local community;

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63.2.11	where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment;
63.2.12	where the rebate is considered by the Delegate to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to:
63.2.12.1	redistribution of the rates burden within the community arising from a change to the basis or structure of the Council's rates; or
63.2.12.2	change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.
63.2.13	where the rebate is considered by the Delegate to be appropriate to provide relief in order to avoid what would otherwise constitute:
63.2.13.1	liability to pay a rate or charge that is inconsistent with the liabilities that were anticipated by the Council in its annual business plan; or
63.2.13.2	liability that is unfair or unreasonable;
63.2.14	where the rebate is to give effect to a review of a decision of the Council under Chapter 13 Part 2; or
63.2.15	where the rebate is contemplated under another provision of the Act.
63.3	The power pursuant to Section 166(3) of the Act to grant a rebate of rates or charges for a period exceeding 1 year but not exceeding 10 years in the following cases:
63.3.1	where the rebate is desirable for the purpose of securing a proper development of the area or part of the area; or
63.3.2	where the rebate is desirable for the purpose of assisting or supporting a business in the area; or
63.3.3	where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment.

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63.4	The power pursuant to Section 166(3a) of the Act to grant a rebate of rates or charges under Section 166(1)(l) of the Act for a period exceeding 1 year but not exceeding 3 years.
64. Valuation of Land for the Purposes of Rating	
64.1	The power pursuant to Section 167(1) of the Act to adopt valuations that are to apply to land within the Council's area, for rating purposes for a particular financial year.
64.2	For the purpose of adopting a valuation of land for rating, the duty pursuant to Section 167(2) of the Act and in accordance with Section 167(3), (4) and (5) of the Act, to adopt:
64.2.1	valuations made, or caused to be made, by the Valuer-General; or
64.2.2	valuations made by a valuer employed or engaged by the Council, or by a firm or consortium of valuers engaged by the Council;
	or a combination of both.
64.3	The duty pursuant to Section 167(6) of the Act to publish a notice of the adoption of valuations in the <i>Gazette</i> , within 21 days after the date of the adoption.
65. Valuation of Land	
65.1	The power pursuant to Section 168(1) of the Act to request the Valuer-General to value any land within the Council's area (being land that is capable of being separately rated).
65.2	The duty pursuant to Section 168(2) of the Act to furnish to the Valuer-General any information requested by the Valuer General for the purposes of valuing land within the area of the Council.
65.3	The power and duty pursuant to Section 168(3)(b) and (c) of the Act to enter a valuation in the assessment record, as soon as practicable after the valuation has been made and to give notice of the valuation to the principal ratepayer in accordance with the Regulations.
66. Objections to Valuations Made by Council	
66.1	The duty pursuant to Section 169(1), (2), (3), (4) and (5) of the Act to refer an objection to a valuation of land to the valuer who made the valuation and to request the valuer to reconsider the valuation, where:
66.1.1	the objection does not involve a question of law; and

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66.1.2	the objection is made in writing (setting out a full and detailed statement of the grounds on which the objection is based); and
66.1.3	is made within 60 days after the date of service of the notice of the valuation to which the objection relates (unless the Delegate, in his/her discretion, allows an extension of time for making the objection).
66.2	The power pursuant to Section 169(3)(b) of the Act to grant an extension of time for making an objection to a valuation of land.
66.3	The duty pursuant to Section 169(7) of the Act to give the objector written notice of the outcome of the reconsideration of the objection.
66.4	The duty pursuant to and in accordance with Section 169(8) and (9) of the Act to refer the valuation to the Valuer-General for further review, if the objector remains dissatisfied with the valuation and requests such further review, provided the request is:
66.4.1	in the prescribed manner and form;
66.4.2	made within 21 days after the objector receives notice of the outcome of his or her initial objection; and
66.4.3	accompanied by the prescribed fee.
66.5	The power pursuant to Section 169(15)(b) of the Act to apply to SACAT for a review of the decision of a valuer after a further review on a request under Section 169(8) of the Act, in accordance with Section 169(15a) of the Act.
67. Notice of Declaration of Rates	
67.1	The duty pursuant to Section 170 of the Act to ensure the notice of declaration of a rate or service charge is published in the <i>Gazette</i> and in a newspaper circulating in the area within 21 days after the date of the declaration.
68. Alterations to Assessment Record	
68.1	The power pursuant to Section 173(3) and (5) of the Act to determine the procedure for a review of a decision by the Chief Executive Officer on an application for alteration of the assessment record.
68.2	The duty pursuant to Section 173(6) of the Act to give a person written notice of Council's decision on a review of a decision of the Chief Executive Officer concerning alteration of the assessment record.
69. Inspection of Assessment Record	

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69.1	The duty pursuant to Section 174(1) and (2) of the Act to ensure that the assessment record is available for inspection and purchase of an entry (on payment of a fee fixed by the Council), by the public at the principal office of the Council during ordinary office hours.
70. Liability for Rates	
70.1	The power pursuant to Section 178(3) of the Act and subject to Section 178(9) of the Act to recover rates as a debt from:
70.1.1	the principal ratepayer; or
70.1.2	any other person (not being a principal ratepayer) who is an owner or occupier of the land; or
70.1.3	any other person who was at the time of the declaration of the rates an owner or occupier of the land.
70.2	The power pursuant to Section 178(4) of the Act by written notice to a lessee or a licensee of land in respect of which rates have fallen due, to require him or her to pay to the Council rent or other consideration payable under the lease or a licence in satisfaction of any liability for rates.
70.3	Where a notice under Section 178(4) of the Act is given to a lessee or a licensee of land, the power pursuant to Section 178(5) of the Act to make and give notice of an additional charge of 5% of the amount in arrears, as payable and recoverable as part of the debt for unpaid rates.
70.4	The power pursuant to Section 178(6) of the Act to remit the charge of 5% of the amount in arrears payable under the Act in whole or in part.
71. Liability for Rates if Land is Not Rateable for the Whole of the Financial Year	
71.1	The power pursuant to Section 179(2) of the Act to adopt a valuation of land that has become rateable after the adoption of valuations by the Council for the relevant financial year.
71.2	The duty pursuant to Section 179(5) of the Act to refund to the principal ratepayer an amount proportionate to the remaining part of the financial year, if land ceases to be rateable during the course of a financial year and the rates have been paid.
72. Service of Rate Notice	
72.1	The duty pursuant to Section 180(1) of the Act and in accordance with Section 180(2) of the Act to send to the principal ratepayer or, in the

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	case of a service charge, the owner or occupier of the relevant land, a rates notice, as soon as practicable after:
72.1.1	the declaration of a rate; or
72.1.2	the imposition of a service charge; or
72.1.3	a change in the rates liability of land.
73. Payment of Rates – General Principles	
73.1	The power pursuant to Section 181(2) of the Act to determine the day on which each instalment of rates falls due in the months of September, December, March and June of the financial year for which the rates are declared.
73.2	If the Council declares a general rate for a particular financial year after 31 August in that financial year, the power, pursuant to Section 181(3) of the Act, to adjust the months in which instalments would otherwise be payable under Section 181(1) (taking into account what is reasonable in the circumstances).
73.3	The power pursuant to Section 181(4)(b) of the Act to agree with the principal ratepayer that rates will be payable in such instalments falling due on such days as may be specified in the agreement and in that event, the ratepayer's rates will then be payable accordingly.
73.4	The duty pursuant to Section 181(5) of the Act in relation to each instalment of rates to send a rates notice to the principal ratepayer shown in the assessment record in respect of the land setting out in accordance with Sections 181(6) and (7) of the Act:
73.4.1	the amount of the instalment; and
73.4.2	the date on which the instalment falls due, or in the case where payment is to be postponed under another provision of the Act, the information prescribed by the Regulations.
73.5	The power pursuant to Section 181(7a) of the Act where the Council has entered into an agreement with a principal rate payer under Section 181(4)(b) of the Act, as part of the agreement, to vary the periods for the provision of a notice under Section 181(7) of the Act.
73.6	The power pursuant to Section 181(9) of the Act to remit any amount payable under Section 181(8) of the Act in whole or in part.
73.7	The power pursuant to Section 181(11) of the Act to grant discounts or other incentives in order to encourage:

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73.7.1	the payment of instalments of rates in advance; or
73.7.2	prompt payment of rates.
73.8	The power pursuant to Section 181(12)(b) of the Act to impose a surcharge or administrative levy not exceeding 1% of the rates payable in a particular financial year with respect to the payment of rates by instalments under Section 181(4)(b) of the Act.
73.9	The power pursuant to Section 181(13) and subject to Section 44(3)(b) of the Act in relation to the payment of separate rates or service rates, by written notice incorporated in a notice for the payment of those rates sent to the principal ratepayer shown in the assessment record in respect of the land at the address shown in the assessment record, at least 30 days before an amount is payable in respect of the rates for a particular financial year, to impose a requirement that differs from the requirements of Section 181 of the Act.
73.10	The power pursuant to Section 181(15) of the Act to decide that rates of a particular kind will be payable in more than 4 instalments in a particular financial year and in such case:
73.10.1	the instalments must be payable on a regular basis (or essentially a regular basis) over the whole of the financial year, or the remainder of the financial year depending on when the rates are declared; and
73.10.2	the Delegate must give at least 30 days notice before an instalment falls due.
74. Remission and Postponement of Payment	
74.1	The power pursuant to Section 182(1) of the Act to decide on the application of a ratepayer that payment of rates in accordance with the Act would cause hardship and, if so, to:
74.1.1	postpone payment in whole or in part for such period as the Delegate thinks fit; or
74.1.2	remit the rates in whole or in part.
74.2	The power pursuant to Section 182(2) of the Act on a postponement of rates:
74.2.1	to grant the postponement on condition that the ratepayer pay interest on the amount affected by the postponement at a rate fixed by the Delegate (but not exceeding the cash advance debenture rate);

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74.2.2	to grant the postponement on other conditions determined by the Delegate; and
74.2.3	to revoke the postponement, at the Delegate's discretion (in which case the Delegate must give the ratepayer at least 30 days written notice of the revocation before taking action to recover rates affected by the postponement).
74.3	The power pursuant to Section 182(3) of the Act to grant other or additional postponements of rates:
74.3.1	to assist or support a business in the Council's area; or
74.3.2	to alleviate the affects of anomalies that have occurred in valuations under the Act.
74.4	The power pursuant to Section 182(4) of the Act to grant other or additional remissions of rates on the same basis as applies under the Rates and Land Tax Remission Act 1986, (such remissions will be in addition to the remissions that are available under that Act).
74.5	The power pursuant to Section 182(5) of the Act to require a ratepayer who claims to be entitled to a remission of rates by virtue of a determination under Section 182(4) of the Act to provide evidence to the satisfaction of the Delegate verifying that entitlement.
74.6	The power pursuant to Section 182(6) of the Act to revoke a determination under Section 182(4) of the Act at any time (but the revocation will not affect an entitlement to remission in relation to rates declared before the revocation takes effect).
75. Postponement of Rates - Seniors	
75.1	The power pursuant to Section 182A(2) of the Act to require that an application pursuant to Section 182A(1) of the Act be accompanied by such information as the Delegate may reasonably require.
75.2	The power pursuant to Section 182A(3) of the Act, on an application for a postponement of the payment of the prescribed proportion of rates for the current or future financial made in accordance with Sections 182A(1) and (2) of the Act to:
75.2.1	reject an application for the postponement of rates; or
75.2.2	impose conditions on the postponement of rates but only in accordance with the Regulations.
76. Application of money in respect of rates	

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76.1	The power and the duty to apply monies received or recovered in respect of rates pursuant to and in accordance with Section 183 of the Act.
77. Sale of Land for Non-Payment of Rates	
77.1	The power pursuant to Section 184(1) of the Act to sell land, if an amount payable by way of rates in respect of the land, has been in arrears for 3 years or more.
77.2	The duty pursuant to Section 184(2) of the Act before selling land for non-payment of rates, to send a notice to the principal ratepayer at the address appearing in the assessment record:
77.2.1	stating the period for which the rates have been in arrears; and
77.2.2	stating the amount of the total liability for rates presently outstanding in relation to the land; and
77.2.3	stating that if that amount is not paid in full within 1 month of service of the notice (or such longer time as the Delegate may allow), the Council intends to sell the land for non-payment of rates.
77.3	The duty pursuant to Section 184(3) of the Act to send a copy of a notice sent to a principal ratepayer under Section 184(2) of the Act:
77.3.1	to any owner of the land who is not the principal ratepayer; and
77.3.2	to any registered mortgagee of the land; and
77.3.3	if the land is held from the Crown under a lease, licence or agreement to purchase, to the Minister who is responsible for the administration of the Crown Lands Act 1929.
77.4	If:
77.4.1	the Delegate cannot, after making reasonable enquiries, ascertain the name and address of a person to whom a notice is to be sent under Section 184(2) or (3) of the Act; or
77.4.2	the Delegate considers that it is unlikely that a notice sent under Section 184(2) or (3) of the Act would come to the attention of the person to whom it is to be sent,
	the power pursuant to Section 184(4) of the Act to effect service of the notice by:
77.4.3	placing a copy of the notice in a newspaper circulating

