



AGENDA

FOR RESOURCES AND GOVERNANCE COMMITTEE MEETING TO BE HELD ON

21 JANUARY 2019 AT THE CONCLUSION OF BUDGET AND FINANCE

IN COMMITTEE ROOM 1, 12 JAMES STREET, SALISBURY

MEMBERS

Cr D Proleta (Chairman)
Mayor G Aldridge (ex officio)
Cr B Brug
Cr A Duncan
Cr K Grenfell
Cr D Hood
Cr P Jensen (Deputy Chairman)
Cr J Woodman
Mr Michael Bennington (Manager Communication and Customer Relations)

REQUIRED STAFF

General Manager Business Excellence, Mr C Mansueto
A/General Manager City Development, Mr C Zafiropoulos
Manager Governance, Mr M Petrovski

APOLOGIES

LEAVE OF ABSENCE

PRESENTATION OF MINUTES

Presentation of the Minutes of the Resources and Governance Committee Meeting held on 10 December 2018.

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OTHER BUSINESS

CLOSE



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

10 DECEMBER 2018

MEMBERS PRESENT

Cr D Proleta (Chairman)
Mayor G Aldridge (ex officio)
Cr B Brug
Cr A Duncan
Cr K Grenfell
Cr P Jensen
Cr J Woodman

STAFF

A/General Manager Business Excellence, Ms G Page
A/General Manager City Development, Mr G Ratsch
Manager Governance, Mr M Petrovski

The meeting commenced at 8.37 pm.

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

APOLOGIES

An apology was received from Cr D Hood.

LEAVE OF ABSENCE

Nil

PRESENTATION OF MINUTES

Moved Cr J Woodman
Seconded Cr B Brug

The Minutes of the Resources and Governance Committee Meeting held
on 15 October 2018, be taken and read as confirmed.

CARRIED

REPORTS

Administration

3.0.1 Appointment of Deputy Chair - Resources and Governance Committee

Moved Cr K Grenfell
Seconded Cr A Duncan

1. Cr B Brug be appointed as Deputy Chairman of the Resources and Governance Committee for a two year term.

CARRIED

3.0.2 Future Reports for the Resources and Governance Committee

Moved Cr B Brug
Seconded Cr J Woodman

1. The information be received.

CARRIED

External Relations

3.4.1 Local Government Association Annual General Meeting Voting Advice to Council

Moved Cr J Woodman
Seconded Cr P Jensen

1. Council note the votes cast by the Mayor as voting delegate of the City of Salisbury at the 26 October 2018 Local Government Association Annual General Meeting.

CARRIED

OTHER BUSINESS

Nil

The meeting closed at 8.52 pm.

CHAIRMAN.....

DATE.....

ITEM	3.0.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
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
23/04/2018 3.3.1 Due:	Parking Technology Trials 5. A further report presenting the outcomes of the trials be presented to Council at the conclusion of the trials. August 2019	John Darzanos
23/07/2018 MON2 Due:	Parking in the Salisbury City Centre 2. At the conclusion of the licence plate recognition trial, the report that will be provided to Council on the outcomes of the trial also incorporate advice on the implications of the provision of four (4) and or five (5) hour parking areas in the city centre. August 2019	John Darzanos
23/07/2018 3.6.3 Due:	Media Policy Review That consideration of the Media Policy be deferred to the next Council following the local government elections. April 2019	Michael Bennington
27/08/2018 MON7.1 Due:	Council Customer Service Charter 1. That Council review all customer service and related policies with a view of increasing the level of basic services and customer requests. March 2019	Michael Bennington
27/08/2018 MON7.1 Due:	Council Customer Service Charter 2. That Council develop a community and resident customer service charter in consultation with the local community. March 2019	Michael Bennington
26/11/2018 6.5 Due:	Council and Committee Structure 2. The terms of reference be reviewed after the first 12 months of the term of office seeking Elected Member feedback and a report be provided to the Resources and Governance Committee. December 2019	Mick Petrovski

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
Date: 14/01/2019 09/01/19

ITEM	3.2.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
HEADING	Appointment of Independent Members on the Council Assessment Panel
AUTHOR	Chris Zafiropoulos, Manager Development Services, City Development
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report recommends Council commence a process to appoint the Independent Members to the Salisbury Council Assessment Panel and endorse a Terms of Reference and remuneration for members to the Panel.

RECOMMENDATION

1. Council endorse the draft *Council Assessment Panel Terms of Reference* as set out in Attachment 1 to this report (Resources and Governance 3.2.1, 21/01/2019) for the appointment of the members to the Salisbury Council Assessment Panel and the recommended remuneration for Panel members contained in this report.
2. A report be provided to Council in April 2019 for the appointment of Independent Members to the Council Assessment Panel.

ATTACHMENTS

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

1. Council Assessment Panel (Draft) Terms of Reference
2. Assessment Panel Members Code of Conduct
3. Council Assessment Panel Operating Procedures
4. Sample of Council Assessment Panel Sitting Fees

1. BACKGROUND

- 1.1 Council is required to establish a Council Assessment Panel (CAP) to act as a delegate of Council for the assessment and determination of development applications under the Planning, Development and Infrastructure Act 2016 (or during the transition to the PDI Act, the Development Act 1993).
- 1.2 The CAP is comprised of five members and only one of the members may be a member of the Council. Council appointed Cr Brug as the Elected Member on the Panel in November 2018 for a period of two years.
- 1.3 The term of appointment of the current independent members concludes on 31 May 2019. This report seeks approval to commence a process to appoint independent members for the next term of membership.

- 1.4 Council is able to determine the conditions of appointment for members on the CAP. This includes the term of office, remuneration and grounds for the removal of a member.

2. REPORT

- 2.1 The CAP is currently comprised of four independent members in addition to the Elected Member. The independent members are:
- Mr Doug Wallace – Presiding Member.
 - Mr Ross Bateup.
 - Ms Stephanie Johnston.
 - Mr John Watson.
- 2.2 The CAP meetings are ordinarily held every fourth Tuesday of the month, commencing at 6.00pm in the Civic Centre. The Panel may also convene a special meeting to deal with urgent matters.
- 2.3 The PDI Act requires that the following should be taken into consideration when making appointments to the CAP:
- 2.3.1 Council may appoint more than one (1) Panel but, if it does it must clearly specify which class of development each Panel is to assess. There are no clear grounds however for Council to consider establishing more than one CAP at this stage.
- 2.3.2 The membership of the Panel must be no more than 5 members and only one of which may be a member of a Council.
- 2.3.3 Independent members must be accredited professionals. The accreditation requirements will apply from July 2019.
- 2.3.4 An Assessment Manager, who is an accredited professional, must be appointed to the Panel by the Chief Executive Officer. Mr Chris Zafiropoulos, Manager Development Services has been appointed as the Assessment Manager.
- 2.3.5 Procedures for appointment of members, their term of office and conditions of appointment.
- 2.3.6 The appointment of deputy members and the process for appointing an acting presiding member. A deputy member is essentially a proxy to the CAP in the event a member is not available.
- 2.3.7 The staffing and support required for the operations of the Panel.
- 2.4 A draft *Council Assessment Panel Terms of Reference* is provided in Attachment 1 for Council's consideration and endorsement for the appointment of the members to the CAP. The terms of reference are based on the model terms of reference released by Local Government Association of SA.
- 2.5 It is proposed that Council calls for expressions of interest from interested people to be appointed to the CAP for a period of two years. Candidates will be asked to provide CV's outlining their experience, skills, qualifications and knowledge. Importantly, the independent members will need to be accredited under the PDI Act. The scheme is expected to be released in late January / early February 2019.

- 2.6 It is proposed to place an advertisement inviting submissions in The Advertiser and The Messenger newspapers together with information on Council's website in February 2019 for a period of 4 weeks. A report will be provided to Council in April 2019 for the appointment of members, ahead of the expiry of the current term of Independent Members on 31 May 2019.
- 2.7 The PDI Act provides for the establishment of Deputy Members for the CAP, which effectively provides a proxy for members. While this capability is provided, Council is not required to appoint Deputy Members. Attendance at CAP meetings has historically been very high, 97% in the last 12 months, suggesting that Deputy Members are not critical.
- 2.8 Council previously resolved not to appoint a Deputy Elected Member in November 2018 as the Deputy Elected Member was not required to attend a meeting in previous 12 months of the CAP term. The LGA model terms of reference include the appointment of Deputy Members as there may be a need to appoint a deputy member to fill a vacancy. This clause has been retained in the terms of reference to provide Council future capacity, in the event it decides to appoint Deputy Members.
- 2.9 The Minister for Planning has also released a Code of Conduct for CAPs. A copy is provided in Attachment 2.
- 2.10 The CAP may also determine its own procedures where they are not specified in the Regulations. In addition, the PDI Act enables a CAP can determine additional members (up to two) to deal with a matter that it must assess as the relevant authority. The person must be accredited and will be taken to be a member of the CAP, but is not able to vote. The additional member is intended to provide the Panel with specific skills / qualifications in a specialised area, in what is effectively an advisory role. Examples of additional members that have been suggested include persons with expertise in liquor license matters or mining. The CAP has not had a need to require additional members. The CAP Operating Procedures is attached for information in Attachment 3.
- 2.11 The remuneration for members on the CAP was last changed in 2010. The remuneration per meeting is:
- | | | |
|--------|---------------------|-------|
| 2.11.1 | Presiding Member | \$430 |
| 2.11.2 | Independent Members | \$320 |
| 2.11.3 | Elected Member | \$220 |
- 2.12 A review of remuneration for a sample of other CAPs is provided in Attachment 4. This represents current remuneration levels, not taking into account the new accreditation requirements that will be applicable to independent members from July 2019. The Department of Planning, Transport and Infrastructure has suggested the fee for all evaluations and registrations will be between \$600 - \$800, plus an annual (undisclosed) fee for administration costs. The suggested evaluation fee is approximately 25% of the total annual payment for current Salisbury CAP members, excluding training requirements. (Average 10 meeting per year @ \$320 per meeting).

2.13 It is recommended that the remuneration for the CAP be reviewed as:

2.13.1 The remuneration has not been reviewed for some eight years. It is appropriate to set a remuneration to retain and attract suitably qualified people.

2.13.2 As a result of the changes introduced by the state government, the independent members will be required to be accredited and they will incur costs for new training and registration.

2.14 The recommended remuneration is proposed within the range of the current sample of CAP remuneration levels:

2.14.1 Presiding Member \$550

2.14.2 Independent Members \$420

2.14.3 Elected Member \$270

2.15 The total remuneration cost per meeting of \$2,080 will be higher than the current sitting fees of \$1610 per meeting. It is noted however that this will be comparable to the previous DAP which comprised seven (7) members and cost \$2,050 per meeting. The operating budget will be adjusted to reflect the proposed changes.

3. CONCLUSION / PROPOSAL

3.1 It is recommended that Council endorse the draft Council Assessment Panel Terms of Reference provided in Attachment 1 for the appointment of the members to the CAP and the recommended remuneration for CAP members contained in this report. A subsequent report will be provided to Council in April 2019 for the appointment of the Independent Members to the CAP for the next term of office.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 14.01.19



COUNCIL ASSESSMENT PANEL

Terms of Reference

Draft for Council Endorsement

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1. Background

- 1.1. The Salisbury Council Assessment Panel (**CAP**) was appointed as a relevant authority under Section 82 and 83 of the *Planning, Development and Infrastructure Act 2016 (Act)* by resolution of the City of Salisbury (**the Council**) on 21 August 2017.
- 1.2. The CAP is a relevant authority under the Act and, during transition to the Act, will act as a delegate of the Council for the purpose of the *Development Act 1993*.

2. Membership of CAP

Appointment of Members

- 2.1. The CAP will be constituted of five (5) Members (CAP Members), to be appointed by the Council, comprising:
 - 2.1.1. One (1) Member of the Council (Council Member); and
 - 2.1.2. Four (4) Independent Members (Independent Members), not being Members of the Council or State Parliament.
- 2.2. The Council may determine that the CAP will be constituted by a different number of members for different classes of development, in which case the relevant details will be specified by the Council.
- 2.3. When appointing CAP Members, the Council may have regard to the following:
 - 2.3.1. The candidate's knowledge of the operation and requirements of the Act and, during transition to the Act, the Development Act;
 - 2.3.2. In relation to Independent Members, the candidate's qualifications or experience in a field that is relevant to the activities of the CAP;
 - 2.3.3. In relation to the Council Member, the candidate's experience in local government;
 - 2.3.4. That a balance of qualifications and experience among CAP Members is desirable;
 - 2.3.5. That gender diversity among CAP Members is desirable; and
 - 2.3.6. Such other matters as the Council considers relevant.

Appointment of Deputy Members

- 2.4. The Council may appoint Deputy Members to the CAP for the purpose of filling in for a CAP Member who is unable to attend a CAP meeting or part of a CAP meeting.
- 2.5. Subject to clause 2.6, a Deputy Member must not be a Member of the Council or State Parliament.

- 2.6. Where a Deputy Member appointed for the Council Member is also a member of the Council, that person may not act as a deputy for any other CAP Member (whereas a Deputy Member who is not a member of the Council may act as a deputy for any CAP Member).
- 2.7. Where more than one Deputy Member is appointed, the Council must specify the circumstances in which each Deputy Members (or any one or more of them) will be invited to attend a CAP meeting.
- 2.8. In appointing a Deputy Member, the Council may have regard to the matters in clause 2.3, as well as to the qualifications and experience of the CAP Member or CAP Members to whom the candidate will be a deputy.
- 2.9. Unless the context otherwise requires, a reference to a CAP Member in this document includes a Deputy Member.

Expression of Interest

- 2.10. The Council will call for expressions of interest for appointment of CAP Members.

Presiding Member and Acting Presiding Member

- 2.11. The Council will appoint an Independent Member to be the Presiding Member of the CAP for such term and on such conditions as determined by the Council.
- 2.12. The Presiding Member will preside at any CAP meeting at which he or she is present.
- 2.13. The CAP shall determine a process for the appointment of an Acting Presiding Member in the event that the Presiding Member is not present at a meeting (or part thereof).
- 2.14. A Presiding Members is eligible to be reappointed as the Presiding Member at the expiry of his or her term of office as Presiding Member.
- 2.15. In the event that the Presiding Member resigns or is removed from office, the Council will appoint an Independent Member to be the Presiding Members for such term and on such conditions as determined by the Council.

Term of Appointment

- 2.16. Subject to clause 5, Independent Members will be appointed for a term of up to two years and on such other conditions as determined by the Council.
- 2.17. Subject to clause 5, the Council Member will be appointed for a term of up to two years and on such other conditions as determined by the Council.
- 2.18. Deputy Members will be appointed for a term of up to two years and on such other conditions as determined by the Council.

- 2.19. A CAP Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 2.20. A CAP Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period determined by Council.

3. Vacancy in Membership

- 3.1. In the event of a vacancy arising in the office of a CAP Member, the Council may appoint a person to be a CAP Member for the balance of the original CAP Member's term of office as soon as is reasonably practicable in the same manner as the original CAP Member was appointed.
- 3.2. The CAP Member appointed to fill a vacancy may be a Deputy Member in which case that person will automatically cease to be a Deputy Member.
- 3.3. In appointing a CAP Member pursuant to clause 3.1, the Council may have regard to the matters in clause 2.2 or 2.8 as the case requires.
- 3.4. A vacancy in the membership of the CAP will not invalidate any decisions of the CAP, provided a quorum is maintained during meetings.

4. Conditions of Appointment

- 4.1. At all times, CAP Members must act honestly, lawfully, in good faith, and in accordance with any code of conduct applicable to CAP Members.
- 4.2. CAP Members may be remunerated as determined by the Council for the reasonable time and costs incurred by CAP Members in attending CAP meetings.
- 4.3. Different levels of remuneration may be fixed by the Council for Independent Members, the Council Member, the Presiding Member and Deputy Members.
- 4.4. Upon the commencement of Section 83(1)(c) of the Act:
 - 4.4.1. CAP Members, excluding a Member who is a Member or former Member of the Council, must be accredited professionals under the Act; and
 - 4.4.2. CAP Members who are Members or former Members of the Council must have sufficient experience in local government to satisfy the Council that they are appropriately qualified to act as a Member of the CAP.

5. Removal from Office

- 5.1. A CAP Member will automatically lose office where:
- 5.1.1. the CAP Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 5.1.2. the CAP Member has been convicted of an indictable offence punishable by imprisonment;
 - 5.1.3. in the case of a Council Member, the Member ceases to be a member of the Council.
- 5.2. Subject to Clause 5.4, the Council may by resolution remove a CAP Member from office where, in the opinion of the Council, the behaviour of the CAP Member amounts to:
- 5.2.1. a breach of a condition of his or her appointment as a CAP Member;
 - 5.2.2. misconduct;
 - 5.2.3. a breach of any legislative obligation or duty of a CAP Member;
 - 5.2.4. neglect of duty in attending to role and responsibilities as a CAP Member;
 - 5.2.5. a failure to carry out satisfactorily the duties of his or her office;
 - 5.2.6. a breach of fiduciary duty that arises by virtue of his or her office;
 - 5.2.7. inability to carry out satisfactorily the duties of his or her office.
 - 5.2.8. except in relation to Deputy Members, a failure without reasonable excuse to attend three consecutive CAP meetings without the CAP previously having resolved to grant a leave of absence to the CAP Member; or
 - 5.2.9. in relation to a Deputy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the CAP when requested to do so; or
 - 5.2.10. for any other reason the Council considers appropriate.
- 5.3. The removal of the CAP Member pursuant to clause 5.2 will take effect upon the Council passing a resolution to remove the CAP Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the CAP Member within 7 days of being passed.
- 5.4. Prior to resolving to remove a CAP Member from office pursuant to clause 5.2, the Council must:

- 5.4.1. give written notice to the CAP Member of:
 - 5.4.1.1. its intention to remove the CAP Member from office pursuant to clause 5.2; and
 - 5.4.1.2. the alleged behaviour of the CAP Member falling within clause 5.2.1 or reason the Council considers it appropriate to remove the CAP Member,
not less than 7 days before the meeting of the Council at which the matter is to be considered;
- 5.4.2. give the CAP Member an opportunity to make submissions to the Council on its intention to remove the CAP Member from office either orally at the Council meeting at which the matter is to be considered, or in writing by such date as the Council reasonably determines; and
- 5.4.3. have due regard to the CAP Member's submission in determining whether to remove the CAP Member from office.



