



AGENDA

**FOR RESOURCES AND GOVERNANCE COMMITTEE MEETING TO BE HELD
ON**

**19 FEBRUARY 2018 AT THE CONCLUSION OF THE 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
Manager Governance, Mr M Petrovski
Manager Communications and Customer Relations, Mr M Bennington

APOLOGIES

LEAVE OF ABSENCE

PRESENTATION OF MINUTES

Presentation of the Minutes of the Resources and Governance Committee Meeting held on 22 January 2018.

REPORTS

Administration

3.0.1 Future Reports for the Resources and Governance Committee 5

Health, Animal Management and By-laws

3.3.1 Abandoned Shopping Trolleys 9

Corporate Governance

3.6.1 Review of Representation of the City of Salisbury by Elected Members
Policy..... 15

3.6.2 Local Government Association Ordinary General Meeting 31/04/2018 - Call
for Notices of Motion 19

3.6.3 Mobile Food Vendors Policy 21

3.6.4 Variations to Delegations 45

3.6.5 Facilitation of externally web-hosted video recordings of Council and
committee meetings..... 139

OTHER BUSINESS

CLOSE



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

22 JANUARY 2018

MEMBERS PRESENT

Cr S Bedford (Chairman)
Cr D Balaza
Cr B Brug
Cr D Bryant
Cr L Caruso
Cr D Proleta

STAFF

Acting Chief Executive Officer, Mr C Mansueto
Manager Governance, Mr M Petrovski
Manager Communications and Customer Relations, Mr M Bennington

The meeting commenced at 6:55 pm.

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

APOLOGIES

Apologies were received from Mayor G Aldridge, Cr D Pilkington and Cr R Cook.

LEAVE OF ABSENCE

Nil

PRESENTATION OF MINUTES

Moved Cr B Brug
Seconded Cr L Caruso

The Minutes of the Resources and Governance Committee Meeting held on 11 December 2017, be taken and read as confirmed.

CARRIED

REPORTS

Administration

3.0.1 Future Reports for the Resources and Governance Committee

Moved Cr D Balaza
Seconded Cr B Brug

1. The information be received.

CARRIED

Corporate Governance

3.6.1 Summary Report for Attendance at Training and Development Activity - Cr Graham Reynolds

Moved Cr D Proleta
Seconded Cr B Brug

1. The information be received.

CARRIED

OTHER BUSINESS

Nil

The meeting closed at 6:56 pm.

CHAIRMAN.....

DATE.....

ITEM	3.0.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
HEADING	Future Reports for the Resources and Governance Committee
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 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 Due:	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. July 2019	John Darzanos
28/09/2015 3.6.1 Due:	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. July 2018	Joy Rowett
30/01/2017 3.6.4 Due:	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. March 2018	Matt Harris
26/06/2017 3.3.1 Due:	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. March 2018	John Darzanos
28/08/2017 NOM3 Due:	Provision of telephone for use in case of domestic violence/other emergency situations 1. 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. May 2018	Julie Douglas

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	A/GMCID	GMBE	GMCD	MG
Date:	12.02.18	08.02.18	08.02.18	08.02.18	

ITEM	3.3.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
PREV REFS	Resources and Governance 3.3.1 Committee
HEADING	Abandoned Shopping Trolleys
AUTHOR	John Darzanos, Manager Environmental Health & Safety, City Development
CITY PLAN LINKS	3.2 Have interesting places where people want to be. 3.4 Be a proud, accessible and welcoming community. 4.1 Strengthen partnerships that enable us to better address our community's priorities.
SUMMARY	At the Council meeting on 26 October 2017 a motion was moved requesting staff to report back to Council on what options are available for Council to collect shopping trolleys and recoup costs from major retailers for dumped trolleys and options available for issuing fines for dumping trolleys. This report presents options available and measures taken by retailers and Council.

RECOMMENDATION

1. The information be received.
2. Staff engage with collection agencies and/or relevant retailers to:
 - a. Investigate the development of an agreement whereby trolleys collected and impounded by Council and returned to collection companies and/or retailers can be subjected to a fee for service; and
 - b. Develop educational materials on abandoned trolleys to encourage their reporting via apps and phone numbers for collection agencies, and to inform of the litter laws relating to abandoned shopping trolleys.

ATTACHMENTS

There are no attachments to this report.

1. BACKGROUND

1.1 At its meeting on 26 October 2017, Council resolved:

- 1 *That staff bring back a report on what options are available for Council to collect shopping trolleys and recoup costs from major retailers for dumped trolleys.*

2. *That staff advise what options are available for issuing fines for dumping trolleys.*

[Resolution 2084/2017]

- 1.2 Shopping trolleys are provided at every local shopping centre with a supermarket, major retailer or grocery store. It is common for people who live in proximity to these stores to take their groceries home in a trolley. Once they have undertaken this activity the trolleys are either responsibly returned or in some cases left in a public location such as the street or footpath. Some of these eventually end up in reserves or waterways.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Manager Field Services, City Infrastructure

2.2 External

- 2.2.1 Councils lawyers

3. REPORT

- 3.1 Under the provisions of the *Local Nuisance and Litter Control Act* the offence for abandoning or dumping a trolley on a public road or public place is covered by the litter provisions. The offence carries a penalty of \$1000 (for 50 litres or more of general litter).
- 3.2 Where the Council finds an abandoned shopping trolley on a road or public place and has evidence to identify the person who deposited it thereon, the Council may expiate that person for an offence under the Act, and/or the person can be issued an abatement notice requiring the offender to remove the trolley from the road or public place.
- 3.3 In circumstances where the identity of the person responsible for abandoning the shopping trolley cannot be established, it is not possible for the Council to pursue an offence.
- 3.4 The offence provisions do not take into account who owns the trolley, and as such no liability or offence is committed by the owners, namely the retailers.
- 3.5 However, identifying the offender is difficult as the offence is usually committed without any witnesses. In this circumstance the item is treated as any other deposited item with Field Services crews removing the item and impounded at the Operations Centre.
- 3.6 Historically there were approximately 10 -12 trolleys per week collected from areas surrounding major centers, however with the use of the reporting systems this has reduced to around 2-3 per week. Collected trolleys are made available for collection by contractors acting on behalf of the major retailers. Damaged trolleys are disposed of as scrap metal.
- 3.7 Due to their mobility trolleys can pose a risk to pedestrians and vehicles and those on roadsides are removed as soon as practical. Those found within parks, reserves and waterways may be in a location that does not allow safe access to other persons, and are best removed by Council staff as they are unlikely to be retrieved and could pose a further risk to users of these areas.

- 3.8 The response to abandoned trolley reports is actioned as per any other waste item and prioritised against other tasks and their risk. Not all trolleys observed are addressed immediately which gives an opportunity for retailers that have collection services to collect abandoned trolleys.

Retailers/Shopping Centre's

- 3.9 The major shopping centres and retailers in the area have various services in place to recover abandoned trolleys. These include:
- trolley bays for collection of trolleys;
 - trolley collection services within the centre grounds;
 - trolley collection services outside of the shopping centre grounds;
 - reports of abandoned trolleys; and
 - incentives for the reports and or return of trolleys.
- 3.10 In addition there are national systems in place that offer prize draws to encourage the reporting of abandoned trolleys. These programs include:

3.10.1 Trolley Tracker - via the web site www.trolleytracker.com.au or downloadable App, this scheme encourages reporting of abandoned trolleys and offers a \$1000 prize draw. This system supports Woolworths, Big W and Dan Murphys.

Council has recently subscribed to Trolley Tracker for Council's which prioritizes calls from Councils for trolley collections.

3.10.2 Coles – via the web site www.coles.com.au/customer-service/abandoned-trolley or downloadable App, this scheme supports Coles, Kmart, target & 1st Choice. It claims that reported trolleys will be collected within 24 hours:

3.10.3 Foodland and Drakes – several stores list their local store number requesting lost trolleys be reported to them directly. There is no central service for these retailers.

3.10.4 Aldi – provides a phone number (132534) to report abandoned trolleys.

- 3.11 These collection services have been promoted to Council staff and with their use there has been in a reduction in the number of trolleys collected by Council.

Additional Strategies

- 3.12 Clearly retailers undertake a variety of efforts to prevent trolley. Given Council has a role to play in trolley collection, additional strategies could be considered to complement existing efforts.

Shoppers and Community

- 3.13 As mentioned above, under the provisions of the Local Nuisance and Litter Control Act the offence for anyone that abandons or dumps a trolley on a public road or public place carries a penalty of \$1,000 (for 50 litres or more of general litter).
- 3.14 It is considered that the general public would not be aware of this breach as it was only introduced in January 2017. There is opportunity to develop educational materials to increase awareness of shoppers and increase compliance.

- 3.15 However, enforcing this breach would require staff to be present and identify the person abandoning the trolley.
- 3.16 Encouraging members of the community to report abandoned trolleys to the appropriate collection agencies and using their apps and phones numbers would also be part of any educational materials developed to ensure these agencies are responding to the majority of concerns raised by our community.

Retailers/Shopping Centre's

- 3.17 Staff have written to several major retailers and requested some feedback on any new strategies and opportunities to prevent trolley removal. These strategies included:
- 3.17.1 How to prevent trolleys being removed in the first instance, e.g.
- Coin operated trolleys requiring them to be re-docked to collect money;
 - Adequate trolley bay locations in car parks;
 - Electronic perimeter fencing to prevent trolleys being removed; and
 - Active security enforcement of trolley removal.
- 3.17.2 How to ensure the prompt collection of trolleys when they are removed:
- Ensuring trolley collection services respond promptly and in a timely manner to community reports.
- 3.17.3 How to ensure shoppers are aware of their obligations not to remove and return trolleys, e.g.
- signage and posters and or information in carparks and on the trolleys informing shoppers not to remove trolleys; and
 - informing shoppers of the potential fines associated with trolley removal and abandoning/dumping (under Local Nuisance and Litter Control Act).
- 3.18 Any feedback received will hopefully lead to additional strategies and improved compliance. Upon receipt of any feedback additional strategies may be introduced.

Council Services and Cost Recovery

- 3.19 Council activities associated with trolley removal have declined due to increased reporting, however there is still a need to remove trolleys that are unsafe, in a dangerous location and or have not been removed by the collection companies in a reasonable time frame.
- 3.20 Staff sought legal advice on introducing a charge in order to provide for a cost recovery scheme which could be implemented to assist with reducing Councils costs for each trolley collected, however this cannot be achieved as there is no legal basis for introducing such a charge under the *Local Government Act*.
- 3.21 If a trolley is removed from any Council land (including a road) and Council knows who the owner is, it is reasonable for the Council to either return the trolley or, to provide the owner with an opportunity to collect it (either from the road or the place where it has been impounded) within a reasonable period.

- 3.22 Council does have the option to negotiate an agreement with trolley collection services whereby trolleys collected by Council and returned to these collection companies can be subjected to a negotiated fee as part of that agreement. Staff will further investigate this option in an effort to establish a form of cost recovery for those trolleys that are not removed in time by the collection companies and or pose a significant safety risk.

4. CONCLUSION / PROPOSAL

- 4.1 The combination of services offered by Council in relation to abandoned trolleys and those offered by the retailers provides a service that addresses this issue in a reasonable manner. The difficulty in identifying the persons responsible reduces the ability to hold anyone accountable for the abandoned trolleys and the responsibility cannot be apportioned to the retailers.
- 4.2 The retailers and centers make it clear to shoppers that trolleys are not to be removed from the centers however there are members of the community that continue to do so and unfortunately some of those persons do not return the trolleys.
- 4.3 This message requires additional promotion and to ensure shoppers are aware of their legal responsibilities under the *Local Nuisance and Litter Control Act* and developing an education campaign will assist in this area.
- 4.4 The retailers have services, both locally and via national networks that are designed to facilitate the reporting and retrieval of trolleys that are found outside the centres. These efforts are resulting in the collection of trolleys when they are reported, however there is scope to improve trolley collection and prevent their removal in the first instance. Consultation is occurring with retailers to improve compliance and reduce removal of trolleys.
- 4.5 Increasing education and information that encourages community members to report trolleys to the appropriate collection services rather than directly to Councils will improve the collection by these companies and reduce the burden on Council.
- 4.6 The trolleys collected by Council staff are part of the services required to reduce the risks associated with trolleys. As cost recovery for trolley collections is not legally available, an agreement for these services may offer an opportunity for a cost recovery model.
- 4.7 Overall an ongoing collaborative approach between Council and shopping trolley owners and the community is critical to effectively resolving concerns arising from abandoned shopping trolleys.

CO-ORDINATION

Officer: EXECUTIVE GROUP
Date: 12.02.18

ITEM	3.6.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
PREV REFS	
HEADING	Review of Representation of the City of Salisbury by Elected Members Policy
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Representation of the City of Salisbury by Elected Members Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and only minor editorial changes are required.

RECOMMENDATION

1. The Information be received.
2. The Representation of the City of Salisbury by Elected Members Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.1, 19/02/2018), be endorsed.

ATTACHMENTS

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

1. Representation of the City of Salisbury by Elected Members Policy

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and thereafter every two years.
- 1.2 The Representation of the City of Salisbury by Elected Members Policy, last reviewed in January 2016, is now due for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with the Manager, Governance and the Executive Office has occurred as to the continuing relevance of the Policy and any changes that may be required.
 - 2.1.2 Consultation with Elected Members, via email, has occurred.

3. REPORT

- 3.1 The Representation of the City of Salisbury by Elected Members Policy has been reviewed by the Policy Owner.
- 3.2 Comments received through consultation with Elected Members and Council staff have included that both Ward Councillors be contacted should the Mayor or Deputy Mayor be unable to attend.
- 3.3 Apart from the change in 3.2 above and minor editorial changes with respect to changes in practice, no further changes of substance are proposed by staff in the content of the Policy.

4. CONCLUSION / PROPOSAL

- 4.1 The Representation of the City of Salisbury by Elected Members as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 12/01/2018



Representation of the City of Salisbury by Elected Members Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2012/1390, 2016/0852
Approval Date:	17 December 2012	Last Reapproval Date:	25 January, 2016
Review Date:	25 January 2018	Internal Reference No.:	
Department:	CEO and Governance	Division:	Governance
Function:	9 - Governance	Responsible Officer:	Manager, Governance

A - PREAMBLE

1. The City of Salisbury seeks to ensure that it is appropriately represented at events and functions hosted by schools, community groups and businesses throughout the City.

B - SCOPE

1. This Policy applies to all City of Salisbury Elected Members, including the Mayor.

C – POLICY PURPOSE/OBJECTIVES

1. This Policy provides guidance to ensure appropriate representation to the City of Salisbury at events/functions to which the Mayor has been invited and is unable to attend.

D - DEFINITIONS

1. Elected Members mean the Mayor and Councillors of the City of Salisbury.

E - POLICY STATEMENT

1. Where an invitation is received by the Mayor and the Mayor is not able to attend the event or function for which the invitation has been extended, the Deputy Mayor is the first call for attendance in the place of the Mayor, followed by **both** the relevant Ward Councillors.
2. Where an invitation has been accepted by the Mayor and the Mayor is subsequently no longer able to attend the event, the Deputy Mayor is the first call for attendance in the place of the Mayor, followed by **both** the relevant Ward Councillors.
3. In circumstances where the event occurs outside of the City of Salisbury, or there is a limited time available to confirm an alternative attendee, every effort will be made to contact members in accordance with the order of precedence. Where it is not possible to confirm an attendee from the order of precedence, guidance will be sought from the Mayor or Deputy Mayor as to who should be asked to attend the event/function.

4. Where a Councillor accepts an invitation as an alternative attendee and then is subsequently not able to attend the event or function for which the invitation has been extended, the Councillor is to contact the Executive Office to advise that they are unable to attend the event/function and to request an alternative attendee be approached to attend the event/function.
5. Details of invitations to events received by the Mayor, including confirmed attendees, will be communicated to all Elected Members via the Elected Member Portal, providing the opportunity for an Elected Member to nominate to attend an event where an attendee has not been confirmed from the order of precedence set out above.

F - LEGISLATION

1. Nil

G - REFERENCES

1. Nil

H - ASSOCIATED PROCEDURES

1. Nil

Document Control

Document ID	Representation of the City of Salisbury by Elected Members
Prepared by	Joy Rowett
Release	32.00
Document Status	Draft
Date Printed	

ITEM	3.6.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
HEADING	Local Government Association Ordinary General Meeting 31/04/2018 - 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 Ordinary General Meeting of the Local Government Association (LGA) to be held on Friday 13 April 2018 and seeks information concerning any Notices of Motion that Council wishes to submit and information on voting delegates.
RECOMMENDATION	
	1. No Notices of Motion be submitted to the Local Government Association Ordinary General Meeting being held on 13 April 2018.
ATTACHMENTS	
	There are no attachments to this report.
1. BACKGROUND	
	1.1 The LGA Ordinary General Meeting will be held on Friday 13 April 2018 at the Adelaide Town Hall. When the draft program for this event is available, all Elected Members will have an opportunity to review and determine if they wish to attend.
2. CONSULTATION / COMMUNICATION	
	2.1 Internal
	2.1.1 Executive Group.
	2.2 External
	2.2.1 Nil.
3. REPORT	
	Council Notices of Motion - Timeframe
	3.1 The 2018 LGA Ordinary General Meeting (OGM) will be held on Friday 13 April 2018. Pursuant to clause 25 of the LGA Constitution, all Council Notices of Motion for the LGA OGM must be received by the LGA no later than 42 days prior to the meeting, ie by close of business on Friday 2 March 2018.

Proposed Notices of Motion

3.2 At the time of writing this report, there are no motions being proposed from staff.

General Meeting - Voting Delegates

3.3 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 Linda Caruso) was appointed as Proxy Voting Delegate for the remainder of this term of Council.

3.4 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.

3.5 In the event the motions are not available in time to be considered by an ordinary meeting of Council, in accordance with resolution 1391 of October 2016, a special meeting will be convened for this purpose.

4. CONCLUSION / PROPOSAL

4.1 Council is asked to determine if there are any issues which warrant submission to the LGA Ordinary General Meeting being held 13 April 2018 in the form of a Notice of Motion.

CO-ORDINATION

Officer:	EXEC GROUP	MG
Date:	12/02/2018	07/02/2018

ITEM	3.6.3
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
PREV REFS	Resources and Governance 3.6.2 16/10/2017 Committee
	Resources and Governance 3.6.2 20/06/2016 Committee
HEADING	Mobile Food Vendors Policy
AUTHOR	Tim Starr, Coordinator Property, City Infrastructure
CITY PLAN LINKS	1.3 Have a thriving business sector that supports community wellbeing, is globally oriented and creates job opportunities. 3.2 Have interesting places where people want to be. 4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report considers a draft Mobile Food Vendors Policy as required by the recent changes to the Local Government Act

RECOMMENDATION

1. This report be received
2. The Draft Mobile Food Vendors Policy as set out in attachment 1 to this report (Resources and Governance 3.6.3, 19 February 2018) be endorsed.
3. Council endorse the following fees and charges for Mobile Food Vendor Permits as follows:
 - Annual Fee - \$2,000 plus GST (if applicable); or
 - Monthly Fee - \$200 plus GST (if applicable)
4. That Council's Fees and Charges Register be updated to reflect the Mobile Food Vendor Permit Fees as endorsed by Council.
5. The Draft Mobile Food Vendors Policy as set out in attachment 1 to this report (Resources and Governance 3.6.3, 19 February 2018) be monitored over the next 12 months seeking feedback from traders and the community

ATTACHMENTS

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

1. Draft Mobile Food Vendors Policy
2. Local Government (Mobile Food Vendors) Amendment Act 2017 (the Amendment Act)
3. Local Government (General) (Mobile Food Vendors) Variation Regulations 2017

1. BACKGROUND

- 1.1 On 7 August 2017, the South Australian Parliament passed the *Local Government (Mobile Food Vendors) Amendment Act 2017* (the Amendment Act) (attachment 2). This act together with the *Local Government (General) (Mobile Food Vendors) Variation Regulations 2017* (attachment 3) was to come into effect in January 2018 however further advice had been received stating that the LGA made a request for an extension to the date which would allow Councils enough time to develop a policy and have it endorsed. The legislation will now come into operation on the 1st of March 2018
- 1.2 The impact of the changes made under this Act and Regulations has resulted in Councils no longer retaining any discretion to issue or not issue permits for mobile food vending businesses to trade on land classified as roads only. It has no affect on permits being issued on other Council land ie community land or Council owned land and these can continue to be managed at the discretion of Council.
- 1.3 Additionally the changes do not apply in relation to a mobile food vending business primarily engaged in the sale of ice cream and these permit applications will be considered under the existing provisions of Section 222 of the *Local Government Act 1999*, currently managed by the Environmental Health and Safety Division.
- 1.4 The intent of the amendment of the Act and variation of Regulations is that Council's will develop a policy to encourage mobile food vending businesses to trade within the Council area whilst protecting fixed food businesses. Council must prepare and adopt rules which set out locations within a Council's area in which mobile food vending businesses may operate. These locations must comply with the requirements prescribed by the regulations such as;
 - Ensuring that there is a reasonable distance between mobile food vending businesses and fixed food businesses
 - The location of the fixed food businesses; and
 - The number of these businesses; and
 - The operating hours of these businesses

The effect the operation of a mobile food vending business will have on

- Vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities; and
- The requirements relating to, and availability of, parking spaces at the locations in which mobile food vending businesses may operate under the location rules; and
- Residents and businesses at the locations in which mobile food vending businesses may operate under the location rules; and

The location rules are consistent with any other requirement of the regulations.

A Council's location rules may show the locations within the Council area in which mobile food vending businesses are permitted to operate by use of maps however this is not mandatory.

2. CITY PLAN CRITICAL ACTION

- 2.1 Promote a positive image of Salisbury to attract investment, visitors and tourists and increase community pride.
- 2.2 Enhance the Polaris Centre's ability to support industry development, international trade, entrepreneurship and engage meaningfully with business.