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	throughout the State; and
	77.4.4 leaving a copy of the notice in a conspicuous place on the land.
77.5	The power pursuant to Section 184(5) of the Act to proceed to have the land sold, if the outstanding amount of rates is not paid in full within the time allowed in the notice given to the ratepayer under Section 184(2) of the Act.
77.6	The duty pursuant to Section 184(6) and (7) of the Act to conduct the sale of land for non-payment of rates by public auction and the power to set the reserve price for the purposes of the auction, except in the case of land held from the Crown under a lease, licence or agreement to purchase, unless the Minister responsible for the administration of the Crown Lands Act 1929 grants consent to sale by public auction.
77.7	The duty pursuant to Section 184(8) of the Act to advertise the auction of land under Section 184 of the Act on at least 2 separate occasions in a newspaper circulating throughout the State.
77.8	The duty pursuant to Section 184(9) of the Act to call off the auction, if before the date of such an auction, the outstanding amount and the costs incurred by the Council in proceeding under this Section are paid to the Council.
77.9	The power pursuant to Section 184(10) of the Act to sell the land by private contract for the best price that can be reasonably obtained, if an auction fails or an auction is not held because the land is held from the Crown under a lease, licence or agreement to purchase.
77.10	The power and duty to apply monies received by the Council in respect of the sale of land for non-payment of rates pursuant to and in accordance with Section 184(11) of the Act.
77.11	The duty pursuant to Section 184(12) of the Act to make reasonable enquiries to find the owner of land to be sold for non-payment of rates and where the owner cannot be found, the power to deal with the amount payable to the owner as unclaimed money under the Unclaimed Moneys Act 1981.
78. Objection, Review or Appeal	
78.1	If an objection, review or appeal in respect of a valuation of land results in the alteration of a valuation or of a decision to attribute a particular land use to land, and a due adjustment is made, the power pursuant to Section 186(2) of the Act and subject to Section 186(3), (4) and (5) of the Act:
78.1.1	to refund or credit the overpaid amount against future

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	liabilities for rates on the land subject to the rates; or
78.1.2	to recover an additional amount payable on account of an alteration of the value as arrears after at least 30 days have expired from the date on which notification of the alteration is given to the person who initiated the objection, review or appeal.
79. Certificate of Liabilities	
79.1	The power pursuant to Section 187(1) of the Act to issue a certificate, on application by or on behalf of a person who has an interest in land within the area, stating that:
79.1.1	the amount of any liability for rates or charges on the land imposed under Part 1 of Chapter 10 or Schedule 1B of the Act (including rates and charges under Part 1 of Chapter 10 or Schedule 1B of the Act that have not yet fallen due for payment, and outstanding interest or fines payable in respect of rates and charges under Part 1 of Chapter 10 or Schedule 1B of the Act); and
79.1.2	any amount received on account of rates or charges on the land imposed under this part, that is held in credit against future liabilities for rates or charges in relation to the land.
80. Investigation by Ombudsman	
80.1	The duty pursuant to Section 187B(6) of the Act if the Ombudsman's report prepared pursuant to Section 187B(3) of the Act makes any recommendations as to action that should be taken by the Council, to within 2 months after receipt of that report, provide a written response to:
80.1.1	the Ombudsman; and
80.1.2	if relevant, the person who made the complaint.
80.2	The power pursuant to Section 187B(7) of the Act to grant a rebate or remission of any rate or service charge, or of any charge, fine or interest under Part 1 of Chapter 10 of the Act, if the Ombudsman recommends that the Council do so on the ground of special circumstances pertaining to a particular ratepayer.
81. Fees and Charges	
81.1	The power pursuant to Section 188(1) and (2) of the Act to impose fees and charges:
81.1.1	for the use of any property or facility owned, controlled,

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	managed or maintained by the Council;
81.1.2	for services supplied to a person at his or her request;
81.1.3	for carrying out work at a person's request;
81.2	The power pursuant to Section 188(3) of the Act to provide for:
81.2.1	specific fees and charges;
81.2.2	maximum fees and charges and minimum fees and charges;
81.2.3	annual fees and charges;
81.2.4	the imposition of fees or charges according to specified factors;
81.2.5	the variation of fees or charges according to specified factors in respect of fees and charges set under Section 188(1)(a) – (c) of the Act inclusive; and
81.2.6	the reduction, waiver or refund, in whole or in part, of any fees and charges.
81.3	The power pursuant to Section 188(5) of the Act to fix, vary or revoke those fees and charges set under Section 188(1)(a), (b) and (c) of the Act.
81.4	The duty pursuant to Section 188(6) of the Act to keep a list of fees and charges imposed under this Section on public display during ordinary office hours at the principal office of the Council.
81.5	The duty pursuant to Section 188(7) of the Act to, if the Council fixes or varies a fee imposed under this Section, up-date the list referred to in Section 188(6) of the Act and take reasonable steps to bring the fee or charge, or variation of the fee or charge, to the notice of persons who may be affected.
82. Acquisition of Land by Agreement	
82.1	The power pursuant to Section 190 of the Act to acquire land by agreement.
83. Compulsory Acquisition of Land	
83.1	The power pursuant to Section 191(1) of the Act to acquire land compulsorily, in circumstances which require the Minister's written approval, after the Council has obtained the Minister's approval.
83.2	The power pursuant to Section 191(2) of the Act to acquire land compulsorily for a purpose classified by the Regulations as an

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approved purpose.	
84. Assumption of Care, Control and Management of Land	
84.1	The power pursuant to Section 192(1) of the Act to assume the care, control and management of land in the Council area that has been set aside for the use or enjoyment of the public or a section of the public under the circumstances specified in Section 192(1)(a) and (b) of the Act.
84.2	The duty pursuant to Section 192(4) of the Act to immediately cause a copy of a resolution under Section 192(1) of the Act to assume the care, control and management of land to be published in the <i>Gazette</i> .
85. Classification	
85.1	The duty pursuant to Section 193(6) of the Act to give notice in the <i>Gazette</i> of a resolution:
85.1.1	to exclude land from classification as community land under Section 193(4) of the Act; or
85.1.2	to classify as community land, land that had previously been excluded from classification as such under Section 193(5) of the Act.
86. Revocation of Classification of Land as Community Land	
86.1	The duty pursuant to Section 194(2) of the Act before the Council revokes the classification of land as community land to:
86.1.1	prepare and make publicly available a report on the proposal containing:
86.1.1.1	a summary of reasons for the proposal; and
86.1.1.2	a statement of any dedication, reservation or trust to which the land is subject; and
86.1.1.3	a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and the statement of how the Council proposes to use the proceeds; and
86.1.1.4	an assessment of how implementation of the proposal would affect the area and the local community; and
86.1.1.5	if the Council is not the owner of the land, a statement of any requirements made by the owner of the land as

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	a condition of approving the proposed revocation of the classification; and
86.1.2	follow the relevant steps set out in the Council's public consultation policy.
86.2	After complying with the requirements of Section 194(2) of the Act, the duty pursuant to Section 194(3) of the Act to prepare a report on all submissions made on it as part of the public consultation process.
86.3	The power pursuant to Section 194(4) of the Act to consult with the Minister in relation to a regulation made under Section 194(1) over a specific piece of land.
87. Effect of Revocation of Classification	
87.1	If it appears from the Register Book that the land is subject to a dedication, reservation or trust, other than a dedication, reservation or trust under the Crown Lands Act 1929, the duty pursuant to Section 195(2) of the Act immediately after the revocation of the classification of the land as community land, to give notice of the revocation to the Registrar-General in the manner and form approved by the Registrar-General.
88. Management Plans	
88.1	The power and duty pursuant to and in accordance with Section 196(1), (2), (3) and (7) of the Act to prepare and adopt management plan or management plans for the Council's community land, for which a management plan must be prepared, that:
88.1.1	identifies the land to which it applies; and
88.1.2	states the purpose for which the land is held by the Council; and
88.1.3	states the Council's objectives, policies (if any) and proposals for the management of the land; and
88.1.4	states performance targets and how the Council proposes to measure its performance against its objectives and performance targets.
88.2	If a management plan relates to land that is not in the Council's ownership, the power and duty pursuant to Section 196(4) of the Act to consult with the owner of the land at an appropriate stage during the preparation of the plan and the plan must:
88.2.1	identify the owner of the land; and

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88.2.2	state the nature of any trust, dedication or restriction to which the land is subject apart from the Act; and
88.2.3	contain any provisions that the owner reasonably requires and identify those provisions as provisions required by the owner.
88.3	The duty pursuant to Section 196(5) of the Act to ensure (as far as practicable) that the management plan is consistent with other relevant official plans and policies about conservation, development and use of the land and contains any special provisions required under the Regulations.
89. Public Consultation on Proposed Management Plan	
89.1	Before the Council adopts a management plan for community land, the duty to pursuant to Section 197(1) of the Act and subject to Section 197(2) of the Act:
89.1.1	make copies of the proposed plan available for inspection or purchase at the Council's principal office; and
89.1.2	follow the relevant steps set out in Council's public consultation policy.
89.2	The duty pursuant to Section 197(3) of the Act to give public notice of the adoption of a management plan.
90. Amendment or Revocation of Management Plan	
90.1	The power pursuant to Section 198(1) of the Act and in accordance with Section 198(2) and (3) of the Act to amend or revoke a management plan by the adoption of a proposal for its amendment or revocation.
90.2	The power pursuant to Section 198(2) and (3) of the Act to conduct public consultation prior to the Council or the Delegate adopting a proposal for amendment to or revocation of a management plan, unless in the opinion of the Delegate the amendment has no impact or no significant impact on the interests of the community.
90.3	The duty pursuant to Section 198(4) of the Act to give public notice of Council's or the Delegate's adoption of a proposal for the amendment or revocation of a management plan.
91. Effect of Management Plan	
91.1	The duty pursuant to Section 199 of the Act to manage community land in accordance with any management plan for the relevant land.

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92. Use of Community Land for Business Purposes
92.1 The power pursuant to Section 200(1), (2) and (3) of the Act to approve a person's use of community land for a business purpose, consistent with provisions of the management plan and on any conditions the Delegate considers appropriate.
93. Sale or Disposal of Local Government Land
93.1 The power pursuant to Section 201(1) of the Act to sell or otherwise dispose of an interest in land:
93.1.1 vested in the Council in fee simple; or
93.1.2 vested in the Council as lessee.
93.2 The power pursuant to Section 201(2) of the Act to:
93.2.1 grant an easement (including a right of way) over community land; and
93.2.2 grant an easement (excluding a right of way) over a road or part of a road.
94. Alienation of Community Land by Lease or Licence
94.1 The power pursuant to Section 202(1) and (5) of the Act and subject to Section 202(7) of the Act to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve), for:
94.1.1 the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;
94.1.2 the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges (subject to the fixing or varying of the charge by Council, pursuant to Section 44(3)(j) of the Act);
94.1.3 any other matter relevant to the use or maintenance of the land.
94.2 The duty pursuant to Section 202(2) and (3) of the Act and subject to Section 202(7) of the Act before granting a lease or licence relating to community land to follow the relevant steps set out in Council's public consultation policy, unless:
94.2.1 the grant of the lease or the licence is authorised in an approved management plan for the land and the term of the

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	proposed lease or licence is 5 years or less; or
94.2.2	the Regulations provide, in the circumstances of the case, for an exemption from compliance with the public consultation policy.
94.3	The power and duty pursuant to Section 202(4) of the Act and subject to Section 202(4a) and Section 202(7) of the Act to grant or renew a lease or a licence for a term (not exceeding 42 years) and to extend the term of the lease or licence but not so that the term extends beyond a total of 42 years.
94.4	The duty pursuant to Section 202(6) of the Act and subject to Section 202(7) of the Act to ensure that a lease or licence relating to community land is consistent with any relevant management plan.
95. Register	
95.1	The duty pursuant to Section 207(1) of the Act to keep a register of all community land in Council's area.
95.2	The duty pursuant to Section 207(2)(a) and (b) of the Act to ensure that the register:
95.2.1	contains the information required by the Regulations; and
95.2.2	contains copies of current management plans.
95.3	The power pursuant to Section 207(2)(c) of the Act to include in the register (if the Delegate so decides) a computer record of the relevant information.
95.4	The duty pursuant to Section 207(3) and (4) of the Act to make available the register of all community land in the Council's area for inspection (without charge) or purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.
96. Ownership of Public Roads	
96.1	The duty pursuant to Section 208(4) of the Act to cause a copy of a resolution declaring a road or land to be a public road, or preserving an easement under Section 208(3), to be published in the <i>Gazette</i> .
97. Ownership of Fixtures and Equipment Installed on Public Roads	
97.1	The power pursuant to Section 209(3) of the Act to enter into an agreement with the provider of public infrastructure or the holder of an authorisation or permit under Section 209(1) and (2) of the Act which provides for the vesting of property in fixtures and equipment in the

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Council.	
98. Conversion of Private Road to Public Road	
98.1	The duty pursuant to Section 210(1)(b) of the Act to make reasonable enquiries to find the owner of a private road which the Council is seeking to declare be a public road.
98.2	The duty pursuant to Section 210(2) of the Act at least 3 months before the Council makes a declaration under Section 210 of the Act to:
98.2.1	if the identity and whereabouts of the owner of the road are known to the Council, give written notice to the owner of land subject to the proposed declaration; and
98.2.2	if a person has some other form of registered legal interest over the road and the identity and whereabouts of that person are known to the Council – give written notice to the person of the proposed declaration; and
98.2.3	give public notice of the proposed declaration.
98.3	The duty pursuant to Section 210(5) to publish in the <i>Gazette</i> a declaration of the Council made in accordance with Section 210(1) of the Act.
98.4	The duty pursuant to Section 210(7) of the Act to furnish to the Registrar-General a copy of any declaration under Section 210 of the Act in a manner and form approved by the Registrar-General immediately after it is made.
99. Highways	
99.1	The power pursuant to Section 211(1)(a) of the Act to enter into an agreement with the Commissioner of Highways in order for the Council to exercise its powers under Part 2 of Chapter 11 of the Act in relation to a highway.
100. Power to Carry Out Roadwork	
100.1	The power pursuant to Section 212(1) of the Act to have road works carried out in the Council's area or, by agreement with another Council, in the area of another Council.
100.2	The power pursuant to Section 212(3) of the Act to do anything reasonably necessary for, or incidental, to roadwork pursuant to Section 212(2) of the Act, providing that:
100.2.1	the roadwork is carried out in compliance with any relevant

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requirement under the Road Traffic Act 1961; and
100.2.2 before carrying out roadwork in relation to a road that runs into or intersects with a highway (and that may have an effect on the users of that highway), consult with the Commissioner of Highways; and
100.2.3 the roadwork in relation to a private road is only carried out if:
100.2.3.1 the owner agrees; or
100.2.3.2 the Council has given the owner reasonable notice of the proposed roadwork and a reasonable opportunity to make representations and has considered any representations made in response to the notice; or
100.2.3.3 the identity or whereabouts of the owner is unknown; and
100.2.4 the roadwork on other private land is carried out with the agreement of the owner (unless otherwise provided in the Act).
101. Recovery of Cost of Roadwork
101.1 Where roadwork has been carried by agreement, the power pursuant to Section 213(1) of the Act to recover the whole of the cost or an agreed contribution determined by the Delegate under the terms of the agreement.
101.2 Where roadwork has been carried out to repair damage to a road, the power pursuant to Section 213(2) of the Act to recover the cost of carrying out the work, as a debt, from:
101.2.1 the person who caused the damage; or
101.2.2 in the case of damage caused by the bursting, explosion or fusion of any pipe, wire, cable, fitting or other object – the person who is the owner, or who has control of that infrastructure.
101.3 If the Council carries out roadwork on a private road, the power pursuant to Section 213(3) of the Act to recover the cost of the work or a contribution towards the cost of the work determined by the Delegate as a debt from the owner of the private road.
102. Contribution Between Councils where Road is on Boundary Between Council Areas
102.1 Where roadwork is a carried out on a road on the boundary between 2 Council areas, the power pursuant to Section 214(1) and (2) of the Act

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to recover a reasonable contribution from the other Council towards the cost of the work, being an amount agreed between the Councils or, in the absence of an agreement, an amount determined by the Court in which the action for contribution is brought.