Assessment Panel Members – Code of Conduct

Introduction

Under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) the Minister may adopt a code of conduct to be observed by members of an assessment panel established under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of assessment panels under the PDI Act. This code of conduct must be read in conjunction with the Act.

For the purposes of the PDI Act, a key requirement is that all members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of development assessment under the Act.

The code is the key tool to ensure that all members of assessment panels act honestly and ethically with a high degree of accountability. If a member of an assessment panel has any doubt in regard to any function they may perform under the Act they should seek the advice of the panel's assessment manager or some other appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the Act.

Legislative framework

Under section 15 of the PDI Act, all members of assessment panels are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
- (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*

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Government of South Australia
Department of Planning,
Transport and Infrastructure

- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must-*
- (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*
 - (c) *be responsible and accountable in its conduct; and*
 - (d) *comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) *The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) *The principles and benchmarks under this section— (a) do not give rise to substantive rights or liabilities; but (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*

Code of conduct requirements

In acting as a member of an assessment panel, a member must comply with the following requirements.

General duties

1. A member of an assessment panel must in performing, exercising or discharging a function, power or duty under the PDI Act, act in accordance with the general duties as set out in section 15 of the PDI Act.

Act in the public interest

2. A member of an assessment panel must act in a manner that promotes or protects the public interest.

Procedures

3. A member of an assessment panel must ensure that the procedures specified in the Act or prescribed in the *Planning Development and Infrastructure (General) Regulations 2017* are complied with.
4. A member of an assessment panel must comply with the panel procedures in relation to public comments and communication with the media

Regard for honesty

5. A member of an assessment panel must act with integrity, good faith and equity and must not discriminate toward any person in performing their duties.
6. A member of an assessment panel must advise the assessment manager and the Commission immediately if the member:
 - a. is the subject of a formal investigation into, or have been found to have, breached any other code of conduct, ethical standards or similar, either in another State or through a professional body of which they are a member; or
 - b. has been found guilty of a breach of any Act related to planning, building or a development related matter.

Conflict of interest

7. A member of an assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the council development assessment panel (other than an indirect interest that exists in common with a substantial class of persons)—
 - a. must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and
 - b. must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.
8. A member of an assessment panel will be taken to have an interest in a matter for the purposes of item 7 if an associate of the member (within the meaning of section 3 (7) of the PDI Act) has an interest in the matter.
9. If an interest has been declared by a member of an assessment panel the nature of the interest must be recorded in the minutes of the meeting.

Making decisions and taking action

10. A member of an assessment panel must take all reasonable steps to obtain all relevant facts and information when making a decision on a matter before the panel.
11. A member of an assessment panel must ensure that the member's decisions and actions are reasonable, fair and appropriate to the circumstances, based on consideration of all relevant facts obtained, and supported by adequate documentation.
12. A member of an assessment panel must not approach or discuss with an applicant or representor any application which is either before the panel or will come before the panel at some future time expect during the course of a panel meeting where the application forms part of the agenda and the applicant or representor has a right to be heard by the panel.
13. Except where required as part of the assessment of a particular decision such as a formal panel viewing of a site of a proposed development, you should not enter the site even if invited by the land owner or a neighbouring property owner or any other person.
14. A member of an assessment panel must not:
 - a. engage in consultation outside of the panel process with any party on a proposed development application that is likely to be heard by the panel;
 - b. give advice to an applicant or other third party on a development application after it has been lodged outside of a panel meeting;
 - c. speak at a public meeting for or against a proposal where the purpose of the meeting is to discuss either a proposed development or a development application unless required by the Act;
 - d. express an opinion on a development application or a proposed development outside of a panel meeting; and
 - e. engage in any other act or omission which may give rise to a reasonable presumption that you have prejudged a development proposal or application.

Public comment

15. Only the presiding member or another person determined by the panel is permitted to speak publicly to the media and address the public on behalf of the panel. No other panel member may make comment to the media or the public in relation to any matter before the panel or any decision of the panel.

Protection and use of information

16. A member of an assessment panel must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of the member's official position for the purpose of securing a private benefit for the member or any other person.
17. A member of an assessment panel must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Proper exercise of power

18. A member of an assessment panel must not take advantage of the member's position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for the member or any other person.

Gifts and benefits

19. A member of an assessment panel must not seek or accept a gift or benefit that is intended to, is likely to or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.
20. A member of an assessment panel must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member of an assessment panel. A person is related to a member of an assessment panel for the purpose of this provision if the person is spouse, de facto partner, sibling, parent or child of the member of the assessment panel.

Bias

21. A member of an assessment panel should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.



COUNCIL ASSESSMENT PANEL

General Operating Procedures

Adopted on 28 November 2017

Clause 3.6 updated on 4 December 2018

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These Meeting Procedures are to be read in conjunction with the meeting procedures contained within the Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017. (Refer Appendix A).

1 Purpose

- 1.1. The purpose of the Council Assessment Panel (CAP) is to determine development applications made under the Planning Development and Infrastructure Act 2016 (or, during the transition to the PDI Act, the Development Act 1993) that are delegated from Council. The Panel may also provide advice to Council on trends, issues and other matters relating to planning or development matters.
- 1.2. The Panel acknowledges that in performing its statutory function, it is bound by the:
 - 1.2.1 Code of conduct adopted by the Minister for Planning.
 - 1.2.2 Objects, Planning Principles and General Responsibilities under the Planning, Development and Infrastructure Act 2016.
 - 1.2.3 Operating Procedures established by the Panel.

2 Timing & Notice of Meetings

Meeting time and place

- 2.1. CAP meetings will be scheduled by the CAP on the fourth Tuesday of the month, or another date as determined by the Presiding Member, subject to there being business to consider.
- 2.2. The CAP will meet in the Council Civic Centre at 12 James Street Salisbury or at such other place as the Presiding Member may determine.

Notice of meeting

- 2.3. The Assessment Manager pursuant to the Planning Development and Infrastructure Act 2016 must provide written notice detailing the date, time and place of a meeting to all CAP members at least three working days before the meeting. The notice shall include the Agenda for the meeting.
- 2.4. Notice of CAP meetings may be given to CAP members by email, to an email address nominated by a CAP Member, or by personal delivery or post to the usual residence of a CAP Member, or via such other means as authorised by a CAP Member.

Viewing agenda

- 2.5. A copy of the Agenda for every ordinary meeting of the CAP shall be available for viewing by the public at the Council's offices and on the Council's web site at least three working days before the meeting of the CAP. The three working days notice shall not apply to a special meeting of the CAP under clause 2.6, or to an item included by the Assessment Manager under clause 2.8, in which cases the agenda will be made available for viewing by the public as soon as practicable.

Special meeting

- 2.6. A special meeting of the CAP may be convened by the Presiding Member, at any time, to consider urgent business by giving not less than two working days written notice to all CAP Members.
- 2.7. Notice of a special meeting of the CAP must be accompanied by an Agenda stating the item(s) of business for which the meeting has been convened. A special meeting must only deal with the business for which the meeting has been convened.

Late items

- 2.8. The Assessment Manager may, with leave or at the request of the Presiding Member, include in the agenda an item to be considered at the meeting to which the agenda relates after notice of the meeting has been given to CAP Members. In such instance, the Assessment Manager shall provide an updated agenda and any documents and/or reports relating to that item to be considered at the meeting to Members as soon as practicable. The Assessment Manager will also make an updated agenda available to the public in accordance with clause 2.5.

3 Commencement of Meetings & Quorum

- 3.1. CAP Meetings will be conducted in accordance with the requirements of the Planning, Development and Infrastructure Act 2016 ('the PDI Act'), Development Act 1993 ('the Act') and these Operating Procedures.
- 3.2. Meetings will commence on time, or as soon as a quorum is present. If a quorum is not present within thirty minutes of the time for commencement, the Presiding Member may adjourn the meeting to the next scheduled meeting time and date, or to another time and date.
- 3.3. A quorum for a meeting of the CAP is three (3) CAP Members.
- 3.4. If the number of apologies received by the Assessment Manager in advance of a meeting indicate that a quorum will not be present at a meeting, the Presiding Member may, by notice from the Assessment Manager, provide to all CAP Members in advance of the meeting, a notice adjourning the meeting to a future time and date as specified in the notice (a copy of this notice will be displayed at the Council Offices and on the Council's website).

- 3.5. If a meeting is required to be adjourned by the Presiding Member, the reason for the adjournment, and the date and time to which the meeting is adjourned will be recorded in the Minutes.

Deputy Presiding Member

- 3.6. A Deputy Presiding Member of the CAP must be appointed by resolution of the CAP, and will preside at any meeting, or part thereof, when the Presiding Member is not present. [Ms S Johnston was appointed by the Panel on 4 December 2018 for the Term to 31 May 2019]
- 3.7. If both the Presiding Member and Deputy Presiding Member are absent from a CAP meeting (or part thereof), a CAP Member will be appointed from those present by means of resolution, and will preside at the meeting. That member will have all of the powers and duties of the Presiding Member.

Meeting behavior

- 3.8. Subject to the PDI Act and these Operating Procedures, the Presiding Member will facilitate the meeting in a manner which promotes relevant, orderly, constructive, respectful and expeditious discussion, but not repetitious discussion, with the intent of ensuring well-informed decisions and debate leading to a determination of any matters before the Panel.
- 3.9. The Presiding Member may adjourn a meeting in the event of a disruption or disturbance by a CAP Member, an applicant, a representor, or any other person present at the CAP meeting, until such time as the disruption or disturbance ceases.
- 3.10. The Presiding Member may ask a member of the public who is present at a meeting of a CAP to leave the meeting if this person is:
- 3.10.1 behaving in a disorderly manner; or
- 3.10.2 causing an interruption.

4 Appointment of Deputy Elected Member

- 4.1. A Deputy Elected Member has been appointed to the CAP in the event the Elected Member on the CAP is not available for a meeting or part meeting.
- 4.2. The Deputy Elected Member will attend when:
 - 4.2.1 The Elected Member notifies the Presiding Member of their unavailability before the meeting; and
 - 4.2.2 The Deputy Elected Member receiving the Agenda for the meeting three days prior to the meeting.
- 4.3. Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes a Deputy Elected Member.

5 Appointment of Additional Members

- 5.1. The CAP may appoint up to two Additional Members in accordance with Section 85 of the PDI Act.
- 5.2. Where the CAP has appointed Additional Member(s), the Presiding Member, in consultation with the Assessment Manager, may invite one or both Additional Members to attend any meeting (or part thereof) where he or she considers the Additional Member(s) will, by virtue of their qualifications, expertise or experience, assist the CAP in dealing with a matter that it must assess under the PDI Act (or, during the transition to the PDI Act, the Development Act 1993).
- 5.3. A request that an Additional Member attend a meeting must be made in writing and be accompanied by the notice for the meeting in accordance with clause 2.6, highlighting the item(s) the Additional Member is required to consider.
- 5.4. Unless the context otherwise requires, a reference to a Member in these Meeting Procedures includes an Additional Member, save that an Additional Member is not able to vote on any matter arising for determination by the CAP.

6 Decision Making

- 6.1. The CAP will conduct its meetings, and undertake all considerations, in accordance with the PDI Act (or, during the transition to the PDI Act, the Development Act).

Public meetings

- 6.2. Subject to circumstances where it excludes the public from attendance at a meeting or part thereof pursuant to Part 13 of the Development, Infrastructure (General) (Assessment Panels) Variation Regulations 2017, the Panel will generally discuss and determine applications for Development Plan Consent in public.

Member participation

- 6.3. The Presiding Member will invite all Panel members to speak on any matter before the Panel prior to calling for a motion.
- 6.4. Subject to a CAP Member not having a direct or indirect personal or pecuniary interest in a matter before the CAP (other than an indirect interest that exists in common with a substantial class of persons), each CAP Member present at a meeting of the CAP must vote on a question arising for decision.

Decisions by consensus

- 6.5. Decisions of the Panel will be where possible by consensus determined through debate and discussion of the agenda item, and where a consensus is reached the Presiding Member shall then call for a mover and confirm the consensus by a show of hands.

Decisions by vote

- 6.6. Where it is evident through debate and discussion that a consensus will not be reached by the Panel, the Presiding Member shall call for a mover and put the matter to a formal vote to determine.
- 6.7. Each CAP Member present at a meeting is entitled to one vote on any matter arising for decision and, if the votes are equal, the Member Presiding at the meeting is entitled to a second or casting vote.
- 6.8. All decisions of the CAP shall be made on the basis of a majority decision of the Members present and the Minutes shall record that decision only (Votes for/against will not be recorded, and are not relevant once the majority is determined).

CAP considerations

- 6.9. The CAP must use the Development Plan or Planning and Design Code (as may be relevant to the particular application under consideration), referred to hereafter as the Planning Rules, as the basis for its decisions, having had regard to any relevant written and verbal representations made in accordance with the provisions of the Act, or any other relevant legislation.

Seriously at variance

- 6.10. The CAP will, for each and every application, determine whether the proposal is seriously at variance with the Planning Rules, and expressly record its determination on this matter in the Minutes. If the CAP determines that the proposal is seriously at variance with the Planning Rules, the CAP must provide reasons for its determination, and must expressly record those reasons in the Minutes.
- 6.11. A development application that is assessed by the CAP as being seriously at variance with the Planning Rules will be refused.

Reasons for decision

- 6.12. The CAP must, for each and every application, provide reasons for granting or refusing Planning Rules Consent, and for the imposition of any conditions, and express or record those reasons in the Minutes.

Representations

- 6.13. Subject to the Act, a person who has lodged a valid representation in relation to a Category 2 or 3 development application, and has indicated their desire to be heard on their representation, is entitled to appear before the CAP and be heard in support of their representation, in person or by an agent.
- 6.14. The Presiding Member may in his or her discretion exclude:
- 6.14.1 a representation or response to representation(s) which is received out of time; or
 - 6.14.2 a representation or response to representation(s) which is otherwise invalid.

Speaking time

- 6.15. Applicants and Representors will be allowed five minutes to address the CAP, unless a longer time is allowed by the Presiding Member. Where a person is nominated in a representation or by notice of the representors as representing three or more representors (including themselves) the Presiding Member may allow a longer time to address the Panel. Where an applicant is responding to a significant number of representations or a significant number of issues raised in representations, the Presiding Member may allow a longer time to address the Panel.

Hearing applicants

- 6.16. Should there be no Representor wishing to be heard for a non-complying development application, Category 2 or Category 3 development application, and the recommendation is for a refusal, the Applicant will be entitled to appear before the CAP and be heard in support of the application. Applicants will be allowed five minutes to address the CAP, unless a longer time is allowed by the Presiding Member.
- 6.17. Should there be no Representor wishing to be heard for a non-complying development application, Category 2 or Category 3 development application, and the recommendation is for approval, the Presiding Member may allow the Applicant to address the Panel to seek clarification and/or further information that may be required by the Panel in order to determine the application.

Additional material

- 6.18. At the discretion of the Presiding Member, any new or additional material to be submitted to the CAP by a person who has made a development application or a valid representation in relation to a matter may be accepted and considered by the CAP. A copy of any additional material accepted shall be provided to the applicant or representors by the party presenting the additional material.

Member's participation

- 6.19. A CAP Member may ask questions of any person appearing before the CAP. Subject to the Presiding Member's determination, all questions shall be relevant to the subject of the development application before the panel.

7 Minutes and Reporting

- 7.1. The Assessment Manager is responsible for ensuring that accurate Minutes are kept of Panel meetings and that they are confirmed by the Panel and signed by the Presiding Member.
- 7.2. The Minutes of the proceedings of a CAP meeting will record:
- 7.2.1 the names of the CAP Members present;
 - 7.2.2 the names of all CAP Members from whom apologies have been received;
 - 7.2.3 the name and time that a CAP Member enters or leaves the meeting;
 - 7.2.4 the name of a person who has made a representation to the CAP at the meeting;
 - 7.2.5 the decision of the CAP, including the express opinion of the CAP on whether the proposed development is seriously at variance with the Planning Rules (including reasons as appropriate);
 - 7.2.6 reasons for granting or refusing Planning Rules Consent, and for the imposition of any conditions on a Planning Rules Consent;
 - 7.2.7 in the absence of a decision, the deferral of the application including the reasons for the deferral;
 - 7.2.8 any disclosure of a conflict of interest made by a Member pursuant to the Code of Conduct adopted by the Minister under Clause 1(1)(c) of Schedule 3 of the Act (Code of Conduct), and the nature of the Interest;

7.2.9 a decision to exclude public attendance; and

7.2.10 a notation, describing the confidential nature of the information and matter, in the event a matter has been excluded from the Minutes.

- 7.3. Minutes shall be read and adopted by the CAP at the end of the meeting.
- 7.4. On the adoption of the Minutes, the Assessment Manager will forward the Minutes to the Presiding Member who will confirm the Minutes by electronic communication.
- 7.5. The Minutes of a CAP meeting must be forwarded to the Council and must be publicly available within two business days after their confirmation by the CAP.

Annual report

- 7.6. The Panel shall prepare and consider an Annual Report for presentation to the Council via the appropriate Standing Committee. The Annual Report may be presented by the Presiding Member and may contain (but not be limited to) statistical information in relation to the number of items considered, the outcomes of decisions on those items, and matters identified by the Panel in the course of its assessment of development applications that warrant referral to Council for consideration of Planning Rules policy, legislative, or procedural change.
- 7.7. The Annual Report shall be presented to Council on or around the anniversary date of the appointment of the Panel, subject to Council meeting timing.

8 CAP Procedures & Support

Additional procedures

- 8.1. Insofar as the Act and these Operating Procedures do not prescribe the procedure to be followed at a CAP meeting, the CAP may determine the procedure at the time. Any such determination may be added to these Operating Procedures.