3. CONSULTATION / COMMUNICATION

3.1 Internal

- 3.1.1 Economic Development and Urban Policy
- 3.1.2 Environmental Health and Safety
- 3.1.3 Civil Design and Traffic
- 3.1.4 Development Services

3.2 External

- 3.2.1 Local Government Association
- 3.2.2 City of Onkaparinga
- 3.2.3 Playford City Council
- 3.2.4 City of Tea Tree Gully
- 3.2.5 City of Holdfast Bay
- 3.2.6 City of Port Adelaide Enfield
- 3.2.7 City of Adelaide
- 3.2.8 City of Melbourne
- 3.2.9 City of Sydney

4. REPORT

- 4.1 Due to the requirement to develop 'Location Rules' which outline where mobile food vending businesses may operate on road, the attached policy (Annexure 1 Mobile Food Vendors Policy) has been drafted for Council consideration.
- 4.2 The City of Salisbury is a progressive, pro-business, and pro-active city, noting that council policies and practices can stimulate or hinder local business growth, employment creation and the attraction of new businesses to the area. In June 2017 Council endorsed the 'Approach to Supporting Business Growth and Investment report', which outlined some of the actions undertaken to support businesses in the region as well as opportunities to be undertaken in 2017-18.
- 4.3 Council acknowledged that a one-size-fits-all approach will not meet the needs of all businesses and that the City of Salisbury will endeavour to be flexible to understand and meet these needs, acknowledging the statutory and regulatory functions of Council, the need for consistency and transparency and the expectations of the broader community.

4.4 In developing the draft Mobile Food Vendors Policy consideration was given to the needs of both established fixed food businesses and the community for example the need for car parking availability, distance to fixed food businesses etc. Consideration was also given to ensure that the conditions were equitable for all mobile food vending businesses, for example, the need to rotate trading locations ensuring that no single trader may monopolise a preferred site. It was also considered that by having mobile food vending businesses trading alongside each other a destination may be created encouraging trade.

4.5 **Location rules under Section 225A of the Local Government Act 1999 (Roads)**

The preferred approach taken was not to specify locations on a map but rather allow the traders to determine where they would like to trade from and be given guidelines to assist them in choosing a suitable location. This allows the mobile food vending businesses the flexibility to identify sites which are suitable for trading however ensure that they will not interfere with fixed food businesses, community and ratepayers use of the area.

When drafting these guidelines consideration was given to fixed food businesses, and it was therefore determined that mobile food vending businesses will be required to be at least 100 metres from fixed food businesses during their trading hours.

Further consideration was given to the needs of the general community and therefore the following site selection criteria were developed;

- No more than two mobile food vending vehicles are to operate within a 150 metre long section of the public roads (with the first attending mobile food vending businesses to have preference of location) These mobile food vending businesses should locate themselves alongside each other to create a destination.
- Once mobile food vending businesses have exceeded a timed parking restriction they may not attend the same location with a 24 hour period whilst those restrictions apply allowing the opportunity for other traders to trade from preferred locations
- Must not cause undue interference or obstruction to persons using the public road, residents or businesses
- Must not obstruct vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities
- Must adhere to parking rules / restrictions only parking within designated parking zones
- Must ensure that mobile food vending vehicle is parked parallel to kerb with trading and service only to occur on the kerb side
- Footpath must have 1.8m clear access and allow for DDA Access
- Ensure that no more than two parking bays are used for a mobile food vending vehicle including a tow vehicle
- Must not operate on a road with a speed environment greater than 60 km/h
- Must not operate on the shoulder of a road without designated parking unless otherwise approved

- Must not operate in a Residential Zone (as determined by the Salisbury Development Plan) or within 15 metres of a residence unless otherwise approved. An example of a road that would be suitable for trading meeting this criteria is South Terrace, Pooraka adjacent Unity Park. A typical local road has a carriageway width from kerb to kerb of 7 metres wide within a road reserve of typically 14 metres. A distributor road is typically between 8 to 10 metres from kerb to kerb within a road reserve of typically 15 to 20 metres.
- Must not operate from a Transport SA road

Under Section 9, 225A and 225B of the legislation, the Small Business Commissioner is able to direct Council to amend its location rules if an applicant is dissatisfied with the location rules in place. If Council is directed under subsection 225A(7), to amend its location rules and fails to comply with this direction, a maximum penalty of \$5,000, may be incurred.

4.6 Legislative Requirements

A mobile food vending business must select a site for operation which does not breach any relevant requirements under:

- the Food Act 2001;
- the South Australian Public Health Act 2011;
- the Environment Protection Act 1993;
- the Local Nuisance and Litter Control Act 2016;
- the Motor Vehicle Act 1959 and the Road Traffic Act 1961;
- Australian Road Rules
- legislation relating to electrical or gas installations or appliances; and
- relevant legislation relating to health, safety or the environment.
- Any other relevant Local Government Act and Local By-laws

4.7 Compliance

- Mobile food vending businesses must hold a valid current City of Salisbury Mobile Food Trading Permit / Licence prior to trading within the City of Salisbury
- Mobile food vending businesses must hold a valid current Public Liability Insurance for a minimum amount of \$20m.
- Mobile food vending businesses must advise Council staff via email or other electronic means as determined by Council when they arrive and start trade at a location within Salisbury providing their permit number and location of trade details of contact available on application form and Council's website
- Mobile food vending vehicles must be self-sufficient in regards to power, waste water disposal
- Mobile food vending businesses must not cause noise, odour, fumes etc or other disturbance to the surrounding environment
- Mobile food vending businesses must supply adequate rubbish and litter disposal receptacles for use for the business and customers, and all rubbish is to be removed from the site.

4.8 Events

- For the purposes of events Mobile Food Trading Permit / Licence are voided and trading is not permitted within surrounding roads for a distance of 100 metres for the duration of the event unless permission has been sought and approved by the event organiser.

5. CONCLUSION / PROPOSAL

- 5.1 As a result of the recent changes to the *Local Government Act 1999* and Regulations, Council is required to prepare and adopt 'location rules' that set out locations within a Council area in which mobile food vending businesses may operate on Roads.
- 5.2 Council staff have consulted with other Councils to determine how they are developing their policies as well as holding ongoing discussions with the Local Government Association. A working group of relevant Council staff across varying Divisions was also established to determine a policy which balances the requirements of the amendments to the Act and Regulations with the needs of the community.
- 5.3 When preparing the draft Mobile Food Vendors Policy consideration has been given to Council's business friendly agenda, existing fixed food businesses, community, residents and ratepayers to ensure that all users of public land have fair access and that no one is adversely effected by the change in Legislation.
- 5.4 Section 24a (1) (b)(ii) of the *Local Government (General) (Mobile Food Vendors) Variation Regulations 2017* (see attachment 3) establishes that a Council may require payment of a fee in relation to the permit, however this fee cannot exceed \$2,000 excluding GST for an annual fee or \$200 excluding GST per month. It is recommended that these rates be set as the fees payable.
- 5.5 It is recommended that Council adopt the draft Mobile Food Vendors Policy (attachment 1) that needs to be in place by the 1st of March 2018.
- 5.6 The Mobile Food Vendors Policy will be monitored over the next 12 months seeking feedback on the operation of the policy from traders and the community alike.

CO-ORDINATION

Officer: Executive Group
Date: 12/02/2018



Draft

Mobile Food Vendors Policy

Policy Type:	Policy		
Approved By:		Decision No:	
Approval Date:		Last Reapproval Date:	
Review Date:		Internal Reference No.:	
Department:	City Infrastructure	Division:	Environmental Health & Safety
Function:	15 - Legal Provisions	Responsible Officer:	Manager, Environmental Health & Safety

A - PREAMBLE

1. The City of Salisbury is responsible for the management and maintenance of public roads and reserves within the Council area.
2. The Local Government Act 1999 provides for legislative controls directly or through by laws that enable Councils to permit or restrict conducting of business on roads and road related areas in the Council area.
3. Recent amendments by the Local Government (Mobile Food Vendors) Amendment Act 2017 ('the Amendment Act') requires Councils to adopt rules that set out locations within a council's area in which mobile food vending businesses may operate. This is known as the location rules.
4. On the commencement of the legislation, prospective mobile food vending businesses will be able to apply to Councils for a Mobile Food Vending Permit / Licence to operate in accordance with a Council's location rules and the Local Government (General) Regulations 2013 (as amended by the Variation Regulations).
5. Councils will not be able to refuse permits but the location rules will allow Councils to regulate where mobile food vending businesses can trade.
6. The location rules apply to road and road related areas and for mobile food vending businesses only. A mobile food vending business means a business involving the sale of food or beverages from a vehicle (within the meaning of the Road Traffic Act 1961);
7. In addition to road related areas, requests are received by to utilise Council's reserves for mobile food vending businesses to trade.
8. Council by-laws provide the necessary legislative controls to permit and restrict the conduct of business on Council's reserves.
9. This policy provides the location rules that set out locations within the City of Salisbury in which mobile food vending businesses may operate on roads.
10. If an operator of a food business (either a mobile food vending business or fixed food business) is directly or adversely affected by these location rules then the operator may apply to the Small Business Commissioner for a review of the location rules.
11. This policy will serve as a guide to the City of Salisbury staff and both mobile food vending businesses and fixed food businesses in relation to the use of public roads for operating a food business.

Draft

B - SCOPE

1. This policy applies to all mobile food vending businesses that want to trade from public roads.
2. The policy establishes the location rules under which mobile food vending businesses may trade and the locations in which they may operate.
3. The policy ensures that mobile food vending businesses operate in a way which complements the existing fixed food businesses and ensures that they do not unreasonably compromise the amenity of the surrounding area.
4. This policy clearly identifies the terms and conditions of hire of Council land
5. This policy is not applicable to privately owned land, noting that the provisions of the Development Act 1993 and related Development Regulations and the Development Plan may apply in relation to use of private land.

C – POLICY PURPOSE/OBJECTIVES

1. This purpose of this policy is to:
 - Detail the locations where mobile food vending businesses may trade
 - Detail the number of mobile food vending businesses that can trade within the approved locations for roads.
 - Ensure that there is a reasonable distance between mobile food vending businesses and fixed food businesses during the operating hours of the fixed food businesses,
 - Take into account the effect of mobile food vending business on
 - i. vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities; and
 - ii. the requirements relating to, and availability of, parking spaces at the locations in which mobile food vending businesses may operate under the location rules; and
 - iii. residents and businesses at the locations in which mobile food vending businesses may operate under the location rules; and
 - Provide a clear, open, equitable and accountable process for the issuing of Mobile Food Trading Permits / Licences to mobile food vending businesses to allow trade from roads.

D - DEFINITIONS

1. Public Road - means any road that is vested in Council under the Local Government Act 1999 or another Act
2. Reserve - means community land reserved or dedicated as a reserve or designated by the Council as a reserve
3. Mobile food vending vehicle is defined as any vehicle whether mobile or stationary, used for the purposes of selling food and/or drink.
This definition includes vehicles used for on-site food preparation (eg hamburgers or kebabs), one step food preparation (e.g coffee or juices) or pre-made or pre-packaged food sales.
4. Mobile food vending business - means a business involving the sale of food or beverages from a vehicle (within the meaning of the Road Traffic Act 1961) and for the purposes of this policy excludes Mobile Ice Cream Vendors
5. Fixed food business - means it is a business, the primary purpose of which is the retail sale of food or beverages that is carried on fixed premises that have a valid land use approval for

use as a food business under the Development Act 1993. Fixed food businesses include cafes, restaurants, hotels, delicatessens, takeaway food businesses, bakeries, greengrocers, health food shops, butchers, supermarkets, service stations and sporting clubs.

6. Event is a planned occasion which has prior Council approval under a Casual Hire or Special Events Permit
7. Transport SA Roads are roads in the care and control of the Department Planning Transport and Infrastructure

E - POLICY STATEMENT

1. A mobile food vending business trading on public roads within the City of Salisbury must hold a valid City of Salisbury Mobile Food Trading Permit / Licence under Section 222 of the Local Government Act 1999
2. A condition of a Mobile Food Trading Permit / Licence authorising a mobile food vending business to operate on a public road in the Council area is that the permit holder complies with location rules adopted by Council under section 225A of the Local Government Act
- 3.
4. A Mobile Food Trading Permit / Licence is not required for trading on privately owned land or when catering for an event on public land (by invitation) where a permit or licence has already been issued to the event holder
5. Fees payable are as detailed in Council's Fees and Charges
6. Trading on Council reserves is not permitted as part of this policy

F – LOCATION RULES UNDER SECTION 225A OF THE LOCAL GOVERNMENT ACT (ROADS)

- 1 Distance from Fixed Food Business
 - Must not operate within 100 metres of a fixed food business whilst they are operating.
- 2 Site Selection
 - No more than two mobile food vending vehicles are to operate within a 150 metre long section of the public roads (with the first attending mobile food vending businesses to have preference of location) These mobile food vending businesses should locate themselves alongside each other to create a destination.
 - Once mobile food vending businesses have exceeded a timed parking restriction they may not attend the same location with a 24 hour period whilst those restrictions apply allowing the opportunity for other traders to trade from preferred locations
 - Must not cause undue interference or obstruction to persons using the public road, residents or businesses
 - Must not obstruct vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities
 - Must adhere to parking rules / restrictions only parking within designated parking zones
 - Must ensure that mobile food vending vehicle is parked parallel to kerb with trading and service only to occur on the kerb side
 - Footpath must have 1.8m clear access and allow for DDA Access
 - Ensure that no more than two parking bays are used for a mobile food vending vehicle including a tow vehicle
 - Must not operate on a road with a speed environment greater than 60 km/h
 - Must not operate on the shoulder of a road without designated parking unless otherwise approved

- Must not operate in a Residential Zone (as determined by the Salisbury Development Plan) or within 15 metres of a residence unless otherwise approved
- Must not operate from a Transport SA road

Legislative Requirements

A mobile food vending business must select a site for operation which does not breach any relevant requirements under:

- the *Food Act 2001*;
- the *South Australian Public Health Act 2011*;
- the *Environment Protection Act 1993*;
- the *Local Nuisance and Litter Control Act 2016*;
- the *Motor Vehicle Act 1959* and the *Road Traffic Act 1961*;
- Australian Road Rules
- legislation relating to electrical or gas installations or appliances; and
- relevant legislation relating to health, safety or the environment.
- Any other relevant Local Government Act and Local By-laws

Compliance

- Mobile food vending businesses must hold a valid current City of Salisbury Mobile Food Trading Permit / Licence prior to trading within the City of Salisbury
- Mobile food vending businesses must hold a valid current Public Liability Insurance for a minimum amount of \$20,000,000.00
- Mobile food vending businesses must advise Council staff via email or other electronic means as determined by Council when they arrive and start trade at a location within Salisbury providing their permit number and location of trade details of contact available on application form and Council's website
- Mobile food vending vehicles must be self-sufficient in regards to power, waste water disposal and rubbish disposal
- Mobile food vending businesses must not cause noise, odour, fumes etc or other disturbance to the surrounding environment
- Mobile food vending businesses must supply adequate rubbish and litter disposal receptacles for use for the business and customers, and all rubbish is to be removed from the site.

Events

- For the purposes of events Mobile Food Trading Permit / Licence are voided and trading is not permitted within surrounding roads for a distance of 100 metres for the duration of the event unless permission has been sought and approved by the event organiser.

G – LEGISLATION

1. **Local Government Act 1999**
2. **Local Government (Mobile Food Vendors) Amendment Act 2017**
3. **Local Government (General) (Mobile Food Vendors) Variation Regulations 2017**
4. **Road Traffic Act 1961**

Document Control

Document ID	Mobile Food Vendors Policy
Prepared by	Tim Starr
Release	1.00
Document Status	Draft
Date Printed	14/02/2018

Draft

No 33 of 2017 assented to 22.8.2017

South Australia

Local Government (Mobile Food Vendors) Amendment Act 2017

An Act to amend the *Local Government Act 1999*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Local Government Act 1999*

- 4 Amendment of section 4—Interpretation
- 5 Amendment of section 222—Permits for business purposes
- 6 Amendment of section 224—Conditions of authorisation or permit
- 7 Insertion of section 224A
 - 224A Breach of condition of authorisation or permit
- 8 Amendment of section 225—Cancellation of authorisation or permit
- 9 Insertion of section 225A
 - 225A Location rules—general
 - 225B Location rules—disputes

Schedule 1—Transitional provision

- 1 Transitional provision
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Local Government (Mobile Food Vendors) Amendment Act 2017*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

1

Local Government (Mobile Food Vendors) Amendment Act 2017—No 33 of 2017
Part 2—Amendment of *Local Government Act 1999*

Part 2—Amendment of *Local Government Act 1999*

4—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *member* insert:

mobile food vending business means a business involving the sale of food or beverages from a vehicle (within the meaning of the *Road Traffic Act 1961*);

5—Amendment of section 222—Permits for business purposes

Section 222—after subsection (1) insert:

- (1a) However, subject to the regulations, a council must grant a permit under this section for the purposes of a mobile food vending business.

6—Amendment of section 224—Conditions of authorisation or permit

Section 224—after its present contents (now to be designated as subsection (1)) insert:

- (2) Subject to subsection (3), a condition made in relation to a permit for the purposes of a mobile food vending business under section 222 must be consistent with—
- (a) the location rules adopted by the council under section 225A; and
 - (b) any requirement prescribed by the regulations.
- (3) Without limiting subsection (2), the regulations may—
- (a) require that certain conditions be imposed in prescribed cases; and
 - (b) prohibit the imposition of certain conditions in prescribed cases; and
 - (c) prescribe requirements in relation to conditions relating to the payment of fees.
- (4) Subsection (2)(a) does not apply in relation to a permit for the purposes of a mobile food vending business primarily engaged in the sale of ice cream.

7—Insertion of section 224A

After section 224 insert:

224A—Breach of condition of authorisation or permit

A person must not breach or fail to comply with a condition of a permit for the purposes of a mobile food vending business under section 222.

Maximum penalty: \$2 500.

Expiation fee: \$210.

8—Amendment of section 225—Cancellation of authorisation or permit

- (1) Section 225—delete subsection (1) and substitute:
- (1) A council may, by notice in writing to the holder of an authorisation or permit—
 - (a) in the case of a permit for the purposes of a mobile food vending business under section 222—cancel the permit for breach of a condition if the breach is sufficiently serious to justify cancellation of the permit; or
 - (b) in any other case—cancel the authorisation or permit for breach of a condition.
- (2) Section 225—after subsection (3) insert:
- (4) If a council cancels a permit under subsection (1)(a), an application for a permit for the purposes of a mobile food vending business under section 222 must not, for a period (not exceeding 6 months) specified by the council at the time of cancellation, be made by or on behalf of the person who, before the cancellation, held the permit.

9—Insertion of section 225A

After section 225 insert:

225A—Location rules—general

- (1) For the purposes of section 224(2)(a), a council must prepare and adopt rules (*location rules*) that set out locations within the council area in which mobile food vending businesses may operate.
- (2) A council's location rules must comply with the following requirements:
 - (a) requirements prescribed by the regulations;
 - (b) requirements (if any) specified by the Minister by notice in the Gazette.
- (3) A requirement specified by the Minister under subsection (2)(b) may relate to location rules of councils generally or those of a particular council or councils.
- (4) A council—
 - (a) may from time to time amend its location rules; and
 - (b) must amend its location rules in order to ensure that the rules comply with—
 - (i) any requirement specified by the Minister under subsection (2)(b); or
 - (ii) any direction given by the Small Business Commissioner under subsection (7).

Local Government (Mobile Food Vendors) Amendment Act 2017—No 33 of 2017Part 2—Amendment of *Local Government Act 1999*

- (5) If the Small Business Commissioner recommends under section 225B(5) that a council amend its location rules—
 - (a) the council must give consideration to amending its location rules in accordance with the recommendation; and
 - (b) if the council resolves not to amend its location rules in accordance with the recommendation—the council must provide written reasons for the resolution to the Small Business Commissioner and the applicant under section 225B.
- (6) If the applicant under section 225B is dissatisfied with the written reasons provided by a council in relation to a recommendation under section 225B(5) that the council amend its location rules, the applicant may request the Small Business Commissioner to consider directing the council to amend its location rules in accordance with the recommendation.
- (7) The Small Business Commissioner may, on a request under subsection (6) and if satisfied that it is appropriate to do so taking into account the written reasons of the council, direct the council to amend its location rules in accordance with the recommendation referred to in subsection (6).
- (8) If a council is given a direction by the Small Business Commissioner under subsection (7), the council must not fail to comply with the direction.

Maximum penalty: \$5 000.

225B—Location rules—disputes

- (1) If the operator of a food business in a council area is directly adversely affected by the location rules of the council under section 225A, the operator may apply to the Small Business Commissioner for a review of the location rules by the Small Business Commissioner (who is conferred with the function of conducting such a review).
- (2) An application under subsection (1) must—
 - (a) be made in a manner and form determined by the Small Business Commissioner; and
 - (b) include any information required by the Small Business Commissioner.
- (3) The Small Business Commissioner may—
 - (a) conduct a review under this section in such manner as the Commissioner determines to be appropriate; and
 - (b) specify procedures and requirements that are to apply in connection with a review under this section.

No 33 of 2017—Local Government (Mobile Food Vendors) Amendment Act 2017
Amendment of *Local Government Act 1999*—Part 2

- (4) The Small Business Commissioner may, in conducting a review under this section, exercise any power of the Commissioner that applies under the *Small Business Commissioner Act 2011* in relation to the performance of the Commissioner's functions under that Act.
- (5) After conducting a review under this section, the Small Business Commissioner may, if the Commissioner considers it appropriate to do so, recommend to the relevant council that the council amend its location rules.
- (6) In this regulation—

food business means a business the primary purpose of which is the retail sale of food or beverages.

Schedule 1—Transitional provision

1—Transitional provision

- (1) The holder of a permit for the purposes of a mobile food vending business granted under section 222 of the *Local Government Act 1999* before the commencement of this clause and in force on that commencement may surrender the permit to the council and request the issue of a fresh permit under section 222 (as in force immediately after the commencement of this clause).
- (2) On receiving a request under subclause (1), the council must grant the holder of the surrendered permit a fresh permit in accordance with section 222 (as in force immediately after the commencement of this clause).
- (3) The issue of a fresh permit automatically cancels the permit that was surrendered.
- (4) If the holder of a permit who surrenders the permit under this clause paid an annual fee or charge to the council in respect of the permit, the council must refund the fee or charge on a *pro rata* basis, such that the amount of the refund is calculated by multiplying—
 - (a) the annual fee or charge that was paid; and
 - (b) the proportion that the number of whole months between the date of surrender of the permit and the date of the end of the term of the permit bears to 12 months.

Draft
31.8.2017 (20)

South Australia

Local Government (General) (Mobile Food Vendors) Variation Regulations 2017

under the *Local Government Act 1999*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Local Government (General) Regulations 2013*

- 4 Insertion of regulation 24A
 - 24A Permits for business purposes—mobile food vendors
 - 24B Requirements relating to cancellation of permits
 - 24C Requirements relating to location rules

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Local Government (General) (Mobile Food Vendors) Variation Regulations 2017*.