103. Special Provisions for Certain Kinds of Roadwork

103.1 If the Council changes the level of a road, the duty pursuant to Section 215(1) of the Act to:

103.1.1 ensure that adjoining properties have adequate access to the road; and

103.1.2 construct any retaining walls, embankments or other structures necessary to provide protection required in consequence of the change of level.

103.2 The power pursuant to Section 215(2) of the Act to carry out road work to allow water from a road to drain into adjoining property if, in the Delegate's opinion:

103.2.1 there is no significant risk of damage to the adjoining property; or

103.2.2 the road work does not significantly increase the risk of damage to adjoining property.

103.3 The duty pursuant to Section 215(4) of the Act to give reasonable notice of proposed action to drain water into land under Section 215(2) of the Act to the owner of the land, except in a case of urgency.

104. Power to Order Owner of Private Road to Carry out Specific Roadwork

104.1 The power pursuant to Section 216(1) of the Act to, by order in writing in accordance with Section 216(2) of the Act to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.

104.2 The duty pursuant to Section 216(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to:

104.2.1 any proposal to make an order; and

104.2.2 if an order is made, any order,

under Section 216(1) of the Act.

105. Power to Order Owner of Infrastructure on Road to Carry Out Specified Maintenance or Repair Work.

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105.1	The power pursuant to Section 217(1) of the Act by order in writing to the owner of a structure or equipment (including pipes, wires, cables, fittings and other objects) installed in, on, across, under or over a road, to require the owner:
105.1.1	to carry out specified work by way of maintenance or repair; or
105.1.2	to move the structure or equipment in order to allow the Council to carry out roadwork.
105.2	Where the order made pursuant to Section 217(1) of the Act is not complied with within a reasonable time fixed in the order, the power pursuant to Section 217(2)(a) of the Act to take action required by the order and to recover the cost of doing so as a debt from the owner.
106. Power to Require Owner of Adjoining Land to Carry Out Specific Work	
106.1	The power pursuant to Section 218(1) of the Act to, by order in writing in accordance with Section 218(2) of the Act to the owner of land adjoining the road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.
106.2	The duty pursuant to Section 218(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to:
106.2.1	any proposal to make an order; and
106.2.2	if an order is made, any order
	under Section 218(1) of the Act.
107. Power to Assign a Name, or Change the Name, of a Road or Public Place	
107.1	The power pursuant to Section 219(1) of the Act to assign a name to a public or private road, or to a public place, or change the name of a public or private road, or of a public place.
107.2	The duty pursuant to Section 219(1a) of the Act to assign a name to a public road created after the commencement of Section 219(1a) of the Act by land division.
107.3	Where it is proposed to change the name of a public road that runs into the area of an adjoining council, the duty pursuant to Section 219(2) of the Act to:
107.3.1	give the adjoining council at least 2 months notice of the proposed change; and
107.3.2	consider any representations made by the adjoining council in

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response to that notice.
107.4 The duty pursuant to Section 219(3) of the Act to:
107.4.1 immediately notify the Registrar-General, the Surveyor-General and the Valuer-General of the assignment of a name, or the change of a name, under Section 219 of the Act; and
107.4.2 on request by the Registrar-General, the Surveyor-General or the Valuer-General, provide information about the names of roads or public places in the Council's area.
107.5 The duty pursuant to Section 219(4) of the Act to give public notice of the assigning or changing of a name under Section 219(1) of the Act.
107.6 The power pursuant to Section 219(5) of the Act to prepare and adopt a policy relating to the assigning of names under Section 219 of the Act.
107.7 The power pursuant to Section 219(6) of the Act to, at any time, alter a policy or substitute a new policy.
107.8 The duty pursuant to Section 219(7) of the Act to publish notice of the adopting or altering of a policy under Section 219 of the Act:
107.8.1 in the Gazette; and
107.8.2 in a newspaper circulating in the area of the council; and
107.8.3 on a website determined by the Chief Executive Officer.
108. Numbering of Premises and Allotments
108.1 The power pursuant to Section 220(1) of the Act to adopt a numbering system for buildings and allotments adjoining a road.
108.2 The duty pursuant to Section 220(1a) of the Act to assign a number (as part of its primary street address) to all buildings or allotments adjoining a public road created after the commencement of Section 220(1a) of the Act by land division.
108.3 The duty pursuant to Section 220(1b) of the Act to ensure that an assignment under Section 220(1a) of the Act occurs within 30 days after the issue of certificate of title in relation to the relevant land division in accordance with any requirements prescribed by regulations made for the purposes of Section 220(1b) of the Act.
108.4 The power pursuant to Section 220(2) of the Act to, from time to time, alter a numbering system, or substitute a new numbering system, under Section 220 of the Act.

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108.5	The duty pursuant to Section 220(3) of the Act to give public notice of the adopting, altering or substituting of a numbering system for a particular road.
108.6	The duty pursuant to Section 220(4) of the Act to notify the Valuer-General of the decision to adopt, alter or substitute a numbering system.
108.7	The power pursuant to Section 220(6) of the Act to request an owner of land to ensure that the appropriate number for the owner's building or allotment is displayed in a form directed or approved by the Delegate.
109. Alteration of Road	
109.1	The power pursuant to Section to 221(1) and (2) of the Act to authorise a person (other than the Council or a person acting under some other statutory authority) to make an alteration to a public road, such as:
109.1.1	altering the construction or arrangement of the road to permit or facilitate access from an adjacent property; or
109.1.2	erecting or installing a structure (including pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over the road; or
109.1.3	changing or interfering with the construction, arrangement or materials of the road; or
109.1.4	changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings and other objects) associated with the road; or
109.1.5	planting a tree or other vegetation on the road, interfering with vegetation on the road or removing vegetation from the road.
109.2	Before authorising the erection or installation of a structure under Section 221(2)(b) of the Act the duty pursuant to Section 221(4) of the Act to give consideration as to whether the structure will:
109.2.1	unduly obstruct the use of the road; or
109.2.2	unduly interfere with the construction of the road; or
109.2.3	have an adverse effect on road safety.
109.3	The power pursuant to Section 221(6) of the Act to grant an authorisation under Section 221 of the Act:
109.3.1	for a particular act or occasion; or

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109.3.2 for a term which is, subject to revocation for breach of a condition, to remain in force for a term (not exceeding 42 years) stated in the authorisation and, at the expiration of the term, the power to renew the term for a further term (not exceeding 42 years) fixed by the Delegate at the time of the renewal.
110. Permits for Business Purposes
110.1 The power pursuant to Section 222(1) of the Act to authorise a person to use a public road for business purposes and to give a permit to do so.
110.2 Subject to the Act, the power pursuant to Section 222(2) of the Act to issue a permit that grants rights of exclusive occupation in relation to part of a public road.
110.3 The power pursuant to Section 222(3) of the Act to issue a permit to use a public road for a particular occasion or for a term stated in the permit.
111. Public Consultation
111.1 The duty pursuant to Section 223(1) of the Act before granting the authorisation to alter a public road or the permit to use a public road for business purposes, to follow the relevant steps set out in Council's public consultation policy, if the Delegate proposes to grant an authorisation or permit:
111.1.1 that confers a right of exclusive occupation; or
111.1.2 that would have the effect of restricting access to a road; or
111.1.3 in relation to a use or activity for which public consultation is required under the Regulations.
111.2 The duty pursuant to Section 223(2) of the Act to give written notice of the proposal to agencies that are, under the Regulations, to be notified of the proposal to grant an authorisation to alter a public road or to permit the use of a public road for business purposes.
112. Conditions of Authorisation or Permit
112.1 The power pursuant to Section 224 of the Act to grant an authorisation or permit under Division 6 of Part 2, Chapter 11 on conditions the Delegate considers appropriate.
113. Cancellation of Authorisation or Permit
113.1 The power pursuant to Section 225(1) of the Act by notice in writing to

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the holder of an authorisation or permit, to cancel the authorisation or permit for breach of a condition.
113.2 The duty pursuant to Section 225(2) of the Act before cancelling an authorisation or permit, to:
113.2.1 give the holder of the authorisation or permit a written notice of the proposed cancellation stating the grounds on which the Delegate proposes to act and allowing the holder a reasonable period to make written representations to the Delegate on the proposed cancellation; and
113.2.2 consider any representations made in response to the notice.
113.3 The power pursuant to Section 225(3) of the Act to determine if a shorter period of notice should apply under Section 225(2)(a) of the Act, to protect the health or safety of the public, or otherwise to protect the public interest.
114. Register
114.1 The power and duty pursuant to Section 231(1) and (2) of the Act to keep a register of public roads in the Council's area, which:
114.1.1 includes the information required by regulation; and
114.1.2 may consist (if the Delegate so decides) of a computer record of the relevant information.
114.2 The duty pursuant to Section 231(3) and (4) of the Act to make the register available for public inspection (without charge) and purchase of extracts (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.
115. Trees
The power pursuant to Section 232 of the Act to plant vegetation or authorise or permit the planting of vegetation, on a road, only after complying with the following matters (in addition to complying with any other statutory requirement):
115.1 giving consideration to whether the vegetation is, on balance, appropriate to the proposed site taking into account -
115.1.1 environmental and aesthetic issues; and
115.1.2 the use and construction of the road (including the potential for interference with the construction of the road or with structures (including pipes, wires, cables, fixtures, fittings or other objects)

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in the road); and
115.1.3 road safety matters; and
115.1.4 other matters (if any) considered relevant by the Delegate; and
115.2 where the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, to follow the relevant steps set out in its public consultation policy.
116. Damage
116.1 The power pursuant to Section 233(1) and (2) of the Act to recover damages, in the same way as damages for a tort, where a person, without the Council's permission, intentionally or negligently damages a road or a structure (including pipes, wires, cables, fixtures, fittings and other objects) belonging to the Council associated with the road.
117. Council's Power to Remove Objects etc from Roads
117.1 The power pursuant to Section 234(1) of the Act to remove and dispose of any structure, object or substance from a road if:
117.1.1 it has been erected, placed or deposited on the road without the authorisation or permit required under Part 2 of Chapter 11 of the Act; or
117.1.2 an authorisation or permit has been granted but has later expired or been cancelled.
117.2 The power pursuant to Section 234(2) of the Act to recover the cost of acting under Section 234 of the Act as a debt from the person who erected, placed or deposited the structure, object or substance on the road.
117.3 Where, as a result of an accident involving a vehicle or vehicles, any wreckage, objects or materials are left on a road, the power pursuant to Section 234(3) of the Act to clear the area and to recover the cost from the driver of the vehicle or, if more than one vehicle was involved, the driver of any one of the vehicles.
118. Deliberately left blank

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119. Abandonment of Vehicles and Farm Implements
119.1 The power pursuant to Section 236(2) of the Act to seek an order from the court by which a person is convicted of an offence against Section 236(1) of the Act, that the convicted person pay to the Council any costs incurred by the Council in removing or disposing of a vehicle abandoned on a public road or public place.
120. Removal of Vehicles
120.1 The duty pursuant to Section 237(4) of the Act to ensure that the owner of the vehicle is notified of the removal of the vehicle:
120.1.1 by written notice in the prescribed form:
120.1.1.1 served on the owner personally; or
120.1.1.2 served on the owner by the use of person-to-person registered post,
as soon as practicable after the removal of the vehicle; or
120.1.2 if the owner is unknown or cannot be found – by public notice published in a newspaper circulating generally in the State within 14 days after the removal of the vehicle.
120.2 If the owner of a removed vehicle does not, within 1 month after service or publication of the notice, pay all expenses in connection with the removal, custody and maintenance of the vehicle, and of serving, publishing or posting the notice, and take possession of the vehicle, the power and duty pursuant to Section 237(5) of the Act to, subject to Section 237(6)(b) of the Act, offer the vehicle for sale by public auction or public tender.
120.3 The power pursuant to Section 237(6) of the Act to dispose of the vehicle in such manner as the Delegate thinks fit if:
120.3.1 the vehicle is offered for sale but not sold; or
120.3.2 the Delegate reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle or the costs incidental to removing or holding the vehicle, or those costs combined.
120.4 The duty pursuant to Section 237(7) of the Act, where the vehicle is sold, to apply the proceeds of sale as follows:
120.4.1 firstly, in payment of the costs of and incidental to the sale;