Staff Participation

- 8.2. The CAP will permit and encourage the active participation of Council staff in attendance at a meeting in providing advice to the CAP.

Assistance

- 8.3. The CAP may call for and consider such professional assistance from Council staff and other professional advisors as it deems necessary and appropriate.

Electronic communication

- 8.4. For the purpose of facilitating constructive debate on a development application under consideration by CAP, electronic communication or other telecommunication devices may be acceptable delivery method, at the discretion of the Presiding Member, for the purpose of conducting the meeting and hearing verbal representation from a person, or their representative, in support of their representation concerning a development application, and providing the applicant, or their representative, the opportunity to verbally respond to any relevant matter. Should electronic communication or other telecommunication devices be utilised they should ensure fair and equitable communication to all attendees to the CAP meeting.
- 8.5. Should electronic communication or other telecommunication devices be utilised for the conduct of a CAP meeting, all voting shall be conducted on the voices, with the Presiding Member verbally acknowledging each individual vote before declaring the outcome of the vote, and noted in the minutes of the meeting, consistent with *Part 6: Decision Making* of the Operating Procedures.
- 8.6. Should electronic communication or other telecommunication devices be utilised for the conduct of a CAP meeting, the Presiding Member and the Assessment Manager shall be present at the meeting place as nominated in the CAP Agenda for that meeting.

Appendix A

No 209 of 2017 published in *Gazette 1.8.2017 p 3051*

South Australia

Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017

under the *Planning, Development and Infrastructure Act 2016*

Contents

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- 3 Variation provisions

Part 2—Variation of *Planning, Development and Infrastructure (General) Regulations 2017*

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- Part 2—Administration and structural matters
- 5 Variation of regulation 8—Disclosure of financial interests
- 6 Insertion of regulation 11
 - 11 Compliance with code of conduct—assessment panels
- 7 Insertion of Part 3

Part 3—Assessment panels—procedures

- 12 Application
- 13 Public access to meetings
- 14 Minutes and other documents
- 15 Quorum
- 16 Voting
- 17 Validity of proceedings
- 18 Other matters

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017*.

2—Commencement

These regulations will come into operation on 1 October 2017.

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 *Planning, Development and Infrastructure (General) Regulations 2017*

4—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—Administration and structural matters

5—Variation of regulation 8—Disclosure of financial interests

Regulation 8—after subregulation (12) insert:

- (13) For the purposes of paragraph (b) of the definition of *relevant official* in clause 1(1) of Schedule 1 of the Act in relation to an assessment panel appointed by a council, the chief executive officer of the council is prescribed as the relevant official.

6—Insertion of regulation 11

After regulation 10 insert:

11—Compliance with code of conduct—assessment panels

- (1) In this regulation—
code of conduct means the code of conduct to be observed by members of an assessment panel adopted by the Minister under clause 1(1)(c) of Schedule 3 of the Act.
- (2) A person may make a complaint to the Commission if the person believes that a member of an assessment panel has acted in contravention of the code of conduct.
- (3) A complaint must—
 - (a) be in writing; and
 - (b) contain particulars of the allegation on which the complaint is based; and
 - (c) be verified by statutory declaration.
- (4) Except with the approval of the Commission, a complaint must not be lodged with the Commission more than 6 months after the day on which the complainant first had notice of the matters alleged in the complaint.
- (5) The Commission may require the complainant to give further particulars of the complaint (verified, if the Commission so requires, by statutory declaration).
- (6) The Commission may refuse to entertain a complaint or, having accepted a complaint for investigation, may refuse to continue to entertain a complaint, if it appears to the Commission—
 - (a) that the complainant does not have a sufficient interest in the matter to which the complaint relates; or

Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017
Variation of Planning, Development and Infrastructure (General) Regulations 2017—Part 2

- (b) that the matter raised by the complaint is trivial; or
 - (c) that the complaint is frivolous or vexatious or is not made in good faith; or
 - (d) that there is some other good reason not to proceed (or further proceed) with the matter under this regulation.
- (7) The Commission may, as the Commission's first step in dealing with a complaint, refer the matter to the member of the assessment panel to whom the complaint relates for a response.
- (8) The Commission may take such further action as the Commission thinks fit (including deciding not to proceed further with the matter).
- (9) The Commission may, whether or not the Commission has acted under subregulation (7), appoint a person to investigate a complaint.
- (10) If the Commission appoints an investigator—
- (a) the Commission must inform the member of the assessment panel to whom the complaint relates of the appointment of an investigator and furnish formal notification of the nature of the complaint; and
 - (b) the investigator must conduct an investigation into the complaint as soon as practicable after the appointment has been made; and
 - (c) the investigator must give the member of the assessment panel to whom the complaint relates a reasonable opportunity to make representations to the investigator about the complaint; and
 - (d) the investigator may require—
 - (i) the complainant; and
 - (ii) the member of the assessment panel to whom the complaint relates,
 to provide to the investigator any document or other information relevant to the investigation of the complaint (verified, if the investigator so requires, by statutory declaration); and
 - (e) the investigator—
 - (i) must otherwise comply with the rules of natural justice; and
 - (ii) subject to subparagraph (i), may conduct the investigation in such a manner as the investigator thinks fit (including by undertaking such other consultations and undertaking such other inquiries as the investigator thinks fit).

Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017
Variation of Planning, Development and Infrastructure (General) Regulations 2017—Part 2

- (11) If during an investigation the investigator is satisfied that there is a matter about which another complaint could have been made against the member of the assessment panel, the investigator may, after consultation with the Commission, deal with the matter as if a complaint had been made about the matter.
- (12) The investigator—
 - (a) may report to the Commission at any stage of the investigation; and
 - (b) must present a report to the Commission at the conclusion of the investigation.
- (13) The Commission must provide the person to whom the complaint relates with a copy of a report presented under subregulation (12)(b) (and the Commission may, if the Commission thinks fit, invite a response from the person).
- (14) The Commission may, on the receipt of a report under subregulation (12)(b), or at the conclusion of any process that the Commission has adopted in the alternative—
 - (a) decide to take no further action on the complaint; or
 - (b) undertake any consultation or further inquiry as the Commission thinks fit; or
 - (c) take action to have the member of the assessment panel to whom the complaint relates removed from office; or
 - (d) take such other action as the Commission thinks fit.
- (15) The Commission must inform the complainant of the outcome of a complaint under subregulation (14).
- (16) Without limiting a preceding subregulation, the Commission may, at any time, consult with or provide a report to—
 - (a) the Minister; and
 - (b) in the case of a complaint that relates to a member of an assessment panel appointed by a joint planning board or a council, the joint planning board or the council (as the case requires),about a complaint that has been made under this regulation.
- (17) Nothing in this regulation limits or restricts any action or proceedings that may be taken against or in relation to a member of an assessment panel on account of the member being an accredited professional under the Act.

7—Insertion of Part 3

After Part 2 insert:

Part 3—Assessment panels—procedures

12—Application

This Part applies to and in relation to the procedures of an assessment panel established under section 83 of the Act or clause 12 or 13 of Schedule 8 of the Act.

13—Public access to meetings

- (1) In connection with the conduct of the proceedings of an assessment panel, members of the public are entitled to attend a meeting of the panel other than as set out in subregulation (2).
- (2) An assessment panel may exclude the public from attendance at a meeting—
 - (a) during so much of the meeting as is necessary to receive, discuss or consider in confidence any of the following matters:
 - (i) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (ii) information the disclosure of which—
 - (A) could unreasonably be expected to confer a commercial advantage on a person, or to prejudice the commercial position of a person; and
 - (B) would, on balance, be contrary to the public interest;
 - (iii) information the disclosure of which would reveal a trade secret;
 - (iv) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (A) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (B) would, on balance, be contrary to the public interest;
 - (v) matters affecting the safety or security of any person or property;

- (vi) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (vii) matters that should be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (viii) legal advice;
- (ix) information relating to actual litigation, or litigation that the assessment panel believes on reasonable grounds will take place;
- (x) information the disclosure of which—
 - (A) would divulge information provided on a confidential basis by or to a Minister of the Crown, the Commission, or another public authority or official; and
 - (B) would, on balance, be contrary to the public interest; and
- (b) during so much of the meeting that consists of its discussion or determination of any application or other matter that falls to be determined by the assessment panel.

14—Minutes and other documents

- (1) An assessment panel must ensure that accurate minutes are kept of its proceedings.
- (2) A disclosure by a member of an assessment panel of a direct or indirect pecuniary interest in any aspect of a development or any body associated with any aspect of a development required under the Act must be recorded in the minutes of the assessment panel.
- (3) Members of the public are entitled to reasonable access to—
 - (a) the agendas for meetings of an assessment panel; and
 - (b) the minutes of meetings of an assessment panel.
- (4) However, an assessment panel may, before it releases a copy of any minutes under subregulation (3), exclude from the minutes information about any matter dealt with on a confidential basis by the assessment panel.
- (5) Minutes must be available under subregulation (3) within 5 business days after their adoption by the members of the assessment panel.

Planning, Development and Infrastructure (General) (Assessment Panels) Variation Regulations 2017
Variation of Planning, Development and Infrastructure (General) Regulations 2017—Part 2

15—Quorum

A quorum at a meeting of an assessment panel is a number obtained by dividing the total number of members of the assessment panel for the time being in office by 2, ignoring any fraction resulting from the division, and adding 1.

16—Voting

- (1) Each member of an assessment panel present at a meeting of the assessment panel is entitled to 1 vote on a matter arising for decision and, if the votes are equal, the member presiding at the meeting is entitled to a second or casting vote.
- (2) Subregulation (1) does not apply to a person who is taken to be a member of an assessment panel under section 85 of the Act.

17—Validity of proceedings

A proceeding of an assessment panel (and any decision made by an assessment panel) is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

18—Other matters

Except insofar as a procedure is not prescribed by the Act or these regulations, the procedures of an assessment panel in relation to the conduct of its business will be as determined by the assessment panel (and an assessment panel is accordingly a specified body for the purposes of section 246(6)(d) of the Act).

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.

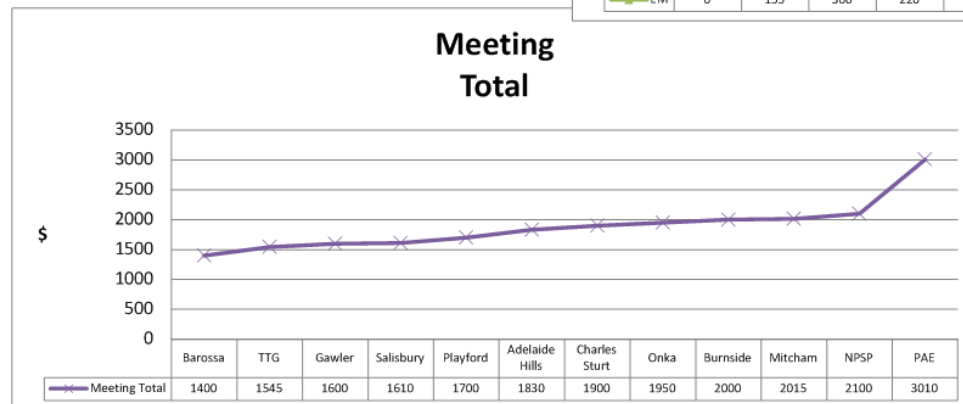
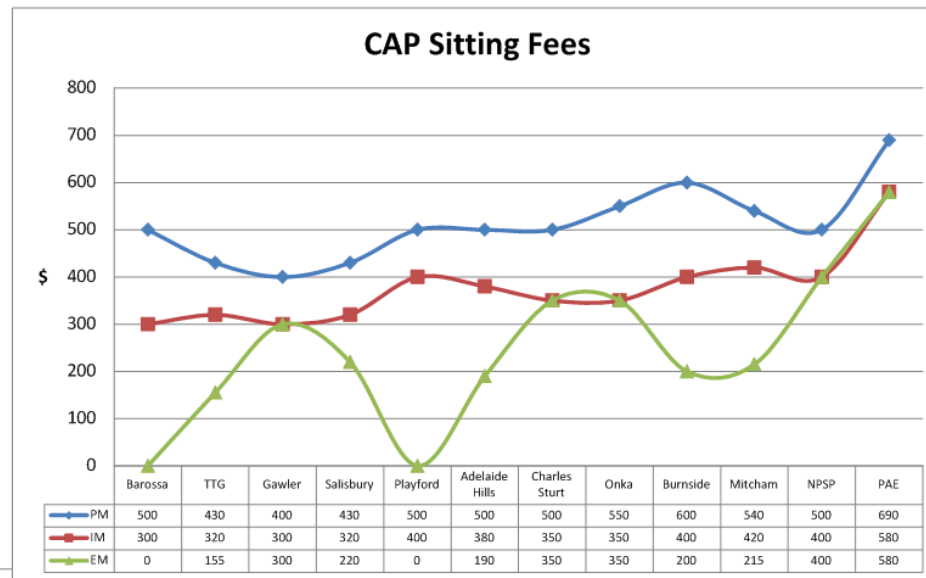
Made by the Governor

with the advice and consent of the Executive Council
on 1 August 2017

No 209 of 2017

PLN0019/17CS

	PM	IM	EM	Meeting Total
Barossa	500	300	0	1400
TTG	430	320	155	1545
Gawler	400	300	300	1600
Salisbury	430	320	220	1610
Playford	500	400	0	1700
Adelaide Hills	500	380	190	1830
Charles Sturt	500	350	350	1900
Onka	550	350	350	1950
Burnside	600	400	200	2000
Mitcham	540	420	215	2015
NPSP	500	400	400	2100
PAE	690	580	580	3010
Ave	512	377	247	1888



ITEM	3.4.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
HEADING	Nominations Sought for two (2) casual vacancies of the Greater Adelaide Regional Organisation of Councils (GAROC)
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	The Local Government Association (LGA) has called for nominations to fill two (2) positions on the Greater Adelaide Regional Organisation of Councils (GAROC) to commence office from the declaration of this election and to remain in office until the conclusion of the 2020 Annual General Meeting. Nominations must be received by the LGA by 5:00pm Friday 22 February 2019.

RECOMMENDATION

1. The information be received.

ATTACHMENTS

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

1. GAROC Membership Map
2. GAROC Terms of Reference

1. BACKGROUND

- 1.1 Greater Adelaide Regional Organisation of Councils (GAROC) was formally established through the LGA Constitution (Operational from 26 October 2018) and its role is to lead regional advocacy, policy initiation and review, leadership engagement and capacity building in the greater Adelaide region(s).
- 1.2 In August 2018 the LGA sought nominations to fill eight (8) positions on the Greater Adelaide Regional Organisation of Councils (GAROC) as required in the new Constitution which was adopted at the April 2018 Ordinary General Meeting.
- 1.3 As a result of 13 nominations being received, an election was then held by postal ballot to determine which eight (8) candidates would fill the positions. Mayor Gillian Aldridge was nominated by Council and duly elected at this time as a member of GAROC. A copy of the GAROC Membership Map is attached to this report (Attachment 1).

3.4.1 Nominations Sought for two (2) casual vacancies of the Greater Adelaide Regional Organisation of Councils (GAROC)

- 1.4 On 9 January 2019, the Chief Executive Officer of the LGA, Matt Pinnegar, wrote to the Chief Executive Officer inviting nominations to fill two (2) positions on GAROC to commence office from the declaration of this election and to remain in office until the conclusion of the 2020 Annual General Meeting.
- 1.5 It should be noted that as Mayor Aldridge is already a member of GAROC, a further nomination from Council may not be required.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Nil.
- 2.2 External
 - 2.2.1 Nil

3. REPORT

- 3.1 At April 2018 Ordinary General Meeting (OGM), the LGA membership adopted a new Constitution (operational from 26 October 2018) which, amongst other items, provided for the LGA Board to adopt a Terms of Reference (TOR) for GAROC (Attachment 2). The GAROC TOR outlines how members can be elected to GAROC, the function of GAROC and how GAROC will operate.
- 3.2 The GAROC TOR provides for the calling of nominations for eight (8) members of GAROC from the Greater Adelaide region by no later than 3 months prior to the AGM before the officers are due to retire. In addition, ballot papers are required to be distributed at least 6 weeks prior to the AGM.
- 3.3 Pursuant to clause 4.2.1 of the GAROC TOR the number of positions available are up to 8 GAROC members to represent the Greater Adelaide region. If the number of nominations exceeds the number of vacancies, the representatives will be elected from those persons who are nominated by ballot.
- 3.4 A nomination as a Member GAROC representing the Greater Adelaide Metropolitan area must be a member of one of the following councils:
 - Adelaide Hills Council
 - City of Burnside
 - Campbelltown City Council
 - City of Charles Sturt
 - Town of Gawler
 - City of Holdfast Bay
 - City of Marion
 - City of Mitcham
 - City of Norwood, Payneham and St Peters
 - City of Onkaparinga
 - City of Playford
 - City of Port Adelaide Enfield
 - City of Prospect
 - City of Salisbury
 - City of Tea Tree Gully
 - City of Unley
 - Town of Walkerville; and
 - City of West Torrens.