2—Commencement

These regulations will come into operation on the day on which the *Local Government (Mobile Food Vendors) Amendment Act 2017* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Local Government (General) Regulations 2013***4—Insertion of regulation 24A**

After regulation 24 insert:

24A—Permits for business purposes—mobile food vendors

- (1) In accordance with section 224(2) of the Act, the following requirements relating to conditions of a permit for the purposes of a mobile food vending business are prescribed:
- (a) a council is prohibited from imposing a condition restricting the kind of food that may be sold by the mobile food vending business;
 - (b) a condition imposed by a council requiring the payment of a fee in relation to the permit—
 - (i) must allow the permit holder to elect to pay either an annual or monthly fee; and
 - (ii) must not require the payment of a fee exceeding—
 - (A) in the case of an annual fee—\$2000 per year (excluding GST); or
 - (B) in the case of a monthly fee—\$200 per month (excluding GST);
 - (c) a council must ensure that the permit is subject to—
 - (i) a condition requiring the permit holder to have insurance of a kind specified by the council (such as public liability insurance); and
 - (ii) conditions requiring that the operation of the mobile food vending business not unduly interfere with—
 - (A) vehicles driven on roads; or
 - (B) vehicles parking or standing on roads; or
 - (C) a parking area for people with disabilities (within the meaning of rule 203(2) of the *Australian Road Rules*); or
 - (D) public transport or cycling infrastructure (such as bus zones, taxi zones and bike lanes); or
 - (E) other road related infrastructure; or
 - (F) infrastructure designed to give access to roads, footpaths and buildings; and
 - (iii) conditions requiring compliance with requirements under—

Draft**Local Government (General) (Mobile Food Vendors) Variation Regulations 2017**
Variation of *Local Government (General) Regulations 2013*—Part 2

- (A) the *Food Act 2001*; and
 - (B) the *South Australian Public Health Act 2011*; and
 - (C) the *Environment Protection Act 1993*; and
 - (D) the *Local Nuisance and Litter Control Act 2016*; and
 - (E) the *Motor Vehicles Act 1959* and *Road Traffic Act 1961*; and
 - (F) any law or legislative provision relating to electrical or gas installations or appliances; and
 - (G) any other relevant law or legislative provision relating to health, safety or the environment.
- (2) In accordance with section 222(1a) of the Act, a council is not required to grant a permit for the purposes of a mobile food vending business under that subsection if the vehicle proposed to be used would unduly obstruct the use of public roads in a manner that cannot be adequately addressed by conditions under section 224 of the Act.

24B—Requirements relating to cancellation of permits

- (1) If a council cancels a permit for the purposes of a mobile food vending business under section 225(1)(a) of the Act, the following requirements apply to the person who held the permit (prior to its cancellation):
- (a) if the person holds a permit for the purposes of a mobile food vending business granted by another council, the person must inform that council of the cancellation as soon as is reasonably practicable after receiving notice of the cancellation;
 - (b) if, during the prohibited period, the person applies to another council for a permit for the purposes of a mobile food vending business, the person must inform that council of the cancellation as soon as is reasonably practicable after receiving notice of the cancellation.
- (2) A person who fails to comply with a requirement under subregulation (1) is guilty of an offence.
Maximum penalty: \$500.

Local Government (General) (Mobile Food Vendors) Variation Regulations 2017

Part 2—Variation of *Local Government (General) Regulations 2013*

- (3) In this regulation—

prohibited period means the period, specified by a council that cancels a permit for the purposes of a mobile food vending business, during which an application to the council for such a permit may not be made by or on behalf of the person who held the permit (prior to its cancellation).

24C—Requirements relating to location rules

- (1) For the purposes of section 225A(2)(a) of the Act, a council, in adopting or amending its location rules—
- (a) must ensure that its location rules provide for a reasonable distance between mobile food vending businesses and fixed food businesses during the operating hours of fixed food businesses, taking into account the—
 - (i) location; and
 - (ii) number; and
 - (iii) operating hours, of fixed food businesses in the council area; and
 - (b) must take into account the effect of the operation of mobile food vending businesses on—
 - (i) vehicle and pedestrian traffic, footpaths, driveways, access points to buildings and parking areas for people with disabilities; and
 - (ii) the requirements relating to, and availability of, parking spaces at the locations in which mobile food vending businesses may operate under the location rules; and
 - (iii) residents and businesses at the locations in which mobile food vending businesses may operate under the location rules; and
 - (c) must ensure that its location rules are consistent with any other relevant requirement under regulation 24A (including any relevant requirement under a law or legislative provision referred to in that regulation).
- (2) A council's location rules may show the locations within the council area in which mobile food vending businesses are permitted to operate by use of maps.
- (3) A council must ensure that a copy of its location rules is published on its website.
- (4) In this regulation—
- fixed food business*** means a business the primary purpose of which is the retail sale of food or beverages that is carried on at fixed premises.

Draft

Local Government (General) (Mobile Food Vendors) Variation Regulations 2017
Variation of *Local Government (General) Regulations 2013*—Part 2

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on
No of 2017

ITEM	3.6.4
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
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 has updated the delegations templates to reflect changes to legislation as contained within LGA Circular 6.11 dated 8 February 2018.</p> <p>This report sets out changes required to City of Salisbury delegations in response to the changes made to the delegations templates.</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 5 March 2018 of those powers and functions under the following:
 - 1.1 *Development Act, Development (Development Plans) Amendment Act 2006 and Development Regulations 2008*
 - Regulation 82(4) – Attachment 2
 - 1.2 *Food Act 2001*
 - Sections 51(1) and 52(4) – Attachment 3
 - 1.3 *Safe Drinking Water Act 2011*
 - Sections 10(1) and 14(4) – Attachment 4
 - 1.4 *Heavy Vehicle National Law (South Australia) Act 2013*
 - Entire Instrument of Delegation – Attachment 5

Delegations made under Development Act 1993

2. 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 proposed Instrument of Delegation forming attachment to this report (Attachment 2, Item No. 3.6.4, Resources and Governance Committee, 19/02/2018) are hereby delegated from 6 March 2018 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 contained in the proposed Instrument of Delegation under the *Development Act 1993* and the *Development Regulations 2008* as follows:
 - Regulations 80(1a) 82(4) and 82(4a)

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 herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the *Development Act 1993* and the *Development Regulations 2008*.

Delegations Made under Food Act 2001

4. 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 proposed Instrument of Delegation forming attachment to this report (Attachment 3, Item No. 3.6.4, Resources and Governance Committee, 19/02/2018) are hereby delegated from 6 March 2018 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* as follows:
 - Sections 51(1) and 52(4)

5. 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 Safe Drinking Water Act 2011 (of enforcement agency)

6. 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 proposed Instrument of Delegation forming attachment to this report (Attachment 4, Item No. 3.6.4, Resources and Governance Committee, 19/02/2018) are hereby delegated from 6 March 2018 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*.
 - Sections 10(1) and 14(4)

7. 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 the Heavy Vehicle National Law (South Australia) Act 2013

8. In exercise of the power contained in Section 44 of the *Local Government Act 1999* and Section 22B of the (as relevant) the powers and functions under the *Heavy Vehicle National Law (South Australia) Act 2013* contained in the proposed Instrument of Delegation forming attachment to this report (Attachment 5, Item No. 3.6.4, Resources and Governance Committee, 19/02/2018) are hereby delegated from 6 March 2018 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 *Heavy Vehicle National Law (South Australia) Act 2013* as follows:
 - Entire Instrument of Delegation

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 *Heavy Vehicle National Law (South Australia) Act 2013*.

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 Development Act 1993, Development (Development Plans) Amendment Act 2006 and Development Regulations 2008
3. Instrument of Delegation Under the Food Act 2001
4. Instrument of Delegation under the Safe Drinking Water Act 2012
5. Instrument of Delegation under the Heavy Vehicle National Law (SA) Act 2013

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 Circular:
 - 1.2.1 LGA Circular 6.11 dated 8 February 2018 which sets out new and amended provisions under the *Development Act, Development (Plans) Amendment Act 2006 and Development Regulations 2006, Food Act 2001 and Safe Drinking Water Act 2013* and a specific power of delegation in relation to Council's power as a road manager under the *Heavy Vehicle National Law (South Australia) Act 2013*.

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 6.11 dated 8 February 2018.**
 Due to legislative amendments, Norman Waterhouse conducted a review of relevant legislation which necessitated amendments to the Instruments of Delegation (Attached) for the following legislation:

Development Act, Development (Plans) Amendment Act 2006 and Development Regulations 2006 (Attachment 2)

- Regulations 80(1a), 82(4) and 82(4a).

Food Act 2001 (Attachment 3)

- Sections 51(1) and 52(4).

Safe Drinking Water Act 2013 (Attachment 4)

- Section 10(1) and 14(4).

Heavy Vehicle National Law (South Australia) Act 2013 (Attachment 5)

- The *Heavy Vehicle National Law (South Australia) Act 2013* has been amended to provide a specific power of delegation in relation to Council's power as a road manager. Previously, delegations under this have been made pursuant to the power of delegation in the *Local Government Act 1999*. A new resolution is provided to refer to the specific power of delegation in the *Heavy Vehicle National Law (South Australia) Act 2013*, while still including the power of delegation in the *Local Government Act 1999* to cover the delegation of powers that do not relate to Council's power as a road manager. The associated delegation template (Attachment 4) remains unchanged.

2.3 Process to be followed

- 2.3.1 In order for the statements contained in the Instruments of Delegation to come into effect, Council must first resolve to revoke the existing delegations under the *Development Act, Development (Plans) Amendment Act 2006 and Development Regulations 2006, Food Act 2001, Safe Drinking Water Act 2013 and Heavy Vehicle National Law (South Australia) Act 2013* that have been amended. Council then resolves to adopt the amended and new delegations contained in the relevant Instruments of Delegation attached to this report (Attachments 2-5).
- 2.3.2 Any sub-delegations that have been made in relation to any 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 under the *Development Act, Development (Plans) Amendment Act 2006 and Development Regulations 2006, Food Act 2001, Safe Drinking Water Act 2013 and Heavy Vehicle National Law (South Australia) Act 2013* occurs on Monday 5 March 2018 with the new delegations come into force from Tuesday 6 March 2018. Any new delegations introduced will also come into force from Tuesday 6 March 2018. 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 *Development Act, Development (Plans) Amendment Act 2006 and Development Regulations 2006, Food Act 2001 and Safe Drinking Water Act 2013* and a specific power of delegation in relation to Council's power as a road manager under the *Heavy Vehicle National Law (South Australia) Act 2013* 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 31 December 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
Instrument of Delegation under the Development Act, Development (Development Plans) Amendment Act 2006 and Development Regulations 2008	96A	Regulation 80(1a)	Addition	Legislative amendment	31 December 2017	Adopt updated Instrument as soon as possible.
	97.2	Regulation 82(4)	Amendment	Legislative amendment		
	97.2A	Regulation 82(4a)	Addition	Legislative amendment		
Instrument of Delegation under the Food Act	2.1	51(1)	Amendment	Legislative Amendment	31 December 2017	Adopt updated Instrument as soon as possible.
	3.3	52(4)	Amendment	Legislative Amendment		
Instrument of Delegation under the Safe Drinking Water Act 2011	10(1)	10(1)	Amendment	Legislative amendment	31 December 2017	Adopt updated Instrument as soon as possible.
	14(4)	14(4)	Amendment	Legislative amendment		
Draft Resolutions for the making of Delegations – Heavy Vehicle National Law (SA) Act 2013	9	-	Addition	Legislative Amendment	31 December 2017	Adopt updated Instrument as soon as possible.

FXD\TABLE OF UPDATES.DOC

ATTACHMENT 2

**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS)
AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008**

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. Concept of Change in the Use of Land
1.1 The power pursuant to Section 6(3) of the Development Act 1993 ('the Act') and in circumstances where a particular use of land has been discontinued for a period of six months or more:
1.1.1 to form the opinion that the revival of that use would be inconsistent with the Development Plan and have an adverse effect on the locality in which the land is situated; and
1.1.2 to serve written notice on the owner and occupier of the land declaring that a revival of the use will be treated for the purposes of the Act as a change in the use of land.
2. Appointment of Authorised Officers
2.1 The power pursuant to Section 18(1) of the Act to appoint a person to be an authorised officer for the purposes of the Development Act 1993.
2.2 The power pursuant to Section 18(2) of the Act to impose conditions on the appointment of an authorised officer.
2.3 The duty, pursuant to Section 18(3) of the Act to issue an authorised officer with an identity card.
2.4 The power pursuant to Section 18(5) of the Act to at any time, revoke an appointment which the Delegate or the Council has made, or vary or revoke a condition of such an appointment or impose a further such condition.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 2 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

3.	Delegations
3.1	The duty pursuant to Section 20(8) of the Act to ensure that notice of a delegation under Section 20 of the Act is, in prescribed circumstances, given in the Gazette.
4.	Council or Minister May Amend a Development Plan
4.1	Where an amendment relates to the area, or part of the area, of a council, the power pursuant to Section 24(1)(a)(i) of the Act to prepare an amendment to a Development Plan.
4.2	Where an amendment to a Development Plan relates to the areas, or parts of the areas, of two or more councils, the power pursuant to Section 24(1)(b)(i) to consult with the Minister.
4.3	Where an amendment to a Development Plan relates to the areas, or parts of the areas, of two or more councils, the power pursuant to Section 24(1)(b)(ii) of the Act to prepare an amendment to a Development Plan at the request or with the approval of the Minister.
4.4	The power pursuant to Section 24(1a) of the Act and in accordance with subdivision 2 of Division 2 Part 3 of the Act to act jointly with one or more councils in preparing amendments to 1 or more Development Plans under sub Section (1)(a)(i) or (1)(b)(ii) of the Act.
4.5	The power pursuant to section 24(1)(a)(iva) of the Act, where the Council or the Delegate has, after commencing the processes associated with making an amendment as set out in Section 25 of the Act, to subsequently decide not to proceed with the amendment after all.
4.6	The power pursuant to Section 24(1b) of the Act to make submissions in relation to the matter within the period specified by the Minister.
4.7	The power pursuant to Section 24(2a) of the Act to make submissions (within a period specified in the notice) in relation to a matter.
5.	Amendments by a Council
5.1	The power pursuant to Section 25(1) of the Act to prepare a 'Statement of Intent' in accordance with the Regulations.
5.2	The power pursuant to Section 25(1) of the Act to reach agreement with the Minister on a 'Statement of Intent' prepared by the Council.
5.3	Subject to Sections 25(4) and 25(5) of the Act the power pursuant to Section 25(3) of the Act to prepare a proposal, to be called a 'Development

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 3 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Plan Amendment' (or DPA) that complies with the following requirements:
5.3.1	the DPA must be based on the outcome of investigations initiated by the Council or the Delegate in accordance with the terms of the Statement of Intent and such other investigations (if any) as the Council or the Delegate thinks fit;
5.3.2	the DPA must include an assessment of the extent to which the proposed amendment:
5.3.2.1	accords with the Planning Strategy; and
5.3.2.2	accords with the Statement of Intent; and
5.3.2.3	accords with other parts of the Development Plan; and
5.3.2.4	complements the policies in the Development Plans for adjoining areas; and
5.3.2.5	satisfies the matters prescribed in the Regulations;
5.3.3	the DPA must include:
5.3.3.1	an explanation of the intent of the proposed amendments, the relationship between that intent and the policy of the Statement of Intent, and a summary of the major policy changes (if any) that are proposed; and
5.3.3.2	a summary of the conclusions drawn from the investigations and assessments referred to above; and
5.3.3.3	a draft of the amendment, or a draft of the relevant section of the Development Plan as amended (with the amendments shown in a distinctive manner);
5.3.4	the DPA must include an assessment of the extent to which the proposed amendment accords with relevant infrastructure planning (with respect to both physical and social infrastructure) identified by the Council through strategic planning or other processes undertaken by the Council under the Act or the Local Government Act 1999 or identified by a Minister, or any other relevant government agency, in accordance with any scheme set out in the Regulations, in connection with the preparation of the DPA under the Act;
5.3.5	the DPA must include any other matter prescribed by the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 4 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

Regulations.	
5.4	The power pursuant to Section 25(3)(a) of the Act to initiate investigations in accordance with the terms of the Statement of Intent and such other investigations as the Delegate thinks fit.
5.5	The duty, pursuant to Section 25(4) of the Act to prepare a DPA only after the Delegate has considered the advice of a person with prescribed qualifications.
5.6	The power pursuant to Section 25(5) of the Act to not, except as authorised by the Minister, propose an amendment to a part of a Development Plan that has been declared by the Minister by notice in the Gazette as being part of a set of standard policy modules for the purposes of the Act.
5.7	The duty pursuant to Section 25(6) of the Act to deal with a DPA in accordance with process A, B or C as described by the Act, depending on an agreement reached between the Council or the Delegate and the Minister as part of the Statement of Intent or at some later time if so determined or agreed by the Minister.
5.8	The power pursuant to Section 25(6) of the Act to reach an agreement with the Minister as part of the Statement of Intent or at some later time if so determined or agreed by the Minister.
5.9	<u>Process A</u>
5.9.1	The duty pursuant to Section 25(7)(a) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent, for comment within the period prescribed by the Regulations.
5.9.2	The power pursuant to Section 25(7)(b) of the Act, if a response is not received within the period that applies under Section 25(7)(a) of the Act, to assume that the particular Department, agency or other body does not desire to provide any comment.
5.9.3	The power pursuant to Section 25(7)(c) of the Act to consult with the Minister.
5.9.4	The duty pursuant to Section 25(7)(c)(i) of the Act to comply with the requirement of the Minister to make an alteration to the DPA.
5.9.5	Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act, the duty pursuant to Section 25(7)(d) of the Act to release the DPA for public consultation in accordance with the Regulations), over a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	period of at least 8 weeks.
5.10	<u>Process B</u>
5.10.1	The duty pursuant to Section 25(8)(a) of the Act, if required by the Minister, to first refer the DPA to the Minister for consideration.
5.10.2	The power, pursuant to Section 25(8)(a) of the Act, to consult with the Minister.
5.10.3	The duty pursuant to Section 25(8)(a)(i) of the Act to comply with a requirement of the Minister to make an alteration to the DPA.
5.10.4	Subject to complying with Section 25(8)(a) of the Act, (if relevant) the duty and power pursuant to Section 25(8)(b)(i) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent for comment within a period of 8 weeks, and, if a response is not received within this period, to assume that the particular Department, agency or body does not desire to provide any comment.
5.10.5	Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act the duty pursuant to Section 25(8)(b)(ii) of the Act to release the DPA for public consultation in accordance with the Regulations over a period that is at least concurrent with the period that applies under Section 25(8)(b)(i) of the Act.
5.11	<u>Process C</u>
5.11.1	The duty and power pursuant to Section 25(9)(a) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent for comment within a period of 4 weeks, and, if a response is not received within this period, to assume that the particular Department, agency or body does not desire to provide any comment.
5.11.2	Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act, the duty pursuant to Section 25(9)(b) of the Act to release the DPA for public consultation in accordance with the Regulations, over a period that is at least concurrent with the period that applies under Section 25(9)(a) of the Act.
5.11.3	The duty pursuant to Section 25(9)(c) of the Act, at the time that the DPA is released for public consultation, to give:

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 6 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

5.11.3.1	an owner or occupier of any land that is directly subject to the operation of the proposed amendment; and
5.11.3.2	an owner or occupier of each piece of adjacent land to land that is directly subject to the operation of the proposed amendment, a written notice in accordance with the Regulations.
5.12	The duty pursuant to Section 25(10) of the Act to not release a DPA for public consultation unless or until the Chief Executive Officer of the Council has, on behalf of the Council, issued a certificate in the prescribed form relating to the extent to which the proposed amendment:
5.12.1	accords with the Planning Strategy; and
5.12.2	accords with the Statement of Intent; and
5.12.3	accords with other parts of the Development Plan; and
5.12.4	complements the policies in the Development Plans for adjoining areas; and
5.12.5	satisfies the matters prescribed in the Regulations.
5.13	In addition to any requirement prescribed by the Regulations, the duty pursuant to Section 25(11) of the Act for the purposes of undertaking the public consultation, to:
5.13.1	allow interested persons to make representations in writing in relation to the matter over the period that applies for the purposes of the public consultation; and
5.13.2	subject to Section 25(11)(b) of the Act and in accordance with the Regulations, hold within the area of the Council at least 1 meeting where members of the public may attend and make representations in relation to the matter,
5.13.3	appoint a committee (which may, but need not, include members of the Council) to consider any representations made under Sections 25(11)(a) or 25(11)(b) of the Act and to provide advice in relation to those representations.
5.14	If a proposed amendment designates a place as a place of local heritage value, the duty pursuant to Section 25(12) of the Act, at or before the time when the DPA is released for public consultation, to give each owner of land constituting a place proposed as a place of local heritage value a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 7 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	written notice:
5.14.1	informing the owner of the proposed amendment, and
5.14.2	inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.
5.15	If a proposed amendment declares a tree to be a significant tree or a stand of trees to be significant trees, the duty pursuant to Section 25(12a) of the Act, at or before the time when the DPA is released for public consultation, to give each owner of land where the tree or trees are located a written notice:
5.15.1	informing the owner of the proposed amendment; and
5.15.2	inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.
5.16	The duty pursuant to Section 25(13)(a) of the Act, after complying with the requirements of Sections 25(1)-(12a) of the Act, to, in accordance with the Regulations prepare a report on the matters raised during the consultation period, on the reasons for any failure to comply with any time set for any step under Sections 25(1)-(12a) of the Act, and on any recommended alterations to the proposed amendment.
5.17	The power pursuant to Section 25(13)(b) of the Act, if the Delegate thinks fit, by notice in writing to the Minister, to decline to proceed any further with an amendment.
5.18	The duty to send to the Minister:
5.18.1	a copy of a report under Section 25(13)(a); and
5.18.2	a certificate from the Chief Executive Officer;
	pursuant to and in accordance with Section 25(14) of the Act and the Regulations.
5.19	The power pursuant to Sections 25(15)(d) and 25(15)(f) of the Act to consult with the Minister.
5.20	The power pursuant to and in accordance with Section 25(21) of the Act to consult with, and make submissions to the Minister.
5.21	The power pursuant to Section 25(23) of the Act to consult with the Minister.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 8 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