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120.4.2	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 Section 237 of the Act;
120.4.3	thirdly, in payment of the balance to the owner of the vehicle.
120.5	The duty pursuant to Section 237(8) of the Act to make reasonable inquiry to find the owner of the vehicle following sale and, if after that reasonable inquiry, the owner cannot be found, the duty to pay the balance of the proceeds of sale to the Council.
120.6	The duty pursuant to Section 237(9) of the Act to take reasonable steps to return property found in the vehicle, and where the property cannot be returned, the duty to deal with the property as unclaimed goods under the Unclaimed Goods Act 1987 as if the Council were the bailee of those goods.
121. Time Limits for Dealing with Certain Applications	
121.1	Where the power to decide upon certain applications to which the Section applies has been delegated, the duty pursuant to Section 242(1) and (2) of the Act within two months after the relevant date, to make a decision in respect of the application and, if not so decided, it is taken to have been refused.
121.2	The duty pursuant to Section 242(3) of the Act to notify the applicant in writing as soon as practicable of a decision or presumptive decision on an application to which Section 242 of the Act applies.
122. Registrar-General to Issue Certificate of Title	
122.1	The duty pursuant to Section 243(1) of the Act to apply to the Registrar-General for the issue of a Certificate of Title for the land under the Real Property Act 1896, where land vests for an estate in fee simple in the Council under this Act.
122.2	The duty pursuant to Section 243(2) of the Act to make such application to the Registrar-General for the issue of a Certificate of Title as follows:
122.2.1	in a manner and form approved by the Registrar-General; and
122.2.2	accompanied by:
122.2.2.1	Deliberately left blank
122.2.2.2	any surveys of the land and other materials that the Registrar-General may reasonably require; and

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122.2.2.3 a fee fixed by the Registrar-General.
123. Liability for Injury, Damage or Loss Caused by Certain Trees
123.1 The power and duty pursuant to Section 245 of the Act to take reasonable action in response to a written request by an owner or occupier of property adjacent to a road for the Council to take reasonable action to avert a risk of damage to property of the owner or occupier from a tree growing in the road (whether planted by the Council or not).
124. Council May Require Bond or Other Security in Certain Circumstances
124.1 Subject to Section 245A of the Act, if,
124.1.1 a person has approval to carry out development under the Development Act 1993; and
124.1.2 the delegate has reason to believe that the performance of work in connection with the development could cause damage to any local government land (including a road) within the vicinity of the site of the development,
the power, pursuant to Section 245A of the Act, to, by notice in writing serve on the person who has the benefit of the approval, require the person to enter into an agreement that complies with any requirements prescribed by the regulations so as to ensure that money is available to address the cost of any damage that may be caused.
124.2 The power pursuant to Sections 37(b) and 245A of the Act, where a person has approval to carry out development under the Development Act 1993 and a notice in writing has been served pursuant to Section 245A of the Act on the person who has the benefit of the approval, to enter into an agreement that complies with any requirements prescribed by the regulations so as to ensure that money is available to address the cost of any damage that may be caused.
125. Power to Make By-Laws
125.1 The duty pursuant to Section 246(4a) of the Act, if the Council makes a determination under Section 246(3)(e) of the Act, to ensure that notice of the determination is published in the Gazette and in a newspaper circulating in the area of the Council.

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126. Passing By-Laws
126.1 If it is proposed that the Council make a by-law, then at least 21 days before the Council resolves to make the by-law, the duty pursuant to Section 249(1) of the Act to:
126.1.1 make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for public inspection, without charge and during ordinary office hours, at the principal office of the Council, and so far as is reasonable practicable on the Internet; and
126.1.2 by notice in a newspaper circulating in the area of the Council:
126.1.2.1 inform the public of the availability of the proposed by-law; and
126.1.2.2 set out the terms of the by-law, or describe in general terms the by-law's nature and effect.
126.2 Before the Council makes a by-law, the duty pursuant to Section 249(4) of the Act to obtain a certificate, in the prescribed form, signed by a legal practitioner certifying that, in the opinion of the legal practitioner:
126.2.1 the Council has power to make the by-law by virtue of a statutory power specified in the certificate; and
126.2.2 the by-law is not in conflict with the Act.
126.3 The duty pursuant to Section 249(5) of the Act to publish a by-law in the <i>Gazette</i> .
126.4 The duty pursuant to Section 249(7) of the Act to publish a notice of the making of a by-law under Section 249 of the Act in a newspaper circulating in the area of the Council.
127. Model By-Laws
127.1 The duty pursuant to Section 250(5) of the Act to publish the resolution adopting a model by-law or alteration made under Section 250 of the Act in the <i>Gazette</i> .
127.2 The duty pursuant to Section 250(7) of the Act to publish a notice of the adoption of a model by-law or alteration made under Section 250 of the Act in a newspaper circulating in the area of the Council.

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128. Register of By-Laws and Certified Copies
128.1 The duty pursuant to Section 252(1) and (2) to cause a separate register to be kept of all by-laws made or adopted by the Council; such register to include a copy of any code, standard or other document referred to or incorporated in a by-law.
128.2 The duty pursuant to Section 252(3) and (4) of the Act to make available the register of by-laws for inspection or purchase an extract from the register (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.
128.4 The duty pursuant to Section 252(5) of the Act to make available, on payment of a fee fixed by the Council, a certified copy of a by-law of the Council in force at the particular time.
129. Power to Make Orders
129.1 The power pursuant to Section 254 of the Act to order a person to do or to refrain from doing a thing specified in Column 1 of the Table in Part 2 of Chapter 12, if in the opinion of the Delegate, the circumstances specified in Column 2 of the Table exist and the person is within the description in Column 3 of the Table.
130. Procedures to be Followed
130.1 The duty pursuant to Section 255(1) of the Act before taking action to make an order under Part 2 of Chapter 12 (but subject to this Section), to give the person to whom it is proposed that the order be directed a notice in writing:
130.1.1 stating the proposed action, including the terms of the proposed order and the period within which compliance with the order will be required; and
130.1.2 stating the reasons for the proposed action; and
130.1.3 inviting the person to show, within a specified time (being a reasonable period), why the proposed action should not be taken (by making representations to the Delegate).
130.2 If a notice of intention to make an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(2) of the Act to take reasonable steps to serve a copy of the notice on the owner.
130.3 The power pursuant to Section 255(3) of the Act after considering representations made within the time specified under Section 255(1) of the Act:

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130.3.1	to make an order in accordance with the terms of the original proposal; or
130.3.2	to make an order with modifications from the terms of the original proposal; or
130.3.3	to determine not to proceed with an order.
130.4	The power pursuant to Section 255(5) of the Act to:
130.4.1	include two or more orders in the same instrument;
130.4.2	direct two or more persons to do something specified in the order jointly.
130.5	The duty pursuant to Section 255(6) of the Act to ensure that the order:
130.5.1	subject to Section 255 of the Act, specifies a reasonable period within which compliance with the order is required; and
130.5.2	states the reasons for the order.
130.6	The duty pursuant to Section 255(7) of the Act to serve an order in accordance with Part 2 of Chapter 14 of the Act on the person to whom it is addressed.
130.7	If an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(8) of the Act to take reasonable steps to serve a copy of the order on the owner.
130.8	The power pursuant to Section 255(11) of the Act at the request or with the agreement of the person to whom an order is directed, to vary the order on the Delegate's own initiative, or to revoke an order if satisfied that it is appropriate to do so.
130.9	If the Delegate, in the circumstances of a particular case, considers:
130.9.1	that an activity constitutes, or is likely to constitute, a threat to life or an immediate threat to public health or public safety; or
130.9.2	that an emergency situation otherwise exists,
	the Delegate has the power pursuant to Section 255(12) of the Act to:
130.9.3	Proceed immediately to make an order under this Section without giving notice under Section 255(1); and
130.9.4	require immediate compliance with an order despite Section 255(6)(a).

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131. Rights of Review
131.1 The duty pursuant to Section 256(1) and (2) of the Act to ensure that an order made under Part 2 of Chapter 12 includes a statement setting out the rights of the person to appeal against the order under the Act, and to include the information specified by the Regulations to the Act.
132. Action on Non-Compliance
132.1 The power pursuant to Section 257(1) of the Act, where the requirements of an order are not complied with within the time fixed for compliance, or if there is an application for review, within 14 days after the determination of the review, to (subject to the outcome of any review) take the action required by the order.
132.2 The power pursuant to Section 257(2) of the Act to authorise an employee or another person to take action under Section 257(1) of the Act.
132.3 The power pursuant to Section 257(3) of the Act to take action to recover the reasonable costs and expenses incurred by the Council in taking action for the non-compliance with an order, as a debt from the person who failed to comply with the requirements of the order.
132.4 The power pursuant to Section 257(5) of the Act where an amount is recoverable from a person by the Council for action of non-compliance with an order, by notice in writing to the person, to fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid and, if the amount is not paid by the person within that period:
132.4.1 the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and
132.4.2 if the person is the owner of the land to which the order relates – the power, in accordance with Schedule 6, to impose a charge over the land for the unpaid amount, together with interest.
133. Councils to Develop Policies
133.1 The power and duty pursuant to Section 259(1) of the Act to take reasonable steps to prepare and adopt policies concerning the operation of Part 2 of Chapter 12 of the Act.
133.2 The power and duty pursuant to Section 259(2) of the Act to:
132.2.1 prepare a draft of a Policy; and

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133.2.2	by notice in a newspaper circulating in the area of the Council, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the Council or the Delegate (being at least four weeks).
133.3	The duty pursuant to Section 259(3) of the Act to consider any submission made on a proposed policy in response to an invitation under Section 259(2) of the Act.
133.4	The power pursuant to Section 259(4) of the Act to amend a policy at any time.
133.5	The duty pursuant to Section 259(5) of the Act before adopting an amendment to a policy, to take the steps specified in Section 259(2) and (3) (as if the amendment were a new policy), unless the Council or the Delegate determines the amendment is only of minor significance.
133.6	The duty pursuant to Sections 259(6) and (7) of the Act to make a policy available for inspection (without charge) and purchase (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.
133.7	The duty pursuant to Section 259(8) of the Act in considering whether to make an order under Part 2 of Chapter 12 of the Act, to deal with the particular case on its merits and the duty to take into account any relevant policy under Division 3 of Part 2, Chapter 12 of the Act.
134. Appointment of Authorised Persons	
134.1	The power, pursuant to Section 260(1) of the Act by instrument in writing, to appoint a person (other than a member of the Council) to be an authorised person.
134.2	The power pursuant to Section 260(2) of the Act to make an appointment of an authorised person subject to such conditions or limitations as the Delegate determines and specified in the instrument of appointment.
134.3	The power and duty pursuant to Section 260(3) of the Act to issue to an authorised person an identity card:
134.3.1	containing a photograph of the authorised person; and
134.3.2	identifying any conditions or limitations imposed under Section 260(2) of the Act.

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134.4	The power pursuant to Section 260(5) of the Act to at any time revoke an appointment under Section 260 of the Act, or to vary or revoke a condition or limitation, or impose a further condition or limitation on the appointment.
135. Procedures for Review of Decisions and Requests for Services	
135.00	The power and duty pursuant to Section 270(a1) of the Act and in accordance with Sections 270(a2) and (4a) of the Act, to develop and maintain policies, practices and procedures for dealing with:
135.00.1	any reasonable request for the provision of a service by the Council or for the improvement of a service provided by the Council; and
135.00.2	complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council.
135.0	The power and duty pursuant to Section 270(a2) of the Act to ensure the policies, practices and procedures required under Section 270(a1) of the Act, are directed towards:
135.0.1	dealing with the relevant requests or complaints in a timely, effective and fair way; and
135.0.2	using information gained from the Council's community to improve its services and operations.
135.1	Without limiting Sections 270(a1) and (a2) of the Act, the power and duty pursuant to Section 270(1) of the Act and in accordance with Sections 270(2) and (4a) of the Act, to establish procedures for the review of decisions of:
135.1.1	the Council;
135.1.2	employees of the Council;
135.1.3	other persons acting on behalf of the Council,
135.2	The duty pursuant to Section 270(2) of the Act to ensure that the procedures established under Section 270(1) of the Act address the following matters (and any other matters which the Delegate or the Council determines to be relevant):
135.2.1	the manner in which an application for review may be made;
135.2.2	the assignment of a suitable person to reconsider a decision under review;

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135.2.3	the matters that must be referred to the Council itself for consideration or further consideration;
135.2.3A	in the case of applications that relate to the impact that any declaration of rates or service charges may have had on ratepayers – the provision to be made to ensure that these applications can be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under the Act;
135.2.4	the notification of the progress and outcome of an application for review;
135.2.5	the timeframes within which notifications will be made and procedures on a review will be completed.
135.3	The power pursuant to Section 270(4) of the Act to refuse to consider an application for review of a decision under Section 270 of the Act, if:
135.3.1	the application was made by an employee of the Council and relates to an issue concerning his or her employment; or
135.3.2	it appears that the application is frivolous or vexatious; or
135.3.3	the applicant does not have a sufficient interest in the matter.
135.4	The power and duty pursuant to Section 270(5) of the Act to ensure that copies of a document concerning the policies, practices and procedures that apply under Section 270 of the Act are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
135.5	The power pursuant to Section 270(6) of the Act to, from time to time, amend the policies, practices and procedures established under Section 270 of the Act.
135.6	The power and duty pursuant to Section 270(8) of the Act to, on an annual basis, initiate and consider a report that relates to:
135.6.1	the number of applications for review made under Section 270; and
135.6.2	the kinds of matters to which the applications relate; and
135.6.3	the outcome of applications under this Section; and
135.6.4	such other matters as may be prescribed by the Regulations.
135.7	The power pursuant to Section 270(9) of the Act on an application for

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the provision of some form of relief or concession with respect to the payment of those rates, to, if appropriate, in view of the outcome of the application, refund the whole or a part of any amount that has been paid.
136. Mediation, Conciliation and Neutral Evaluation
136.1 The power pursuant to Section 271(1) of the Act as part of, or in addition to, the procedures established under Section 270 of the Act, to make provision for disputes between a person and the Council to be dealt with under a scheme involving mediation, conciliation or neutral evaluation.
136.2 The duty pursuant to Section 271(2) of the Act to provide for the constitution of panels of persons who are available to act as mediators, conciliators and evaluators, and for the selection of an appropriate mediator, conciliator or evaluator, if a dispute is to be dealt with under a Scheme established under Section 271(1) of the Act.
136A. Provision of Information to Minister
136A.1 The power and duty, pursuant to Section 271A of the Act, to, at the request of the Minister, provide to the Minister specified information, or information of a specified kind, relating to the affairs or operations of the Council.
136A.2 The power pursuant to Section 271A(3) of the Act to, provide information in accordance with a request under Section 271A(1) of the Act, even if:
136AA.2.1 the information was given to the Council in confidence; or
136AA.2.2 is held on a confidential basis under Chapter 6 Part 4.
136B. Minister May Refer Investigation of Council to Ombudsman
136B.1 The power pursuant to Section 272(3) of the Act, to, before the Minister refers a matter, explain the Council's actions and make submissions to the Minister.
136B.2 The power pursuant to Section 272(5) of the Act, to make submissions to the Minister in relation to the matter.
136C. Action on a Report
136C.1 The power pursuant to Section 273(3) of the Act to make submissions to the Minister on the report on which the action is based.