- 3.5 If a ballot is required, the distribution of ballot papers to councils will include any information provided by the candidates to the Returning Officer in accordance with the requirements specified in clause 4.4.5 of the GAROC TOR.
- 3.6 An election was held in October 2018 to determine the (8) positions on GAROC as required in the new Constitution and at that time Mayor Aldridge was elected, taking office at the conclusion of the AGM.
- 3.7 At the time, the LGA acknowledged that that because of the timing of the AGM, the election of LGA Board and President, and the local government general election; that there is the potential for the President and/or a Board member(s) to not be elected in their respective council and thus causing a casual vacancy. Under the new Constitution, the casual vacancy provisions would apply in this case.
- 3.8 The outcome of the general council elections in November has resulted in two (2) casual vacancies on GAROC. Clause 4.7.3 of the GAROC TOR provides that the following processes will apply to fill these casual vacancies:
- 4.7.3 *If there is a casual vacancy in the membership of GAROC then the GAROC Regional Grouping relevant to the GAROC member the subject of the casual vacancy will appoint by resolution of the majority of Members comprising the GAROC Regional Grouping another Council Member to serve as a member of GAROC for the balance of the membership team.*
- 3.9 This provision was based on the premise that GAROC would be divided into regions, rather than the one region that currently exists. The LGA has obtained legal advice in relation to this matter, which indicates that GAROC should determine the process to fill the casual vacancies. It has been resolved by GAROC to conduct an election to fill the two casual vacancies as if it was undertaking its two yearly general GAROC elections.
- 3.10 Consequently, the Chief Executive Officer of the LGA, Matt Pinnegar, has written to the Chief Executive Officers inviting nominations by council resolution to fill the two (2) vacant positions on GAROC arising as a result of the general elections.
- 3.11 A ballot will be conducted by the LGA if the number of nominations for GAROC exceeds the required number of candidates.
- 3.12 If a ballot is required, the distribution of ballot papers to councils will include any information provided by the candidates to the Returning Officer in accordance with the requirements specified in clause 4.4.5 of the GAROC TOR.
- 3.13 Key (indicative) timings and GAROC Terms of Reference provisions are outlined in the following table:

Indicative Timing	Headline	SAROC TOR Provision
n/a	Returning Officer	Returning Officer for all LGA electoral matters is the Chief Executive Officer (Clause 4.4.1)

3.4.1 Nominations Sought for two (2) casual vacancies of the Greater Adelaide Regional Organisation of Councils (GAROC)

10 January 2019	Nominations Called	CEO to write to members of GAROC calling for nomination for position of members of GAROC (Clause 4.3.2).
22 February 2019	Nominations Close	Nominations must be received by the CEO no later than 5pm on the day specified for the close of nomination (Clause 4.3.4). Council's will have 6 weeks to lodge their nominations.
n/a	Nominations equal to vacancies	If the number of nominations received equals the number of vacant positions each candidate is elected (Clause 4.4.3).
1 March 2019	Ballot papers prepared and posted	CEO shall deliver ballot papers to each GAROC member council (Clause 4.4.5(b)).
11 April 2019	Voting closes	The returning officer will determine the closing date for voting with reference to Clause 4.4.5(f) for counting of votes. Council's will have 6 weeks to lodge their votes.
12 April 2019	Counting of votes	The CEO shall nominate the date, time and place for the counting of votes (Clause 4.4.5(f)).
12 April 2019	Final declaration of result	CEO shall declare the candidate with the most votes elected at the conclusion of the counting of the votes. The candidates elected will commence their term immediately and will remain in office until the conclusion of the 2020 AGM.

4. CONCLUSION / PROPOSAL

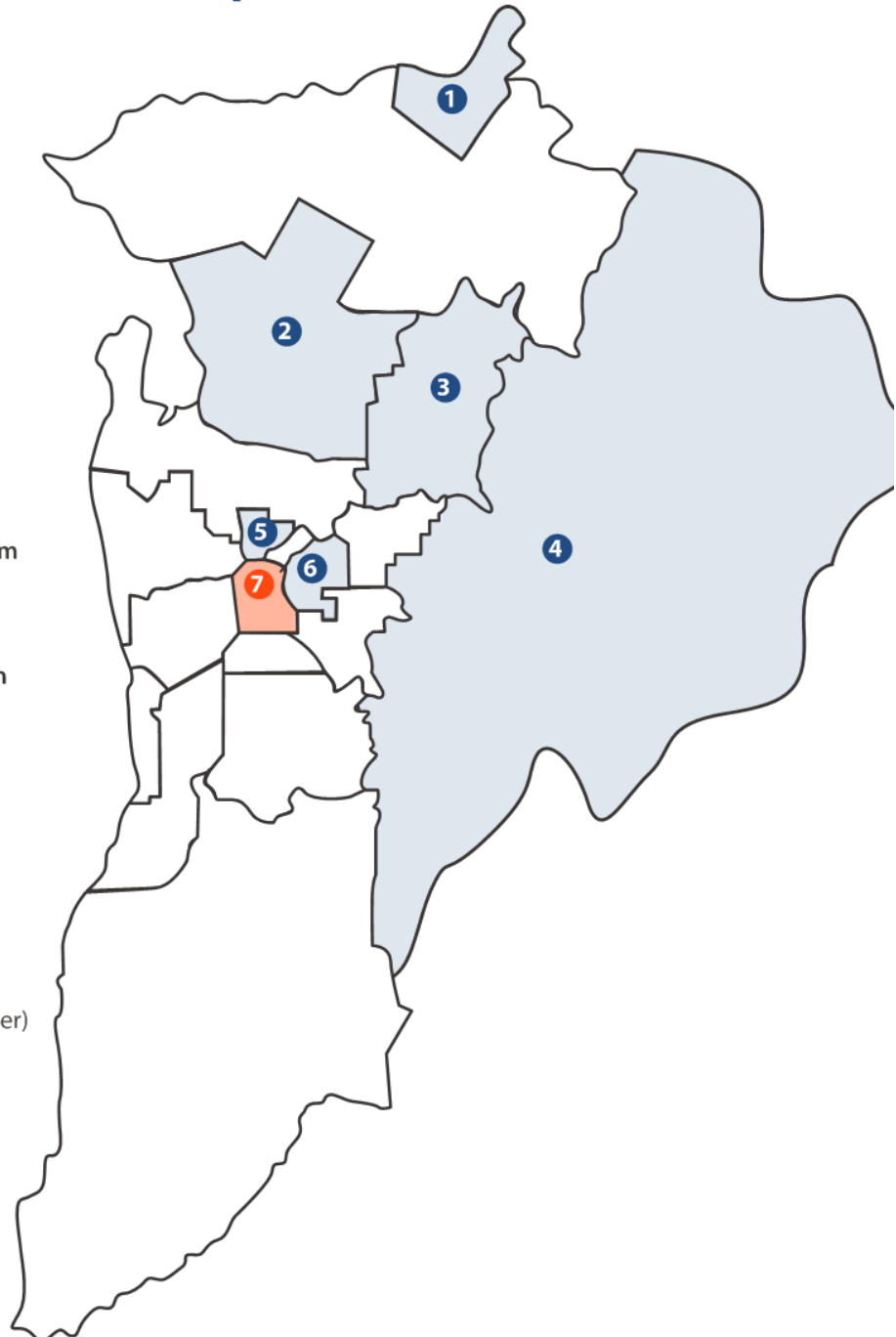
- 4.1 The Chief Executive Officer of the LGA, Matt Pinnegar, has written to the Chief Executive Officer inviting nominations by resolution of Council to fill the two (2) vacant positions on GAROC arising as a result of the 2018 general elections.
- 4.2 It should be noted Mayor Gillian Aldridge is a current member of GAROC and as such Council is not obliged to submit a nominations.

CO-ORDINATION

Officer: Executive Group
Date: 14/01/2019

January 2019 GAROC Membership

- 1** Mayor Karen Redman
Town of Gawler
(GAROC Chair)
- 2** Mayor Gillian Aldridge
City of Salisbury
(Office of the Immediate
Past President)
- 3** Mayor Kevin Knight
City of Tea Tree Gully
(Board Director)
- 4** Mayor Jan-Claire Wisdom
Adelaide Hills Council
(Board Director)
- 5** Mayor David O'Loughlin
City of Prospect
(Board Director)
- 6** Cr Christel Mex
City of Norwood,
Payneham & St Peters
- 7** Lord Mayor
Sandy Verschoor
City of Adelaide
(GAROC standing member)



Local Government Association of South Australia**GAROC Terms of Reference****13 April 2018****1. Establishment**

In accordance with clause 19 of the Local Government Association of South Australia Constitution and Rules (adopted April 13, 2018) (**Constitution**) there are 2 regional organisations of Members: the South Australian Region Organisation of Councils (**SAROC**) and the Greater Adelaide Region Organisation of Councils (**GAROC**).

2. Terms of Reference

- 2.1. These Terms of Reference set out the functions to be discharged by GAROC.
- 2.2. The operation of the Terms of Reference may be altered by the Board of Directors either generally or in respect of specific circumstances by resolution with the exception of Clauses 4.2, 4.3 and 4.4. A resolution for the purposes of this clause 2.2 will be reported to the chairperson of GAROC within 24 hours of the meeting of the Board of Directors at which the resolution was passed.
- 2.3. These Terms of Reference will be presented to the Members at a General Meeting for ratification annually (or more frequently as determined by the Board).
- 2.4. Clauses 4.2, 4.3 or 4.4 of this Terms of Reference may be altered only:
 - 2.4.1. By resolution passed at a General Meeting of which at least 30 days' notice has been given to Members; and
 - 2.4.2. With approval of the Minister.
- 2.5. A capitalised term not defined in this document has the meaning provided for the term in the Constitution.

3. Status

GAROC is a committee of the LGA and is responsible to the Board of Directors for the discharge of its functions.

4. GAROC**4.1. Role**

The role of GAROC is regional advocacy, policy initiation and review, leadership, engagement and capacity building in the region(s).

4.2. Membership

- 4.2.1. The GAROC Regional Grouping of Members listed in the schedule to these Terms of Reference will elect in accordance with clause 4.3 and 4.4 from the Members of the GAROC Regional Grouping eight (8) Council Members of Members in the GAROC Regional Grouping to GAROC provided that each person elected is from a different Member.



- 4.2.2. In addition to the members of GAROC elected in accordance with clause 4.2.1, the Lord Mayor of the City of Adelaide or his or her nominee (also being a Council Member of the City of Adelaide) will be a standing member of GAROC.

4.3. Nominations for election to GAROC

- 4.3.1. The members of GAROC will be elected biennially.
- 4.3.2. In the year in which GAROC members will be elected, and at least 3 months before the Annual General Meeting, the Chief Executive shall write to all Members of GAROC as listed in the schedule calling for nominations for the membership of GAROC.
- 4.3.3. A nomination of a person as a member of GAROC must be by resolution of the Member received by the Chief Executive not later than 5 pm on the day specified for the closure of nominations (**Close of Nominations**). A nomination must be signed by the candidate indicating his or her willingness to stand for election and be in the form determined by the Chief Executive.

4.4. Election to GAROC

- 4.4.1. The Chief Executive shall be the returning officer for any election of members to GAROC.
- 4.4.2. After the Close of Nominations, the Chief Executive will notify Members of the GAROC Regional Grouping of the candidates for membership of GAROC nominated in the Regional Grouping of Members.
- 4.4.3. If the only nominations received from a Regional Grouping of Members by the Close of Nominations match the membership positions described in clause 4.2.1 then the Chief Executive will declare those persons duly elected to those membership positions.
- 4.4.4. If the number of persons nominated by the Close of Nominations by the Regional Grouping of Members exceeds the number of membership positions described 4.2.1 then an election for the purpose of clause 4.2.1 must be held in accordance with this clause.
- 4.4.5. In the event of an election being required, the Chief Executive shall conduct the election as follows:
- (a) at least six weeks before the Annual General Meeting, the Chief Executive shall deliver ballot papers to each Member of the Regional Grouping of Members;
 - (b) the ballot papers shall:
 - (i) list the candidate or candidates for election;
 - (ii) specify the day of closure of the election; and
 - (iii) be accompanied by an envelope marked "Ballot Paper" and a second envelope marked "Returning Officer";

- (c) each Member shall determine by resolution the candidate or candidates (as relevant) it wishes to elect;
 - (d) the chair of the meeting for that Member shall mark the ballot paper with an "X" next to the candidate or candidates (as relevant) that the Member wishes elected and seal the ballot paper in the envelope marked "Ballot Paper" inside the envelope marked "Returning Officer". Before sealing the second envelope the chair must indicate the Member's name on the inside flap of the envelope. The envelope may then be sealed and delivered to the Returning Officer;
 - (e) on receipt of the envelopes the Chief Executive must:
 - (i) open the outer envelope addressed to the "Returning Officer" and record the name of the Member which appears on the inside flap of the envelope on the roll of Member's eligible to vote; and
 - (ii) place the envelope marked "Ballot Paper" unopened into the ballot box;
 - (f) the Chief Executive shall nominate the date, time and place for the counting of votes and shall invite each candidate and a person nominated as the candidate's scrutineer to be present;
 - (g) at the counting of the votes the Chief Executive shall produce unopened envelopes marked "Ballot Paper" and if satisfied that all votes are valid, count the number of votes received by each candidate;
 - (h) in respect of an election for the purposes of clause 4.2.1, the 8 candidates with the most votes shall be deemed elected and the Chief Executive shall declare the candidates elected at the Annual General Meeting.
 - (i) in the case of candidates for membership positions described in clause 4.2.1 receiving the same number of votes, the Chief Executive shall draw lots at the counting of the votes to determine which candidate is elected.
- 4.4.6. The Chief Executive may, in his or her discretion, appoint a deputy returning officer and delegate any of his or her powers, functions or duties to that person who shall act accordingly.

4.5. Term of office

The term of office for members of GAROC shall commence after the Annual General Meeting of the year in which the member is elected. Each member of GAROC will serve for a period of 2 years or until a circumstance causing a casual vacancy as described in clause 4.8.1 occurs.

4.6. Duties

- 4.6.1. Each member of GAROC must:



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- (a) undertake his or her role as a GAROC member honestly and act with reasonable care and diligence in the performance and discharge of functions and duties;
- (b) not make improper use of information acquired by virtue of his or her position as a GAROC member to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the LGA;
- (c) not make improper use of his or her position as a GAROC member to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the LGA; and
- (d) not act in any matter where the GAROC member has a conflict of interest (provided that an interest shared in common with all or a substantial proportion of the members of GAROC will not be an interest giving rise to a conflict of interest).

4.7. Absences and casual vacancies

- 4.7.1. A leave of absence may be granted to a member of GAROC by resolution of GAROC. A replacement member of GAROC will be appointed for the period of the leave of absence by resolution of the majority of Members comprising the GAROC Regional Grouping relevant to the person the subject of the leave of absence.
- 4.7.2. A casual vacancy will occur in the office of a member of GAROC if the member of GAROC:
 - (a) dies;
 - (b) resigns from GAROC;
 - (c) is dismissed by resolution of the Board of Directors from GAROC for Misconduct; or
 - (d) ceases to be a Council Member,
 or an administrator is appointed to administer the affairs of the Member for which the member of GAROC is a Council Member.
- 4.7.3. If there is a casual vacancy in the membership of GAROC then the GAROC Regional Grouping relevant to the GAROC member the subject of the casual vacancy will appoint by resolution of the majority of Members comprising the GAROC Regional Grouping another Council Member to serve as a member of GAROC for the balance of the membership term.

5. Responsibilities

5.1. Board of Directors

- 5.1.1. The role of the Board of Directors is to oversee corporate governance of the LGA and provide strategic direction and leadership.
- 5.1.2. The duties of the Board of Directors are to ensure that:
 - (a) the LGA acts in accordance with applicable laws and this Constitution;



- (b) the LGA acts ethically and with integrity, respecting diversity and striving for gender balance participation in all activities;
- (c) the activities of the LGA are conducted efficiently and effectively and that the assets of the LGA are properly managed and maintained;
- (d) subject to any overriding fiduciary or other duty to maintain confidentiality, the affairs of the LGA are undertaken in an open and transparent manner; and
- (e) the LGA performs to its business plan and achieves or better the financial outcomes projected in its budget.

5.1.3. The Board of Directors may from time to time refer matters to GAROC for consideration.

5.1.4. The Board of Directors will receive, consider and respond to any report and recommendations provided to the Board of Directors by GAROC.

5.1.5. The Board of Directors will periodically review the performance of GAROC.

5.2. GAROC

5.2.1. GAROC will fulfil its functions under these Terms of Reference in a timely, objective and professional manner consistent with the 'LGA Strategic Management Framework'.

5.2.2. GAROC may, through the Chief Executive and at the LGA's expenses, seek external legal, financial or other advice on matters within its functions or concerning these Terms of Reference.

5.3. Chief Executive

5.3.1. The Chief Executive will make available to GAROC information of the LGA which is relevant to the functions of GAROC.

5.3.2. The Chief Executive will ensure that administrative support and other resources are made available to GAROC as included in the GAROC approved annual business plan and budget to enable GAROC to discharge its obligations under these Terms of Reference.

5.3.3. Resources made available to GAROC will include resourcing by the LGA Office or external resources considered appropriate by the Chief Executive acting in consultation with GAROC.

6. Functions of GAROC

6.1. LGA Object

6.1.1. The object of the LGA is to achieve public value through the promotion and advancement of the interests of local government by:

- (a) advocating to achieve greater influence for local government in matters affecting councils and communities;
- (b) assisting member councils to build capacity and increase sustainability through integrated and coordinated local government; and



- (c) advancing local government through best practice and continuous improvement.

6.1.2. GAROC will assist in the achievement of the LGA's object by:

- (a) supporting the activities of the LGA at a regional level;
- (b) promoting communication between Members and between Members and the LGA;
- (c) advocating in respect of matters which affect the GAROC Regional Group;
- (d) encouraging engagement of Members within the GAROC Regional Group with GAROC and the LGA; and
- (e) participating in policy development and implementation.

6.2. Consideration and referral of Member items of business

- 6.2.1. Any Member of the GAROC Regional Grouping may raise an item of business for the consideration of the Board of Directors or a General Meeting with GAROC. The item of business must be clearly described in writing, including an indication as to whether the impact of the item is confined to the Member or has broader implications for the local government sector.
- 6.2.2. GAROC will consider each item of business raised with GAROC by a Member.
- 6.2.3. A Member may be invited by GAROC to address a meeting of GAROC in respect of the proposed item of business.
- 6.2.4. Where considered appropriate by GAROC on the basis of the nature, scope and impact or potential impact of the item on the local government sector, GAROC will refer the item to either the Board of Directors or a General Meeting.
- 6.2.5. GAROC will inform the Member which has raised the item of business as to whether or not the item will be referred to the Board of Directors or a General Meeting.
- 6.2.6. Where an item of business is not referred to the Board of Directors or a General Meeting, GAROC may provide assistance or guidance to the Member in respect of progressing the matter.