6.	Amendments by the Minister
6.1	The power pursuant to Section 26(5)(d)(i) of the Act, in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 8 weeks.
6.2	The power pursuant to Section 26(5a)(a) of the Act in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 8 weeks.
6.3	The power pursuant to Section 26(5b)(a) of the Act in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 4 weeks.
6.4	The power pursuant to Section 26(12) of the Act, to make comment to the Minister within a period determined by the Minister in relation to a proposal to act under Section 26(11) of the Act.
6.5	The power pursuant to, Section 26(12) of the Act to, by notice in writing, object to the Minister's proposed action.
7.	Parliamentary Scrutiny
7.1	The power pursuant to Section 27(6) of the Act to consult with the Minister.
8.	Strategic Directions Reports
8.1	The duty pursuant to Section 30(1) of the Act, to, from time to time, in accordance with the requirements of Section 30 of the Act, prepare a report under Section 30 of the Act (a Strategic Directions Report) that:
8.1.1	addresses the strategic planning issues within the area of the Council, with particular reference to:
8.1.1.1	the Planning Strategy; and
8.1.1.2	any other policy or document prescribed by the regulations; and
8.1.2	addresses appropriate amendments to any Development Plan that applies within the area of the Council; and
8.1.3	sets out the Council's priorities for:
8.1.3.1	achieving orderly and efficient development through the implementation of planning policies; and

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

8.1.3.2	the integration of transport and land-use planning within its area; and
8.1.3.3	implementing any relevant targets set out in the Planning Strategy; and
8.1.3.4	implementing affordable housing policies set out in the Planning Strategy within its area; and
8.1.3.5	infrastructure planning (with respect to both physical and social infrastructure), taking into account any advice provided by a Minister, or any other relevant government agency, in accordance with a scheme set out in the regulations, and any of the Council's proposals with respect to infrastructure; and
8.1.3.6	other projects or initiatives considered to be relevant by the Council; and
8.1.4	contains such other material as may be:
8.1.4.1	prescribed by the regulations; or
8.1.4.2	required by the Minister.
8.2	The duty pursuant to Section 30(2) of the Act to prepare and complete a report under Section 30 of the Act:
8.2.1	within 12 months after an alteration is made to the Planning Strategy, or within such longer period as the Minister may allow, if:
8.2.1.1	the Minister declares, by notice in the Gazette, that the alteration is considered to be a significant alteration that should trigger a review of Development Plans, or specified Development Plans, under Section 30 of the Act in relation to issues specified by the Minister; and
8.2.1.2	the Development Plan that applies in relation to the Council's area (or a part of its area) falls within the ambit of the declaration; and
8.2.2	in any event, within 5 years after the completion of the last report under Section 30 of the Act.
8.3	The duty, pursuant to Section 30(3) of the Act, in connection with the preparation of a report under Section 30 of the Act, to:

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 10 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

8.3.1	by public advertisement, invite interested persons to make written submissions to the Council within 2 months of the date of the advertisement or such longer period as may be allowed by the advertisement; and
8.3.2	consult with any prescribed authority or body in the manner specified by the regulations.
8.4	The duty, pursuant to Section 30(4) of the Act, in connection with the operation of Section 30(3) of the Act, to prepare and make available the documentation prescribed by the regulations.
8.5	The duty pursuant to Section 30(5) of the Act to give a person who makes a written response to an invitation under Section 30(3)(a) of the Act an opportunity to appear personally or by representative before the Council or a Council Committee and to be heard on those submissions.
8.6	The duty pursuant to Section 30(6) of the Act, in preparing a report under Section 30 of the Act, to:
8.6.1	reach agreement with the Minister on a Statement of Intent with respect to any proposed amendments to a Development Plan that applies within the area of the Council; and
8.6.2	if relevant, prepare a DPA that is suitable for consideration under Section 25(3) of the Act.
8.7	The duty pursuant to Section 30(7) of the Act to furnish a report under Section 30 of the Act to the Minister.
8.8	The duty pursuant to Section 30(8) of the Act to, then, in accordance with any reasonable request of the Minister, enter into an agreement with the Minister on the steps that the Council will take as a result of the matters contained in the report (and the report will not be taken to have been completed unless or until such an agreement is reached with the Minister).
8.9	The power pursuant to Section 30(9) of the Act to request the Minister to exempt the Council:
8.9.1	from a requirement to prepare a particular report under Section 30 of the Act; or
8.9.2	from a particular requirement with respect to a report under Section 30 of the Act.
8.10	The duty pursuant to Section 30(12) of the Act to make copies of a report prepared under Section 30 of the Act available for inspection (without

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	charge) by the public at the principal office of the Council.
8.11	The duty pursuant to Section 30(13) of the Act, if a report proposes amendments to a Development Plan that applies within the area of the Council, to ensure that it releases a DPA for public consultation under Section 25 within the period prescribed by the regulations.
8.12	The power pursuant to Section 30(14) of the Act, to request in accordance with the regulations a Minister identified by the regulations for the purposes of this provision to furnish to the Council within the prescribed period a statement of the nature and extent of any infrastructure that, according to the Minister's assessment, should be taken into account in connection with the preparation of a report under Section 30 of the Act.
8.13	The power pursuant to Section 30(15) of the Act to act jointly with two or more councils under Section 30 of the Act and to act on behalf of, and with the agreement of, the other council or councils in undertaking any process or procedure under Section 30 of the Act.
9.	Copies of Plans to be Made Available to the Public
9.1	The duty pursuant to Section 31(3) of the Act to make copies of a Development Plan published under Section 31(1) of the Act that applies in relation to the area of the Council available for inspection (without charge) and purchase by the public at an office of the Council.
10.	Matters Against Which Development Must be Assessed
10.1	The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):
10.1.1	the provisions of the appropriate Development Plan;
10.1.2	the provisions of the Building Rules;
10.1.3	in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) on the satisfaction of the conditions specified in Section 33(1)(c) of the Act;
10.1.4	in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 on the satisfaction of the conditions specified in Section 33(1)(d) of the Act;
10.1.5	the requirement that any encroachment of a building over, under,

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 12 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	across or on a public place has been dealt with in a satisfactory manner; and
10.1.6	such other matters as may be prescribed.
10.2	The power pursuant to Section 33(3) of the Act, when granting a development plan consent, to reserve a decision on a specified matter until further assessment of the development under the Act.
10.3	If:
10.3.1	a development only requires an assessment under paragraph (b) of Section 33(1) of the Act; and
10.3.2	the Council:
10.3.2.1	is the relevant authority; and
10.3.2.2	is to make the assessment under that paragraph; and
10.3.3	the Council determines to grant consent under that paragraph,
	the duty, pursuant to Section 33(4b) of the Act as the relevant authority, to issue the relevant development approval with the consent.
11.	Determination of Relevant Authority
11.1	The power pursuant to Section 34(1)(b)(iii) of the Act to request the Minister to declare the Development Assessment Commission to be the relevant authority for a proposed development.
11.2	The power pursuant to Section 34(1a) of the Act, where the Minister has made a declaration under Section 34(1)(b)(vi) of the Act, to provide the Development Assessment Commission with a report, relating to the application for development authorisation, within the time prescribed by the Regulations.
11.3	The power pursuant to Section 34(8a) of the Act to, in conjunction with the Councils for the areas in relation to which a regional development assessment panel has been constituted, remove a member from the panel for a failure to comply with the requirements of Section 34(6a) or (7) of the Act or a breach of, or failure to comply with, a code of conduct under Section 21A of the Act.
11.4	The power in accordance with Section 34(21) of the Act to withdraw from a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	regional development assessment panel
11.5	The duty pursuant to Section 34(27)(a) of the Act to establish a policy relating to the basis upon which the Council will make the various delegations required by Section 34(23) of the Act.
11.6	The duty pursuant to Section 34(27)(b) of the Act to ensure that a copy of the policy established by the Council under Section 34(27)(a) of the Act is available for inspection at the principal office of the council during ordinary office hours and for inspection on the internet.
12.	Special Provisions Relating to Assessment Against Development Plans
12.1	The duty pursuant to Section 35(1) of the Act to grant a development plan consent if the Regulations or the relevant Development Plan describes any proposed development as a complying development (subject to such conditions or exceptions as may be prescribed by the Regulations or the relevant Development Plan and subject to any other provision made by the Act or applying under the Regulations).
12.2	The power pursuant to Section 35(1b) of the Act to determine a development that is assessed by a relevant authority as being a minor variation from complying development to be complying development.
12.3	Subject to Sections 35 (1d) and (1e) of the Act, if a proposed development meets all but 1 criteria necessary for the development to be complying development, the duty, pursuant to Section 35(1c) of the Act to regard the aspect or aspects of the development that are consistent with the development being complying development accordingly and to assess the balance of the development as merit development.
12.4	The power pursuant to Section 35(2) of the Act to assess whether or not a development is seriously at variance with the relevant Development Plan.
12.5	The power pursuant to Section 35(3)(a) of the Act in appropriate cases, to concur in the granting of consent to a development described as a non-complying development.
12.6	Subject to the Act, the power and duty pursuant to Section 35(6) of the Act, to accept that a proposed development complies with the provisions of the appropriate development plan to the extent that such compliance is certified by a private certifier.
13.	Special Provisions Relating to Assessment Against the Building Rules
13.1	The duty pursuant to Section 36(1) of the Act to grant a building rules consent if the Regulations provide that any proposed building work

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 14 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	complies with the Building Rules.
13.2	The power pursuant to and in accordance with Section 36(2) of the Act:
13.2.1	to assess whether a development is at variance with the Building Rules;
13.2.2	to determine whether to grant building rules consent where the variance is with the performance requirements of the Building Code and the Building Rules Assessment Commission concurs in the granting of consent;
13.2.3	to determine whether to grant building rules consent where the variance is with a part of the Building Rules other than the Building Code and to determine that it is appropriate to grant the consent despite the variance on the basis that the Delegate is satisfied that:
13.2.3.1	the provisions of the Building Rules are inappropriate to the particular building or building work, or the proposed building fails to conform with the Building Rules only in minor respects and the variance is justifiable having regard to the objects of the Development Plan or the performance requirements of the Building Code and would achieve the objects of the Act as effectively, or more effectively, than if the variance were not to be allowed; or
13.2.3.2	in circumstances where the development has already occurred the variance is justifiable in the circumstances of the particular case.
13.3	The duty pursuant to Section 36(3) of the Act to modify the application of the Building Rules to avoid an inconsistency between the Building Rules and the Development Plan in relation to a State heritage place or a local heritage place.
13.4	The duty pursuant to Section 36(3a) of the Act to seek and consider the advice of the Building Rules Assessment Commission before imposing or agreeing to a requirement under Section 36(3) of the Act that would be at variance with the performance requirements of the Building Code.
13.5	The duty pursuant to Section 36(4)(a) and (b) of the Act to accept that proposed building work complies with the Building Rules to the extent that:
13.5.1	such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	in accordance with the Regulations; or
	13.5.2 such compliance is certified by a private certifier.
13.6	The power pursuant to Section 36(6) of the Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of the Building Rules for a building of that classification.
14.	Consultation With Other Authorities or Agencies
14.1	Subject to Section 37AA of the Act, the duty pursuant to Section 37(1)(a) and (b) of the Act where an assessment is required of an application for the consent or approval of a proposed development of a prescribed class to:
14.1.1	refer the application, together with a copy of any relevant information provided by the applicant to a body prescribed by the Regulations and including the Development Assessment Commission, and
14.1.2	not make a decision until a response has been received from the prescribed body in relation to the matter or matters for which the referral was made or the presumption is made that the body does not desire to make a response or concur (as the case requires).
14.2	The duty pursuant to Section 37(5)(a) of the Act where an application has been refused or conditions imposed in respect of a development authorisation by direction of a prescribed body, to notify the applicant that the application was refused, or the conditions imposed, by direction under Section 37 of the Act.
14.3	If a relevant authority is directed by a prescribed body to refuse an application and the refusal is the subject of an appeal under the Act, the power, pursuant to Section 37(6) of the Act to make application for the relevant authority to be joined as a party to the proceedings.
15.	Preliminary Advice and Agreement
15.1	The power pursuant to and in accordance with Section 37AA(2)(e) of the Act to be satisfied that an application accords with an agreement indicated by a prescribed body in accordance with Section 37AA(2)(c) of the Act.
15.2	The power pursuant to and in accordance with Section 37AA(4) of the Act to determine that an agreement under Section 37AA of the Act is no longer appropriate due to the operation of Section 53 of the Act.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 16 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

16. Proposed Development Involving Creation of Fortifications	
16.1	The duty pursuant to Section 37A(1) of the Act where the Delegate has reason to believe that a proposed development may involve the creation of fortifications, to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police ('the Commissioner').
16.2	The power pursuant to Section 37A(2)(b) of the Act to receive the Commissioner's written determination under Section 37A(2)(a) of the Act.
16.3	The duty pursuant to Section 37A(5) of the Act if the Commissioner determines that the proposed development involves the creation of fortifications to:
16.3.1	if the proposed development consists only of the creation of fortifications – refuse the application; or
16.3.2	in any other case – impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications.
16.4	The duty pursuant to Section 37A(6) of the Act, if the Delegate acting on the basis of a determination of the Commissioner under subsection 37A(2) refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 37A of the Act.
17. Public Notice and Consultation	
17.1	The duty, pursuant to Section 38(3) of the Act, where a person applies for a consent in respect of the Development Plan for a Category 1 development, to not on the Delegate's own initiative seek the views of the owners or occupiers of adjacent or other land in relation to the granting or refusal of development plan consent.
17.2	Where a person applies for a consent in respect of the Development Plan for a Category 2A development, -
17.2.1	the duty pursuant to Section 38(3a)(a) of the Act to:
17.2.1.1	subject to any exclusion or qualification prescribed by the Regulations – give an owner or occupier of each piece of adjoining land; and
17.2.1.2	give any other person of a prescribed class,

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 17 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	notice of the application; and
17.2.2	the duty pursuant to Section 38(3a)(b) of the Act, to:
17.2.2.1	give consideration to any representations in writing made in accordance with the Regulations by a person who is entitled to be given notice under paragraph (a) of Section 38(3a) of the Act; and
17.2.2.2	forward to the applicant a copy of any representations that the relevant authority must consider under subparagraph (i) of Section 38(3a)(b) of the Act and allow the applicant an opportunity to respond in writing, to those representations within the period prescribed by the Regulations; and
17.2.3	if a representation is received under paragraph (b) of Section 38(3a) of the Act within the prescribed number of days, the power pursuant to Section 38(3a)(c) of the Act to, in the Delegate's absolute discretion, allow the person who made the representation to appear personally or by representative before it to be heard in support of the representation.
17.3	The duty pursuant to Section 38(4) of the Act to give notice of a proposal for a Category 2 development.
17.4	The duty pursuant to Section 38(5) of the Act to give notice of a proposal for a Category 3 development.
17.5	The duty pursuant to Section 38(8) of the Act to forward to an applicant a copy of any representation made regarding the proposed development, and to allow the applicant to respond in writing to those representations.
17.6	The power pursuant to Section 38(10)(a) of the Act, in respect of a Category 2 development, to determine whether to allow a person who made a representation to appear personally or by representative before the Delegate.
17.7	The duty pursuant to Section 38(10)(b) of the Act, in respect of a Category 3 development, to allow a person who made a representation and who as part of that representation indicated an interest in appearing before the Delegate, a reasonable opportunity to appear personally or by representative to be heard in support of the representation.
17.8	The duty pursuant to Section 38(11) of the Act to allow an applicant to appear personally or by representative before the Delegate or the Council

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 18 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	in order to respond to any relevant matter.
17.9	The duty pursuant to Section 38(12) of the Act, where representations have been made under Section 38 of the Act, to give notice of the decision on the application to each person who made a representation and in respect of a Category 3 development of the person's appeal rights under the Act, and give notice to the Court.
17.10	The power, pursuant to subsection 38(17) of the Act, where a relevant authority is acting under Section 38 of the Act in relation to a Category 2A or Category 2 development, to not take into account under Section 38 of the Act a representation made by a person who is not entitled to be given notice of the relevant application under Section 38 of the Act.
17.11	The power, pursuant to subsection 38(18) of the Act, to not take into account under Section 38 of the Act, a representation that is not made in accordance with any requirement prescribed by the Regulations for the purposes of Section 38.
18.	Application and Provision of Information
18.1	The power pursuant to Section 39(2) of the Act to request an applicant to:
18.1.1	provide such additional documents or information to enable assessment of the application;
18.1.2	remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;
18.1.3	consult with an authority or body prescribed by the Regulations;
18.1.4	(where required by the Regulations) prepare a statement of effect in relation to non-complying development; and
18.1.5	comply with any other requirement prescribed by the Regulations.
18.2	If:
18.2.1	a development is of a kind that is complying development; and
18.2.2	the development falls within a class of development prescribed by the Regulations for the purpose of Section 39(2a)(b) of the Act; and
18.2.3	the applicant has complied with the requirements of Section

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	39(1)(a), (c) and (d),
	the duty, pursuant to Section 39(2a) of the Act, to, in making an assessment as to development plan consent, assess the application without requesting the applicant to provide additional documents or information.
18.3	lf:
18.3.1	a development falls within a class of development prescribed by the Regulations for the purposes of Section 39(2b)(b) of the Act; and
18.3.2	the applicant has complied with the requirements of Section 39(1)(a), (c) and (d) of the Act,
	the power and duty pursuant to Section 39(2b)(c) of the Act, to;
18.3.3	in making an assessment as to development plan consent, request the applicant to provide additional documents or information in relation to the application on 1 occasion only; and
	the duty pursuant to Section 39(2b)(d) of the Act, to;
18.3.4	make that request within a period prescribed by the Regulations.
18.4	Pursuant to Section 39(3)(b) of the Act, where a request is made under Section 39(2) of the Act and the request is not complied with within the time specified by the Regulations, the power pursuant to Section 39(3)(b) of the Act to:
18.4.1	subject to Section 39(3)(b)(ii) of the Act, refuse the application; and
18.4.2	refuse the application in prescribed circumstances (including, if the Regulations so provide, in a case involving development that is complying development).
18.5	The duty, pursuant to Section 39(3a) of the Act, in dealing with an application that relates to a regulated tree, to seek to make any assessment as to whether the tree is a significant tree without requesting the applicant to provide an expert or technical report relating to the tree, unless the Delegate considers that special circumstances apply.
18.6	The duty, pursuant to Section 39(3b) of the Act, in dealing with an application that relates to a regulated tree that is not a significant tree, to seek to assess the application without requesting the applicant to provide an expert or technical report relating to the tree, unless the Delegate

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 20 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	considers that special circumstances apply.
18.7	The power pursuant to Section 39(4)(a) and Section 39(5) of the Act to permit an applicant to vary an application or vary any plans, drawings, specifications or other documents that accompanied an application.
18.8	The power pursuant to Section 39(4)(b) and Section 39(5) of the Act to permit an applicant to lodge an application without the provision of any information or document required by the Regulations.
18.9	The power pursuant to Section 39(4)(c) and Section 39(5) of the Act to waive payment of whole or part of the application fee or refund an application fee (to the extent that such fees are payable to the Council).
18.10	The power pursuant to Section 39(4)(d) of the Act and Regulation 17(3)(a) of the regulations to refuse an application that relates to a development of the kind that is described as a non-complying development under the Development Plan without proceeding to make an assessment of the application.
18.11	The power pursuant to Section 39(4)(e) of the Act, if there is an inconsistency between any documents lodged with the Council for the purposes of Division 1 of Part 4 of the Act, or between any such document and a development authorisation that has already been given that is relevant in the circumstances, to return or forward any document to the applicant or to any other person and to determine not to finalise the matter until any specified matter is resolved, rectified or addressed.
18.12	The power pursuant to Section 39(7) of the Act to approve an application for variation of the conditions of the development authorisation previously given under the Act, or to extend the period for which such authorisation remains operative.
18.13	The power, pursuant to section 39(7)(c) to determine whether representations relate to any aspect of the development under consideration on account of an application for variation, and to determine whether, in the circumstances of the case, it is unnecessary to deal with the matter as Category 3 development.
18.14	The power, pursuant to section 39(7)(d) of the Act, to approve the seeking of a variation to extend the period for which the relevant authorisation remains operative.
18.15	Where granting an application for variation of a development authorisation pursuant to section 39(6), the power, pursuant to section 39(7a), to make specific provision for the variation of a condition imposed with respect to the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 21 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	original authorisation in its decision on the application for variation.
18.16	The power pursuant to Section 39(8) of the Act to issue a consent which provides for the undertaking of development in stages.
18.17	The power pursuant to Section 39(9) of the Act to determine that the applicant is entitled to a refund of the application fee in the event that an application is withdrawn.
19.	Determination of Application
19.1	The duty pursuant to Section 40(1) of the Act to give notice of a decision in accordance with the Regulations (and in the case of a refusal, the duty to include the reasons for the refusal and any appeal rights that exist under the Act.)
19.2	The power pursuant to Section 40(3) of the Act to extend the period of time within which a development authorisation remains operative.
20.	Time Within Which Decision Must be Made
20.1	The duty, pursuant to Section 41(1) of the Act to deal with an application as expeditiously as possible and within the time prescribed by the Regulations.
20.2	If:
20.2.1	the relevant authority does not decide an application that relates to development that is a complying development within the time prescribed under Section 41(1) of the Act; and
20.2.2	the applicant gives the relevant authority a notice in accordance with the Regulations on the basis that the decision on the application has not been made,
	the duty pursuant to Section 41(5)(d) of the Act, subject to any exclusion or qualification prescribed by the Regulations, to refund the fee received by the relevant authority under Section 39(1)(d) in relation to the application.
21.	Conditions
21.1	The power pursuant to Sections 42(1) and (3) of the Act to attach such conditions as the Delegate thinks fit or as may be prescribed by regulation to any decision under Division 1 of Part 4 of the Act.
21.2	The duty, pursuant to Section 42(4) of the Act, in accordance with Section 42(5) of the Act and subject to Sections 42(6) and (8) of the Act, if a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 22 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the Delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).
21.3	The power, pursuant to Section 42(6) of the Act, on the application of the applicant, to determine that a payment of an amount calculated in accordance with the Regulations be made into the relevant fund in lieu of planting one or more replacement trees under Section 42(4) of the Act.
21.4	The power, pursuant to Section 42(8)(b) of the Act, after taking into account any criteria prescribed by the Regulations and if the Minister concurs, to determine that it is appropriate to grant an exemption under Section 42 of the Act in a particular case.
22.	Cancellation by a Relevant Authority
22.1	The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.
23.	Investigation of Development Assessment Performance
23.1	The power pursuant to Section 45A(2) 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 within a period (being at least 28 days) specified by the Minister.
23.2	The duty pursuant to Section 45A(14) of the Act to comply with a direction under Section 45A(11) or (13) of the Act.
23.3	The power pursuant to Section 45A(12) of the Act to make submissions to the Minister on the report on which the action under Section 45A(11) of the Act is based within a period (being at least 28 days) specified by the Minister.
24.	Crown Development and Public Infrastructure
24.1	The power pursuant to Section 49(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.
24.2	The power pursuant to Section 49(5) of the Act to report to the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 23 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Development Assessment Commission on any matters contained in a notice from the Development Assessment Commission under Section 49(4a) of the Act.
24.3	The power pursuant to Section 49(9) of the Act to withdraw opposition to a State agency proposed development.
25. Electricity Infrastructure Development	
25.1	The power pursuant to Section 49A(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.
25.2	The power pursuant to Section 49A(5) of the Act, where notice of a proposal to undertake development for the purposes of the provision of electricity infrastructure has been given to the Council pursuant to Section 49A(4a) of the Act, to report to the Development Assessment Commission on any matters contained in the said notice.
25.3	The power pursuant to Section 49A(9) of the Act, in circumstances where the Council's report to the Development Assessment Commission under Section 49A(5) of the Act expressed opposition to the proposed development, to withdraw that opposition.
26. Open Space Contribution System	
26.1	The power pursuant to Section 50(1) of the Act, with respect to an application for the division of land into more than 20 allotments where one or more allotments is less than one hectare in area, to require:
26.1.1	that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or
26.1.2	that the applicant make the contribution prescribed by the regulations in accordance with the requirements of by Section 50 of the Act; or
26.1.3	that the land be vested in the Council and that the applicant make a contribution determined in accordance with Section 50(7) of the Act, according to the determination and specification of the Council or Delegate.
26.2	The power pursuant to Section 50(1) of the Act, when proposing to take any action that is at variance with the Council's Development Plan to seek the concurrence of the Development Assessment Commission.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 24 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