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136D. Deliberately left blank
136D.1 Deliberately left blank
136D.2 Deliberately left blank
136E. Action on a Report
136E.1 The power pursuant to Section 275(2) of the Act to make submissions to the Minister.
137. Special Jurisdiction
137.1 The power pursuant to Section 276(1) and (2) of the Act to commence, defend or participate in the following proceedings before the District Court, on behalf of the Council:
137.1.1 proceedings to try the title of a member to an office;
137.1.2 proceedings to try the right of a person to be admitted or restored to an office;
137.1.3 proceedings to compel restoration or admission;
137.1.4 proceedings to compel the Council to proceed to an election, poll or appointment;
137.1.5 proceedings to try the validity of a rate or service charge;
137.1.6 proceedings to try the validity of a by-law;
137.1.7 proceedings to compel the production or delivery of any books, voting papers, or other documents or papers to the production or possession of which the Council or person is entitled under this Act.
138. Service of Documents by Councils etc
138.1 Where a document is required or authorised to be served on or given to a person by the Council, the power and duty to effect service in accordance with and pursuant to Section 279 of the Act.
139. Service of Documents on Councils
139.1 The power pursuant to Section 280(1)(c) and (d) of the Act to determine the means available for service of documents on the Council and the power to accept or authorise a person to accept documents on Council's behalf.

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140. Recovery of Amounts from Lessees or Licensees
140.1 Where an owner of land is liable to pay an amount to the Council, the power pursuant to Section 281(1) of the Act by written notice to a lessee or licensee of the land, to require him or her to pay to the Council rent or other consideration payable under the lease or license in satisfaction of the liability to the Council.
141. Ability of Occupiers to Carry out Works
141.1 Where an owner of land fails to carry out work that the Council has required the owner to carry out under an Act, the power pursuant to Section 282(1) of the Act to give approval to the occupier of the land to cause the work to be carried out.
142. Power to Enter and Occupy Land in Connection with an Activity
142.1 The duty pursuant to Section 294(1a) of the Act and subject to Section 294(1b) of the Act, to give an owner or occupier of land at least 48 hours notice in writing of an intention to exercise a power under Section 294(1)(b) or (c) of the Act.
142.2 The duty pursuant to Section 294(3) of the Act:
142.2.1 to pay to the owner or occupier of the land rent on a quarterly or half-yearly basis, at a rate to be determined by agreement between the Council and the owner or occupier or, in default of agreement, by the Land and Valuation Court; and
142.2.2 to pay to the owner or occupier of the land within 1 month after occupying the land - reasonable compensation for damage caused to any crops on the land; and
142.2.3 within 6 months of ceasing to occupy the land:
142.2.3.1 remedy damage to land caused by the Council while in occupation of the land (to such extent as this may be reasonably practicable); and
142.2.3.2 to pay to the owner or occupier of the land reasonable compensation for any other loss or damage caused by the Council, including the full value of any earth, minerals or resources taken from the land;
142.3 The duty pursuant to Section 294(5) of the Act, at the request of an owner or occupier of the land entered and occupied by Council, to erect a fence of reasonable quality and design between the occupied land and the adjoining land.

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143. Reclamation of Land
143.1 Where the Council raises, fills in, improves, drains, levels or reclaims land in the area of the Council, the power pursuant to Section 296(1) of the Act to recover the whole or a proportion of the cost of the work from the owners of adjacent or adjoining rateable land improved by the performance of the work in proportion to additional value the work has added to the land.
143.2 The power pursuant to Section 296 (2) of the Act to appoint a valuer to determine the additional value added to the land by Council's activities, under Section 296(1) of the Act.
143.3 The duty pursuant to Section 296(3) of the Act to give notice of a valuation to the relevant owner under this Section of the Act.
143.4 The duty pursuant to Section 296(5) of the Act to conduct an objection or review in the same manner as an objection to or appeal against a valuation under Division 6 of Part 1, Chapter 10 of the Act.
144. Property in Rubbish
144.1 The power pursuant to Section 297 of the Act to sell or dispose of any rubbish that the Council collects within its area, as the Delegate thinks appropriate.
145. Power of Council to Act in Emergency
145.1 Where flooding in the area of the Council has occurred or is imminent and the Delegate is of the opinion that a situation of emergency has arisen in which there is danger to life or property, the power pursuant to Section 298(1) of the Act to order that action be taken as the Delegate thinks fit to avert or reduce the danger.
146. Deliberately left blank
146.1 Deliberately left blank.
146.2 Deliberately left blank.
147. Costs of Advertisements
147.1 The duty pursuant to Section 300(1) of the Act to pay the cost of an advertisement required by the Act, or where the Council or an employee of the Council takes any action that immediately necessitates the advertisement.
148. Whistleblowing

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148.1 The duty pursuant to Section 302B of the Act to ensure that a member of staff of the Council who has the qualifications prescribed by the Local Government (General) Regulations 2013 is designated as the responsible officer for the Council for the purposes of the Whistleblowers Protection Act 1993.
148A Use of Facilities
148A.1 The power pursuant to Clause 13 of Schedule 1A of the Act to arrange with the Authority for the Authority to make use of the services of the staff, equipment or facilities of the Council.
149. Deliberately left blank
150. Deliberately left blank
151. Deliberately left blank
151A Preparation of Stormwater Management Plans by Councils
151A.1 The power pursuant to Clause 17(1) of Schedule 1A of the Act to prepare a stormwater management plan which: <ul style="list-style-type: none"> (a) complies with the guidelines issued by the Authority; and (b) is prepared in consultation with the relevant regional NRM board or boards; and (c) is prepared in accordance with any other procedures or requirements prescribed by the Regulations.
151B Authority May Issue Order
151B.1 The power pursuant to Clause 20(5) of Schedule 1A of the Act, before the Authority takes any action under Clause 20(4) of Schedule 1A of the Act, to make submissions to the Authority in relation to the matter.
151B.2 The power pursuant to Clause 20(6) of Schedule 1A of the Act, if costs and expenses are to be recovered from the Council as a debt, to enter into an agreement with the Authority for the debt to be repaid over a period of time, subject to the payment by the Council of interest on the debt (and the power to agree the rate with the Authority).
152. Deliberately left blank
153. Deliberately left blank
154. Special Powers in Relation to Land
154.1 The power pursuant to Clause 24(1) of Schedule 1A of the Act and in

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accordance with Clause 24(2) of Schedule 1A of the Act, for the purpose of taking action consistent with the provisions of an approved stormwater management plan or a condition imposed on approval of a stormwater management plan or action required by an order under Clause 20 of Schedule 1 of the Act, to:

- (a) enter and occupy any land; and
- (b) construct, maintain or remove any infrastructure; and
- (c) excavate any land; and
- (d) inspect, examine or survey any land and for that purpose:
 - (i) fix posts, stakes or other markers on the land; and
 - (ii) dig trenches or sink test holes in the land to determine the nature of the top soil and underlying strata; and
 - (iii) remove samples for analysis.
- (e) alter water table levels, stop or reduce the flow of water in a watercourse, divert water flowing in a watercourse to another watercourse or to a lake or control the flow of water in any other manner; and
- (f) hold any water in a watercourse or lake or by any other means; and
- (g) divert water to an underground aquifer, dispose of water to a lake, underground aquifer or the sea, or deal with water in any other manner; and
- (h) deepen, widen or change the course of a watercourse, deepen or widen a lake or take action to remove any obstruction to the flow of water; and
- (i) undertake any other form of work (including work undertaken for the purposes of stormwater management or flood mitigation); and
- (j) undertake any testing, monitoring or evaluation; and
- (k) undertake any other activity of a prescribed kind.

154.2 The power pursuant to Clauses 24(2)(b) and 25 of Schedule 1A of the Act to acquire an easement or other appropriate interest over the relevant land by agreement with the owner or in accordance with the Land Acquisition Act 1969 and any other applicable laws.

155. Entry and Occupation of Land Other Than Council Land

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155.1	The power pursuant to Clause 25(2) of Schedule 1A of the Act, subject to Clause 25(3) of Schedule 1A of the Act, to give reasonable notice of an intention to enter, or to enter and occupy, land in accordance with Clause 24 of Schedule 1A of the Act to the occupier of the land.
155.2	The power pursuant to Clause 25(3)(b) of Schedule 1A of the Act to, in an emergency, give such notice (if any) as the delegate considers is reasonable in the circumstances.
156. Vesting of Infrastructure, etc	
156.1	The power pursuant to Clause 26(3) of Schedule 1A of the Act to, before the Minister publishes a notice vesting the care, control and management of infrastructure or land in the Council under Clauses 26(1) or (2) of Schedule 1A of the Act make submissions to the Minister in relation to the proposed notice.
157. Building Upgrade Agreement (<i>May only be delegated to CEO</i>)	
157.1	The power pursuant to Clause 2(1) of Schedule 1B of the Act, subject to Clause 2 of Schedule 1B of the Act, to, in relation to a building situated on land within the area of the Council, enter into an agreement (<i>a building upgrade agreement</i>) under which:
157.1.1	the building owner agrees to undertake upgrade works in respect of the building; and
157.1.2	a finance provider agrees to advance money to the building owner for the purpose of funding those upgrade works; and
157.1.3	the Council agrees:
157.1.3.1	to levy a charge on the relevant land (<i>a building upgrade charge</i>), to be paid by the building owner, for the purpose of recouping the money advanced by the finance provider for the upgrade works (and any interest or other charges payable to the finance provider under the agreement); and
157.1.3.2	to pay to the finance provider any money paid to the Council by way of the building upgrade charge (other than any service fee or late payment fee that the Council is permitted by the agreement to deduct and retain).
157.2	The power pursuant to Clause 2(3) of Schedule 1B of the Act to include in a building upgrade agreement, payment to the finance provider of penalty interest on money advanced by the finance provider under the agreement, at such rate as determined in accordance with the

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regulations, and, if the regulations do not provide for the determination of the rate at such rate as determined in accordance with the agreement.
157.3 The power pursuant to Clause 2(4) of Schedule 1B of the Act to agree that a building upgrade agreement may be entered into by any other persons that the delegate considers should be parties to the agreement.
158. Variation or Termination of Agreement <i>(May only be delegated to CEO)</i>
158.1 The power pursuant to Clause 4 of Schedule 1B of the Act to vary or terminate a building upgrade agreement by further agreement between the primary parties.
159. Contents of Agreement <i>(May only be delegated to CEO)</i>
159.1 The power pursuant to Clause 5(1) of Schedule 1B of the Act to make a building upgrade agreement in writing and specify:
159.1.1 the upgrade works to be undertaken by or on behalf of the building owner under the agreement; and
159.1.2 the amount of money to be advanced by the finance provider under the agreement; and
159.1.3 the amount of the building upgrade charge to be levied by the Council under the agreement; and
159.1.4 the schedule for the payment, by the building owner, of a building upgrade charge to the Council; and
159.1.5 the amount of, or a method for calculating the amount of, any service fee or late payment fee that the Council may deduct and retain; and
159.1.6 any prescribed matters.
159.2 The power pursuant to Clause 5(2) of Schedule 1B of the Act to, in a building upgrade agreement:
159.2.1 provide for the early repayment of any amount payable under the agreement; and
159.2.2 include and agree to other provisions.
160. Declaration of Building Upgrade Charge <i>(May only be delegated to CEO)</i>
160.1 The power pursuant to Clause 6(1) of Schedule 1B of the Act, after the Council enters into a building upgrade agreement, to, in accordance

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	with the terms of the agreement, declare a building upgrade charge in respect of the relevant land (being a charge of the agreed amount specified in the building upgrade agreement).
160.2	The power pursuant to Clause 6(2) of Schedule 1B of the Act, if the Council or delegate declares a building upgrade charge, to, within 28 days after the declaration give the building owner written notice in accordance with Clauses 6(3) and (4) of Schedule 1B of the Act specifying:
160.2.1	the name and address of the building owner; and
160.2.2	a description of the relevant land in respect of which the building upgrade charge is being levied; and
160.2.3	the building upgrade agreement under which the building upgrade charge is being levied; and
160.2.4	the amount for which the building owner is liable; and
160.2.5	the manner of payment of the amount; and
160.2.6	the due date for payment of the amount, in accordance with the schedule for the payment of the building upgrade charge to the Council (specified in the building upgrade agreement); and
160.2.7	the amount of, or method of calculating, any service fee of the Council authorised by the building upgrade agreement and any late payment fee that may be imposed by the Council if the building owner fails to pay an amount for which the building owner is liable by the due date; and
160.2.8	any prescribed matters.
160.3	The power pursuant to Clause 6(4) of Schedule 1B of the Act, to, in relation to each payment in respect of a building upgrade charge for which a building owner is liable, give a notice under Clause 6(2) of Schedule 1B of the Act to the building owner at least 28 days before the date for payment specified in the notice.
161. Payment of Building Upgrade Charge	
161.1	The power pursuant to Clause 7(2) of Schedule 1B of the Act, on payment of money in respect of a building upgrade charge to the Council, to deduct and retain any service fee and late payment fee authorised by the building upgrade agreement.
161.2	The power pursuant to Clause 7(3) of Schedule 1B of the Act in relation to money paid to the Council in respect of a building upgrade charge, to, other than any service fee and late payment fee retained by the