6.3. Proposals for policy development

- 6.3.1. GAROC may develop proposals for policy positions for consideration at a General Meeting either in response to an issue raised by a Member within the GAROC Regional Grouping or independently.
- 6.3.2. A policy position developed by GAROC will be referred to the Board of Directors for consideration and determination as to whether or not the position should be put for consideration and adoption to a General Meeting.

6.4. Election to Board of Directors

- 6.4.1. GAROC will elect 3 members of GAROC (each of which must be a Council Member with relevant business and governance experience) to the Board of Directors.
- 6.4.2. In addition to Directors elected under clause 6.4.1, the chairperson of GAROC will be a Director.
- 6.4.3. The term of office as a Director of the 3 persons elected to the Board of Directors by GAROC and the chairperson of GAROC will commence after the Annual General Meeting of the year in which the person is elected and shall be for 2 years or until a casual vacancy in that office occurs.
- 6.4.4. Persons elected under clause 6.4.1 are eligible for re-election for subsequent terms.

6.5. Strategic and annual business planning

- 6.5.1. GAROC will develop, in consultation with the members within the GAROC Regional Group, a 4 year strategic plan for regional advocacy, policy initiation and review, leadership, engagement and capacity building in the GAROC region. The strategic plan will be reviewed and updated annually by GAROC by June each year.
- 6.5.2. GAROC will develop, in consultation with the members within the GAROC Regional Group, an annual business plan for the next financial year by June each year.
- 6.5.3. The strategic plan and annual business plan for the next financial year will be presented to the Board of Directors for approval by June each year.

6.6. Other functions

GAROC will undertake any other functions:

- 6.6.1. of GAROC set out in the Constitution; or
- 6.6.2. delegated by the Board of Directors to GAROC.

7. Budget

- 7.1.1. GAROC will by June each year develop and adopt a budget to cover anticipated expenses of activities under the strategic plan and annual business plan during the next financial year. After adoption by GAROC, the budget will be provided to the Board of Directors for consideration and approval.
- 7.1.2. GAROC will provide a financial report to the Board of Directors no later than September providing a true and correct record of the expenditure of GAROC against the annual budget.
- 7.1.3. The chairperson of GAROC will meet with the Audit Committee of the LGA or the LGA's external auditor on request to discuss the GAROC financial report.



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8. Committees

GAROC may establish committees consisting of any person with relevant experience, skill or expertise for any purpose and determine the terms of reference for such committees.

9. Meetings of GAROC

9.1. Resolution of the Board of Directors

Requirements under this clause 9 may be altered, supplemented or replaced by resolution of the Board of Directors.

9.2. Frequency of meetings and venue

- 9.2.1. GAROC will meet at least once in each 2 month period at such times and places as shall be determined by the Chief Executive.
- 9.2.2. Any member of GAROC or the Board of Directors may convene additional meetings of GAROC.
- 9.2.3. Notice of a meeting of GAROC will be provided in writing to members of GAROC by the Chief Executive no less than 7 days prior to the meeting providing the date, time and place of the meeting and the proposed business to be conducted at the meeting.

9.3. Chairperson

- 9.3.1. The chairperson of GAROC will be a Council Member appointed by GAROC.
- 9.3.2. The chairperson will be the official spokesperson for GAROC.
- 9.3.3. If the chairperson of GAROC is absent from a meeting of GAROC then the members attending the GAROC meeting will appoint a chairperson for the purposes of that meeting.

9.4. Decision making

- 9.4.1. All questions arising at a meeting of GAROC shall be decided by a simple majority vote of the members of GAROC present and voting on each question.
- 9.4.2. The Chair of the meeting has a deliberative vote and, if there are equal numbers of votes on any question, a casting vote.

9.5. Meeting procedure

The meeting procedures determined by the Board of Directors from time to time will apply to meetings of GAROC.

9.6. Attendance

- 9.6.1. Meetings of GAROC will be closed to the public.
- 9.6.2. GAROC may invite any person to attend its meetings.

9.7. Minutes

- 9.7.1. Minutes will be kept of all GAROC meetings including a record of the actions of GAROC.
- 9.7.2. Within 48 hours of a GAROC meeting, the chairperson will review and confirm the draft minutes. The draft minutes will then be circulated to GAROC members for comment and if necessary amendment before being certified as correct by the chairperson.

9.8. Quorum

The quorum for a meeting of GAROC is one half of the members of GAROC, plus 1 member of GAROC (provided that at least 1 member elected by each GAROC Regional Grouping must be present except for a GAROC Regional Grouping with no representation on GAROC).

9.9. Performance assessment

GAROC will assess its performance against:

- 9.9.1. the strategic plan and annual business plan each quarter; and
- 9.9.2. these Terms of Reference annually.

9.10. Reporting

- 9.10.1. A Director elected by GAROC will provide a verbal report to the Board of Directors on key matters being considered by GAROC at each Board of Director's meeting at which the minutes of GAROC are to be considered by the Board of Directors.
- 9.10.2. Any matter relevant to regional advocacy, policy initiation and review, leadership, engagement and capacity building in the region(s) considered to be of significance to the corporate governance, strategic direction and leadership of the LGA will be reported by GAROC to the Board as soon as practicable after GAROC has considered the matter.
- 9.10.3. GAROC will provide an annual report to the Board of Directors by September each year summarising:
 - (a) the discharge of GAROC's responsibilities and functions under these Terms of Reference and against the strategic plan and annual business plan;
 - (b) the activities of GAROC during the financial year;
 - (c) items of business referred to the Board of Directors or a General Meeting during the financial year; and
 - (d) items being considered by GAROC which have not been reported to the Board of Directors and the intended actions in respect of those matters.



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10. Access to information

- 10.1.1. GAROC is entitled, acting through the Chief Executive, to access any information or discuss matters with staff of the LGA Office.
- 10.1.2. A copy of the agenda for a GAROC meeting, reports to be considered by GAROC and minutes of GAROC meetings certified under clause 9.7.2 will be available to all Directors.
- 10.1.3. Subject to confidentiality requirements as determined by the Board of Directors or GAROC, a copy of the GAROC agenda, reports and minutes certified under clause 9.7.2 will be published on the LGA website for review by Members.

11. Administration

- 11.1. Subject to clause 11.2, an administrator appointed to administer the affairs of the Member may exercise the rights and satisfy the obligations of the administered Member under these Terms of Reference.
- 11.2. An administrator is ineligible to be a member of GAROC.

Schedule: List of Regional Groupings of Members

GAROC Regional Grouping	Members
Metropolitan Region	Adelaide Adelaide Hills Burnside Campbelltown Charles Sturt Gawler Holdfast Bay Marion Mitcham Norwood/Payneham & St Peters Onkaparinga Playford Port Adelaide Enfield Prospect Salisbury Tea Tree Gully Unley Walkerville West Torrens

ITEM	3.6.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
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 49.6 dated 6 December 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 4 February 2019 of those powers and functions under the following:
 - 1.1 *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018*
 - Regulations 5(3), 5(6), 21(4), 21(5), 9(7), 25(6), 26(2), 33, Clauses 2(1) and 2(2) of Schedule 1 – Attachment 3
2. In exercise of the powers contained in Section 44 of the Local Government Act 1999, the powers and functions under the following Acts and contained in the proposed Instruments of Delegation forming attachments to this report (Attachments 2 and 3, Item No. 3.6.1, Resources and Governance Committee, 21/01/2019) are hereby delegated from 5 February 2019 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 Instruments of Delegation under the *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018* as follows:

Liquor Licensing Act 1997

- Sections 131(ab), 131(ad) and 131(c) – Attachment 2

South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018.

- Regulations 5(3), 5(6), 9(7), 25(6), 26(2), Clauses 2(1) and 2(2) of Schedule 1 – Attachment 3

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 *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018.*

ATTACHMENTS

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

1. Table of Updates - Quarter 3 to 30 September 2018
2. Instrument of Delegation - Liquor Licensing Act 1997
3. Instrument of Delegation - South Australian Public Health Act 2011

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 49.6 dated 6 December 2018 which sets out new and amended provisions under the *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018.*

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 49.6 dated 6 December 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.

Liquor Licensing Act 1997

Delegations have been added for new powers under the *Liquor Licensing Act 1997* for councils to prohibit the consumption or possession or both of liquor in a public place(s) for a period not exceeding 48 hours – please refer to shaded areas on Attachment 2.

New provisions - Sections 131(ab), 131(ad) and 131(c)

South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018

Various amendments have been made to the delegations under the South Australian Public Health Act 2011 and association Regulations to accommodate the new South Australian Public Health (Fees) Regulations 2018 – please refer to shaded areas on Attachment 3.

- Amended Provisions - Regulations 5(3), 5(6), 9(7), 25(6), 26(2).
- Deleted provisions - 21(4), 21(5), 33.
- New provisions - Clauses 2(1) and 2(2) of Schedule 1.

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 relevant delegations under the *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018* that have been revoked or amended. Council then resolves to adopt the amended and new delegations contained in the relevant Instruments of Delegation attached to this report (Attachments 2-3).

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 *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health*

(General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018 occurs on Monday 4 February 2019 with the new delegations come into force from Tuesday 5 February 2019. Any new delegations introduced will also come into force from Tuesday 5 February 2019. 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 *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011*, *South Australian Public Health (Legionella) Regulations 2013*, *South Australian Public Health (Wastewater) Regulations 2013*, *South Australian Public Health (General) Regulations 2013* and *South Australian Public Health (Fees) Regulations 2018* and is presented to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP
Date: 14/01/2019

LOCAL GOVERNMENT ASSOCIATION
UPDATES OF DELEGATION TEMPLATES ON WEBSITE

(Note: Paragraph references below refer to updated version – As at 30 September 2018)

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 Liquor Licensing Act	6.1	131(1ab)	Addition	Legislative amendment	30 September 2018	Adopt updated Instrument as soon as possible.
	6.2	131(1ad)	Addition	Legislative amendment		
	6.3	131(1c)	Addition	Legislative amendment		
Instrument of Delegation under the South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018	18.1	Reg 5(3)	Amendment	Legislative amendment	30 September 2018	Use updated instrument as soon as possible.
	18.2	Reg 5(6)	Amendment	Legislative amendment		
	21.2	Reg 21(4)	Deletion	Legislative amendment		
	21.3	Reg 21(5)	Deletion	Legislative amendment		
	24.5	Reg 9(7)	Amendment	Legislative amendment		
	29.3	Reg 25(6)	Amendment	Legislative amendment		
	30.1	Reg 26(2)	Amendment	Legislative amendment		
	33	Reg 33	Deletion	Legislative amendment		

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Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
	35.1	Clause 2(1), Schedule 1	Addition	New Regulation		
	35.2	Clause 2(2), Schedule 1	Addition	New Regulations		

FXD\TABLE OF UPDATES 30 SEPTEMBER 2018-2

ATTACHMENT 2**INSTRUMENT OF DELEGATION UNDER THE
LIQUOR LICENSING ACT 1997****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

0. Application for Review of Commissioner's Decision
The power pursuant to Section 22(1) and subject to Sections 22(2) and (3) of the Liquor Licensing Act 1997 (the Act), to apply to the Court for a review of the Commissioner's decision.
1. Extension of Trading Area
1.1 The power pursuant to Section 69(3)(e) of the Act, on application by a licensee who holds a licence authorising the sale of liquor for consumption on the licensed premises to the extent the authority conferred by the licence so that the licensee is authorised to sell liquor in a place adjacent to the licensed premises for consumption in that place, to approve or not approve the application for extension where the relevant place is under the control of the Council.
2. Rights of Intervention
2.1 The power pursuant to Section 76(2) of the Act where licensed premises exist or premises propose to be licensed are situated in the Council area, to introduce evidence or make representations on any question before the licensing authority where proceedings are on foot or underway.
3. Noise
3.1 The power pursuant to Section 106(2)(b) of the Act to lodge a complaint about an activity on, or the noise emanating from licensed premises, or the behaviour of persons making their way to or from licensed premises in the Council area with the Commissioner under Section 106(1).
3.2 The power pursuant to Section 106(4) of the Act to engage in

256275\PLMLiquor Licensing Act 1997-1

Last amended: 30 September 2018

INSTRUMENT OF DELEGATION UNDER THE LIQUOR LICENSING ACT 1997

	conciliation between the parties facilitated by the Commissioner.
3.3	The power pursuant to Section 106(5) of the Act to request the Commissioner to determine the matter where the complaint is not to be conciliated, or is not resolved by conciliation under Section 106(4).
4.	Disciplinary Action Before the Court
4.1	The power pursuant to Section 120(1) and (2) of the Act to lodge a complaint, provided the subject matter of the complaint is relevant to the responsibilities of the Council and within whose area the licensed premises are situated, with the Court alleging that proper grounds for disciplinary action exists on those grounds stated in the complaint, against a specified person.
5.	Commissioner's Power to Suspend or Impose Conditions Pending Disciplinary Action
5.1	The power pursuant to Section 120A(3) of the Act to apply to the Court for a review of the Commissioner's decision as if the Council were a party to proceedings before the Commissioner.
6.	Control of consumption etc of liquor in public places
6.1	The power pursuant to Section 131(1ab) of the Act and subject to Section 131 of the Act, to, by notice in the Gazette, prohibit the consumption or possession or both of liquor in the public place or public places within the area of the Council specified in the notice during the period (not exceeding 48 hours) specified in the notice.
6.2	The power pursuant to Section 131(1ad) of the Act to, within 7 days after publishing a notice under Section 131(1ab) of the Act, give a copy of the notice to the Commissioner of Police.
6.3	The power pursuant to Section 131(1c) of the Act to vary or revoke a notice under Section 131(1ab) of the Act by further notice in the Gazette.

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INSTRUMENT OF DELEGATION UNDER THE LIQUOR LICENSING ACT 1997

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

256275/PLMLiquor Licensing Act 1997-1

Last amended: 30 September 2018

ATTACHMENT 3

INSTRUMENT OF DELEGATION UNDER THE SOUTH AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013, SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013, SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013 AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018

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. Power to Require Reports	
1.1	The power pursuant to Section 18(2) of the South Australian Public Health Act 2011 (the Act) to, if required by the Minister, provide a report on any matter relevant to the administration or operation of the Act.
1.2	The power pursuant to Section 18(3) of the Act to, if required by the Minister, in a case involving the Council provide a combined report with 1 or more other councils.
1.3	The power pursuant to Section 18(5) of the Act to provide the report in accordance with the requirements of the Minister.
2. Risk of Avoidable Mortality or Morbidity	
2.1	The power pursuant to Section 22(2) of the Act, if the Council receives a request under Section 22(1) of the Act, to consider the request and then respond in accordance with Section 22(3) of the Act to the Chief Public Health Officer within a reasonable time.
2.2	The power pursuant to Section 22(3) of the Act to include in a response under Section 22(2) of the Act details about:
2.2.1	any steps already being taken by the Council that may be relevant in the circumstances; and

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Last amended: 30 September 2018

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

2.2.2	any plans that the Council may have that may be relevant in the circumstances; and
2.3	any steps that the Council is willing to take in the circumstances; and
2.4	any other matter relating to the Council that appears to be relevant.
3.	Cooperation Between Councils
3.1	The power pursuant to Section 39(1) of the Act to, in performing the Council's functions or exercising the Council's powers under the Act, act in conjunction or partnership with, or cooperate or coordinate the Council's activities with, 1 or more other councils
3.2	The power pursuant to Section 39(2) of the Act to, if requested by the Chief Public Health Officer, cooperate with 1 or more other councils.
3.3	The power pursuant to Section 39(3) of the Act to, if the Council receives a request under Section 39(2) of the Act, within 28 days after receiving the request or such longer period as the Chief Public Health Officer may specify, furnish the Chief Public Health Officer with a written report on the action that the Council intends to take in response to the request.
4.	Power of Chief Public Health Officer to Act
4.1	The power pursuant to Section 40(2) of the Act to consult with the Chief Public Health Officer.
5.	Council Failing to Perform a Function Under Act
5.1	The power pursuant to Section 41(1) of the Act to consult with the Minister in relation to the Minister's opinion that the Council has failed, in whole or in part, to perform a function conferred on the Council under the Act.
5.2	The power pursuant to Section 41(6) of the Act to:
5.2.1	make written submissions to the Minister in relation to the matter within a period specified by the Minister; and
5.2.2	request in the written submissions to the Minister that the Minister discuss the matter with a delegation representing the Council; and
5.2.3	appoint a delegation representing the Council to discuss the matter with the Minister.