26.3	The power pursuant to Section 50(3) and 50(2)(d) of the Act to enter into an agreement on behalf of the Council with the Development Assessment Commission and the applicant under which certain land described by the relevant plan of division will be vested in the Council.
26.4	The power pursuant to Section 50(3a) of the Act to concur on behalf of the Council to the vesting of land in the Council pursuant to a requirement of the Development Assessment Commission that an area of the site of the development be kept as open space or in some other form that allows for active or passive recreation under Section 50(3a)(a) of the Act.
26.5	The power pursuant to Section 50(10) of the Act to receive payment of monies from an applicant under Section 50(1) of the Act and the duty to immediately pay that money into a special fund established for the purposes of Section 50 and to apply that money for the purpose of acquiring or developing land as open space.
26.6	The power pursuant to Section 50(11) of the Act to determine that the division of land is being undertaken in stages such that Section 50 of the Act does not apply to an application for development authorisation to the extent that an earlier application in respect of the same development has addressed the requirements of Section 50 of the Act in respect of the area of land as a whole.
27. Carparking Fund	
27.1	The power pursuant to Section 50A(1) of the Act to establish a car parking fund.
27.2	The duty pursuant to Section 50A(1) of the Act to publish a notice in the Gazette in accordance with Section 50A(2) of the Act where the approval of the Minister has been obtained.
27.3	The power pursuant to Section 50A(5)(c) of the Act to determine that a proposal does not provide for sufficient spaces for the parking of cars at the site of a development.
27.4	The power pursuant to Section 50A(5)(d) of the Act to agree with an applicant that a contribution calculated in accordance with a determination of the Council or the Delegate can be made by the applicant to a car parking fund in lieu of providing a certain number of spaces for the parking of cars at the site of a development.
27.5	The power pursuant to Section 50A(5) of the Act to make a determination for the purpose of calculating amounts to be paid into a carparking fund.
27.6	The duty pursuant to and in accordance with Section 50A(6) of the Act to

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 25 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	publish a determination for the purpose of calculating amounts to be paid into a carparking fund and any variations from time to time in the Gazette.
27.7	The power pursuant to and in accordance with Section 50A(7) of the Act to invest any money in a carparking fund and to pay any resultant income into the fund.
27.8	The power pursuant to and in accordance with Section 50A(8) of the Act to apply money standing to the credit of the car parking fund.
28.	Urban Trees Fund
28.1	The power, pursuant to Section 50B(1) of the Act, with the approval of the Minister, to establish an urban trees fund for an area designated by the Delegate (a designated area).
28.2	The duty, pursuant to Section 50B(2) of the Act, to effect establishment of the fund by notice in the Gazette.
28.3	The duty, pursuant to Section 50B(3) of the Act, to define a designated area by reference to an area established by the relevant Development Plan.
28.4	The power, pursuant to Section 50B(5) of the Act, to invest any money in an urban trees fund that is not for the time being required for the purpose of the fund and the duty to pay any resultant income into the fund.
28.5	The power, pursuant to Section 50B(6) of the Act, to apply money standing to the credit of an urban trees fund to:
28.5.1	maintain or plant trees which are, or will (when fully grown) constitute, significant trees under the Act; or
28.5.2	purchase land within the designated area in order to maintain or plant trees which are, or will (when fully grown) constitute, significant trees under the Act.
28.6	The duty, pursuant to Section 50B(7) of the Act, if the Council subsequently sells land purchased under Section 50B(6)(b) of the Act, to pay the proceeds of sale into an urban trees fund maintained by the Council under Section 50B of the Act subject to the following qualifications as prescribed by Sections 50B(7)(a) and (b) of the Act:
28.6.1	if an urban trees fund is no longer maintained by the Council, the proceeds must be applied for a purpose or purpose consistent with Section 50B(6)(a) or (b) of the Act;

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 26 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

28.6.2	if money from an urban trees fund only constituted a proportion of the purchase price of the land (the designated proportion), the money that is subject to these requirements is the designated proportion of the proceeds of sale.
29. Certificate in Respect of the Division of Land	
29.1	The duty pursuant to Section 51(2) of the Act to provide appropriate information to the Development Assessment Commission (upon request by the Development Assessment Commission) before it issues a certificate in respect of the division of land.
30. Saving Provisions	
30.1	The power pursuant to Section 52(4) of the Act to extend the limitation period referred to in Section 52(2) of the Act in order to avoid or reduce hardship.
31. Avoidance of Duplication of Procedures Etc	
31.1	The power pursuant to Section 52A(2)(a) of the Act to accept a document under the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999 (and defined in Section 52A(9) of the Act, as a 'Commonwealth Act document') as an application, notice or other document for the purposes of the Act, if (subject to the provisions of Section 52A(7)) the document complies with the requirements of the Act.
31.2	The power pursuant to Section 52A(2)(b) of the Act where a document has been accepted for the purposes of the Act, to direct that a procedure taken under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 in relation to the said document will be taken to have fulfilled the requirements for a procedure in relation to the relevant document under the Act, if the requirements of the Act in relation to the procedure have been complied with under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
31.3	The power pursuant to Section 52A(2)(c) of the Act to adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used or to be used for the purposes of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as the document required under the Act, if (subject to the provisions of Section 52A(7) of the Act) the document has been prepared in compliance with the Act, and complies with the requirements of the Act.
31.4	The power pursuant to Section 52A(5) of the Act where a controlled action under the Commonwealth Environment Protection and Biodiversity

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 27 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Conservation Act 1999 is an activity or part of an activity or includes an activity for which a development authorisation is required under the Act to, when considering an application for a development authorisation or for the variation of a development authorisation, for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 for the purposes of the Commonwealth Minister deciding to give approval to the controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
31.5	Where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity, or includes an activity, for which a development authorisation is required under the Act:
31.5.1	in circumstances where:
31.5.1.1	the Commonwealth Minister has given his or her approval to the controlled action; and
31.5.1.2	the applicant for the development authorisation or the Commonwealth Minister has informed the relevant authority of that fact;
	the duty pursuant to Section 52A(6)(a) of the Act to consider whether the conditions (if any) to be attached to the development authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999; and
31.5.2	the power pursuant to Section 52A(6)(b) of the Act to attach a condition to the development authorisation that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
32.	Requirement to Upgrade Building in Certain Cases
32.1	Where an application is made for building rules consent for building work in the nature of an alteration to a building constructed before the date prescribed by regulation for the purposes of subsection 53A(1) of the Act, the power pursuant to Section 53A(1) of the Act to form the opinion that the building is unsafe, structurally unsound or in an unhealthy condition and therefore require as a condition of consent that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 28 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	proper structural and health standards.
32.2	Where an application is made for building rules consent for building work in the nature of an alteration of a class prescribed by the Regulations the power pursuant to Section 53A(2) and subject to Section 53A(3) of the Act, to form the opinion that the affected part of the building does not comply with the performance requirements of the Building Code in relation to access to buildings and facilities and services within buildings, for people with disabilities and therefore require as a condition of consent that building work or other measures be carried out to the extent necessary to ensure that the affected part of the building will comply with those performance requirements of the Building Code.
33.	Urgent Building Work
33.1	The power pursuant to Section 54(2)(d) of the Act to issue any directions and specify a period of time with respect to building work performed as a matter of urgency.
34.	Action if Development Not Substantially Completed
34.1	The power pursuant to Section 55(1) of the Act to apply to the Court for an order under Section 55(3) of the Act where the development to which an approval relates has been commenced but not substantially completed within the period prescribed by the Regulations for the lapse of the approval.
34.2	The power pursuant to Section 55(5) of the Act where the Court makes an order under Section 55(3)(a), (b) or (ca) of the Act and a person fails to comply with the order within the period specified by the Court, to cause any work contemplated by the order to be carried out and to recover the cost of that work as a debt from the person.
34.3	The power pursuant to Section 55(6) of the Act where an amount is recoverable from a person under Section 55(5) of the Act, by notice in writing to the person, fix a period being not less than 28 days from the date of the notice within which the amount must be paid.
35.	Completion of Work
35.1	The power pursuant to Section 56(1) of the Act to issue a notice in writing requiring an owner of land to complete a development on the land within a period specified in the notice.
35.2	The power pursuant to the Section 56(2) of the Act to cause the necessary work to be carried out where an owner has failed to carry out work as

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	required by a notice under Section 56(1) of the Act.
35.3	The power pursuant to Section 56(3) of the Act to recover the reasonable costs and expenses incurred by the Council or any person acting on behalf of the Council under Section 56 of the Act as a debt due from the owner.
35.4	The power pursuant to Section 56(4) of the Act to, by notice in writing to the person, fix a period being not less than 28 days from the date of the notice, within which the amount must be paid by the person where an amount is recoverable from the person under Section 56(3) of the Act.
36.	Council to Establish Development Assessment Panels
36.1	The duty pursuant to Section 56A(3) of the Act to appoint a presiding member to the council development assessment panel in accordance with the requirements set out in Section 56A(3)(b) of the Act.
36.2	The duty pursuant to Section 56A(3) of the Act to appoint the remaining members of the council development assessment panel in accordance with the requirements set out in Section 56A(3)(c) of the Act.
36.3	The duty pursuant to section 56A(3)(d) of the Act to ensure that, unless granted an exemption by the Minister, at least 1 member of the panel is a woman and at least 1 is a man and to ensure that insofar as is reasonably practicable, the panel consists of equal numbers of men and women.
36.4	The duty pursuant to Section 56A(3)(e) to determine the term of office for a member of the council development assessment panel, which period cannot exceed 2 years.
36.5	The duty pursuant to Section 56A(3)(f) of the Act to determine any other conditions of appointment of the members of the council development assessment panel.
36.6	The power pursuant to Section 56A(3)(g) of the Act to remove a member of the council development assessment panel from office for:
36.6.1	breach of, or failure to comply with, the conditions of appointment; or
36.6.2	misconduct; or
36.6.3	neglect of duty; or
36.6.4	incapacity to carry out satisfactorily the duty of his or her office; or

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 30 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

36.6.5	failure to carry out satisfactorily the duty of his or her office; or
36.6.6	failure to comply with a requirement under Section 34(6) or (7) of the Act or a breach of, or failure to comply with, a code of conduct under Section 21A of the Act.
36.7	The duty pursuant to and in accordance with Section 56A(5) of the Act to give notice of an appointment.
36.8	The duty pursuant to Section 56A(15)(b) of the Act and in accordance with Section 56A(17) of the Act to make minutes of meetings of a council development assessment available for reasonable access by members of the public.
36.9	The duty pursuant to and in accordance with Section 56A(20) of the Act to provide information to the Minister where requested by the Minister.
36.10	The duty pursuant to Section 56A(22) of the Act to appoint a public officer (who must not be a member of the council development assessment panel).
36.11	The duty pursuant to Section 56A(23) of the Act to ensure that notice of the appointment of a public officer (including the public officer's name and contact details) is published in the Gazette.
36.12	The power pursuant to Section 56A(27) of the Act to make an application to the Minister to exempt the Council from the requirement to establish a council development assessment panel under Section 56A of the Act.
36.13	The power pursuant to Section 56A(28) of the Act to consult with the Minister in relation to revoking an exemption under Section 56A(27) of the Act.
37.	Building Rules Assessment Audits
37.1	The duty pursuant to Section 56B(2) to have its building assessment auditor audit the Council's activities in relation to the undertaking of assessments of proposed developments against the provisions of the Building Rules in accordance with the requirements of Section 56B.
37.2	The duty pursuant to Section 56B(5) to ensure that after the expiration of the periods prescribed in Section 56B(4) an audit under Section 56B is completed at least once in every prescribed period.
37.3	The power pursuant to Section 56B(10) to respond to a report prepared by a building assessment auditor prepared in relation to the Council under

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

Section 56B.	
37.4	The power pursuant to Section 56B(14) to make submissions to the Minister in relation to a matter concerning the possible exercise of the Minister's powers under Section 56B(12).
37.5	The duty pursuant to Section 56B(16) to comply with a direction given to the Council under Sections 56B(12) or 56B(15).
37A. Development Plan Assessment Audits	
37A.1	The power and duty pursuant to Section 56C(2) of the Act to have the Council's activities in relation to Development Plan assessments audited by a development assessment auditor in accordance with the requirements of Section 56C of the Act.
37A.2	The power pursuant to Section 56C(10) of the Act to provide a response to an auditor with a view to correcting any error or fact.
37A.3	The power pursuant to Section 56C(14) of the Act to make submissions in relation to the matter to the Minister.
37A.4	The power pursuant to Section 56C(15) of the Act to, if
37A.4.1	the Minister makes a recommendation to the Council under Section 56C(12)(a) of the Act; and
37A.4.2	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.
38. Land Management Agreements	
38.1	The power pursuant to Sections 57(2) and 57(2a) of the Act to enter into an agreement relating to the development, management, preservation or conservation of land within the area of the Council with the owner of the land.
38.2	The duty pursuant to and in accordance with Section 57(2c) of the Act and Regulation 98A of the Regulations to establish and keep a register available for public inspection (without charge).
38.3	The duty pursuant to Section 57(2e) of the Act, in relation to the granting of development plan consent with respect to a Category 2A, Category 2 or Category 3 development, to note the existence of the agreement (or the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 32 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	proposal to enter the agreement), and the availability of copies of the agreement for public inspection on the notice of the relevant authority's decision.
38.4	The power pursuant to Section 57(3) of the Act to carry out on private land any work for which provision is made by agreement under Section 57 of the Act.
38.5	The power pursuant to Section 57(5) of the Act, to apply to the Registrar-General to note the agreement against the relevant instrument of title or, in the case of land not under the provisions of the Real Property Act 1886, against the land.
38.6	The power pursuant to Section 57(8) of the Act to apply to the Registrar-General where an agreement in relation to which a note has been made under Section 57 of the Act has been rescinded or amended, to enter a note of the rescission or amendment made against the instrument of title or against the land.
38.7	The power pursuant to Section 57(11) of the Act to consent to the remission of rates payable to the Council provided for in an agreement entered into by the Minister.
39.	Land Management Agreements - Development Applications
39.1	The power pursuant to and subject to Section 57A(1) of the Act to enter into an agreement under Section 57A of the Act with a person who is applying for a development authorisation under the Act.
39.2	The duty pursuant to Section 57A(3) of the Act to have regard to:
39.2.1	the provisions of the appropriate Development Plan.
39.2.2	the principle that the entering into of an agreement under Section 57A by the Council should not be used as a substitute to proceeding with an amendment to a Development Plan under the Act.
39.3	The duty pursuant to Section 57A(5) of the Act to register agreements entered into under Section 57A in accordance with the Regulations.
39.4	The duty pursuant to Section 57A(6) of the Act to keep a register available for public inspection (without charge) in accordance with the Regulations.
39.5	The power pursuant to Section 57A(7) of the Act to provide a person, on payment of the prescribed fee, a copy of an agreement registered under

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 33 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Section 57A(5) of the Act.
39.6	The duty, pursuant to Section 57A(8) of the Act, where an agreement is entered into under Section 57A of the Act, in connection with an application for a development authorisation with respect to a Category 2A, Category 2 or Category 3 development, to include a note of the existence of the agreement on the notice of the relevant authority's decision under the Act.
39.7	The power pursuant to Section 57A(14) of the Act to apply to the Registrar-General to note the agreement against the relevant instrument of title, or in the case of land not under the provisions of the Real Property Act 1886, against the land.
39.8	The power pursuant to Section 57A(16) of the Act to apply to the Registrar-General where an agreement under Section 57A has been rescinded or amended to enter a note of the rescission or amendment against the instrument of title, or against the land.
39.9	The power pursuant to Section 57A (18) of the Act where an agreement under Section 57A does not have effect under Section 57A within the prescribed period, to, by notice given in accordance with the regulations, lapse the relevant development approval (and the agreement will then be rescinded by force of Section 57A(18) of the Act).
40.	Notification During Building
40.1	The power pursuant to Section 59(3) of the Act to direct that building work stop when a mandatory notification stage has been reached.
41.	Classification of Buildings
41.1	The power pursuant to Section 66(2) of the Act to assign to any building a classification that conforms with the Regulations and the duty pursuant to Section 66(4) of the Act to give notice in writing to the owner of the building to which the classification has been assigned.
42.	Certificates of Occupancy
42.1	The duty pursuant to and in accordance with the requirements of Sections 67(2), (3), (4), (5) and (6) of the Act to give a certificate of occupancy.
42.2	The power pursuant to Section 67(3)(a) of the Act to require information from an applicant for a certificate of occupancy.
42.3	The duty pursuant to Section 67(10) of the Act to give written notice to an applicant of the refusal of the certificate of occupancy.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 34 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

42.4	The power pursuant to Section 67(13) of the Act to revoke a certificate of occupancy in prescribed circumstances.
43. Temporary Occupation	
43.1	The power pursuant to Sections 68(1) and (2) of the Act to approve the occupation of a building on a temporary basis without a certificate of occupancy and subject to such conditions as the Delegate thinks fit to impose.
43.2	The duty pursuant to and in accordance with Section 68(3) of the Act to give written notice to an applicant of the refusal of approval for temporary occupation of a building.
44. Emergency Orders	
44.1	Where an owner of land fails to comply with the requirements of an emergency order issued under Section 69(1) of the Act:
44.1.1	the power pursuant to Section 69(4) of the Act to cause the required work to be carried out; and
44.1.2	the power pursuant to and in accordance with Sections 69(5) and 69(6) of the Act to recover the reasonable costs and expense of that work from the owner as a debt.
44A Fire Safety	
44A.1	The power pursuant to Sections 71(18) and (19) of the Act to establish and designate a body as an appropriate authority.
44A.2	The power pursuant to Section 71(19)(a)(i) of the Act to appoint a person who holds prescribed qualifications in building surveying to the appropriate authority.
44A.3	The power pursuant to Section 71(19)(a)(ii) of the Act to determine if a person is to be nominated to the appropriate authority by the Chief Officer of the South Australian Metropolitan Fire Service or the Chief Officer of the South Australian Country Fire Service (after taking into account the nature of the Council or Council's area(s)).
44A.4	The power pursuant to Section 71(19)(a)(iii) of the Act to appoint a person with expertise in the area of fire safety to the appropriate authority.
44A.5	The power pursuant to Section 71(19)(a)(iv) of the Act to determine and select a person to be appointed to the appropriate authority.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

44A.6	The power pursuant to Section 71(19)(b) of the Act to determine the term of the office not exceeding three years of a member of the appropriate authority.
44A.7	The power pursuant to Section 71(19)(d) of the Act to appoint deputy members to the appropriate authority.
44A.8	The power pursuant to Section 71(19)(e) of the Act to determine the procedures of an appropriate authority.
45.	Building Inspection Policies
45.1	The duty pursuant to and in accordance with Section 71A of the Act to prepare and from time to time alter a building inspection policy.
46.	Advertisements
46.1	The power pursuant to and in accordance with Section 74(1) of the Act to:
46.1.1	form the opinion that an advertisement or advertising hoarding disfigures the natural beauty of a locality or otherwise detracts from the amenity of a locality or is contrary to a character desired for a locality under the relevant Development Plan; and
46.1.2	serve notice in writing requiring the removal or obliteration of the advertisement or the removal of the advertising hoarding (or both).
46.2	The power pursuant to Section 74(3) of the Act where a person has failed to comply with a notice under Section 74(1) of the Act, to enter on land, carry out the terms of the notice and recover the costs of doing so as a debt from the person on whom the notice was served.
47.	Enforcement Notices
47.1	The power pursuant to and in accordance with Section 84(2) of the Act to issue an enforcement notice where the Delegate has reason to believe on reasonable grounds that a person has breached the Act or a repealed Act.
47.2	The power pursuant to Section 84(3) of the Act to determine that a direction under Section 84(2) of the Act is urgently required and can be orally given by an authorised officer.
47.3	Where a person has failed to comply with a direction contained in a notice issued pursuant to Section 84(2)(b) of the Act:
47.3.1	the power pursuant to Section 84(6) of the Act to cause the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 36 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	necessary action to be undertaken; and
47.3.2	pursuant to and in accordance with Sections 84(7) and 84(8) of the Act to recover the costs of doing so as a debt from the person whose failure gave rise to the action.
48.	Applications to Court
48.1	The power pursuant to Section 85(1) of the Act to apply to the Court for an order to remedy or restrain a breach of the Act, or a repealed Act.
48.2	Where the Court has made an order under Section 85(6)(d) of the Act and a person has failed to comply with the order, the power pursuant to and in accordance with Section 85(12) and Section 85(13) of the Act, to cause any work contemplated by the order to be carried out and to recover the costs of doing so as a debt from the person.
49.	General Right to Apply to Court
49.1	Where the Council is a party to a dispute referred to in Section 86(1)(e) of the Act, the power pursuant to Section 86(1)(e) of the Act to apply to the Court for determination of the dispute.
50.	Authority to be Advised of Certain Matters
50.1	The power pursuant to Section 93(1)(b)(iii) of the Act to require from a private certifier who is making a decision of a prescribed kind in relation to any aspect of building work such other information or documentation as the Delegate or the Council may require.
51.	Referrals
51.1	The power pursuant to and in accordance with Section 94 of the Act to consent to the referral by a private certifier to the Council or Delegate of any function under the Act.
52.	Professional Advice to be Obtained in Relation to Certain Matters
52.1	The power pursuant to Section 101(1) of the Act, in the exercise of a prescribed function, to rely on a certificate of a person with prescribed qualifications.
52.2	The duty pursuant to Section 101(2) of the Act to seek and consider the advice of a person with prescribed qualifications or person approved by the Minister in relation to a matter prescribed by the Regulations.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 37 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

<u>DELEGATIONS UNDER THE DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006</u>	
53. Transitional Provisions	
53.1	The power pursuant to and in accordance with Clause 5(1) of Schedule 1 to the Development (Development Plans) Amendment Act 2006 ('the DPA Act'), if the Council or the Delegate has, before the commencement of Clause 5 of Schedule 1 to the DPA Act reached an agreement with the Minister on a Statement of Intent with respect to an amendment to a Development Plan, or taken steps to prepare a Plan Amendment Report on the basis of such a Statement of Intent subject to Clause 5(2) of Schedule 1 to the DPA Act, to continue with the process as set out in Section 25 of the Act (as in force immediately before the commencement of Clause 5 of Schedule 1 to the DPA Act) as if the DPA Act had not been enacted until the relevant amendment is approved (with or without alteration) or otherwise dealt with by the Minister under Section 25(15) of the Act, subject to the qualification that the relevant Plan Amendment Report may be referred to as a Development Plan Amendment.
53.2	The power pursuant to Clause 5(2) of Schedule 1 to the DPA Act to agree on a Statement of Intent that is to supersede a Statement of Intent agreed between the Council or the Delegate and the Minister before commencement of Clause 5 of Schedule 1 to the DPA Act.