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Council,
161.2.1 hold that money on behalf of the finance provider pending payment to the finance provider; and
161.2.2 pay that money to the finance provider in accordance with the terms of the building upgrade agreement under which the charge was levied.
162. Sale of Land for Non-payment of Building Upgrade Charge
162.1 The power pursuant to Clause 9(1) of Schedule 1B of the Act, subject to clause 9 of Schedule 1B of the Act to, if an amount for which a building owner is liable in respect of a building upgrade charge remains unpaid for more than 3 years, sell the relevant land in accordance with the regulations.
162.2 The power pursuant to Clause 9(2) of Schedule 1B of the Act to, apply any money received by the Council in respect of the sale of land under Clause 9 of Schedule 1B of the Act as follows:
162.2.1 firstly – in paying the costs of the sale and any other costs incurred in proceeding under Clause 9 of Schedule 1B of the Act;
162.2.2 secondly – in discharging any liabilities to the Council in respect of the land (other than any building upgrade charge, service fee or late payment fee in relation to a building upgrade charge);
162.2.3 thirdly – in discharging any liability to the Council for a building upgrade charge, service fee or late payment fee in relation to a building upgrade charge;
162.2.4 fourthly – in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;
162.2.5 fifthly – in discharging any liabilities secured by registered mortgages, encumbrances or charges;
162.2.6 sixthly – in discharging any other mortgages, encumbrances or charges of which the Council has notice;
162.2.7 seventhly – in payment to the owner of the land.
162.3 The power pursuant to Clause 9(3) of Schedule 1B of the Act, if the owner cannot be found after making reasonable inquiries as to his or her whereabouts, to deal with an amount payable to the owner as

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unclaimed money under the Unclaimed Moneys Act 1891.
163. Repayment of Advances to Finance Provider
163.1 The power pursuant to Clause 10(2) of Schedule 1B of the Act, if a building upgrade agreement is terminated before all the money that the finance provider agreed to advance to the building owner is advanced, to:
163.1.1 adjust the building upgrade charge to reflect the lower amount advanced to the building owner; and
163.1.2 give the building owner written notice of the adjustment.
163.2 The power pursuant to Clause 10(3) of Schedule 1B of the Act, if, as a result of an adjustment being made to a building upgrade charge under clause 10 of Schedule 1B of the Act:
163.2.1 the building owner has made payment in respect of the charge in excess of the adjusted amount; and
163.2.2 the excess amount has been paid by the Council to the finance provider,
to refund the building owner the excess amount paid.
164. Register of Building Upgrade Agreements
164.1 The power pursuant to Clause 13(1) of Schedule 1B of the Act to keep a register of building upgrade agreements in accordance with Clause 13(2) of Schedule 1B of the Act.
164.2 The power pursuant to Clause 13(3) of Schedule 1B of the Act to make available the register for inspection (without charge) by a member of the public at the principal office of the Council during ordinary office hours and to provide a person with an extract from the register (without charge).

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SCHEDULE OF CONDITIONS

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

[Instructions for use: any conditions or limitations which apply to delegations under this Act should be inserted here – DELETE this note once conditions/limitations are entered. If no conditions apply insert 'NIL']

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
157	The power to enter into, or to vary or terminate, a building upgrade agreement on behalf of the Council may not, despite Section 44(4)(b) of the Local Government Act 1999, be subdelegated by the Chief Executive Officer.
158	The power to enter into, or to vary or terminate, a building upgrade agreement on behalf of the Council may not, despite Section 44(4)(b) of the Local Government Act 1999, be subdelegated by the Chief Executive Officer.
159	The power to enter into, or to vary or terminate, a building upgrade agreement on behalf of the Council may not, despite Section 44(4)(b) of the Local Government Act 1999, be subdelegated by the Chief Executive Officer.
160	The power to declare and levy a building upgrade charge under a building upgrade agreement may not, despite Section 44(4)(b) of the Local Government Act 1999, be subdelegated by the Chief Executive Officer.

ATTACHMENT 4

**INSTRUMENT OF DELEGATION UNDER THE
PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016****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. Planning Regions and Greater Adelaide
1.1 The power pursuant to Section 5(5)(b) of the Planning, Development and Infrastructure Act 2016 (the Act) to make submissions to the Minister on a proposed proclamation under Section 5 of the Act.
2. Subregions
2.1 The power pursuant to Section 6(3)(b) of the Act to make submissions to the Minister on the Minister's proposed course of action.
3. Environment and Food Production Areas – Greater Adelaide
3.1 The power pursuant to Section 7(5) of the Act, in relation to a proposed development in an environment and food production area that involves a division of land that would create 1 or more additional allotments:
3.1.1 to seek the concurrence of the Commission in the granting of the authorisation;
3.1.2 to concur in the granting of the development authorisation to the development;
3.1.3 to, if the proposed development will create additional allotments to be used for residential development, refuse to grant development authorisation in relation to the proposed development.
4. Planning Agreements
4.1 The power pursuant to Section 35(1)(a) of the Act to enter into an agreement (a planning agreement) with the Minister relating to a specified area of the

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	State in accordance with Section 35 of the Act.
4.2	The power pursuant to Section 35(3) of the Act to, in a planning agreement, include provisions that outline the purposes of the agreement and the outcomes that the agreement is intended to achieve and to provide for:
4.2.1	the setting of objectives, priorities and targets for the area covered by the agreement; and
4.2.2	the constitution of a joint planning board including, in relation to such a board:
4.2.2.1	the membership of the board, being between 3 and 7 members (inclusive); and
4.2.2.2	subject to Section 35(4) of the Act, the criteria for membership; and
4.2.2.3	the procedures to be followed with respect to the appointment of members; and
4.2.2.4	the terms of office of members; and
4.2.2.5	conditions of appointment of members, or the method by which those conditions will be determined, and the grounds on which, and the procedures by which, a member may be removed from office; and
4.2.2.6	the appointment of deputy members; and
4.2.2.7	the procedures of the board; and
4.2.3	the delegation of functions and powers to the joint planning board (including, if appropriate, functions or powers under another Act); and
4.2.4	the staffing and other support issues associated with the operations of the joint planning board; and
4.2.5	financial and resource issues associated with the operations of the joint planning board, including:
4.2.5.1	the formulation and implementation of budgets; and
4.2.5.2	the proportions in which the parties to the agreement will be responsible for costs and other liabilities associated with the

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	activities of the board; and
4.2.6	such other matters as the Delegate thinks fit.
4.3	The power pursuant to Section 35(5)(a) of the Act, at the expiry of a planning agreement, to replace it with a new agreement (in the same or different terms).
4.4	The power pursuant to Section 35(5)(b) of the Act, to vary or terminate a planning agreement by agreement between the parties to the agreement.
5.	Community Engagement Charter
5.1	The power pursuant to Section 44(6)(a) of the Act, to, in accordance with the Charter, make submissions in relation to any proposal to prepare or amend a designated instrument under Part 5 Division 2 Subdivision 5 (unless the proposal has been initiated by the Council).
6.	Preparation and Amendment of Charter
6.1	The power pursuant to Section 45(2)(c) of the Act to make representations (in writing or via the SA planning portal) on a proposal to prepare or amend the Charter.
6A.	Preparation and Amendment
6A.1	The power pursuant to Section 73(2)(b)(iv) of the Act to initiate a proposal to amend a designated instrument with the approval of the Minister, acting on the advice of the Commissioner.
6A.2	The power pursuant to Section 73(6) of the Act where the Council is authorised or approved under Section 73 of the Act, and after all of the requirements of Section 73 have been satisfied:
6A.2.1	to prepare a draft of the relevant proposal; and
6A.2.2	to comply with the Community Engagement Charter for the purposes of consultation in relation to the proposal; and
6A.2.3	to the extent that paragraph (b) of Section 73(6) of the Act does not apply, in the case of a proposed amendment to a regional plan that has been prepared by a joint planning board where the amendment is not being proposed by the joint planning board – to consult with the joint planning board; and
6A.2.4	to the extent that paragraph (b) of Section 73(6) of the Act does not apply, in the case of a proposed amendment to the Planning and

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	Design Code that will have a specific impact on 1 or more particular pieces of land in a particular zone or subzone (rather than more generally) – to take reasonable steps to give:
6A.2.4.1	an owner or occupier of the land; and
6A.2.4.2	an owner or occupier of each piece of adjacent land,
	a notice in accordance with the regulations; and
6A.2.5	to consult with any person or body specified by the Commission and any other person or body as the delegate thinks fit; and
6A.2.6	to carry out such investigations and obtain such information specified by the Commission; and
6A.2.7	to comply with any requirement prescribed by the regulations.
6A.3	The power pursuant to Section 73(8) of the Act to, after the Council has furnished a report to the Minister under Section 73(7) of the Act, ensure that a copy of the report is published on the SA planning portal in accordance with a practice direction that applies for the purposes of Section 73 of the Act.
6A.4	The power pursuant to Section 73(9) of the Act to enter into an agreement with a person for the recovery of costs incurred by the Council in relation to an amendment of the Planning and Design Code or a design standard under Section 73 of the Act (subject to the requirement to charge costs under Section 73(4)(b) of the Act (if relevant)).
6B.	Parliamentary Scrutiny
6B.1	The power pursuant to Section 74(8) of the Act if the ERD Committee is proposing to suggest an amendment under Section 74(4) of the Act and the amendment is specifically relevant to the Council, to provide a comment and response within the period of 2 weeks.
6C.	Entities Constituting Relevant Authorities
6C.1	The power pursuant to Section 82(d) of the Act, subject to the Act, to appoint an assessment panel.
6D.	Panels Established by Joint Planning Boards or Councils
6D.1	The power pursuant to Section 83(1) of the Act in relation to an assessment panel appointed by the Council under Division 1 of Part 6 of the Act, to:
6D.1.1	appoint more than 1 assessment panel and if the delegate does so,

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	to clearly specify which class of development each assessment panel is to assess;
6D.1.2	determine:
6D.1.2.1	the membership of the assessment panel, being no more than 5 members, only 1 of which may be a member of a council, and, if the delegate thinks fit, on the basis that the assessment panel will be constituted by a different number of members depending on the particular class of development that is being assessed by the assessment panel; and
6D.1.2.2	the procedures to be followed with respect to the appointment of members; and
6D.1.2.3	the terms of office of members; and
6D.1.2.4	conditions of appointment of members, or the method by which those conditions will be determined, (including as to their remuneration) and the grounds on which, and the procedures by which, a member may be removed from office; and
6D.1.2.5	the appointment of deputy members; and
6D.1.2.6	who will act as the presiding member of the panel and the process for appointing an acting presiding member.
6D.2	The power pursuant to Section 83(1)(h) of the Act to arrange the staffing and support required for the purposes of the operations of the panel.
6D.3	The power pursuant to Section 83(1)(i) of the Act to substitute the existing members of the panel with new members if directed to do so by the Minister acting on recommendation of the Commission under Section 86 of the Act.
6D.4	The power pursuant to Section 83(2) of the Act to form the opinion and be satisfied that a person to be appointed as a member of an assessment panel who is a member, or former member, of a council is appropriately qualified to act as a member of the assessment panel on account of the person's experience in local government.
6E.	Panels Established by Minister
6E.1	The power pursuant to Section 84(1)(c)(ii)(B) of the Act to make submissions to the Minister about the constitution of a regional assessment panel in

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relation to the area of the Council (or part of the area).	
6F.	Substitution of Local Panels
6F.1	The power pursuant to Section 86(2)(a) of the Act to make submissions to the Commission in relation to an inquiry.
7.	Initiation of Scheme
7.1	The power pursuant to Section 163(3)(b) of the Act to request the Minister initiate a proposal to proceed under Section 163 of the Act.
7.2	The power pursuant to Section 163(10) of the Act to consult with the Minister in relation to the draft outline.
8.	Consideration of Proposed Scheme
8.1	The power pursuant to Section 166(1)(c) of the Act to consult with a scheme coordinator in relation to a scheme in accordance with the Community Engagement Charter.
9.	Adoption of Scheme
9.1	The power pursuant to Section 167(7) of the Act to consult with the Minister in relation to a variation to a scheme.
10.	Funding Arrangements
10.1	The power pursuant to Section 169(2)(b) of the Act in relation to a scheme that provides for the collection of contributions under Subdivision 8 of the Act to apply for a periodic review of the levels and amounts of those contributions and as part of such review for any matter to be considered or determined by ESCOSA.
10.2	The power pursuant to Section 169(8) of the Act to approve a funding arrangement that provides for or includes the collection of contributions under subdivision 8 in relation to prescribed infrastructure.
10.3	The power pursuant to Section 169(9) of the Act to consult with the Commission in relation to a funding arrangement that is specifically relevant to the Council.
11.	Contributions by Constituent Councils
11.1	The power pursuant to Section 177(4) of the Act to consult with the Minister in relation to the Council's share.