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Last amended: 30 September 2018

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

6.	Transfer of Function of Council at Request of Council
6.1	The power pursuant to Section 42(1) of the Act to request, in accordance with Section 42(2), of the Act that a function of the Council under the Act be performed by the Chief Public Health Officer.
6.2	The power pursuant to Section 42(10) of the Act to enter into an agreement with the Minister for the Minister to recover costs and expenses associated with the Chief Public Health Officer acting under Section 42 of the Act.
6.3	The power pursuant to Section 42(11) of the Act to request that the Minister vary or revoke a notice under Section 42 of the Act.
6.4	The power pursuant to Section 42(11) of the Act to consult with the Minister in relation to the Minister varying or revoking a notice under Section 42 of the Act.
7.	Local Authorised Officers
7.1	The power pursuant to Section 44(1) of the Act, subject to Section 45 of the Act, to, by instrument in writing, appoint a suitably qualified person to be a local authorised officer.
7.2	The power pursuant to Section 44(2) of the Act to make an appointment under Section 44 subject to such conditions or limitations as the Delegate thinks fit.
7.3	The power pursuant to Section 44(4) of the Act to direct a local authorised officer.
7.4	The power pursuant to Section 44(6) of the Act to vary or revoke an appointment at any time.
7.5	The power pursuant to Section 44(7) of the Act to notify the Chief Public Health Officer in accordance with Section 44(8) of the Act, if the Council or the Delegate:
7.5.1	makes an appointment under Section 44 of the Act; or
7.5.2	revokes an appointment under Section 44 of the Act.
7.6	The power pursuant to Section 44(9) of the Act to determine the number of local authorised officers who should be appointed for the Council's area and in determining the number of local authorised officers who should be appointed for the Council's area, take into account any policy developed by

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Last amended: 30 September 2018

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

the Chief Public Health Officer for the purposes of Section 44 of the Act.	
8.	Identity Cards
8.1	The power pursuant to Section 46(1) of the Act to issue in accordance with Section 46(2) of the Act to an authorised officer appointed under the Act an identity card in a form approved by the Chief Public Health Officer:
8.1.1	containing the person's name and a photograph of the person; and
8.1.2	stating that the person is an authorised officer for the purposes of the Act; and
8.1.3	setting out the name or office of the issuing authority.
9.	Specific Power to Require Information
9.1	The power pursuant to Section 49(1) of the Act to require a person to furnish such information relating to public health as may be reasonably required for the purposes of the Act.
10.	Regional Public Health Plans
10.1	The power pursuant to Section 51(1) of the Act to in accordance with Sections 51(2), (5), (6), (8), (9), (11), (12), (13) and (15) of the Act prepare and maintain a plan or, if the Minister so determines or approves, with a group of councils, prepare and maintain a plan, for the purposes of the operations of the Council or Councils under the Act (a regional public health plan).
10.2	The power pursuant to Section 51(10) of the Act, to, subject to Section 51(11), amend a regional public health plan at any time.
10.3	The power pursuant to Section 51(11) of the Act to, in relation to any proposal to create or amend a regional public health plan:
10.3.1	prepare a draft of the proposal; and
10.3.2	when the draft plan is completed, subject to Section 51(12) of the Act:
10.3.2.1	give a copy of it to:
(a)	the Minister; and

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Last amended: 30 September 2018

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	(b) any incorporated hospital established under the <i>Health Care Act 2008</i> that operates a facility within the region; and
	(c) any relevant public health partner authority under Section 51(23); and
	(d) any other body or group prescribed by the regulations; and
	10.3.2.2 take steps to consult with the public.
10.4	The power pursuant to Section 51(12) of the Act to, if required by the Minister, consult with the Minister, or any other person or body specified by the Minister, before the Council or the Delegate releases a draft plan under Section 51(11).
10.5	The power pursuant to Section 51(13) of the Act to, before bringing a regional public health plan into operation, submit the plan to the Chief Public Health Officer for consultation.
10.6	The power pursuant to Section 51(15) of the Act to take into account any comments made by the Chief Public Health Officer, SAPHC, and any other body within the ambit of a determination under Section 51(14) of the Act, at the conclusion of the consultation processes envisaged by Sections 51(13) and (14).
10.7	The power pursuant to Section 51(16) of the Act to then adopt a plan or amend a plan with or without alteration.
10.8	The power pursuant to Section 51(17) of the Act to undertake the processes set out in Section 51 of the Act in conjunction with the preparation and adoption of its strategic management plans under Section 122 of the <i>Local Government Act 1999</i> (and the power if the delegate thinks fit, incorporate a regional public health plan into the Council's strategic management plans under that Act).
10.9	The power pursuant to Section 51(18) of the Act to provide in a regional public health plan, by agreement with the public health partner authority, for a public health partner authority to take responsibility for undertaking any strategy, or for attaining any priority or goal, under the plan.
10.10	The power pursuant to Section 51(19) of the Act to review a regional public health plan at least once in every 5 years.

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Last amended: 30 September 2018

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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10.11	The power pursuant to Section 51(20) of the Act to, in preparing and reviewing the Council's regional public health plan insofar as is reasonably practicable, give due consideration to the plans of other councils insofar as this may be relevant to issues or activities under the Council's plan.
10.12	The power pursuant to Section 51(21) of the Act to, when performing functions or exercising powers under the Act or any other Act, insofar as may be relevant and reasonable, have regard to the State Public Health Plan, any regional public health plan that applies within the relevant area and any other requirement of the Minister, and in particular to give consideration to the question whether the Council or the Delegate should implement changes to the manner in which, or the means by which, the Council or the Delegate performs a function or exercises a power or undertakes any other activity that has been identified in the State Public Health Plan as requiring change.
11. Reporting on Regional Public Health Plans	
11.1	The power pursuant to Section 52(1) of the Act to, in relation to a regional health plan for which the Council is responsible, on a 2 yearly basis, prepare a report that contains a comprehensive assessment of the extent to which, during the reporting period, the Council has succeeded in implementing its regional public health plan to the Chief Public Health Officer in accordance with Sections 52(2), (3) and (4) of the Act.
12. Action to Prevent Spread of Infection	
12.1	The power pursuant to Section 66(6) of the Act to recover as a debt costs and expenses reasonably incurred in exercising powers under Section 66(5) of the Act from the person who failed to take the required action.
12.2	The power pursuant to Section 66(9) of the Act to, if the Chief Public Health Officer informs the Council of the occurrence of a disease constituting a notifiable condition, take such action as is reasonably open to the Delegate to assist in preventing the spread of the disease.
13. Notices	
13.1	The power pursuant to Section 92(1) of the Act and subject to Sections 92(2), (3), (4), (5) and (12) of the Act to issue a notice for the purpose of:
13.1.1	securing compliance with a requirement imposed by or under the Act (including the duty under Part 6 or a requirement imposed under a regulation or a code of practice under the Act); or

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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13.1.2	averting, eliminating or minimising a risk, or a perceived risk, to public health.
13.2	The power pursuant to Section 92(2) of the Act and subject to Section 92(12) of the Act, to, before issuing a notice to secure compliance with the general duty under Part 6 of the Act:
13.2.1	have regard to:
13.2.1.1	the number of people affected, or potentially affected, by the breach of the duty;
13.2.1.2	the degree of harm, or potential degree of harm, to public health on account of the breach of the duty;
13.2.1.3	any steps that a person in breach of the duty has taken, or proposed to take, to avoid or address the impact of the breach of the duty,
	and such other matters as the Delegate thinks fit; and
13.2.2	subject to Section 92 of the Act, give the person to whom it is proposed that the notice be given a preliminary notice in writing:
13.2.2.1	stating the proposed action, including the terms of the proposed notice and the period within which compliance with the notice will be required; and
13.2.2.2	stating the reasons for the proposed action; and
13.2.2.3	inviting the person show, within a specified time (of a reasonable period), why the proposed action should not be taken (by making representations to the Delegate or a person nominated to act on behalf of the Council).
13.3	The power pursuant to Section 92(2)(b)(iii) of the Act to nominate a person to act on behalf of the Council.
13.4	The power pursuant to Section 92(3) of the Act to, in a case where Section 92(2)(b) of the Act applies, after considering representations made within the time specified under Section 92(2)(b) of the Act:
13.4.1	issue a notice in accordance with the terms of the original proposal; or

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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13.4.2	issue a notice with modifications from the terms of the original proposal; or
13.4.3	determine not to proceed further under Section 92.
13.5	The power pursuant to Section 92(4) of the Act to:
13.5.1	not give notice under Section 92(2)(b) of the Act if the Delegate considers that urgent or immediate action is required in the circumstances of the particular case; and
13.5.2	not give further notice before issuing a notice with modifications under Section 92(3)(b) of the Act.
13.6	The power pursuant to Section 92(5) of the Act issue a notice under Section 92 of the Act:
13.6.1	in the form of a written notice served on the person to whom it is issued; and
13.6.2	specifying the person to whom it is issued (whether by name or by a description sufficient to identify the person); and
13.6.3	directing 2 or more persons to do something specified in the notice jointly; and
13.6.4	without limiting any other provision, in the case of a notice that relates to the condition of any premises, to any person who:
13.6.4.1	is the owner or occupier of the premises; or
13.6.4.2	has the management or control of the premises; or
13.6.4.3	is the trustee of a person referred to in Section 92(5)(i) or (ii) of the Act or is managing the affairs of such a person on some other basis; and
13.6.5	stating the purpose for which the notice is issued and giving notice of the requirement or the risk to which it relates; and
13.6.6	imposing any requirement reasonably required for the purpose for which the notice is issued including 1 or more of the following:
13.6.6.1	a requirement that the person discontinue, or not commence, a specified activity indefinitely or for a

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
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SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	specified period or until further notice from a relevant authority;
13.6.6.2	a requirement that the person not carry on a specified activity except at specified times or subject to specified conditions;
13.6.6.3	a requirement that the person take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;
13.6.6.4	a requirement that the person take action to prevent, eliminate, minimise or control any specified risk to public health, or to control any specified activity;
13.6.6.5	a requirement that the person comply with any specified code or standard prepared or published by a body or authority referred to in the notice;
13.6.6.6	a requirement that the person undertake specified tests or monitoring;
13.6.6.7	a requirement that the person furnish to a relevant authority specified results or reports;
13.6.6.8	a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the relevant authority, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to public health;
13.6.6.9	a requirement prescribed under or for the purposes of the regulations; and
13.6.7	stating that the person may, within 14 days, apply for a review of the notice or institute an appeal against the notice under the provisions of the Act.
13.7	The power pursuant to Section 92(9) of the Act by written notice served on a person to whom a notice under Section 92 of the Act has been issued by the Delegate or the Council, vary or revoke the notice.
13.8	The power pursuant to Section 92(15) of the Act to, not comply with any other procedure, or hear from any other person, except as provided by Section 92 of the Act before the Delegate issues a notice under Section 92

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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of the Act.	
14. Action on Non-compliance with Notice	
14.1	The power pursuant to Section 93(1) of the Act if the requirements of a notice under Part 12 of the Act are not complied with, to take any action required by the notice.
14.2	The power pursuant to Section 93(2) of the Act to authorise a person for the purpose of taking action on the Council's behalf under Section 93(1) of the Act.
14.3	The power pursuant to Section 93(4) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 93 of the Act as a debt from the person who failed to comply with the requirements of the notice.
14.4	The power pursuant to Section 93(5) of the Act, if an amount is recoverable from a person by the Council under Section 93, 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.
15. Action in Emergency Situations	
15.1	The power pursuant to Section 94(5) of the Act to recover the reasonable costs and expenses incurred by a local authorised officer in taking action under Section 94 from any person who caused the risk to which the action relates, as a debt.
16. Reviews – Notices Relating to General Duty	
16.1	The power pursuant to Section 95(13) of the Act to appear in proceedings before the Review Panel as a representative of the Council.
16.2	The power pursuant to Section 95(15) of the Act to make an application to the Review Panel to:
16.2.1	dismiss or determine any proceedings that appear:
16.2.1.1	to be frivolous or vexatious; or
16.2.1.2	to have been instituted for the purpose of delay or obstruction, or for some other improper purpose;

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

16.2.2	bring any proceedings to an end that appear:
16.2.2.1	to be more appropriate suited to proceedings before the District Court rather than the Review Panel; or
16.2.2.2	to be unable to be satisfactorily resolved (or resolved within a reasonable period) by proceedings before the Review Panel; or
16.2.3	bring any proceedings to an end for any other reasonable cause.
17.	Appeals
17.1	The power pursuant to Section 96(3) of the Act and subject to Section 96(4) of the Act, appeal to the District Court against the outcome of review proceedings under Division 3, Part 12 of the Act.

**SOUTH AUSTRALIAN PUBLIC HEALTH
(LEGIONELLA) REGULATIONS 2013**

18.	Duty to Register High Risk Manufactured Water System
18.1	The power pursuant to Regulation 5(3) of the South Australian Public Health (Legionella) Regulations 2013 (the Legionella Regulations) to, on application made in a manner and form approved by the Council or Delegate and payment of the prescribed fee to the Council, register the high risk manufactured water system to which the application relates.
18.2	The power pursuant to Regulation 5(6) of the Legionella Regulations, to, on application made in a manner and form approved by the Council or Delegate and payment of the prescribed fee to the Council, renew the registration of the high risk manufactured water system to which the application relates.
19.	Register of High Risk Manufactured Water Systems
19.1	The power pursuant to Regulation 6(2) of the Legionella Regulations and subject to Regulation 6(3) of the Legionella Regulations to determine the manner and form of a register of high risk manufactured water systems registered by the Council.
19.2	The power pursuant to Regulation 6(3) of the Legionella Regulations to include in relation to each high risk manufactured water system on the

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	register:
19.2.1	the type of water system; and
19.2.2	the address of the premises on which the water system is installed; and
19.2.3	the location of the water system on the premises; and
19.2.4	the full name and residential and business addresses of the owner of the premises; and
19.2.5	the full name, residential and business addresses, and residential and business telephone numbers, of the person nominated by the owner of the premises as being responsible for the operation and maintenance of the water system,
	and such other information as the Delegate thinks fit.
19.3	The power pursuant to Regulation 15(2) of the Legionella Regulations to, at least once in every 12 months, give the owner of each of the premises on which a high risk manufactured water system registered with the Council is installed, written notice:
19.3.1	requiring the owner, within the period specified in the notice:
19.3.1.1	to cause an inspection of the water system to be carried out by a competent person (not being the owner or person responsible for the operation and maintenance of the system); and
19.3.1.2	to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896:
(a)	of at least 1 sample of water taken from a cooling water system; and
(b)	of at least 2 samples of water taken from a warm water system,
	to determine the presence and number of colony forming units of Legionella in the water; and
19.4	requiring the owner to submit to the Council written reports setting out the

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

findings of the inspection and the results of the microbiological testing within 1 month of receiving the reports.	
20. Power of Council to Require Microbiological Testing in Other Circumstances	
20.1	The power pursuant to Regulation 16(1) of the Legionella Regulations, if:
20.1.1	the Council is investigating the occurrence of Legionellosis in the near vicinity of premises on which a high risk manufactured water system is installed; or
20.1.2	the Council or Delegate has reason to believe that a high risk manufactured water system installed on premises situated in its area is not being maintained as required by these regulations,
to give the owner of the premises written notice:	
20.1.3	requiring the owner (either immediately or within a period specified in the notice) to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896, of water taken from the system, to determine the presence and number of colony forming units of Legionella in the water; and
20.1.4	requiring the owner to submit to the Council a written report setting out the results of the microbiological testing within 24 hours of receiving the report.
21. Fees	
21.1	The power pursuant to Regulation 21(3) of the Legionella Regulations, if a person is liable to pay a fee to the Council, to give the person written notice requiring the person to pay the fee within the period specified in the notice.
21.2	Deliberately left blank - REVOKED
21.3	Deliberately left blank - REVOKED

**SOUTH AUSTRALIAN PUBLIC HEALTH
(WASTEWATER) REGULATIONS 2013**

22. Relevant Authority	
22.1	The power pursuant to Regulation 6(1)(b) of the South Australian Public

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

Health (Wastewater) Regulations 2013 (the Wastewater Regulations) to, agree to act as the relevant authority for a matter relating to an on-site wastewater system with a capacity that does not, or will not, on completion of wastewater works, exceed 40 EP and that is located or to be located in another council area if the system is to be operated by another council or wastewater works related to the system are to be undertaken by another council, or by a person acting in partnership, or in conjunction with that other council.	
23. Public Notification of Proposed Community Wastewater Management System	
23.1	The power pursuant to Regulation 8(1) of the Wastewater Regulations to, if the Council proposes to establish a community wastewater management system for the whole or part of its area in the interests of public and environmental health, to give notice to the owners of land in the area affected by the proposal containing the prescribed details relating to the proposal and inviting submissions in relation to the proposal within a period (which must be at least 21 days) specified in the notice.
24. Connection to Community Wastewater Management System	
24.1	The power pursuant to Regulation 9(1) of the Wastewater Regulations and subject to Regulation 9(2) of the Wastewater Regulations on obtaining a wastewater works approval for a community wastewater management system, to, by written notice, require the operator of an on-site wastewater system:
24.1.1	to connect the system to the community wastewater management system; and
24.1.2	for that purpose, to complete and submit an application to the Council, within the period specified in the notice, for a wastewater works approval for:
24.1.2.1	the connection; and
24.1.2.2	if necessary, consequential alterations to the on-site wastewater system.
24.2	The power pursuant to Regulation 9(4) of the Wastewater Regulations, if the operator of an on-site wastewater system does not submit an application within the period specified in a notice under Regulation 9(1) of the Wastewater Regulations, to grant a wastewater works approval for the

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	required wastewater works as if the application had been made.
24.3	The power pursuant to Regulation 9(6) of the Wastewater Regulations, if wastewater works are not carried out in accordance with a wastewater works approval for the connection of an on-site wastewater system to a community wastewater management system required under Regulation 9 of the Wastewater Regulations, to cause the requirements to be carried out (and a person authorised to do so by the Council may enter land at any reasonable time for the purposes of carrying out the relevant work).
24.4	The power pursuant to Regulation 9(6) of the Wastewater Regulations to if wastewater works are not carried out in accordance with a wastewater approval for the connection of an on-site wastewater system to a community wastewater management system required under Regulation 9 of the Wastewater Regulations, authorise a person to enter land at any reasonable time for the purpose of carrying out the relevant work.
24.5	The power pursuant to Regulation 9(7) of the Wastewater Regulations to recover as a debt the costs and expenses reasonably incurred in exercising a power under Regulation 9(6) of the Wastewater Regulations and the prescribed fee that would have been payable had the application been made as required under Regulation 9(1) of the Wastewater Regulations from the person who failed to comply with the notice.
25.	Exemptions
25.1	The power pursuant to Regulation 10(3) of the Wastewater Regulations to give an exemption by written notice and subject to conditions determined by the Delegate and stated in the notice.
25.2	The power pursuant to Regulation 10(4) of the Wastewater Regulations to vary or revoke an exemption by further written notice to the holder of the exemption.
26.	Exemptions From Prescribed Codes
26.1	The power pursuant to Regulation 15(3) of the Wastewater Regulations to give an exemption by written notice and is subject to conditions determined by the Delegate and stated in the notice.
26.2	The power pursuant to Regulation 15(5) of the Wastewater Regulations to vary or revoke an exemption by further written notice to the holder of the exemption.