<u>DELEGATIONS UNDER THE DEVELOPMENT REGULATIONS 2008</u>	
53A. Complying Development – Development Plan Consent	
53A.1	The power pursuant to Regulation 8A(1)(a) of the Development Regulations 2008 ('the Regulations'), for the purposes of Sections 33(1) and 35 of the Act (subject to Regulation 8A(2)) of the Regulations to:
53A.1.1	in the case of a proposed development lodged for assessment as residential code development – assess the development as being in a form described in Schedule 4 clause 1(2) or (3), 2A, 2B or 2C (including a form specified or provided for in a relevant Development Plan referred to in Schedule 4 clause 1(2) or (3), 2A, 2B or 2C); and
53A.1.2	in any other case – to assess the development as being in a form described in Schedule 4 Part 1 (including a form specified or provided for in a relevant Development Plan referred to in Schedule 4 Part 1).

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 38 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

53A.2	The power pursuant to Regulation 8A(1)(b) of the Regulations, for the purposes of Section 35(1b) of the Act, to:
53A.2.1	form the opinion that a variation from <i>complying</i> development (including <i>complying</i> development as declared under Regulation 8A(1)(a) of the Regulations) is minor; and
53A.2.2	determine that 2 or more minor variations, when taken together, constitute a 'minor variation from <i>complying</i> development'.
53B. Complying Building Work – Building Rules	
53B.1	The power pursuant to Regulation 8B(1) of the Regulations, for the purposes of Section 36(1) of the Act to, subject to Regulation 8B(2) of the Regulations, assess building work as being in a form specified in Schedule 4 Part 2 (including a form specified or provided for in the <i>Building Code</i> referred to in Schedule 4 Part 2).
54. Infrastructure Planning	
54.1	The power pursuant to Regulation 9A(1) to, in preparing the DPA, to the extent (if any) required by the Statement of Intent, seek, in accordance with Regulation 9A(2), the advice of a Minister and any other government agency, specified by the Minister as part of the agreement on the Statement of Intent.
55. Consultation with Government Departments or Agencies	
55.1	The duty pursuant to Regulation 10A(1) of the Regulations if the Council is subject to a requirement under Section 25(7)(a) of the Act to ensure that a copy of any written report received from a Department or agency is furnished to the Minister for the purposes of considering the matter under Section 25(7)(b) of the Act.
56. Public Consultation – Section 25 & 26	
56.1	Subject to Regulations 11A(3) and 11A(6) of the Regulations, for the purposes of Sections 25 and 26 of the Act, the duty pursuant to Regulation 11A(1) of the Regulations to give public notice of a DPA by publication in the designated manner of a notice:
56.1.1	advising the time and places at which the DPA is available for inspection (without charge) and purchase by the public; and
56.1.2	inviting any interested person to make written submissions on the amendment to the council within the relevant period specified in

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	the notice; and
56.1.3	stating that the submissions will be available for inspection by any interested person at a place specified in the notice from the expiration of the period specified under Regulation 11A(1)(b) of the Regulations until the conclusion of any public meeting held for the purposes of Section 25(11)(b) or 26(5c)(b) of the Act (or, if no such meeting is to be held, until the decision is made not to hold the meeting); and
56.1.4	providing information about when and where any public meeting is proposed to be held for the purposes of Sections 25(11)(b) or 26(5c)(b) of the Act (subject to a decision being made under the relevant section not to hold a meeting).
56.2	If one or more written submissions are made in response to a notice published under Regulation 11A(1) of the Regulations, the duty pursuant to Regulation 11A(3) of the Regulations to make a copy of each submission available for inspection in accordance with the statement included under Regulation 11A(1)(c).
56.3	For the purposes of Sections 25(9)(c) and 26(5b)(c) of the Act, the duty pursuant to Regulation 11A(4) of the Regulations to include in the written notice the same information as required for a notice under Regulation 11A(1) of the Regulations.
56.4	The duty pursuant to Regulation 11A(5) of the Regulations, to ensure that a copy of any DPA released for public consultation under Section 25 of the Act is provided to the Minister within 2 business days after that release.
57.	Public Meeting
57.1	The duty pursuant to and in accordance with Regulation 12 of the Regulations to hold a public meeting if an amendment has been prepared by the Council or the Delegate.
57.2	The power pursuant to Regulation 12(4) of the Regulations to adjourn a public meeting from time to time, and place to place if necessary or appropriate.
58.	Application to Relevant Authority
58.1	The power pursuant to Regulation 15(1)(c) of the Regulations to require an additional or lesser number of copies of plans, drawings, specifications and other documents and information relating to a proposed development than the number prescribed in Regulation 15(1)(c) of the Regulations.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 40 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

58.2	The duty pursuant to and in accordance with Regulation 15(4) of the Regulations, if an application is lodged with the Council but a regional development assessment panel is the relevant authority, to retain a copy of the application and other accompanying information and to forward the application on to the appropriate person acting on behalf of the regional development assessment panel.
58.3	The duty pursuant to and in accordance with Regulation 15(5) of the Regulations, when an application is lodged with the Council but the Development Assessment Commission is the relevant authority, to forward all but one copy of the application and the accompanying information, as well as a written acknowledgment that the appropriate fees have been paid, including details of each fee component paid, to the Development Assessment Commission.
58.4	The power pursuant to Regulation 15(7)(b) of the Regulations to indicate, in such manner as may be determined by the Development Assessment Commission, that the Delegate wishes to receive written documentation instead of electronic access to the relevant documents and information via the Internet.
58.4A	The power and duty pursuant to Regulation 15(7b) of the Regulations, to within 2 business days of receipt of a copy of an application form under Regulation 15(7a) of the Regulations, furnish to the private certifier:
58.4A.1	the Development Assessment number assigned to the development proposed under the application; and
58.4A.2	if the private certifier, at the time of forwarding a copy of an application form under Regulation 15(7a) of the Regulations, requests advice on the matters set out in subparagraphs (i) and (ii), and if such advice is relevant:
58.4A.2.1	advice about any site contamination that is believed to exist at the site where the development would be undertaken;
58.4A.2.2	advice about the likely need for approval to alter a public road under section 221 of the Local Government Act 1999 in order to establish a new access point; and
58.4A.2.3	advice about whether the relevant development plan specifies any requirements relating to finished floor levels (expressed by reference to AHD or ARI) in relation to the site where the development would be

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 41 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	undertaken.
58.5	The power pursuant to Regulation 15(8) of the Regulations to extend the period prescribed in Regulation 15(8) for the lodging of an application for the appropriate development authorisation as required by Section 54(2)(c).
	[City of Tea Tree Gully only]
58.6	If an application relates to a proposed development that involves the division of land in the Golden Grove Development Area which is complying development in respect of the Development Plan, the duty pursuant to Regulation 15(10)(c) to forward to the Development Assessment Commission within 5 business days after receipt of the application:
58.6.1	a copy of the application; and
58.6.2	a copy of the plans, drawings, specification and other documents or information accompanying the application.
58.7	The power pursuant to Regulation 15(11) of the Regulations, to modify the requirements of Schedule 5 in relation to a particular application, subject to the following qualifications:
58.7.1	in the case of an application that is lodged with the Council for assessment as <i>residential code</i> development – the requirements of Schedule 5 may not be modified in any way by the delegate assessing the application (whether so as to require more or less information), except on authority of the Minister under Section 39(1)(a) of the Act;
58.7.2	in any other case, the delegate must not, when requiring plans, drawings, specifications and other documents in relation to the application, require the applicant to provide more information than that specified under Schedule 5 (subject to Section 39 of the Act).
58.8	The power pursuant to Regulation 15(12) of the Regulations to, in exercising the discretion under Section 39(4)(b) of the Act, dispense with the requirements of Schedule 5 in relation to a particular application.
59.	Nature of Development
59.1	The duty pursuant to Regulation 16(1) of the Regulations, where an application requires the assessment of a proposed development against the provisions of the Development Plan, to determine the nature of the development applied for.
59.2	The power pursuant to Regulation 16(2) of the Regulations to form the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 42 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	opinion that a development is non-complying, and the duty if the Delegate is of the opinion that an application relates to a kind of development that is non-complying and the applicant has not identified the development as such, by notice in writing to inform the applicant of that fact.
59.3	The power pursuant to Regulation 16(3) of the Regulations to, if an application in relation to a proposed development identifies the development as <i>residential code</i> development or designated development, form the opinion that the development is <i>residential code</i> development and the duty to, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact.
59.4	The power pursuant to Regulation 16(4) of the Regulations to, if an application in relation to a proposed development identifies the development as <i>residential code</i> development or designated development, form the opinion that the development is not <i>residential code</i> development and the duty to, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact and the reasons for the Delegate's opinion.
60.	Non-Complying Development
60.1	The power pursuant to Regulation 17(3) of the Regulations, after receipt of an application which relates to a kind of development that is described as non-complying development to:
60.1.1	refuse the application pursuant to Section 39(4)(d) of the Act and notify the applicant accordingly; or
60.1.2	resolve to proceed with an assessment of the application.
60.2	The duty pursuant to Regulation 17(4) of the Regulations, in situations where the Delegate has resolved to proceed with the assessment of an application for non-complying development, to require the applicant to provide a statement of effect.
60.3	The power pursuant to Regulation 17(6) of the Regulations to determine that a proposed development is of a minor nature for the purposes of exemption from the requirements to provide a statement of effect.
61.	Notification of Application for Tree-Damaging Activity to Owner of Land
61.1	Where the owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, the duty pursuant to and in accordance with Regulation 18 of the Regulations:

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 43 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

61.1.1	to give the owner of land notice of the application; and
61.1.2	to give due consideration, in the assessment of the application, to any submission made by the owner within a reasonable time after the giving of notice of the application.
62. Amended Applications	
62.1	The power pursuant to Regulation 20(4) of the Regulations to form the opinion that variations to an application are not substantial and that repeating of the referral process under Part 5 of the Regulations, or the giving of notice under Part 6 of the Regulations is not required.
62.2	The power pursuant to Regulation 20(5) of the Regulations, where a variation to an application changes the essential nature of a proposed development to (by agreement with the applicant) proceed with the variation on the basis that the application will be treated as a new application.
63. Withdrawing/Lapsing Application	
63.1	The duty pursuant to Regulation 22(1) of the Regulations, where an applicant withdraws an application, to notify any agency to which an application was referred under Part 5 of the Regulations and any person who made a representation in relation to the application under Part 6 of the Regulations of the withdrawal.
63.2	Where at least two years have passed since the date on which an application for development authorisation under Part 4 of the Act was lodged with the Council the power, pursuant to Regulation 22(2) of the Regulations to lapse the said application.
63.3	Before taking action to lapse a development application under Regulation 22(2) of the Regulations the duty, pursuant to and in accordance with Regulation 22(3) of the Regulations to:
63.3.1	take reasonable steps to notify the applicant of the action under consideration; and
63.3.2	allow the applicant a reasonable opportunity to make submissions to the Council or the Delegate about the proposed course of action, and the power to determine the manner and form of those submissions.
64. Contravening Development	
64.1	The power pursuant to Regulation 23(2) of the Regulations, by notice in

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 44 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	writing to the applicant to decline to proceed with an application until proceedings under the Act have been concluded.
65. Referrals	
65.1	The duty pursuant to Regulation 24(1) of the Regulations to refer an application of a prescribed kind together with a copy of any relevant information provided by the applicant to the relevant body prescribed by Schedule 8 of the Regulations and to not make a decision on the application until a response has been received from the referral body or the time period for receipt of a response has lapsed.
66. Procedure Where Concurrence Required	
66.1	The duty pursuant to Regulation 25 of the Regulations, if concurrence must be sought from another body prior to issuing a consent or approval to forward to the other body whose concurrence must be sought that information required by Regulation 25(b) of the Regulations.
67. Additional Information or Amended Plans	
67.1	The duty pursuant to Regulation 27(1) of the Regulations, where an application has been referred to a prescribed body under Part 5 of the Regulations and additional information is received which is materially relevant to the referral, to repeat the referral process where the Delegate is of the opinion that the additional information or amendment is significant and the power to repeat the referral process in all other instances.
68. Special Provisions – Referrals	
68.1	The duty pursuant to and in accordance with Regulation 28(3) of the Regulations to refer an application for building rules consent to the relevant fire authority for comment and report where the Delegate considers that:
68.1.1	a proposed alternative solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or
68.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or
68.1.3	special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,
	and the duty pursuant to Regulation 28(5) of the Regulations to

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	have regard to any report received from the fire authority under Regulation 28.
68.2	The power pursuant to Regulation 28(4) of the Regulations, when a report from a fire authority pursuant to Regulation 28(3) is not received by the Council within 20 business days, to presume that the fire authority does not desire to make a report.
68.3	If, in respect of an application referred to a fire authority under Regulation 28, the fire authority:
68.3.1	recommends against the granting of building rules consent; or
68.3.2	concurs in the granting of consent on conditions specified in its report,
	but the Delegate:
68.3.3	proposes to grant building rules consent despite a recommendation referred to in Regulation 28(5a)(a) of the Regulations; or
68.3.4	does not propose to impose the conditions referred to in Regulation 28(5a)(b) of the Regulations, or proposes to impose the conditions in varied form, on the grant of consent,
	the duty pursuant to Regulation 28(5a) of the Regulations to:
68.3.5	refer the application to the Building Rules Assessment Commission; and
68.3.6	not grant consent unless the Building Rules Assessment Commission concurs in the granting of consent.
68.4	The duty pursuant to Regulation 28(6) of the Regulations to provide to the Building Rules Assessment Commission a copy of any report received from a fire authority under Regulation 28(1) that relates to an application referred to the Building Rules Assessment Commission under the Act.
68.5	The duty pursuant to Regulation 28(7) of the Regulations, where building work comprises or includes the construction or installation of a private bushfire shelter, not to grant a building rules consent unless the Building Rules Assessment Commission concurs in the granting of the consent.
69.	Land Division Applications
69.1	The duty pursuant to Regulation 29(1) of the Regulations, subject to the provisions in Regulation 29(2) of the Regulations, to withhold making a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 46 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	decision on an application which relates to a proposed development that involves the division of land until a report has been received from the Development Assessment Commission.
69.2	The power pursuant to Regulation 29(2) of the Regulations, when a report from the Development Assessment Commission pursuant to Regulation 29(1) of the Regulations is not received by the Council within eight weeks or within such longer period as the Development Assessment Commission may require by notice in writing to the Council, to presume that the Development Assessment Commission does not desire to make a report.
70.	Underground Mains Area
70.1	The power pursuant to Regulation 30(1) of the Regulations to seek a report from the relevant electricity authority where the Delegate considers that an area should be declared an underground mains area.
70.2	The power pursuant to Regulation 30(2) of the Regulations to declare an area as an underground mains area.
70.3	The power pursuant to Regulation 30(4) of the Regulations, where a development includes the division of land within or partly within an underground mains area, to require, as a condition of the decision, that any electricity mains be placed underground.
71.	Preliminary Advice and Agreement - Section 37AA
71.1	The power pursuant to Regulation 31A(6)(b) of the Regulations to determine that an application no longer accords with an agreement indicated by the prescribed body.
71.2	The power pursuant to Regulation 31A(6) of the Regulations if:
71.2.1	a relevant authority permits an applicant to vary an application under Section 39(4) of the Act; and
71.2.2	the relevant authority determines that the application no longer accords with the agreement indicated by the prescribed body, to refer the application (unless withdrawn) to the prescribed body:
71.2.3	to obtain a variation to the agreement under Section 37AA of the Act; or
71.2.4	to obtain a response from the prescribed body for the purposes of Section 37 of the Act.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 47 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

71.3	The power pursuant to Regulation 31A(7) of the Regulations if:
71.3.1	an application is withdrawn by the Applicant; and
71.3.2	the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,
	to notify the relevant prescribed body of the withdrawal of an application.
71.4	The power pursuant to Regulation 31A(8) of the Regulations if:
71.4.1	an application is lapsed by a relevant authority under Regulation 22 of the Regulations; and
71.4.2	the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,
	to notify the relevant prescribed body of the lapsing of an application.
71.5	The power pursuant to Regulation 31A(9) of the Regulations if:
71.5.1	an application seeks to rely on an agreement under Section 37AA of the Act in connection with the application; and
71.5.2	a notice of decision is issued by the relevant authority under Regulation 42 of the Regulations,
	to send a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under Regulation 42 of the Regulations.
71A. Public Notice Categories	
71A.1	The power pursuant to Regulation 32(2)(5) of the Regulations to determine that a form of development comprises 2 or more elements.
72. Public Inspection of Certain Applications	
72.1	The duty pursuant to and in accordance with Regulation 34(1) of the Regulations, subject to Regulation 34(4) of the Regulations to ensure that copies of documents referred to in Regulation 34(1) concerning an application are reasonably available for inspection by the public (without charge).
72.2	The duty pursuant to Regulation 34(2) of the Regulations, subject to

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 48 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Regulation 34(4) of the Regulations, where a request is made within the time period that applies under Regulation 34(1) of the Regulations and on payment of a fee fixed by Council to provide to a member of the public a copy of any document of information available for inspection under Regulation 34(1) of the Regulations.
72.3	The power pursuant to Regulation 34(3) of the Regulations to require that a person who has made a request under Regulation 34(2) of the Regulations verify his or her name, address and contact details in such manner as the Delegate thinks fit.
72.4	The power pursuant to Regulation 34(4) of the Regulations to form the opinion that the present or future security of a building would be jeopardised if plans, drawings, specifications or other documents or information relating to the assessment of a proposed development against the Building Rules were to be made available for inspection.
73.	Response by Applicant
73.1	The power pursuant to Regulation 36 of the Regulations to extend the time within which an applicant may respond to any representation
74.	Determination of Commission as Relevant Authority
74.1	Where the Development Assessment Commission is the relevant authority under Section 34(1)(b) of the Act:
74.1.1	in a case where the Minister has made a declaration under Section 34(1)(b)(iii) or 34(1)(b)(vi) of the Act, the duty pursuant to and in accordance with Regulation 38(2)(a)(i) of the Regulations to forward to the Development Assessment Commission any application received by the Council under the Act and the Regulations in relation to the matter together with accompanying documentation or information and, as appropriate, fees; and
74.1.2	in any case, the power pursuant to and in accordance with Regulation 38(2)(b) to provide a report on matters under Section 33(1) (as relevant).
74.2	Where the Development Assessment Commission is the relevant authority under Section 34(1)(b)(iv) of the Act and the proposed development is to be undertaken within one kilometre of a boundary with the Council, the power, pursuant to Regulation 38(4) of the Regulations, to provide the Development Assessment Commission with comments on the proposed development.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 49 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

75.	Assessment in Respect of Building Rules Referred to the Council
75.1	The duty pursuant to and in accordance with Regulation 39 of the Regulations, where the Council is the relevant authority pursuant to Section 34(2) of the Act, not to give any decision in respect of the assessment against the Building Rules until the Development Assessment Commission or the regional development assessment panel (as the case may be) has made its decision.
76.	Notification of Decision to Applicant (Including Conditions)
76.1	The duty pursuant to and in accordance with Regulation 42 of the Regulations to give notice of a decision on an application under Division 1 of Part 4 of the Act including, but not limited to, the power to endorse approved plans and documentation under Regulation 42(4).
77.	Notification of Decision to a Prescribed Body
77.1	The duty pursuant to and in accordance with Regulation 43 of the Development Regulations, to send a copy of the notice of decision issued under Regulation 42 of the Regulations to any prescribed body to which the application had been referred.
77.2	The duty pursuant to and in accordance with Regulation 43(3) of the Regulations to send a copy of a notice of a decision on an application, if or when a development authorisation is issued in relation to a proposed division of land, to the Development Assessment Commission.
78.	Notification of Decision to Owner of Land
78.1	The duty pursuant to and in accordance with Regulation 44 of the Regulations to send a copy of any notice issued under Regulation 42 of the Regulations to the owner of land to which a decision on the application relates where the owner is not a party to the application.
79.	Scheme Description – Community Titles
79.1	The duty pursuant to Regulation 45(2) of the Regulations to endorse a scheme description under Section 3 of the Community Titles Act 1996 in the following terms:
79.1.1	All the consents or approvals required under the Development Act 1993 in relation to the division of the land (and a change in the use of the land (if any)) in accordance with the scheme description and the relevant plan of community division under the Community Titles Act 1996 have been granted.