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11.2	The power pursuant to Section 177(5) of the Act to, at the request of the Minister, supply the Minister with information in the possession of the Council to enable the Minister to determine shares under Sections 177(2) and (3) of the Act.
12. Imposition of Charge by Councils	
12.1	The power pursuant to Section 180(7) of the Act, if the Council incurs costs in recovering a charge as a debt, to claim the reimbursement of those costs (insofar as they are reasonable) from the relevant fund established under subdivision 9.
13. Authorised Works	
13.1	The power pursuant to Section 187(1) of the Act, subject to Section 187(3) of the Act, to carry out any infrastructure works if the Council is authorised to so do by or under the Act or any other Act.
13.2	The power pursuant to Section 187(5) of the Act, subject to Section 187(6) of the Act, to in relation to a proposal that involves disturbing the surface of a road, or that otherwise relates to a road to:
13.2.1	inform the relevant road maintenance authority of the proposal at least 28 days before the proposed commencement of any work; and
13.2.2	give the relevant road maintenance authority a reasonable opportunity to consult with the Council in relation to the matter; and
13.2.3	ensure that proper consideration is given to the views of the road maintenance authority.
13.3	The power pursuant to Section 187(5)(b) of the Act to consult with the relevant road maintenance authority in relation to the matter.
13.4	The power pursuant to Section 187(5)(b) of the Act, in a case of emergency, to only comply with Section 187(5)(b) of the Act to such extent as is practicable in the circumstances.
14. Entry onto Land	
14.1	The power pursuant to Section 188(1) of the Act to authorise a person for the purpose of undertaking any work or activity in connection with the exercise of a power under Division 2 of Part 13 of the Act to:
14.1.1	enter and pass over any land; and

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14.1.2	bring onto any land any vehicles, plant or equipment; and
14.1.3	temporarily occupy land; and
14.1.4	do anything else reasonably required in connection with the exercise of the power.
14.2	The power pursuant to Section 188(4) of the Act to pay reasonable compensation on account of any loss or damage caused by the exercise of a power under Section 188(1) of the Act.
15. Acquisition of Land	
15.1	The power pursuant to Section 189(1) of the Act, to with the consent of the Minister, acquire land for a purpose associated with infrastructure works under and in accordance with the <i>Land Acquisition Act 1969</i> .
16. Review of Performance	
16.1	The power pursuant to Clause 3(3) of Schedule 4 of the Act to explain the Council's actions, and to make submissions (including, if relevant, an indication of undertakings that the Council is willing to give in order to take remedial action), to the Minister.
16.2	The power pursuant to Clause 3(14) of Schedule 4 of the Act to make submissions to the Minister on the report on which the action to be taken by the Minister under Clause 3(13) of Schedule 4 of the Act is based.
16.3	The power pursuant to Clause 3(15) of Schedule 4 of the Act, if the Minister makes a recommendation to the Council under Clause 3(13)(a) of Schedule 4 of the Act and the Minister subsequently considers that the Council has not, within a reasonable period, taken appropriate action in view of the recommendation, consult with the Minister in relation to the directions of the Minister.
16.4	The power pursuant to Clause 3(16) of Schedule 4 of the Act to comply with a direction under Clauses 3(13) or (15) of Schedule 4 of the Act.
17. General Schemes	
17.1	The power pursuant to Clause 30(3) of Schedule 8 of the Act to request the Minister make a declaration under Clause 30(2) of Schedule 8 of the Act in relation to a scheme.

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ATTACHMENT 5

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.

**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**

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

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

**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**

**DELEGATIONS UNDER THE
ROAD TRAFFIC (MISCELLANEOUS) REGULATIONS 2014**

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.

**DELEGATIONS UNDER THE
ROAD TRAFFIC (ROAD RULES – ANCILLARY AND
MISCELLANEOUS PROVISIONS) REGULATIONS 2014**

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.

**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**

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.

ATTACHMENT 6

**INSTRUMENT OF DELEGATION UNDER THE
WORK HEALTH AND SAFETY ACT 2012**

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

51. Determination of work groups
(1) The power pursuant to Section 51(1) of the Work Health and Safety Act 2012 (the Act), to, if a request is made under Section 50 of the Act, facilitate the determination of one or more work groups of workers.
52. Negotiations for agreement for work group
(1) The power pursuant to Section 52(1) of the Act, and in accordance with Sections 52(2), (3) and (6) of the Act, to determine a work group by negotiation and agreement with the workers who will form the work group or their representatives.
(4) The power pursuant to Section 52(4) of the Act to, in relation to an agreement concerning the determination of a work group or groups, at any time, negotiate a variation of the agreement in accordance with Section 52(6) of the Act.
54. Failure of negotiations
(1) The power pursuant to Section 54(1) of the Act to, if there is a failure of negotiations (including negotiations concerning the variation of an agreement), ask the regulator to appoint an inspector for the purposes of Section 54 of the Act.

**INSTRUMENT OF DELEGATION UNDER THE
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55. Determination of work groups of multiple businesses
(2) The power pursuant to Section 55(2) of the Act to determine the particulars of the work groups by negotiation and agreement, in accordance with Section 56 of the Act, between each of the persons conducting the businesses or undertakings and the workers.
(3) The power pursuant to Section 55(3) of the Act to, in relation to an agreement concerning the determination of a work group or groups, at any time, negotiate a variation of the agreement.
56. Negotiation of agreement for work groups of multiple businesses
(3) The power pursuant to Section 56(3) of the Act to, if agreement cannot be reached on a matter relating to the determination of a work group (or a variation of an agreement) within a reasonable time after negotiations commence under Subdivision 3 of Division 3, Part 5 of the Act, ask the regulator to appoint an inspector to assist the negotiations in relation to that matter.
58. Withdrawal from negotiations or agreement involving multiple businesses
(1) The power pursuant to Section 58(1) of the Act to, in relation to a negotiation for an agreement, or an agreement, concerning a work group under Subdivision 3 of Division 3, Part 5 of the Act, withdraw from the negotiation or agreement at any time by giving reasonable notice (in writing) to the other parties.
(2) The power pursuant to Section 58(2) of the Act to, if a party withdraws from an agreement concerning a work group under Subdivision 3 of Division 3, Part 5 of the Act, negotiate a variation to the agreement in accordance with Section 56 of the Act.
65. Disqualification of health and safety representatives
(1) The power pursuant to Section 65(1) of the Act, to make an application to SAET to disqualify a health and safety representative on the ground that the representative has:
(a) exercised a power or performed a function as a health and safety representative for an improper purpose; or
(b) used or disclosed any information he or she acquired as a health and safety representative for a purpose other than in connection with the role of health and safety representative,
where the Council is adversely affected by the exercise of a power or the performance of a function referred to in Section 65(1)(a) of the Act or the

**INSTRUMENT OF DELEGATION UNDER THE
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use or disclosure of information referred to in Section 65(1)(b) of the Act.
70. General obligations of person conducting business or undertaking
(1) The power pursuant to Section 70(1) of the Act, to
(a) consult, so far as is reasonably practicable, on work health and safety matters with any health and safety representative for a work group of workers carrying out work for the Council; and
(b) confer with a health and safety representative for a work group, whenever reasonably requested by the representative, for the purpose of ensuring the health and safety of the workers in the work group; and
(c) allow any health and safety representative for the work group to have access to information that the Council has relating to:
(i) hazards (including associated risks) at the workplace affecting workers in the work group; and
(ii) the health and safety of the workers in the work group; and
(d) with the consent of a worker that the health and safety representative represents, allow the health and safety representative to be present at an interview concerning work health and safety between the worker and:
(i) an inspector; or
(ii) the Council or the Council's representative; and
(e) with the consent of one or more workers that the health and safety representative represents, allow the health and safety representative to be present at an interview concerning work health and safety between a group of workers, which includes the workers who gave the consent, and:
(i) an inspector; or
(ii) the Council or the Council's representative; and
(f) provide any resources, facilities and assistance to a health and safety representative for the work group that are reasonably necessary or prescribed by the regulations to enable the representative to exercise his or her powers or perform his or her functions under the Act.
(g) allow a person assisting a health and safety representative for the

**INSTRUMENT OF DELEGATION UNDER THE
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work group to have access to the workplace if that is necessary to enable the assistance to be provided; and
(h) permit a health and safety representative for the work group to accompany an inspector during an inspection of any part of the workplace where a worker in the work group works; and
(i) provide any other assistance to the health and safety representative for the work group that may be required by the regulations.
71. Exceptions for obligations under Section 70(1)
(5) The power pursuant to Section 71(5) of the Act to refuse on reasonable grounds to grant access to the workplace to a person assisting a health and safety representative for a work group.
72. Obligation to train health and safety representatives
(1) The power pursuant to Section 72(1) of the Act to, consult with a health and safety representative in relation to the health and safety representative attending a course of training in work health and safety that is subject to Section 72(6), chosen by the health and safety representative.
(3) The power pursuant to Section 72(3) of the Act to:
(a) as soon as practicable within the period of 3 months after the request is made, allow the health and safety representative time off work to attend the course of training; and
(b) pay the course fees and any other reasonable costs associated with the health and safety representative's attendance at the course of training.
(6) The power pursuant to Section 72(6) of the Act to, if agreement cannot be reached between the Council or Council's delegate and the health and safety representative within the time required by Section 72(3) of the Act as to the matters set out in Sections 72(1)(c) and (3) of the Act, ask the regulator to appoint an inspector to decide the matter.
73. Obligation to share costs if multiple businesses or undertakings
(1) The power pursuant to Section 73(1) of the Act to, if a health and safety representative, or deputy health and safety representative (if any), represents a work group of workers carrying out work for the Council and one or more other person conducting businesses or undertakings, agree that:
(a) the costs of the representative exercising powers and performing

**INSTRUMENT OF DELEGATION UNDER THE
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functions under the Act; and
(b) the costs referred to in Section 72(3)(b) of the Act,
for which the Council or any of the other persons conducting those businesses or undertakings are liable, are to be apportioned between each of those persons otherwise than equally.
(2) The power pursuant to Section 73(2) of the Act, to vary an agreement to apportion the costs in another way, at any time by negotiation and agreement between each of the persons conducting the businesses or undertakings.
75. Health and safety committees
(2) The power pursuant to Section 75(2) of the Act to, establish a health and safety committee for the workplace or part of the workplace.
76. Constitution of committee
(1) The power pursuant to Section 76(1) of the Act and subject to Sections 76(2) to (4) of the Act, to agree the constitution of a health and safety committee with the workers at the workplace.
(5) The power pursuant to Section 76(5) of the Act to, if agreement is not reached under Section 76 within a reasonable time, ask the regulator to appoint an inspector to decide the matter.
82. Referral of issue to regulator for resolution by inspector
(2) The power pursuant to Section 82(2) of the Act to, ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue.
87. Alternative work
The power pursuant to Section 87 of the Act to, if a worker ceases work under Division 6, Part 5 of the Act, direct the worker to carry out suitable alternative work at the same or another workplace if that work is safe and appropriate for the worker to carry out until the worker can resume normal duties.
89. Request to regulator to appoint inspector to assist
The power pursuant to Section 89 of the Act to ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue arising in relation to the cessation of work.
100. Request for review of provisional improvement notice
(1) The power pursuant to Section 100(1) of the Act, to, within 7 days after a

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Last amended: 1 August 2017

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provisional improvement notice is issued to the Council or a worker who carries out work at the Council, ask the regulator to appoint an inspector to review the notice.
141. Application for assistance of inspector to resolve dispute
The power, pursuant to Section 141 of the Act, to, if a dispute arises about the exercise or purported exercise by a WHS entry permit holder of a right of entry under the Act, ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute.
142. Authorising authority may deal with a dispute about a right of entry under this Act
(4) The power pursuant to Section 142(4) of the Act to apply to the authorising authority to deal with a dispute where the dispute relates to the Council.
180. Return of seized things
(1) The power pursuant to Section 180(1) of the Act to, if a seized thing has not been forfeited, and the Council is the person entitled to the thing, apply to the regulator for the return of the thing after the end of 6 months after it was seized.
181. Access to seized things
(1) The power pursuant to Section 181(1) of the Act to, until a seized thing is forfeited or returned, inspect it and, if it is a document, to make copies of it at all reasonable times.
224. Application for internal review
(1) The power pursuant to Section 224(1) of the Act, to, where the Council is an eligible person in relation to a reviewable decision, other than a decision made by the regulator or a delegate of the regulator, apply to the regulator for review (an internal review) in accordance with Section 224(2) of the Act, of the decision within:
(a) the prescribed time after the day on which the decision first came to the Council's notice; or
(b) such longer period as the regulator allows.

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229. Application for external review

(1) The power pursuant to Section 229(1) of the Act, to, where the Council is an eligible person, apply to SAET under Part 3 Division 1 of the South Australian Employment Tribunal Act 2014, in accordance with Section 229(2) of the Act, for a review of:

(a) a reviewable decision made by the regulator; or

(b) a decision made, or taken to have been made, on an internal review.

**INSTRUMENT OF DELEGATION UNDER THE
WORK HEALTH AND SAFETY ACT 2012**

SCHEDULE OF CONDITIONS

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

Section(s) in Act to which conditions/ limitations apply	Conditions / Limitations

3. REPORT

- 3.1 The current Verge Development by Residents Policy is silent on the planting of edible plants within the verge and there have not been any direct enquiries to staff seeking clarification for such development.
- 3.2 Council Staff are aware of locations across the city where residents have developed the verge with the inclusion of plants which are edible, but the verge development is not solely for the purpose of planting of edibles.
- 3.3 The intent of verge development by residents is usually for the purpose of civic and property pride within a street environment. Staff are assuming the reason that edible verge treatment for vegetation less than 500mm has not been considered, is due to the temporary nature of this type of plantings, as well as the increased water requirement for such development.
- 3.4 Verge planting for vegetables or edibles, is able to be achieved under the current policy. Ensuring that all planting is maintained below the maximum height of 500mm including associated infrastructure, such as being for the purpose of maintaining safe sightlines for users of the verge, which complies with section 4, 1-4 of the current guidelines, as attached.
- 3.5 Adelaide and Mount Lofty Ranges Natural Resource Management Board (AMLRNRMB) held a seminar in November 2016 to explore a shared vision for a more edible Greater Adelaide. This seminar was both an information sharing event, with international speakers and an information gathering event to collect data of current formal activities which support this vision.
- 3.6 From the information available on the NRM website the Paralowie and University SA (Mawson Lakes) Community Gardens, were identified as 2 locations within the City.
- 3.7 Council Staff have investigated what other Councils have in place for edible planting on verges, contacting both City of Marion and Prospect in relation to edible verges.
- 3.8 The City of Prospect have a Veggie Verges Program, whereby residents were encouraged in 2016, to consider growing vegetables in the verge due to limited space within their property.
- 3.9 Under this program, launched in Autumn 2016 City of Prospect bore all costs to remove existing soil on the verge and replace with good quality soil mix from sponsor partner Jefferies.
- 3.10 This service has now reverted to a fee for service activity with a cost of \$16/ square metre.
- 3.11 No built up gardens or development is allowed which hinders or poses a risk to users of the verge or service agencies from managing their asset within the verge and the maintenance expectations of any development.
- 3.12 City of Prospect is currently reviewing this process in relation to their activities and the risks associated with such development within a publically accessible space.