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

27. Application	
27.1	The power pursuant to Regulation 23(2) of the Wastewater Regulations to, by written notice, ask the applicant to provide the Council with further technical specifications, information or documents relevant to the application or to modify the technical specifications submitted for approval.
28. Determination of Application	
28.1	The power pursuant to Regulation 24(1) of the Wastewater Regulations to refuse to grant a wastewater works approval:
28.1.1	if the applicant fails to satisfy the Delegate of either or both of the following:
28.1.1.1	that the technical specifications for the wastewater works comply with the prescribed codes;
28.1.1.2	that the wastewater works will not, if undertaken in accordance with the conditions of approval, adversely affect or threaten public or environmental health; or
28.1.2	for any other sufficient reason.
28.2	The power pursuant to Regulation 24(2) of the Wastewater Regulations, if an application for a wastewater works approval relates to the connection of a community wastewater management system to SA Water sewerage infrastructure or a significant increase in the amount of wastewater to be discharged from a community wastewater management system to SA Water sewerage infrastructure, to give SA Water a reasonable opportunity to comment on the application and take into account any comments so made.
29. Conditions of Approval	
29.1	The power pursuant to Regulation 25(2) of the Wastewater Regulations to impose:
29.1.1	any 1 or more of the following prescribed expiable conditions:
29.1.1.1	a condition that sets out mandatory notification stages during the progress of wastewater works when a person is required to notify the Council in a specified manner and stop the work pending an inspection carried out at

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	the person's expense;
29.1.1.2	a condition that requires the display of specified notices on the premises on which the wastewater system is located;
29.1.1.3	a condition that requires a person to monitor the performance of the wastewater system in a specified manner (including by inspections carried out at specified times at the person's expense) and to provide the Council with specified information in a specified manner and at specified times;
29.1.1.4	a condition that provides that specified material must not, or that only specified material may, be discharged into, or from, the wastewater system;
29.1.1.5	a condition that requires the wastewater system to be operated, maintained or serviced by a person of a specified class;
29.1.1.6	a condition that requires records of a specified kind to be created, maintained, and provided to the Council; or
29.1.2	any other conditions including any 1 or more of the following:
29.1.2.1	a condition that requires decommissioning of the wastewater system:
	(a) after a specified trial period; or
	(b) in specified circumstances; or
	(c) on written notice to the operator of the system;
29.1.2.2	a condition that requires a wastewater system to be connected to a community wastewater management system;
29.1.2.3	a condition that prevents activities that would adversely affect the operation or maintenance of a drain or treatment or disposal system or the reuse of wastewater from the wastewater system;
29.1.2.4	a condition that requires a wastewater system to have

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	various access points for maintenance or inspection (raised to or terminating at surface level, or as required by the Council);
29.1.2.5	a condition that provides that a wastewater system must not be used unless or until it has been inspected or tested by an independent wastewater engineer and the Council supplied with a certificate given by that expert certifying that the wastewater works have been undertaken in accordance with the approved technical specifications;
29.1.2.6	a condition that otherwise specifies requirements relating to:
	(a) the installation of the waste watersystem; or
	(b) the decommissioning of the wastewater system; or
	(c) the connection of the wastewater system to a community wastewater management system or SA Water sewerage infrastructure or the disconnection of the wastewater system from a community wastewater management system or from SA Water sewerage infrastructure; or
	(d) the operation, servicing and maintenance of the wastewater system; or
	(e) the reuse or disposal of wastewater from the wastewater system.
29.2	The power pursuant to Regulation 25(3) of the Wastewater Regulations to impose a condition of approval that:
29.2.1	provides that a matter or thing is to be determined according to the discretion of the Council or some other specified person or body; and
29.2.2	operates by reference to the manuals referred to in a product approval for the wastewater system; and
29.2.3	operates by reference to a specified code as in force at a specified time or as in force from time to time.

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

29.3	The power pursuant to Regulation 25(6) of the Wastewater Regulations to, on application and payment of the prescribed fee, by written notice to the applicant, vary or revoke a condition of a wastewater works approval.
29.4	The power pursuant to Regulation 25(7) of the Wastewater Regulations to, on the Delegate's own initiative, by written notice to the operator of a wastewater system to which a wastewater works approval applies, vary or revoke a condition of the approval or impose a further condition, provided that the variation, revocation or imposition does not take effect until at least 6 months after the giving of the notice unless:
29.4.1	the operator consents; or
29.4.2	the Delegate states in the notice that, in his/her opinion, the variation, revocation or imposition is necessary in order to prevent or mitigate significant harm to public or environmental health or the risk of such harm.
30.	Expiry of Approval
30.1	The power pursuant to Regulation 26(2) of the Wastewater Regulations to, on application and payment of the prescribed fee, postpone the expiry of a wastewater works approval for a specified period.
31.	Registers of Wastewater Works Approvals
31.1	The power pursuant to Regulation 27(3) of the Wastewater Regulations, to extend the registers to include wastewater works approvals granted under the revoked regulations.
31.2	The power pursuant to Regulation 27(6) of the Wastewater Regulations to include in the registers other information considered appropriate by the Delegate.
32.	Requirement to Obtain Expert Report
32.1	The power pursuant to Regulation 29(1) of the Wastewater Regulations, if the Delegate suspects on reasonable grounds that a wastewater system is adversely affecting or threatening public or environmental health, to give the operator of the system a written notice requiring the operator to obtain and provide to the Council a written report from an independent wastewater engineer within a specified period addressing specified matters.
32.2	The power pursuant to Regulation 29(3) of the Wastewater Regulations, if the requirements of a notice under Regulation 29 of the Wastewater

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
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SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

	Regulations are not complied with to obtain the required report and recover the costs and expenses reasonable incurred in doing so from the person who failed to comply with the notice, as a debt.
32.3	The power pursuant to Regulation 29(3) of the Wastewater Regulations, to authorise a person to enter land at any reasonable time for the purposes of the report.
33. Deliberately left blank - REVOKED	

**SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL)
REGULATIONS 2013**

34. Non-compliance with Notices (Section 93(6) of Act)	
34.1	The power pursuant to Regulation 5B(2) of the South Australian Public Health (General) Regulations 2013 (the General Regulations), for the purposes of the creation of a charge on land under Section 93 of the Act, to deliver to the Registrar-General a notice, in a form determined by the Minister on the recommendation or with the approval of the Registrar-General:
34.1.1	setting out the amount recoverable under Section 93 of the Act; and
34.1.2	setting out the land in relation to which the relevant action was taken; and
34.1.3	requesting the Registrar-General to make a notation under Regulation 5B of the General Regulations in relation to the relevant land.
34.2	The power pursuant to Regulation 5B(8) of the General Regulations, if or when the amount to which the charge relates is paid, to by further notice in writing to the Registrar-General (being a notice in a form determined by the Minister on the recommendation or with the approval of the Registrar-General) cancel the charge.

**SOUTH AUSTRALIAN PUBLIC HEALTH (FEES)
REGULATIONS 2018**

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INSTRUMENT OF DELEGATION UNDER THE SOUTH
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AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018

35. Refund and Recovery of Fees	
35.1	The power pursuant to Clause 2(1) of Schedule 1 of the South Australian Public Health (Fees) Regulations 2018 (the Fees Regulations), to, where the Council is the relevant authority within the meaning of the respective regulations specified in Schedule 1 of the Fees Regulations, refund, reduce or remit payment of a fee payable under those regulations if the delegate considers that appropriate in the circumstances.
35.2	The power pursuant to Clause 2(2) of the Fees Regulations to recover a fee payable to the Council by action in a Court of competent jurisdiction as a debt due to the Council.

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**INSTRUMENT OF DELEGATION UNDER THE SOUTH
AUSTRALIAN PUBLIC HEALTH ACT 2011, SOUTH
AUSTRALIAN PUBLIC HEALTH (LEGIONELLA) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (WASTEWATER) REGULATIONS 2013,
SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL) REGULATIONS 2013
AND SOUTH AUSTRALIAN PUBLIC HEALTH (FEES) REGULATIONS 2018**

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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Last amended: 30 September 2018

ITEM	3.6.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
HEADING	Review of Flag Policy
AUTHORS	Joy Rowett, Governance Coordinator, CEO and Governance Belinda Hanlan, Executive Assistant to CEO/Mayor, 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 Flag Policy to Council for consideration and endorsement. The Policy has been reviewed and only minor changes are required.

RECOMMENDATION

1. The information be received.
2. The Flag Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.2, 21/01/2019), be endorsed.

ATTACHMENTS

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

1. Flag Policy

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 Flag Policy was last reviewed in February 2017 and is now due for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with staff as to the continuing relevance of the policies and any changes that may be required.
- 2.2 External
 - 2.2.1 Nil

3. REPORT

- 3.1 The Flag Policy has been reviewed by the Policy Owner. No changes of substance are required in the content of the Policy to ensure its continuing relevance.

4. CONCLUSION / PROPOSAL

- 4.1 The Flag Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 14/01/2019



Flag Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2013/1756, 2017/1602, xxxx/2019
Approval Date:	24/06/2013	Last Reapproval Date:	27 February 2017 28 January 2019
Review Date:	February 2019 January 2021	Internal Reference No.:	
Department:	CEO and Governance	Division:	CEO
Function:	9 - Governance	Responsible Officer:	Executive Assistant to the CEO/Mayor

A - PREAMBLE

1. The City of Salisbury will fly flags at the Council Offices at 12 James Street Salisbury as an expression of Council's governance responsibilities and will ensure that the flags displayed are acknowledged with due diligence, dignity and attention to position.

B - SCOPE

1. In the first instance, this Policy applies to the flying of flags on the flag poles situated immediately outside the City of Salisbury Municipal Office at 12 James Street, Salisbury.
2. This Policy may also be applied to the flag poles situated within the Town Square, or any Council owned flag pole in any other location within the City at the discretion of the Chief Executive Officer.

C – POLICY PURPOSE/OBJECTIVES

1. The purpose of this policy is to identify the protocols used and provide operational guidelines for flying flags on flag poles under Council's care and control

D - POLICY STATEMENT

1. All flags will be flown in accordance with the requirements of the Flags Act 1953 and the "Australian Flags – Part 2: The protocols for the appropriate use and the flying of the flag" publication.
2. The flag poles at the Municipal Office will be used to display flags and banners to encourage local and national pride and to mark events of community and wider significance.
3. Flags may be flown for the purpose of governance if they are:
 - A recognised National Flag (pursuant to the Commonwealth Flags Act 1953, including subsequent Proclamations);
 - The South Australian State Flag (State Proclamation 1904);
 - Council's corporate image and brand;
 - Approved by specific resolution of Council;

- Approved by the CEO in accordance with this Policy.
4. The national or city flags of the City of Salisbury's sister cities will be flown during visits by the mayor (or his or her delegate) of a sister city. On those occasions the order of precedence would be adjusted to recognize the flying of another National Flag.
 5. Where a specific Council resolution approves the display of another flag, subject to the requirements of the Flags Act and the "Australian Flags" publication, that flag will be flown beside the Australian National Flag; unless otherwise specified by Council.
 6. Where declared by the Commonwealth or State Government, a special flag or flags may be flown. When Council receives advice on such "special declarations" by the government then the Salisbury Flag and/or State Flag will be replaced with the special flag(s) of the special declaration if the display cannot otherwise be appropriately accommodated on the flag poles.
 7. **Standard Flag Display**
 - a) The standard flag display will comprise (in order of precedence from left to right of a person facing the building)
 - i) The Australian National Flag
 - ii) The South Australian Flag
 - iii) The Aboriginal Flag
 - iv) The City of Salisbury Flag
 - b) The fifth flag pole is to be used to fly alternative flags as and when required.
 8. **Flying alternative flags and banners**
 - a) Where Council has endorsed an Action Plan or Strategy, which includes opportunities for acknowledgement or recognition through they flying of a flag or banner, these flags or banners may be flown (subject to the relevant order of precedence requirements) from the flag poles located at the Council Office without further reference to Council.
 - b) The Chief Executive Officer and Mayor may consider applications from other parties to fly flags and banners from the flag poles and make a determination as to whether such flags and banners will be flown.
 - c) Each application to fly a flag or banner other than the standard display must comply with the requirements set out in this Policy. The following additional criteria will guide the consideration of any applications received:
 - i) Relevance to the City of Salisbury
 - ii) Alignment to (or conflict with) activities taking place within the City of Salisbury

E - LEGISLATION

1. Flags Act 1953

F - REFERENCES

1. Australian Flags–Part 2: The protocols for the appropriate use and flying of the flag

G - ASSOCIATED PROCEDURES

1. Nil

Document Control

Document ID	Flag Policy
Prepared by	Belinda Hanlan
Release	34.00
Document Status	Endorsed
Date Printed	

ITEM	3.6.3
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
PREV REFS	
HEADING	Review of Protocol for Civic Events and Functions Policy
AUTHOR	Mick Petrovski, Manager Governance - CEO/Governance, 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 Protocol for Civic Events /Functions Policy to Council for consideration and endorsement. The Policy has been reviewed and some changes are required.
RECOMMENDATION	<ol style="list-style-type: none"> 1. The Information be received. 2. The Protocol for Civic Events and Functions Organised by the City of Salisbury as set out in Attachment 1 to this report (Resources and Governance 3.6.3, 21/01/2019), be endorsed.
ATTACHMENTS	<p>This document should be read in conjunction with the following attachments:</p> <ol style="list-style-type: none"> 1. Protocol for Civic Events and Functions Organised by the City of Salisbury
BACKGROUND	<ol style="list-style-type: none"> 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 Protocol for Civic Events and Functions Policy was last reviewed in February 2017 and is now due for review.
2. CONSULTATION / COMMUNICATION	<ol style="list-style-type: none"> 2.1 Internal <ol style="list-style-type: none"> 2.1.1 Consultation with staff as to the continuing relevance of the policies and any changes that may be required. 2.2 External <ol style="list-style-type: none"> 2.2.1 Nil

3. REPORT

- 3.1 The Protocol for Civic Events and Functions Policy has been reviewed by the Policy Owner.
- 3.2 Changes of substance are required in the content of the Policy to ensure its continuing relevance, to give recognition that the City of Salisbury hosts or holds functions that do not always include external invitees, however all such functions should be covered by the guidance that this policy provides to ensure a consistent approach.

4. CONCLUSION / PROPOSAL

- 4.1 The Protocol for Civic Events and Functions Organised by the City of Salisbury as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 14/01/2019



Protocol for Civic Events ~~/and~~ Functions organized by the City of Salisbury Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2014/2470, 2014/2644, 2017/1603, <u>xxx/2019</u>
Approval Date:	23 June 2014	Last Reapproval Date:	27 February 2017 <u>January 2019</u>
Review Date:	<u>January 17, 2021</u>	Internal Reference No.:	
Department:	CEO and Governance	Division:	CEO
Function:	9 - Governance	Responsible Officer:	Executive Assistant to the CEO/Mayor

A - PREAMBLE

The City of Salisbury seeks to ensure that:

1. ~~-A~~ Appropriate representatives from the community are invited to its events and functions and that individuals attending events and functions on behalf of the City of Salisbury represent the Council appropriately.
- ~~1-2.~~ Events are organised and delivered appropriately and to a standard that presents the City of Salisbury in the best light and considerate of community expectations.

B - SCOPE

1. This Policy applies to Civic Events ~~/or~~ functions hosted by the City of Salisbury and Elected Members ~~/or staff~~ attending those events ~~or/~~ functions.

C – POLICY PURPOSE/OBJECTIVES

This Policy provides guidance to ensure appropriate representatives are invited to City of Salisbury Civic events ~~or~~ /functions and that ~~an~~ appropriate protocols for the provision of catering services and dress code for ~~attending~~ City of Salisbury representatives attending the event/function are in place. ~~is in place.~~

D - DEFINITIONS

1. *Elected Members* mean the Mayor and Councillors of the City of Salisbury.
2. *Civic Events ~~/or~~ functions* are those activities hosted ~~or~~ organized by the City of Salisbury to celebrate special occasions and to promote the City. Such events would include the Mayoral Breakfast, Living Legends, Australia Day Awards, Citizenship Ceremonies and launches of key publications and projects, as well as functions that celebrate organizational milestones or achievements.

4. *Events of Strategic/City Wide importance* are events that relate to activities or initiatives of relevance to the entire city, or provide the opportunity to promote the City of Salisbury as a whole, for example, the launch or opening of initiatives or community programs/infrastructure of the revitalised City Square, or launch/release of key strategic publications or the Mayoral Breakfast. These events may also have direct relationships with State or Federal Government initiatives, activities or programs affecting the Northern region and would generally be relevant to the City of Salisbury's Strategic Directions, and include occasions like visiting delegations, e.g. Sister City visits.
5. *Events of Local importance* are events that relate to activities or initiatives occurring within specific parts of the City and have particular relevance to that area. It also includes events that provide the opportunity to promote a particular program, piece of work or location within the City, for example opening of a local community centre or park, or a local community event. for example, the Para Hills 50th Birthday celebration or the St Kilda Pienie Event.
- 4.6. Functions that acknowledge organizational milestones or other social/cultural activities and festivals are functions designed to acknowledge achievements and contribution of the City of Salisbury in its service to the community, and the contribution that individuals or groups, including Elected Members, have made to that outcome.
- 5.7. *Appropriate attire* means clothing appropriate for the business environment, which does not indicate party/political preference or affect the reputation or neutrality of Council, or a decision before the Council.
- 6.8. *Candidate* means a person seeking election to federal, state or local government at an upcoming election.

E - POLICY STATEMENT

1. Where a Civic event /or function is hosted-organised by the City of Salisbury, the following protocol will apply when determining the invitation list for those occasions.
 - Where the Civic event/function is of strategic/city wide importance, the following are to be considered:
 - ☐ State/Federal Members of Parliament
 - ☐ Members of the Upper House (Senators and Legislative Council)
 - ☐ Representatives from Local Businesses
 - ☐ Representative from the Education sector (Schools, Universities & TAFEs)
 - ☐ Relevant State Government Departments
 - ☐ Elected Members
 - ☐ Appropriate community and not for profit representatives
 - ☐ City of Salisbury Staff (Executive, Managers, and relevant officers as determined by the Chief Executive Officer)
 - Where the Civic event /or function is of local importance invitations may be directed to the following, depending on the nature of the event:
 - State/Federal Members of Parliament
 - Representatives from Local Businesses
 - Representative from the Education sector (Schools, Universities & TAFEs)
 - Representatives from Local Churches
 - Community Group Presidents (e.g. RSL, Rotary etc)
 - Relevant State Government Departments
 - Australia Day Award Winners from previous five years
 - Past and present Living Legends of Salisbury
 - Sporting Club Representatives
 - Youth Council Representatives
 - Local Developers

- SAPOL
- Elected Members
- Metropolitan Council's Mayors and CEOs
- Former Mayors of the City of Salisbury
- City of Salisbury Staff (Executive, Managers, and relevant officers as determined by the Chief Executive Officer)

2. Elected Members are required to wear appropriate attire when representing Council at Civic events/functions and also at Council, Committee and Sub-Committee meetings.
3. Where a Civic event or function is organised by the City of Salisbury, the catering (food and beverages served) should be appropriate to the nature of the function from a community/social benefit, economic advancement, or organizational benefit perspective.
4. Where alcohol is available for consumption, this will be done in accordance with Council's "Drug and Alcohol Policy."