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 50 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

<p>OR</p> <p>No consent or approval is required under the Development Act 1993 in relation to the division of land (or a change in the use of the land) in accordance with this scheme description.</p> <p>This endorsement does not limit a relevant authority's right to refuse, or to place conditions on, development authorisation under the Development Act 1993 in relation to any other development envisaged by this scheme description.</p> <p>Signed:</p> <p>Dated:</p>
<p>79.2 The power pursuant to Regulation 45(2) of the Regulations to include in an endorsement of a scheme description under Section 3 of the Community Titles Act 1996, notes concerning conditions on any consent or approval, and notes concerning additional approvals that may be required in the future and to sign and date the endorsement.</p>
<p>80. Special Provisions Relating to Staged Consents</p>
<p>80.1 The duty pursuant to and in accordance with Regulation 46(1) of the Regulations, and in a case where the development is within the ambit of Schedule 1A, subject to, in accordance with Regulations 46(4) and (5) of the Regulations, any step that the Delegate, as the relevant authority considers it needs to take under Section 42 of the Act, to issue a Notice of Approval in the circumstances prescribed by Regulation 46 of the Regulations.</p>
<p>81. Endorsed Plans</p>
<p>81.1 The duty pursuant to Regulation 47 of the Regulations to return to a successful applicant, a copy of the plans, drawings, specifications and other documents and information lodged by the applicant duly endorsed with the building rules consent.</p>
<p>81A. Minor Variation of Development Authorisation</p>
<p>81A.1 The power pursuant to Regulation 47A(1) of the Regulations, if a person requests the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) to form the opinion that the variation is minor in nature and, if the delegate is satisfied that the variation is minor in nature, to approve the variation.</p>

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 51 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

82. Lapse of Consent or Approval
82.1 The power pursuant to Regulation 48(2) of the Regulations to extend the time when any consent or approval under Part 4 of the Act will lapse.
83. Width of Roads and Thoroughfares
83.1 The power pursuant to Regulation 51(4) of the Regulations to dispense with the requirements of Regulation 51(1) and (3) dealing with the width of any proposed road or thoroughfare where the Delegate is of the opinion that the prescribed width is not necessary for the safe and convenient movement of vehicles or pedestrians or for underground services.
83.2 The power pursuant to Regulation 51(6) of the Regulations to dispense with the requirements of Regulation 51(5) dealing with the width of a road at the head of every cul-de-sac where it appears that the cul-de-sac is likely to become a through road.
84. Road Widening
84.1 The power pursuant to Regulation 52(1) of the Regulations to require a road widening if land to be divided abuts an existing road.
85. Requirement as to Forming of Roads
85.1 The power pursuant to Regulation 53(1) and (2) of the Regulations to specify the width of roads.
85.2 The power pursuant to Regulation 53(4) of the Regulations to dispense with the requirements of Regulation 53(3) of the Regulations that adequate provision be made for the turning of vehicles at the head of a cul-de-sac where the Delegate is of the opinion that the cul-de-sac is likely to become a through road.
85.3 The power pursuant to Regulation 53(6) of the Regulations to dispense with the requirements of Regulation 53(5) dealing with the forming of footpaths, water-tables, kerbing, culverts and drains on proposed roads.
86. Construction of Roads, Bridges, Drains and Services
86.1 The power pursuant to Regulation 54(1) of the Regulations to require the paving and sealing of the roadway of proposed roads.
87. Supplementary Provisions
87.1 The duty pursuant to Regulation 55(1) of the Regulations to consider and if appropriate approve a road location and grading plan for the forming of any

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 52 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	proposed road, including every footpath, water-table, kerbing, culvert and drain.
87.2	The duty pursuant to Regulation 55(2) of the Regulations to consider, and if appropriate approve, detailed construction plans and specifications signed by a professional engineer or licensed surveyor for all work referred to in Regulations 53 and 54 of the Regulations.
87.3	The duty pursuant to Regulation 55(4) of the Regulations to consider, and if appropriate accept, that all connections for water supply and sewerage services to any allotment delineated on a plan of division have been laid under the surface of a proposed road before the roadway is sealed.
88.	General Land Division
88.1	The power pursuant to and in accordance with Regulation 58(1) of the Regulations to enter into a binding arrangement with an applicant for land division for the satisfaction of outstanding requirements.
88.2	The power pursuant to and in accordance with Regulation 58(2) of the Regulations to advise the Development Assessment Commission that an applicant has entered into appropriate binding arrangements pursuant to Section 51(1) of the Act.
89.	Division of Land by Strata Title
89.1	The power pursuant to Regulation 59(1) of the Regulations to advise the Development Assessment Commission that an applicant has entered into a binding arrangement with the Council for the satisfaction of the requirements of Section 33(1)(d) of the Act and that the arrangement is supported by adequate security.
90.	General Provisions
90.1	The power pursuant to and in accordance with Regulation 60(1) of the Regulations to enter into a form of arrangement with an applicant to the satisfaction of the Development Assessment Commission for the purposes of Section 51(1) of the Act.
90.2	The power pursuant to Regulation 60(7) of the Regulations, for the purposes of Section 51(4) of the Act, to request (in such a manner as may be determined by the Development Assessment Commission) that a copy of a certificate or plan (or certificates and plans) referred to in Regulation 60(4) of the Regulations be furnished to the Council by sending a written copy to the Council.
90.3	The power pursuant to Regulation 60(9) of the Regulations to consult with

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	the Development Assessment Commission before it grants an extension of the period prescribed by Regulation 60(8) of the Regulations.
91. Declaration by The Minister - Section 46	
91.1	The duty pursuant to and in accordance with Regulation 61(2) of the Regulations, to transmit to the Minister any relevant documentation (including the application and any accompanying documentation or information lodged by the proponent with the Council under Division 1 of Part 4 of the Act) within 10 business days after the receipt of a copy of a notice required by Regulation 61(1) of the Regulations.
91.2	At the same time that documents are transmitted to the Minister under Regulation 61(2) of the Regulations, the duty pursuant to Regulation 61(3) of the Regulations to also transmit to the Minister any fees that have been paid by the proponent under Schedule 6 (less any amount that the Minister determines should be retained by the Council).
91.3	Where an application lodged with the Minister under Section 46 of the Act requires an assessment against the Building Rules and the assessment against the Building Rules is to be referred to the Council, the power pursuant to Regulation 61(5)(d) of the Regulations, to require from the applicant additional copies of the plans, drawings, specifications and other documents and information required by Regulation 61(4) of the Regulations.
92. Referral of Assessment of Building Work	
92.1	Where a development application which is subject to the operation of Section 48 of the Act is referred to the Council for assessment in respect of the Building Rules the duty pursuant to and in accordance with Regulation 64(2) of the Regulations, to ensure that the assessment is consistent with any development plan consent previously given under Section 48 of the Act.
92.2	Where the Council acting under Regulation 64(1) of the Regulations determines that it is appropriate to give a certification with respect to the development complying with the Building Rules (and if the assessment of the Council is consistent with any development plan consent) the duty, pursuant to Regulation 64(3) of the Regulations to:
92.2.1	provide the certification in the form set out in Schedule 12A; and
92.2.2	to the extent that may be relevant and appropriate:
92.2.2.1	issue a schedule of essential safety provisions under

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 54 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Division 4 of Part 12 of the Act; and
92.2.2.2	assign a classification to the building under the Regulations; and
92.2.2.3	ensure that the appropriate levy has been paid under the <i>Construction Industry Training Fund Act 1993</i> .
92.3	Where the Council issues a certificate in the form set out in Schedule 12A of the Regulations as required by Regulation 64(3)(a) of the Regulations, the duty pursuant to Regulation 64(4) of the Regulations to furnish to the Minister a copy of the certificate together with a copy of any schedule of essential safety provisions.
93.	Notifications During Building Work
93.1	The power pursuant to Regulation 74(1)(b) to specify by notice in writing to the building owner, on or before development approval is granted in respect of the work, any stage of the building work, for the purposes of the notification requirements in Section 59(1) of the Act.
93.2	The power pursuant to Regulation 74(1)(c) to specify by notice in writing to the building owner, on or before development approval is granted in respect of the work, any stage of the building work, for the purposes of the notification requirements in Section 59(1) of the Act.
93.3	The duty pursuant to Regulation 74(4) of the Regulations to make a note on the relevant building file of any notice given in accordance with Regulation 74(3)(d) by a person by telephone.
94.	Essential Safety Provisions
94.1	The duty pursuant to Regulation 76(4) of the Regulations, on either the granting of a building rules consent or on application by the owner of a building, to issue a schedule in the form set out in Schedule 16 specifying the essential safety provisions for buildings and the standards and requirements for maintenance and testing in respect of those provisions.
94.2	The power pursuant to Regulation 76(10) of the Regulations to require compliance with Regulation 76(7) despite Regulation 76(9) of the Regulations if the essential safety provisions were installed under a modification of the Building Rules under Section 36(2) of the Act or the building has been the subject of a notice under Section 71 of the Act.
94A	Swimming Pool Safety
94A.1	The power pursuant to Regulation 76D(4a) of the Regulations to, for the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 55 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	purposes of Section 71AA(7) of the Act, subject to Regulation 76(D)(4b) of the Regulations, establish a swimming pool inspection policy.
95. Building Rules: Bushfire Prone Areas	
95.1	Where:
95.1.1	application is made for building rules consent for building work in the nature of an alteration to a class 1, 2 or 3 building under the Building Code; and
95.1.2	the building is in a bushfire prone area under Regulation 78(1) of the Regulations; and
95.1.3	the total floor area of the building would, after the completion of the proposed building work, have increased by at least 50% when compared to the total floor area of the building as it existed 3 years before the date of the application (or, in the case of a building constructed since that time, as it existed at the date of completion of original construction),
	the power, pursuant to Regulation 78(2) of the Regulations, to require, as a condition of consent, that the entire building be brought into conformity with the relevant requirements of the Building Rules for bushfire protection.
96. Construction Industry Training Fund	
96.1	The duty pursuant to Regulation 79(2) of the Regulations to withhold issuing a building rules consent until satisfied that the appropriate levy has been paid under the Construction Industry Training Fund Act 1993 or that no such levy is payable.
96.2	The power pursuant to Regulation 79(4) of the Regulations to form an opinion whether the appropriate levy under the Construction Industry Training Fund Act 1993 has or has not been paid, or is or is not payable, and notify the applicant that a building rules consent cannot be issued until the Delegate is satisfied that the levy has been paid or is not payable.
96.3	The power pursuant to and in accordance with Regulation 79(5)(b) of the Regulations to determine that the application has lapsed.
96A Requirement to Up-grade Building in Certain Cases	
96A.1	The power pursuant to Regulation 80(1a) of the Regulations, if an application for a building rules consent relates to building work in the nature of an alteration to a class 2 to class 9 building constructed before 1 January 2002, to form the opinion that the building is unsafe, structurally unsound or

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 56 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

in an unhealthy condition, and to require, as a condition of consent:	
96A.1.1	that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to proper structural and health standards; or
96A.1.2	that the building work comply with <i>Minister's Specification SA: Upgrading health and safety in existing buildings</i> (to the extent reasonably applicable to the building and its condition).
97. Classification of Buildings	
97.1	The power pursuant to Regulation 82(3)(b)(i) of the Regulations to require such details, particulars, plans, drawings, specifications, certificates and other documents as may reasonably be required to determine a building's classification upon application by an owner of a building under Regulation 82(1) or (2) of the Regulations.
97.2	The power pursuant to Regulation 82(4) of the Regulations and subject to Regulation 82(4a) of the Regulations, to assign the appropriate classification under the Building Code to a building upon being satisfied on the basis of the owner's application and accompanying documents that the building, in respect of the classification applied for, possesses the attributes appropriate to its present or intended use.
97.2A	The power pursuant to Regulation 82(4a) of the Regulations, if an application under Regulation 82 of the Regulations is made in respect of an existing class 2 to class 9 building, to require the applicant to satisfy the delegate that <i>Minister's Specification SA: Upgrading health and safety in existing buildings</i> has been complied with (to the extent reasonably applicable to the building and its present or intended use).
97.3	The power pursuant to Regulation 82(5) of the Regulations, on assigning a classification to a building (or part of a building), to, if relevant, determine and specify in the notice to the owner under Section 66(4) of the Act –
97.3.1	the maximum number of persons who may occupy the building (or part of the building); and
97.3.2	If the building has more than one classification – the part or parts of the building to which each classification relates and the classification currently assigned to the other parts of the building.
98. Certificates of Occupancy	
98.1	The power pursuant to Regulation 83(2)(c) of the Regulations to require

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 57 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	from an applicant for a certificate of occupancy reasonable evidence that conditions attached to a development approval have been satisfied.
98.2	The power pursuant to Regulation 83(2)(d) of the Regulations where an application relates to the construction or alteration of part of a building and further building work is envisaged in respect of the remainder of the building, to require from an applicant for a certificate of occupancy reasonable evidence that in the case of a building of more than 1 storey, the requirements of Minister's Specification SA 83 have been complied with, or in any other case the building is suitable for occupation.
98.3	The power pursuant to Regulation 83(3) of the Regulations to dispense with the requirement to provide a Statement of Compliance under Regulation 83(2)(a) if the Delegate is satisfied that a person required to complete 1 or both parts of the Statement has refused or failed to complete that part and that the person seeking the issuing of the certificate of occupancy has taken reasonable steps to obtain the relevant certification(s) and it appears to the Delegate that the relevant building is suitable for occupation.
98.4	Where:
	98.4.1 a building is required by the Building Rules:
	98.4.1.1 to be equipped with a booster assembly for use by a fire authority; or
	98.4.1.2 to have installed a fire alarm that transmits a signal to a fire station; and
	98.4.2 facilities for fire detection, fire fighting or the control of smoke must be installed in the building pursuant to an approval under the Act,
	the duty pursuant to Regulation 83(4) of the Regulations to not grant a certificate of occupancy unless or until a report has been sought from the fire authority as to whether those facilities have been installed and operate satisfactorily.
98.5	The power pursuant to Regulation 83(5) of the Regulations, when a report from the fire authority pursuant to Regulation 83(4) is not received within 15 business days, to presume that the fire authority does not desire to make a report.
98.6	The duty pursuant to Regulation 83(6) of the Regulations to have regard to any report received from a fire authority under Regulation 83(4) before issuing a certificate of occupancy.
98.7	The power pursuant to Regulation 83(9) of the Regulations to revoke a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 58 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	certificate of occupancy.
99. Certificate of Independent Technical Expert in Certain Case	
99.1	The power pursuant to Regulation 88(3) of the Regulations, in circumstances where Regulation 88 of the Regulations applies, to rely on the certificate of an independent technical expert.
100. Fees	
100.1	The power pursuant to Regulation 95(2) of the Regulations to require an applicant to provide such information as the Delegate may reasonably require to calculate any fee payable under Schedule 6 and the power to make any other determination for the purposes of Schedule 6.
100.2	The power pursuant to the provisions of Regulation 95(3) of the Regulations to calculate any fee on the basis of estimates made by the Delegate where the Delegate believes that any information provided by an applicant is incomplete or inaccurate.
100.3	The power pursuant to Regulation 95(4) of the Regulations to, at any time, and despite any earlier acceptance of an amount in respect of the fee, reassess a fee payable under the Regulations.
100.4	The duty pursuant to Regulation 95(5) of the Regulations, on a reassessment under Regulation 95(4) of the Regulations:
100.4.1	if it appears that an overpayment has occurred, to refund any amount due in accordance with the reassessment; and
100.4.2	if it appears that an underpayment has occurred, to charge any further amount payable in accordance with the reassessment.
101. Register Of Applications	
101.1	The duty pursuant to Regulation 98 of the Regulations to keep available for public inspection a register of applications for consent, approval, or the assignment of building classifications under the Act.
101.2	The power pursuant to Regulation 98(3) to fix a fee and upon payment of that fee, make available to a member of the public a copy of any part of a register or document kept for the purposes of Regulation 98(1).
102. Registration of Land Management Agreements	
102.1	The duty pursuant to and in accordance with Regulation 99(2) of the Regulations to establish a register of agreements entered into by the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 59 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Council under Section 57(2) of the Act.
102.2	The power pursuant to Regulation 99(3) of the Regulations to determine what other information may be contained in the Register.
103. Land Management Agreements - Development Applications	
103.1	The duty pursuant to Regulation 100(2) of the Regulations to establish a register of agreements entered into by the Council under Section 57A of the Act.
103.2	The duty pursuant to Regulation 100(3) of the Regulations to include in the register a copy of each agreement entered into by the Council under Section 57A of the Act and other information the Delegate considers appropriate.
103.3	The duty pursuant to Regulation 100(5) of the Regulations to keep the register at the principal office of the Council.
103.4	The duty pursuant to Regulation 100(6) of the Regulations to keep the register available for public inspection during normal office hours for the office where the register is situated.
103.5	The duty pursuant to Regulation 100(9) to give a copy of a notice under Regulation 100(8) to any owner of the land who is not a party to the agreement.
104. Documents to be Preserved by a Council	
104.0	The power and duty pursuant to Regulation 101(a1) of the Regulations to retain a copy of each document provided to the Council by a private certifier in relation to any application for a development plan consent assessed by the private certifier.
104.1	The duty pursuant to Regulation 101(1) of the Regulations to retain a copy of the documents listed in Regulation 101 of the Regulations in relation to any building work approved under the Act.
104.1A	The power and duty pursuant to Regulation 101(1a) of the Regulations to preserve any document referred to in Regulation 101(a1) for a period of at least 10 years.
104.2	The duty pursuant to Regulation 101(2) of the Regulations to preserve any document referred to in Regulation 101(1) of the Regulations until the building to which the document relates is demolished or removed.
104.3	The power pursuant to and in accordance with Regulation 101(3) of the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 60 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	Regulations to offer to give plans and specifications in the Council's possession to a building owner and if the building owner declines the offer, the power to destroy the documents.
104.4	The power pursuant to and in accordance with Regulation 101(4) of the Regulations to make available for inspection at the offices of the Council during normal office hours any document retained by the Council under Regulation 101(a1) or (1) of the Regulations (without charge) and to fix a reasonable fee for a copy of any document retained by the Council under Regulation 101(a1) or (1) of the Regulations.
104.5	The power pursuant to Regulation 101(5) of the Regulations to not make available of any plans, drawings specifications or other documents or information:
	104.5.1 for inspection under Regulation 101(4)(a) if to do so would:
	104.5.1.1 in the opinion of the Delegate, unreasonably jeopardise the present or future security of a building; or
	104.5.1.2 constitute a breach of any other law; or
	104.5.2 for copying under Regulation 101(4)(b) if to do so would:
	104.5.2.1 in the opinion of the Delegate, unreasonably jeopardise the present or future security of a building; or
	104.5.2.2 involve an infringement of copyright in matter contained in a document; or
	104.5.2.3 constitute a breach of any other law.
104A Documents to be Provided by Private Certifier	
104A.1	The power pursuant to Regulation 102(2) of the Regulations to request a private certifier to produce to the Council within a reasonable period, a copy of any document that has been submitted to the private certifier for the purposes of an application for development plan consent (and that it is not already held by the Council under the Regulations) so that the Council can respond to a request from a member of the public for access to such document.
105. Transfer of Development Potential	
105.1	The duty pursuant to Regulation 104 of the Regulations, wherever the provisions of the Development Plan provide for the transfer of development potential, to maintain a register of development rights containing the

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	information prescribed in Regulation 104(1) and to make the said register available for public inspection on payment of the appropriate fee.
106. System Indicators	
106.1	The duty pursuant to Section 115(1)(a) of the Regulations to keep and collate the information specified in the system indicators document on a quarterly basis.
106.2	The duty pursuant to Section 115(1)(b) of the Regulations to provide the information for each quarter to the Minister in a manner and form determined by the Minister, within 21 days after the end of the quarter.
106.3	The power pursuant to Regulation 115(2) of the Regulations to apply to the Minister to exempt the Council from a requirement in the system indicators document.
107. Schedule 1A – Demolition	
107.1	The power, pursuant to Clause 12(3) of Schedule 1A of the Regulations, to make an application to the Minister for an area to be declared by the Minister to be a designated area.
107.2	The power pursuant to Clause 12(9) of Schedule 1A of the Regulations, before the Minister takes action to vary or revoke a declaration under Clause 12(3) of Schedule 1A of the Regulations or a condition under Clause 12(7) of Schedule 1A of the Regulations, to in response to a notice in writing from the Minister, show, within the specified time, why the proposed course of action should not be taken.
108. Schedule 4 – New Dwellings	
108.1	The power pursuant to Clause 2B(4)(b) of Schedule 4 of the Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land or in the vicinity of the land other than a previous use or activity for residential purposes.
109. Schedule 6 - Fees	
109.1	The power pursuant to Clause 1(7) of Schedule 6 to the Regulations to determine the amount of the fee to be charged to an applicant to cover the Council's reasonable costs in giving public notice of the application under Section 38(5) of the Act.
110. Schedule 8 – Development Near The Coast	

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 62 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

110.1	The power pursuant to Item 1(b) of Clause 2 of Schedule 8 of the Regulations, where development is on coastal land, to form the opinion that the development is of a minor nature only, and comprises the alteration of an existing building or the construction of a building to facilitate the use of an existing building.
111. Schedule 8 - Development Adjacent To Main Roads	
111.1	The power pursuant to Item 3 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is likely to:
111.1.1	alter an existing access; or
111.1.2	change the nature of movement through an existing access; or
111.1.3	create a new access; or
111.1.4	encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972,
	in relation to an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, or within 25 metres of a junction with an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan).
112. Schedule 8 - State Heritage Places	
112.1	The power pursuant to Item 5(1) of Clause 2 of Schedule 8 of the Regulations to form the opinion that a development materially affects the context within which a State Heritage place is situated
113. Schedule 8 – Mining – General	
113.1	The power pursuant to and in accordance with Item 7 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is of a minor nature only.
114. Schedule 8 - Activity of Environmental Significance	
114.1	The power pursuant to Item 10(b) of Clause 2 of Schedule 8 of the Regulations, where development involves, or is for the purposes of an activity specified in Schedule 21 of the Regulations (including, where an activity is only relevant when a threshold level of capacity is reached, development with the capacity or potential to operate above the threshold level, and an alteration or expansion of an existing development (or existing use) where the alteration or expansion will have the effect of producing a