- 3.13 City of Marion has a strategic agenda to consider food gardening in public places. They have no formalised policy or procedure about edible verges at present as they are considering the potential risks of allowing such development within the verge.
- 3.14 It is noted that these 2 Councils have a higher urban density than that of the City of Salisbury and do not have a verge mowing process in place, rather relying upon their residents to maintain the verge.

4. CONCLUSION / PROPOSAL

- 4.1 Noting that the current policy does not provide specific advice as to the development of an edible verge treatment. The principles identified within the guideline are able to address such development, noting Clause 2, as attached with respect to the Development.
- 4.2 Council's main concern is access and safety for verge users, which can be achieved with edible verges in some cases.
- 4.3 From this gathered information and review of the policy, staff recommends that the consideration of edible verge development be considered on a case by case basis.
- 4.4 Staff can use the existing Verge Development guidelines to consider the potential risks of the verge development where it is, in a close proximity to a road corridor, with a change to the policy or guidelines.

CO-ORDINATION

Officer: Executive Group
Date: 11/09/2017



City of Salisbury Verge Development Guidelines

1. GENERAL

Many residents prefer to manage the Council owned area in front of their residences to a different standard to the service level provided by the City of Salisbury. Primarily this is done to enhance the visual appeal of the property by managing their front garden in continuity from their front door to the road or street. This strip of Council owned land between the kerb and the property boundary is known as the 'VERGE'.

Verge developments permitted by the City of Salisbury are approved according to these guidelines, to ensure public safety. This includes safe pedestrian access for all the community and the maintenance of safe sight lines for traffic movements.

Where residents choose not to or are unable to maintain the verge adjacent to their property, Council will service this area to the following standards:

- Council will ensure the verge surface is even and free of potholes and depressions or mounds that may present a trip hazard to pedestrians
- Council will treat any verges where proclaimed pest plants have been identified. The common pest plant found on residential verges is caltrop, which will be treated on both a programmed and reactive basis
- Turf treated verges (excluding areas subject to an encumbrance for verge maintenance) will be cut to a height of 80mm and edged on a six-week cycle between February and December. (This is a grass reduction service not a lawn mowing service). Council will not cut or edge a verge where it is maintained in compliance with the above height specification
- Grass cuttings are not collected and removed from the verge, but are blown off the footpath to ensure safe access for pedestrians and any grass cuttings deposited on the road or gutter are collected by the streetsweeper within 24 hours of grass cutting.

Council will not subsidise or assist with the development of verges in any other form or manner.

Service authorities have access and rights over this portion of the road reserve, in line with agreements with Council. The verge area may be occupied (above or below the ground) by the following;

- Electrical underground/ overhead wiring, pits and poles
- Telstra cables, pits, poles etc
- Gas mains
- Water mains and connections and sewer mains and connections
- City of Salisbury stormwater drainage systems (including the concrete kerbing)
- City of Salisbury footpath (existing or proposed)
- City of Salisbury street furniture, signage, seats, bus shelters, indicator posts
- Australia Post, mail delivery corridor.



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2. DEVELOPMENT

The Local Government Act 1999 requires that all private development of the verge has Council approval. Property Owners/ Residents may develop the verge area, provided the type or form of development maintains the following;

- 2.1 Pedestrian access along the verge area in preference to walking on the roadway, regardless of whether a footpath has been constructed or not
- 2.2 Traffic sight line distances
- 2.3 Service authority and Council access for installation of new services and maintaining existing services
- 2.4 Provision or an allowance is made for installation of Council Street Tree/s.
- 2.5 Where a property owner develops the verge, the responsibility for ongoing maintenance rests with the applicant. The development may be removed where adequate maintenance is not carried out.

3. VERGE TREATMENTS

The following verge treatments are PERMITTED, providing they are permeable to water and are suitable for safe pedestrian access;

- 3.1 Turf (irrigated and unirrigated)
- 3.2 Mulch
- 3.3 Rubble/gravel (not compacted)
- 3.4 Low plants (maximum 500mm height). Refer to Section 5 Planting.
- 3.5 Permeable paving (to be constructed to Council's standards and manufacturers specifications)
- 3.6 Synthetic turf (to manufacturer's specifications and Council approval). Refer to Section 6 Synthetic Turf.

Where a resident develops the verge, the responsibility for ongoing maintenance rests with the resident. The development may be removed where adequate maintenance is not carried out (refer to the Verge Development Application Form provided with this document).

The following verge treatments are NOT PERMITTED, as they are not permeable to water and/or are not suitable for safe pedestrian access;

- 3.7 Concrete and pavers (except for driveway crossovers and footpaths, where written approval is required)
- 3.8 Raised edging or items which may obstruct pedestrian movement
- 3.9 Plants that cannot be maintained to a maximum height of 500mm
- 3.10 Plants with spines and/or thorns
- 3.11 Fully impervious membrane under mulch (such as black plastic). Weed matting that allows exchange of air and water is a permitted treatment
- 3.12 Chemically sterilised treatments.



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4. PROCEDURE FOR WRITTEN APPROVAL

- Read through the Verge Development Policy and Guidelines and if further information is required please contact the Landscape Design Office on 8406 8222
- Complete the attached Verge Development Application Form, ensuring that a sketch plan of the proposed development is attached
- Applications may only be submitted by property owners. Tenants wishing to develop the verge area are to consult with the property owner
- The plan will be assessed taking into account the suitability and safety of the community
- Council will then approve the application in writing, notifying the applicant of any alterations that may be required. This documentation will be filed for future reference
- Once the works are undertaken, the maintenance of the verge will be the sole responsibility of the applicant
- If the condition of the verge is altered in any way, other than the approved development, Council must be notified immediately
- Applications will be considered on a case-by-case basis, with regard to the overall streetscape.

5. PLANTING

Planting is to be maintained to a maximum height of 500mm, with the exception of Council planted street trees. All planting must consider the needs and conditions of Council and various service authorities as well as the requirement to ensure clear passage along the verge from the roadway by pedestrians and prams. For additional information on plant species selection, please contact the Landscape Design Office on 8406 8222.

The streetscape is an important part of community open space and the coordination of plantings is an important aspect of Council works. If no street trees are present, provision must be made for the future planting of trees on all frontages. Existing street trees will not be removed for any verge development works, and all verge development must accommodate existing street trees. Please refer to Council's Website for more information regarding street trees.

6. SYNTHETIC TURF

Where a resident desires to install artificial/synthetic turf treatment to the verge, it is to be with a product and in a manner that complies with the following conditions;

- A pile length of between 25 to 40mm with a sand or rubber particle infill, to ensure the pile remains upright
- To comprise of bicolour filaments/tufts
- To be installed as per manufacturers' specifications, ensuring that any excavation does not damage Council infrastructure eg. footpath, kerb, gutter and street trees
- The finished surface level of the product is to be flush with existing and adjacent levels, limiting potential trip hazards
- The ground fixing method does not pose any public safety or trip hazard concerns
- The base construction and chosen product is permeable by water and where a street tree exists the finished surface is to grade towards the tree
- Dial Before You Dig service location search is undertaken, to minimise disruption to service providers' infrastructure.



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7. SOLID CONSTRUCTION

Public safety is Council's highest priority and therefore Council does not permit structures such as fences, walls and letterboxes within the verge area. Australia Post also require all letterboxes to be located on the property boundary.

8. IRRIGATION SYSTEMS

Residents may install below-ground irrigation systems (including pop-up sprinklers, below ground drippers and 'leaky-pipe' systems) provided the resident accepts all responsibility for all ongoing repairs and maintenance.

The location of sprinklers should be near the back of the concrete kerb with at least 100mm of clearance to allow for mechanical edging of the concrete kerb without damage to the irrigation system.

9. REINSTATEMENT

When any development of a verge is altered or removed by the activity of a service authority, reinstatement will be subject to negotiation between the resident and that Service Authority. Where a Council activity or operation alters or removes a conforming verge development, Council will endeavour to restore the verge to a reasonable standard.

10. FOOTPATH CONSTRUCTION

Any development of a verge without an existing concrete or block paver footpath must allow for the possible future construction of a footpath by Council.

11. FOOTPATH CONSTRUCTION BY RESIDENTS

Where a resident desires as part of a verge development to construct a paved footpath (where no paved footpath exists on adjoining verges) its location within the verge and the materials used for its construction shall be to Council specification with written approval required. Such construction shall be at the resident's cost.

Footpaths constructed by a resident shall be maintained by the resident, in a safe and trafficable condition at all times.

12. REMOVAL OR MODIFICATION OF EXISTING DEVELOPMENT

Where any verge has been developed (either before the adoption of these guidelines or following its adoption) in a manner contrary to these guidelines and Council considers that the verge development could cause or is causing a hazard or obstruction to the public or service authority, then Council shall require the development to be removed or modified to Council's satisfaction. Any such removal or modification shall be at cost to the resident except where Council deems otherwise.

13. FURTHER INFORMATION

Further information regarding verge development is available by contacting the Landscape Design Office on 8406 8222.



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ATTENTION:
Landscape Design Office, City Infrastructure
City of Salisbury
PO Box 8, Salisbury
South Australia 5108

Name of Property Owner/s:

I hereby apply for permission to develop the verge area of the property I own situated at:

Address: Post Code:

Telephone Home: Other:

Intent of Works (detailed description of the proposed works and materials to be used):

.....
.....
.....

I have read and agree to the attached terms and conditions (see over) for the development and maintenance of the verge area, to which all works will comply with the City of Salisbury Verge Development Policy and Guidelines and will commence following approval from Council.

Signature of Property Owner/s: Date:

Space provided below for labelled plan of the proposed works: (Example over page)



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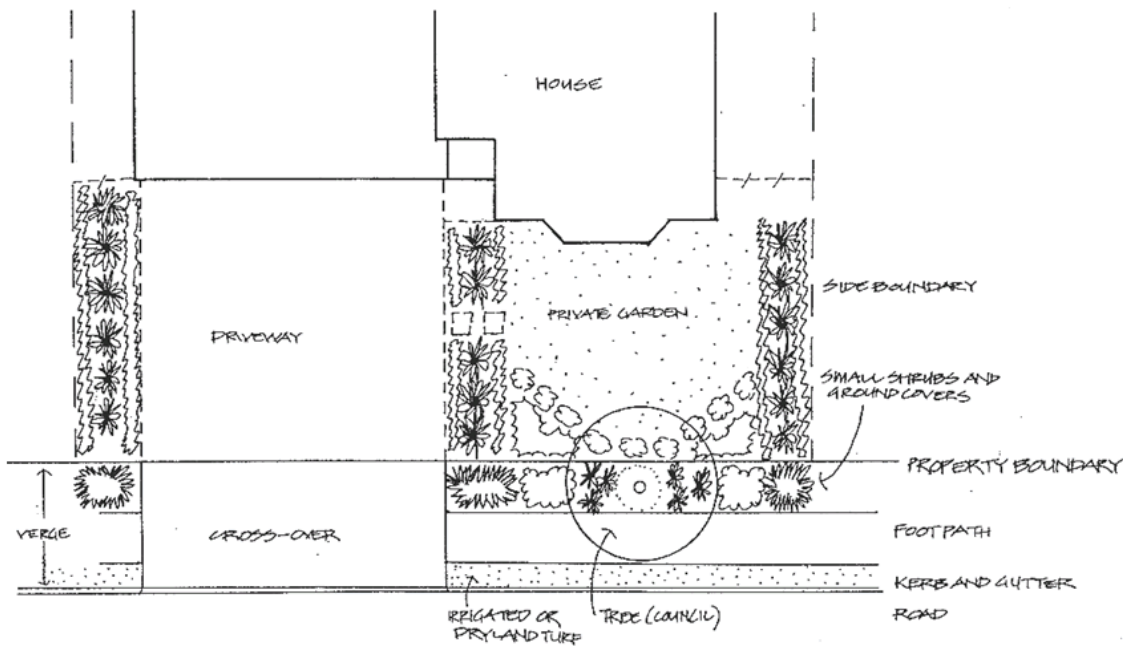
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VERGE DEVELOPMENT TERMS AND CONDITIONS

The applicant agrees to the following:

1. To provide a plan illustrating the proposed verge development (see below for example).
2. To ensure that works within the verge result in an even surface.
3. To ensure that development does not cause interference to or cause loss of view to:
 - a. Pedestrian movement across the verge area.
 - b. Motorists entering streets from private property or adjoining streets and intersections.
4. To indemnify Council against all actions/claims whatsoever for bodily injury and/or damage to property arising out of the development and/or maintenance of the verge (excluding works undertaken by Council).
5. If the condition of the verge is altered in any other way than the approved development, Council must be notified immediately.
6. To accept full responsibility for the maintenance of the verge. In the event the verge is not maintained to the satisfaction of the Council, to pay for all costs associated with the verge removal.

An example of a Verge Development Plan (not to scale):



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