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 63 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	total capacity exceeding the relevant threshold level), other than development which comprises the alteration of, or addition to, an existing building, to form the opinion that the development does not change the use of the building, and is of a minor nature only, and does not have any adverse effect on the environment.
115. Schedule 8 – Aquaculture Development	
115.1	The power pursuant to and in accordance with Item 15 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development involves a minor alteration to an existing or approved development.
116. Schedule 8 – Development Within the River Murray Floodplain Area	
116.1	The power pursuant to and in accordance with Item 19(b) of Clause 2 of Schedule 8 of the Regulations to form the opinion that development materially affects the context within which a State Heritage place is situated.
117. Schedule 8 – Development Within the River Murray Tributaries Area	
117.1	The power pursuant to and in accordance with Item 20(a) of Clause 2 of Schedule 8 of the Regulations to form the opinion that development materially affects the context within which a State Heritage place is situated.
118. Schedule 9 - Part One, Category One Development and Part Two Category Two Development	
118.1	The power pursuant to Clause 1 of Part 1 to Schedule 9 of the Regulations in circumstances where a development would be a complying development under the Regulations or the relevant Development Plan but for the fact that it fails to meet the conditions associated with the classification, to form the opinion that the failure to meet those conditions is of a minor nature only.
118.2	The power pursuant to Clause 2(1)(g) of Part 1 to Schedule 9 of the Regulations to form the opinion that a development is of a kind which is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.
118.3	The power pursuant to the following designated sub-paragraphs of Clause 3 of Part 1 to Schedule 9 of the Regulations, where a development is classified as non complying under the relevant Development Plan, to form the opinion that:
118.3.1	the alteration of, or addition to, a building is of a minor nature only,

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Item 3.6.4 - Attachment 2 - Instrument of Delegation Under the Development Act 1993, Development (Development Plans) Amendment Act 2006 and Development Regulations 2008

- 64 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

	pursuant to sub-paragraph (a);
118.3.2	the construction of a building to be used as ancillary to or in association with an existing building and which will facilitate the better enjoyment of the purpose for which the existing building is being used constitutes development of a minor nature only pursuant to sub-paragraph (b).
118.4	The power pursuant to Clause 5 of Part 1 to Schedule 9 of the Regulations to form the opinion:
118.4.1	that the division of land (including for the construction of a road or thoroughfare) is for a proposed use which is consistent with the objective of the zone or area under the Development Plan; and
118.4.2	whether the division will change the nature or function of an existing road.
118.5	The power pursuant to Clause 11 of Part 1 to Schedule 9 of the Regulations, in circumstances where development comprises a special event and the special event will not be held over more than 3 consecutive days, to form the opinion that an event of a similar or greater size or of a similar or greater impact on surrounding areas, has not been held on the same site (or substantially the same site) within 6 months immediately preceding the day or days on which the special event is proposed to occur.
118.6	Pursuant to Clause 17 of Part 1 of Schedule 9 to the Regulations for the purpose of determining whether a development should be considered to be of a minor nature only:
118.6.1	the duty to not take into account what is included within Schedule 3 of the Regulations; and
118.6.2	the power to take into account the size of the site of the development, the location of the development within that site, and the manner in which the development relates to the locality of the site; and
118.6.3	the power to conclude, if relevant, that the development is of a minor nature only despite the fact that it satisfies some, but not all, of the criteria set out in item 2(d) of Part 1 of Schedule 9 to the Regulations.
118.7	The power pursuant to Clause 21 of Part 2 to Schedule 9 of the Regulations, except where development is classified as non complying development under the relevant Development Plan, to form the opinion:

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 65 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

118.7.1 that in respect of a proposed division of land that the applicant's proposed use of the land, is for a purpose which is consistent with the zone or area under the Development Plan; and
118.7.2 whether the proposed division will change the nature or function of an existing road.
119. <i>DELIBERATELY LEFT BLANK</i>

FXD\INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008.DOC Last amended: 31 December 2017

- 66 -

**INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT
(DEVELOPMENT PLANS) AMENDMENT ACT 2006
AND DEVELOPMENT REGULATIONS 2008**

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
Nil	Nil

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ATTACHMENT 3**INSTRUMENT OF DELEGATION UNDER THE
FOOD ACT 2001****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. Seizure
1.1 The power pursuant to Section 42(2) of the Food Act 2001 ("the Act") to approve the removal or interference with the thing to which a seizure order under Part 4 of the Act relates before an order is made under Section 42(3)(b) or the order is discharged under Section 42(3)(c) of the Act.
1.2 The power pursuant to Section 42(3)(a) of the Act to authorise –
1.2.1 upon application, the release of anything seized under Part 4 of the Act to the person from whom it was seized or to any person who had a right to possession of it at the time of its seizure, subject to such conditions as the Delegate thinks fit, including conditions as to the giving of security for satisfaction of an order under Section 42(3)(b)(i)(B) of the Act; or
1.2.2 in the case of food or any other perishable thing, order that it be forfeited to the Council.
1.3 The duty pursuant to Section 42(3)(d) of the Act where any food or other perishable thing is seized under Part 4 of the Act in relation to an expiable offence and the offence is expiated –
1.3.1 if the food or other perishable thing has not already been forfeited by order of the Delegate under Section 42(3)(a)(ii) of the Act, to deal with it in accordance with any determination of the Minister; and
1.3.2 not make payment of any compensation in respect of the food

INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001

or other perishable thing.	
1.4	The power pursuant to Section 42(3)(e) of the Act to dispose of anything seized under Part 4 of the Act and forfeited under Section 42 of the Act, by sale, destruction or otherwise as the Delegate directs.
2. Review of Decision to Refuse Certificate of Clearance	
2.1	The power pursuant to Section 51(1) of the Act where a person aggrieved by a decision to refuse to give a certificate of clearance under Part 5 of the Act makes application to the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> for a review of the decision, to respond to the review body on behalf of the Council.
3. Review of Order	
3.1	The duty pursuant to Section 52(2) of the Act where there were no grounds for the making of a prohibition order, to pay such compensation to the applicant for compensation as is just and reasonable.
3.2	The duty pursuant to Section 52(3) of the Act to send written notification of the determination as to the payment of compensation under Section 52 of the Act, to each applicant for the payment of such compensation.
3.3	The power pursuant to Section 52(4) of the Act where an applicant for the payment of compensation under Section 52 of the Act is dissatisfied with a determination under Section 52(3) of the Act, as to the refusal to pay compensation or the amount of compensation and has applied to the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> for a review of the determination, to respond to that review body on behalf of the Council.
4. Auditing and Reporting	
4.1	The duty pursuant to Section 79(1) of the Act to determine:
4.1.1	the priority classification of individual food businesses for the purposes of the application of any requirements of the Regulations relating to food safety programs; and
4.1.2	the frequency of auditing of any food safety programs required to be prepared by the Regulations in relation to the food business
In accordance with Section 79(2) of the Act.	
4.2	The duty pursuant to Section 79(3) of the Act to provide written notification to the proprietor of a food business of -

INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001

4.2.1	the priority classification it has determined for the food business; and
4.2.2	the frequency of auditing of any food safety programs required to be prepared by the Regulations in relation to the food business; and
4.2.3	the date by which the food business must have implemented any food safety program required to be prepared by the Regulations in relation to the food business.
4.3	The power pursuant to Section 79(4) of the Act to change the priority classification of an individual food business if the Delegate believes that the classification is inappropriate for any reason, including as a result of changes made to the conduct of a food business.
4.4	The duty pursuant to Section 79(5) of the Act to provide written notification to the proprietor of food business of any change in priority classification of the food business under Section 79(4) of the Act.
5.	Reporting Requirements
5.1	The duty pursuant to Section 81(1) of the Act to receive a report from a food safety auditor in relation to an order or assessment carried out by the food safety auditor for the purposes of this Act.
5.2	The duty pursuant to Section 81(7) of the Act to provide a copy of a report in relation to an audit or assessment to the proprietor of the food business concerned.
6.	Notification of Food Businesses
6.1	The duty pursuant to Section 86(1) of the Act to receive written notice, in the approved form, from the proprietor of a food business of the information specified in the Food Safety Standards that the proprietor is required to notify to the Council before the business is conducted.
6.2	The duty pursuant to Section 86(2) of the Act to receive written notice, in the approved form, from the proprietor of a food business that is being conducted when the notification requirements of the Food Safety Standards commence, of the information specified in the Food Safety Standard that is to be notified to the Council.
6.3	The duty pursuant to Section 86(3) of the Act where a food business is transferred to another person or where there is a change in the name or address of a food business to receive written notice, in the approved form, from the proprietor of the food business (being, in the case where a food business is transferred to another person, the new proprietor) of the transfer or change (as the case may be) that would be required to

INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001

be given to the Council if the notification were an initial notification under Section 86(1) or (2) of the Act.

7. Appointment of Authorised Officers

7.1 The power pursuant to Section 94(1) of the Act to appoint a person to be an authorised officer for the purposes of the Act, subject to the duty upon the Delegate to be satisfied that the person has appropriate qualifications or experience to exercise the functions of an authorised officer.

7.2 The duty pursuant to Section 94(2) of the Act to prepare and maintain a list of authorised officers appointed for the purposes of Section 94(1) of the Act.

7.3 The duty pursuant to Section 95(1) of the Act to provide each authorised officer with a certificate of authority as an authorised officer.

7.4 The power pursuant to Section 95(2) of the Act to limit the powers of an authorised officer through the certificate of authority which is provided pursuant to Section 95(1) of the Act.

8. Offences

8.1 The power pursuant to Section 29(2) of the Act where the Delegate forms the opinion that an offence has been committed under the Act to take proceedings by way of prosecution (or, at the discretion of the Delegate, by the issuing of an expiation notice or notices where the offence is expiable) in respect of the following offences –

Section	Offence
Section 13(1)	Handling food intended for sale in a manner that the person knows will render, or is likely to render, the food unsafe.
Section 13(2)	Handling food intended for sale in a manner that the person ought reasonably to know is likely to render the food unsafe.
Section 14(1)	Selling food that the person knows is unsafe.
Section 14(2)	Selling food that the person ought reasonably to know is unsafe
Section 16(1)	Handling food intended for sale in a manner that will render, or is likely to render, the food unsafe.
Section 16(2)	Selling food that is unsafe.
Section 17(1)	Handling food intended for sale in a manner that will render or is likely to render the food unsuitable.

INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001

Section 17(2)	Selling food that is unsuitable.
Section 21(1)	Failing to comply with any requirement imposed by a provision of the Foods Standards Code in relation to the conduct of a food business or to food intended for sale or food for sale.
Section 21(2)	Selling food that does not comply with any requirement of the Food Standards Code that relates to the food.
Section 39	Failure, without reasonable excuse, to comply with a requirement of an authorised officer.
Section 40	Providing information or producing any document that the person knows is false or misleading in a material particular.
Section 41(1)	Resisting, obstructing, or attempting to obstruct, without reasonable excuse, an authorised officer in the exercise of his/her functions under the Act.
Section 41(2)	Impersonating an authorised officer.
Section 42(2)	Removing or interfering with a thing seized under Part 4 of the Food Act 2001 without the approval of the Council.
Section 50	Contravening or failing, without reasonable excuse, to comply with an improvement notice or a prohibition order.
Section 86(1)	Failure to notify of a food business before the business is conducted.
Section 86(2)	Failure to notify of a food business that is being conducted.
Section 86(3)	Failure to notify of a food business that is transferred or which has changed its name or address.
8.2	The power to elect to charge a person who is alleged to have committed an offence against Division 2, Part 2 of the Act, with a summary offence.
8.3	The duty pursuant to Section 29(4) of the Act where a person who is alleged to have committed an offence against Division 2, Part 2 of the Act has been given an expiation notice in respect of the offence and does not expiate the offence, to bring proceedings for prosecution of the offence as a summary offence.

ATTACHMENT 4**INSTRUMENT OF DELEGATION UNDER THE
SAFE DRINKING WATER ACT 2011****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

5. Drinking water providers to be registered
(2) The power pursuant to Section 5(2)(a) and (b) of the Safe Drinking Water Act 2011 (the Act) and in accordance with Section 5(3) of the Act to make an application for registration under the Act to the Minister and in a manner and form determined by the Minister.
8. Conditions of registration
(3) The power pursuant to Section 8(3) of the Act where the Council holds a registration, to make application to the Minister in a manner and form determined by the Minister, requesting the variation of a condition to which the registration is subject.
9. Suspension of registration
(5) The power pursuant to Section 9(5) of the Act after the Council has received notice from the Minister, lodge with the Minister a written objection (setting out the grounds of objection).
(6) The power pursuant to Section 9(5) of the Act to make submissions to the Minister in relation to the matter.
(10) The power pursuant to Section 9(10) of the Act where the Council's registration has been suspended to make application to the Minister for the cancellation of the suspension.
10. Appeals
(1) The power pursuant to Section 10(1) of the Act and in accordance with Section 10(2) of the Act, to seek a review by the Tribunal under Section

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Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE
SAFE DRINKING WATER ACT 2011**

34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> of:
(a) a condition imposed by the Minister in relation to a registration under Part 2 of the Act;
(b) a variation of a condition of registration made by the Minister on the Minister's own initiative; or
(c) a decision of the Minister to refuse to grant an application to vary a condition of registration; or
(d) a decision of the Minister to suspend a registration under Part 2 of the Act.
12. Drinking water providers to prepare, implement and review risk management plans
(1) The power pursuant to Section 12(1) of the Act and in accordance with Section 13 of the Act, to:
(a) prepare a risk management plan in relation to the supply of drinking water to the public; and
(b) keep the plan under continuous review with a view to updating and improving it; and
(c) revise any aspect of the plan that is found, on review, to need revision.
(3) The power pursuant to Section 12(3) of the Act, if a standard risk management plan is in place under Section 12(2) of the Act and the Council falls within the specified class to which the standard risk management plan applies, to, subject to any requirement published by the Chief Executive in connection with the risk management plan and in a manner and form determined by the Chief Executive, adopt the standard risk management plan rather than preparing a separate plan under Section 12(1)(a) of the Act.
14. Related matters
(2) The power pursuant to Section 14(2) of the Act, to furnish to the Minister in a manner and form determined by the Minister a copy of the Council's monitoring program and incident identification and notification protocol.
(3) (b) The power pursuant to Section 14(3)(b) of the Act to consult with the Minister in relation to alterations to the program or protocol (or both) submitted for the purposes of Section 14 of the Act.
(4) The power pursuant to Section 14(4) of the Act and in accordance with

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Last amended: 31 December 2017

**INSTRUMENT OF DELEGATION UNDER THE
SAFE DRINKING WATER ACT 2011**

Section 14(5) of the Act, where the Council is required to make an alteration under Section 14(3) of the Act, to seek a review of the requirement by the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> .
34. Appointment of authorised officers
(1) The power pursuant to Section 34(1) of the Act, to appoint a person to be an authorised officer for the purposes of the Act, but only if the Delegate considers the person has appropriate qualifications or experience to exercise the functions of an authorised officer.
(2) The power pursuant to Section 34(2) of the Act to prepare and maintain a list of authorised offices appointed by the Council.
35. Certificates of authority
(1) The power pursuant to Section 35(1) of the Act to provide each authorised officer appointed by the Council with a certificate of authority as an authorised officer.
(2) The power pursuant to Section 35(2) of the Act to limit the powers of an authorised officer by the authorised officer's certificate of authority.
37. Seizure orders
(3) (a) The power pursuant to Section 37(3)(a)(i) and (ii) of the Act to:
(i) authorise the release of a thing seized to the person from whom it was seized or any person who had a right to possession of it at the time of its seizure subject to such conditions as the Delegate thinks fit, including conditions as to the giving of security for satisfaction of an order under Section 37(3)(b)(i)(B) of the Act; or
(ii) order that the thing seized be forfeited to the Council;
(d) The power pursuant to Section 37(3)(d) of the Act if a thing seized is forfeited under Section 37 of the Act to dispose of it by sale, destruction or otherwise as the Delegate directs.
38. Notices
(1) The power pursuant to Section 38(1) of the Act and in accordance with Section 38(2) of the Act to issue a notice under Section 38 for the purpose of:
(a) securing compliance with a requirement imposed by or under the Act; or

**INSTRUMENT OF DELEGATION UNDER THE
SAFE DRINKING WATER ACT 2011**

(b) averting, eliminating or minimising a risk, or a perceived risk, to the public in relation to drinking water.
(6) The power pursuant to Section 38(6) of the Act to, by written notice served on a person to whom a notice under Section 38 has been issued by the Council, vary or revoke the notice.
39. Action or non-compliance with a notice
(1) The power pursuant to Section 39(1) of the Act, if the requirements of a notice under Division 3 of the Act are not complied with, to take any action required by the notice.
(2) The power pursuant to Section 39(2) of the Act to authorise another person to take action under Section 39(1) of the Act on the Council's behalf.
(4) The power pursuant to Section 39(4) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 39 of the Act from the person who failed to comply with the requirements of the notice as a debt in a court of competent jurisdiction.
(5) The power pursuant to Section 39(5) of the Act, if an amount is recoverable from a person by the Council under Section 39 of the Act, to by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.
40. Action in emergency situations
(5) The power pursuant to Section 40(5) of the Act to recover the reasonable costs and expenses incurred by an authorised officer in taking action under Section 40 of the Act as a debt in a court of competent jurisdiction.
41. Specific power to require information
(1) The power pursuant to Section 41(1) of the Act, to by notice in writing under Section 41 of the Act require a person to furnish such information relating to the quality or supply of drinking water, or any other matter associated with the administration or operation of the Act, as the Delegate thinks fit.
42. Appeals
(3) The power pursuant to Section 42(3) of the Act to apply for the Council to be a party to proceedings under Section 42 of the Act.
52. Annual reports by enforcement agencies

**INSTRUMENT OF DELEGATION UNDER THE
SAFE DRINKING WATER ACT 2011**

- (1) The power pursuant to Section 52(1) of the Act to on or before 30 September in each year, furnish to the Minister a report on the activities of the Council under the Act during the financial year ending on the preceding 30 June.

**INSTRUMENT OF DELEGATION UNDER THE
SAFE DRINKING WATER ACT 2011**

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 5

**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

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

	approval to give the consent); or
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

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Last amended: 1 August 2017

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

	not to give the consent, to have regard to:
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

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

	or not to give the consent;
3.1.2	the fee payable (if any) for the route assessment under a law of 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

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

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 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

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Last amended: 1 August 2017

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

matters stated in approved guidelines; or
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

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

matters stated in approved guidelines; or
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

ITEM	3.6.5
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	19 February 2018
HEADING	Facilitation of externally web-hosted video recordings of Council and committee meetings
AUTHOR	Mick Petrovski, Manager Governance - CEO/Governance, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report provides an information update regarding a Council resolution 2110/2017 relating to web-hosted video recordings of Committee/Council meetings.

RECOMMENDATION

That the intention to facilitate externally web-hosted video recordings of Council and committee meetings and associated publishing by accommodating the requirement in the Salisbury Community Hub design and within the overall budget for the Hub, be noted.

ATTACHMENTS

There are no attachments to this report.

1. BACKGROUND

1.1 Council, at its meeting on 23 October 2017, resolved as follows:

2110 *Investigation of options for changes to audio recording of Committee and Council meetings*

1. *Audio recording be undertaken for all Council and standing committee meetings.*
2. *Where an audio recording of a meeting is taken, the minimum retention period be for the remainder of the current term of the Council with retention beyond that period then determined by the State Records Act 1997 and General Disposal Schedule 20.*
3. *The Code of Practice for Meeting Procedures be modified to include the following:*

S.REC RECORDING OF MEETINGS

 - (1) *Public meetings of Council and Council Standing Committees may be recorded to assist the Minute Secretary with preparation of the minutes following the meeting. The recording is not intended to be an enduring record of the meeting: the minutes exist for that purpose.*
 - (2) *Any recording of a Council or Council Standing Committee meeting will be retained for the remainder of the current term of the council.*

- (3) *Where a copy of any recording of a Council or Council Standing Committee meeting is accessed/provided for a purpose other than preparation of the minutes, the recording will be retained within the City of Salisbury record keeping system in accordance with the requirements of the State Records Act 1997 with the retention period as determined by the General Disposal Schedule 20.*
4. *To facilitate audio recording of meetings convened in locations other than the Council Chamber, a mobile recording solution, microphone and laptop allocated to the Governance Division, be purchased or leased at an estimated purchase cost of up to \$2,500.*
5. *The facilitation of an externally web-hosted video recording of Council and committee meetings and associated publishing be considered as part of the 2018/19 budget process.*

Resolution No 2110/2017

1.2 Implementation of Audio Recording

- 1.2.1 Prior to January 2018, the ability to produce and keep an audio record of Council/Committee meetings was constrained to those meetings convened within the Council Chamber only.
- 1.2.2 However, as a result of the Council decision of 23 October 2017, an audio recording solution was implemented to accommodate all public Council and standing Committees, commencing January 2018, and consistent with paragraph 1 of the Council's resolution.
- 1.2.3 Paragraphs 2 to 4 of the resolution, which relate to retention of the recordings, modification of the Code of Practice for Meeting Procedures, and the purchase of equipment for recording purposes have all been implemented, and within the cost parameters provided.
- 1.2.4 This report provides an update regarding paragraph 5 of the Council resolution of 23 October 2017, the facilitation of externally web-hosted video recordings of Council and committee meetings.

2. REPORT

- 2.1 Paragraph 5 of Council Resolution 2110/2017 directs that the facilitation of an externally web-hosted video recording of Council and committee meetings and associated publishing "be considered as part of the 2018/19 budget process".
- 2.2 Subsequent to the decision regarding the recording of Council/Committee meetings which happened on 23 October 2017, Council, at its meeting on 18 December 2018 resolved to proceed with the construction of the Salisbury Community Hub (the Hub).
- 2.3 In developing the budget for the construction and the fit out of the Hub, the facilitation of audio and video recording of Council and Committee meetings, including the ability to live stream onto the web, was contemplated and therefore incorporated into the overall cost.
- 2.4 Accordingly, it is considered unnecessary to proceed with the requirement of the 23 October 2017 decision for the 2018/19 budget deliberations.

3. CONCLUSION / PROPOSAL

- 3.1 This report has been prepared in response to Council Resolution 2110/2017. The resolution directed that the facilitation of an externally web-hosted video recording of Council and committee meetings and associated publishing “be considered as part of the 2018/19 budget process”.
- 3.2 This report informs the Committee and Council that the provision of an externally web-hosted video recording of Council and Committee meetings will be accommodated in the Community Hub design as it was already contemplated as part of the overall budget for the Hub.

CO-ORDINATION

Officer:	MG	MBS&S
Date:	14/02/18	15/02/18