F – GUIDELINES FOR CANDIDATES ATTENDING CIVIC EVENTS AS REPRESENTATIVES OF INVITED GUESTS DURING THE LEAD UP TO FEDERAL, STATE OR LOCAL GOVERNMENT ELECTIONS.

1. From time to time invited guests may not be able to attend a Civic Event they are invited to. It is common practice in those situations for a representative to be nominated to attend in their place. In some instances, candidates for election to federal, state or local government may be nominated as that representative.
2. Where a candidate for election at any level of government is in attendance at a City of Salisbury Civic Event as a representative of an invited guest, it is expected that they will not use the event for campaigning purposes. Actions at the event should be consistent with celebrating the occasion for which it has been convened and with the roles and responsibilities of the invited guest the candidate is representing.
3. The City of Salisbury Caretaker Policy provides specific guidance regarding the use of council resources during a local government caretaker period and current Elected Members must be cognisant of their obligations under that policy when attending Civic Events during a caretaker period.

G - LEGISLATION

1. Nil

H - REFERENCES

1. Nil

I - ASSOCIATED PROCEDURES

1. Nil

Document Control

Document ID	Civic Events/Functions Policy
Prepared by	Belinda Hanlan Mick Petrovski
Release	45.00
Document Status	Endorsed Draft
Date Printed	

ITEM	3.6.4
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
HEADING	Review of Informal Gatherings Policy
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents the Informal Gatherings Policy to Council for consideration and endorsement. The Policy has been reviewed and only minor editorial changes are required.

RECOMMENDATION

1. The information be received.
2. The Informal Gatherings Policy, as set out in Attachment 1 to this report (Item No. 3.6.4, Resources and Governance Committee, 21/01/2019) be endorsed.

ATTACHMENTS

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

1. Informal Gatherings Policy

1. BACKGROUND

- 1.1 The City of Salisbury first adopted an Informal Gatherings Policy in March 2016 in accordance with the requirements of the *Local Government (Accountability and Governance) Amendment Act 2015*.
- 1.2 In November 2016, the Informal Gatherings Policy was reviewed to include new provisions introduced by the *Local Government (General) Variation Regulations 2016* which commenced operation on 24 November 2016 and prescribed requirements for inclusion in council policies dealing with the holding of informal gatherings or discussions. There have been no further changes to the relevant legislation at this time.
- 1.3 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and thereafter every two years.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with staff as to the continuing relevance of the policies and any changes that may be required.
- 2.2 External
 - 2.2.1 Nil

3. REPORT

- 3.1 The Informal Gatherings Policy has been reviewed by the Policy Owner. No further changes to the legislation have occurred and no changes of substance are required in the content of the Policy to ensure its continuing relevance.
- 3.2 A copy of the revised Informal Gatherings Policy is attached, with any minor editorial changes marked for ease of identification.

4. CONCLUSION / PROPOSAL

- 4.1 The Informal Gatherings Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 14/01/2019



Informal Gatherings Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	1444/2016, xxxx /2019
Approval Date:	28 November 2016	Last Reapproval Date:	28 January 2019
Review Date:	28 November 2018 January 2020	Internal Reference No.:	
Department:	CEO and Governance	Division:	Governance
Function:	9 - Governance	Responsible Officer:	Manager, Governance

A - PREAMBLE

1. Open and transparent Council meetings underpin representative democracy and ensure public confidence in Council's decision-making processes. Informal gatherings, where appropriate, provide opportunities for Elected Members to become better informed on issues and seek further clarification, prior to engaging in the formal decision making process which contributes to enhanced decision-making.

B - SCOPE

1. Section 90(8a) of the *Local Government Act 1999* requires that a designated informal gatherings or discussion may only be held if the council has adopted a policy on the holding of designated informal gatherings or discussions and that the designated informal gathering or discussion complies with the policy. Section 90(8b) further provides that any policy adopted must comply with requirements prescribed by the Regulations.
2. With effect from 24 November 2016, the Minister prescribed certain matters for the purposes of a Council's Informal Gathering Policy (Regulation 8AB—Informal gatherings and discussions).
3. This Policy applies to designated informal gatherings or discussions arranged by the Council, either by the Chief Executive Officer or the Elected Members as defined under Regulation 8AB *Local Government (General) Regulations 2013*.
4. Both the Chief Executive Officer and the Council are responsible for ensuring designated informal gatherings or discussions are conducted in accordance with the *Local Government Act 1999*.

C – POLICY PURPOSE/OBJECTIVES

1. This Policy provides for the conduct of designated informal gatherings or discussions without prejudicing the requirements for openness and transparency as required by the *Local Government Act 1999*.
2. Section 90(8) of the *Local Government Act 1999* allows designated informal gatherings or discussions to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a Council meeting.

3. This Policy reflects the intention of the legislation for designated informal gatherings or discussions to be used for briefing, planning and information sharing sessions and is aimed at avoiding any perception that informal gatherings will be used to build consensus for Council agenda items.

D - DEFINITIONS

1. **Elected Members** mean the Mayor and Councillors of the City of Salisbury.
2. **Designated informal Gatherings or discussions** mean an event organised and conducted by or on behalf of the council or chief executive officer to which members of the council or council committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the council or council committee.
3. **Training and Development Activity** mean any activity with the objective of increasing Elected Members' knowledge, skills and competencies in relation to the performance of their roles and responsibilities as Elected Members at the City of Salisbury.

E - POLICY STATEMENT

General Business of the Council

1. Informal Gatherings or discussions will be used solely for the purpose of information sharing and not for the purpose of debating issues, building consensus positions or otherwise discharging Council's deliberative and decision-making functions, which must only be undertaken at formal Council/Committee meetings.
2. Informal Gatherings or discussions may be used to discuss issues that involve strategy or policy or other matters of Council administration and to brief Elected Members on issues relating to their decision-making function.

Timing of, and Access to, Informal Gatherings or discussions of Council

3. Informal gatherings or discussions involving Elected Members or Elected Members and Council staff are, by their nature, a non-compulsory meeting of the Council, however, all Elected Members are encouraged to attend these sessions, particularly those designed to provide history, context or additional information to assist Elected Members to carry out their functions.
4. Informal gatherings or discussions are chaired by the Chief Executive Officer or another senior Council officer, and it is the Chief Executive Officer's responsibility to ensure that the purpose, intent and outcomes of the meeting fall within the permitted parameters of legislative provisions.
5. Informal gatherings or discussions scheduled regularly to coincide with Council's meeting cycle, and ad-hoc informal gatherings or discussions, convened to consider matters that will form part of Council's meeting agenda will be advertised on the City of Salisbury Website.
6. At the time an informal gathering or discussion is scheduled the Chief Executive Officer will consider the content planned for discussion and make a determination as to whether the informal gathering or discussion will be open to the public.
7. A decision to close an informal gathering or discussion will consider the nature of information to be discussed including:
 - a. whether the content to be discussed falls within the confidentiality provisions of s.90(3) of the *Local Government Act 1999*

- b. whether the information to be presented constitutes a Training and Development Activity;
- c. a request from an external party involved in the presentation of information that the Informal Gathering not be open to the public.

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

Agendas and Minute Taking

- 8. Consistent with the status of an informal gathering or discussion no formal minutes will be taken at these activities. A list of the matters to be discussed at an informal gathering or discussion may be published on Council's website in conjunction with details of the time and place of the informal gathering or discussion (in accordance with Clause 5 above).

F - LEGISLATION

- 1. Local Government Act 1999
- 1.2. Local Government (General Regulations 2013

G - REFERENCES

- 1. Nil

H - ASSOCIATED PROCEDURES

- 1. Code of Practice for Meeting Procedures
- 2. Code of Practice for Access to Meetings and Associated Document

Document Control

Document ID	Informal Gatherings Policy
Prepared by	Tami Norman Joy Rowett
Release	23.00
Document Status	Endorsed Draft
Date Printed	

ITEM	3.6.5
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	21 January 2019
HEADING	Review of Hardship Policy for Residential Salisbury Water Customers
AUTHORS	Riannah Roach, Distribution & Retail Coordinator, Business Excellence Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents the Hardship Policy for Residential Salisbury Water Customers to Council for endorsement. The Policy has been approved by the Essential Services Commission of South Australia (ESCOSA) in accordance with the requirements of the Water Industry Act, 2012.

RECOMMENDATION

1. The information be received.
2. The Hardship Policy for Residential Salisbury Water Customers as set out in Attachment 1 to this report (Resources and Governance 3.6.5, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Salisbury Water Hardship Policy

1. BACKGROUND

- 1.1 The City of Salisbury has been issued a Water Retail Licence by the Essential Services Commission of South Australia (ESCOSA).
- 1.2 In accordance with the *Water Industry Act 2012*, the City of Salisbury is required to have a Water Retail Licence in order to retail its recycled water supply to its customers.
- 1.3 In accordance with Section 37 of the *Water Industry Act* the Minister must develop and publish a customer hardship policy in respect of the residential customers of water industry entities that sets out:
 - 1.3.1 Processes to identify residential customers experiencing payment difficulties due to hardship, including identification by a water industry entity and self-identification by a residential customer; and
 - 1.3.2 An outline of a range of processes or programs that a water industry entity should use or apply to assist customers identified as per paragraph 1.3.1.

1.4 The Minister has developed and published a customer hardship policy for residential customers. In line with Section 37(3) of the *Water Industry Act 2012*, it states that a water industry entity must:

1.4.1 Adopt a customer hardship policy for residential customers as published by the Minister under this section; or

1.4.2 With the approval of the Commission, adopt such a policy with modifications.

1.5 As per Section 37(4) of the *Water Industry Act 2012* it is a condition of a water industry entity's licence that it complies with the customer hardship policy as per Item 1.4 above.

2. CONSULTATION / COMMUNICATION

2.1 Internal

2.1.1 Nil

2.2 External

2.2.1 Essential Services Commission of South Australia. Approval was received from the Commission on the 27 August 2014 for the City of Salisbury Residential Customer Hardship Policy, as per Item 1.4.2 above.

3. REPORT

3.1 The Salisbury Water Hardship Policy for Residential Customers is based on the customer hardship policy for minor and intermediate retailers, made by the Minister for Communities and Social Inclusion, pursuant to Section 37 of the *Water Industry Act 2012*, under a delegation by the Minister for Water and the River Murray, with modification. Any modifications from the template, contained in City of Salisbury policy, have all been approved by the Essential Services Commission of South Australia.

3.2 The purpose of the Hardship Policy is to identify residential customers who are experiencing payment difficulties due to hardship, and assist those customers to better manage their bills on an ongoing basis.

3.3 The policy sets out processes for staff to identify residential customers experiencing payment difficulties due to hardship, including self-identification by the staff, self-identification by the customer, identification by an accredited financial counsellor or welfare agency.

3.4 The policy also provides an outline of a range of processes or programs that can be applied to assist customers who have been identified as experiencing payment difficulties.

3.5 This policy only applies to Salisbury Water residential customers.

3.6 The Salisbury Water Hardship Policy for Residential Customers has been reviewed with no changes proposed or directed by the Minister.

4. CONCLUSION / PROPOSAL

4.1 Salisbury Water is committed to assisting residential customers who are experiencing financial hardship to better manage their payments and ensure they remain connected to the service.

- 4.2 This policy assists staff to identify Salisbury Water residential customers experiencing payment difficulties due to hardship to comply with the provisions of the *Water Industry Act 2012*.
- 4.3 It is recommended that the policy be endorsed.

CO-ORDINATION

Officer: Executive Group
Date: 14/01/2019



Hardship Policy for Residential Salisbury Water Customers

Policy Type:	Policy		
Approved By:	Council	Decision No:	1621/2017, xxx /2019
Approval Date:	23 February 2015	Last Reapproval Date:	27 February 2017 <u>25 February 2019</u>
Review Date:	23 February 2019 <u>2021</u>	Internal Reference No.:	
Department:	Business Excellence	Division:	Salisbury Water
Function:	15 - Legal Provisions	Responsible Officer:	Manager, Salisbury Water

A - PREAMBLE

1. This policy is based on the customer hardship policy for minor and intermediate retailers, made by the Minister for Communities and Social Inclusion, pursuant to section 37 of the *Water Industry Act 2012*, under a delegation by the Minister for Water and the River Murray, with modification. The modifications contained in this policy have been approved by the Essential Services Commission of South Australia.

B – POLICY PURPOSE/OBJECTIVES

2. The City of Salisbury is committed to assisting residential customers of water, who are experiencing financial hardship, to manage their payments in a manner that best suits the customer, and ensuring they remain connected to a retail service.
3. The purpose of this policy is to identify residential customers who are experiencing payment difficulties due to hardship, and assist those customers to better manage their bills on an ongoing basis.
4. This policy sets out:
 - a) processes to identify residential customers experiencing payment difficulties due to hardship, including identification by us, self-identification by a residential customer, identification by an accredited financial counsellor, or welfare agency, and
 - b) an outline of a range of processes or programs that we will use, or apply, to assist our customers who have been identified as experiencing payment difficulties.

C - DEFINITIONS

5. In this policy:

Accredited financial counsellor, in South Australia, means a person who holds a Diploma of Community Services (Financial Counselling), and who has worked at least 12 months as a financial counsellor under the supervision of the South Australian Financial Counsellors Association.

Connection means an agreed point of supply at which a customer receives a retail service from a supplier.

Consumer means a person supplied with retail services as a consumer or user of those services (as defined in the *Water Industry Act 2012*) (Note: you may be a consumer by virtue of being a council ratepayer).

Council means the City of Salisbury

Customer means a person who owns land in relation to which a retail service is provided and includes:

- a) where the context requires, a person seeking the provision of a retail service, and
 - b) in prescribed circumstances, a person supplied with retail services as a consumer or user of those services (without limiting the application of this definition to the owners of land), and
 - c) a person of a class declared by the regulations to be customers.
- (as defined in the *Water Industry Act 2012*) (Note: you may be a customer by virtue of being a council ratepayer).

Customer Hardship Policy means this policy for minor and intermediate retailers, that has been adopted by the City of Salisbury, in accordance with section 37 of the *Water Industry Act 2012*.

Financial Counsellor means accredited financial counsellor.

Financial Hardship means a circumstance of experiencing a lack of financial means that may be either ongoing or temporary, but does not include circumstances where a person chooses not to meet a liability for an unpaid debt.

Hardship means financial hardship.

Hardship customer means a residential customer who has been identified under, accepted into, or is eligible for assistance under our hardship program.

Hardship Program means an agreement between us and a hardship customer for payment of outstanding sums due for retail services.

Intermediate retailer means a retailer that provides services to more than 500 but less than 5000 connections.

Minor retailer means a retailer that provides retail services to less than 500 connections.

Our, us, we means the City of Salisbury.

Policy means this Customer Hardship Policy.

Regulations means regulations under the *Water Industry Act 2012*.

Residential customer means a customer or consumer who is supplied with retail services for use at residential premises (as defined in the *Water Industry Act 2012*) (Note: you may be a residential customer by virtue of being a council ratepayer).

Retail service means a service constituted by the sale and supply of water to a person for use (and not for resale) where the water is to be conveyed by a reticulated system (even if the service is not actually used) but does not include any service, or any service of a class, excluded from the ambit of this definition by the regulations (as defined in the *Water Industry Act 2012*).

Retailer means the holder of a licence issued by the Essential Services Commission of South Australia under the *Water Industry Act 2012*.

Water means rainwater, stormwater, desalinated water, recycled water and water that may include any material or impurities, but does not include sewerage (as defined in the *Water Industry Act 2012*).

Water Service means:

- a) a service constituted by the collection, storage, production, treatment, conveyance, reticulation or supply of water, or
- b) any other service, or any service of a class, brought within the ambit of this definition by the regulations.

(as defined in the *Water Industry Act 2012*).

D - POLICY STATEMENT

Identifying Residential Customers Experiencing Financial Hardship

6. A residential customer experiencing financial hardship is someone who is identified by themselves, by us, by an accredited financial counsellor, or by a welfare agency as having the intention, but not the financial capacity, to make required payments in accordance with our payment terms.
7. There are two types of financial hardship: ongoing and temporary. Depending on the type of hardship being experienced, hardship customers will have different needs and will require different solutions.
8. Residential customers who are identified as experiencing ongoing hardship are generally those on low or fixed incomes. These customers may require ongoing assistance.
9. Residential customers who may be identified as experiencing temporary hardship are those who have experienced a short term change in circumstances, such as serious illness, disability or death in the family, loss or change in income, separation, divorce or other family crisis, a loss arising from an accident, or some other temporary financial difficulty. These customers generally require flexibility and temporary assistance, such as an extension in time to pay or an alternative payment arrangement.
10. The extent of hardship will be determined by either our assessment process or by an external body, such as an accredited financial counsellor.
11. Where we assess a residential customer's eligibility for hardship assistance, we will consider indicators including (but not limited to) whether:
 - a) the customer is on a Centrelink income and holds a Pensioner Concession Card or holds a Centrelink Low Income Health Care Card
 - b) the Customer is eligible for a South Australian Government Concession
 - c) the customer has been referred by an accredited financial counsellor or welfare agency
 - d) the customer advises they have previously applied for emergency relief (irrespective of whether or not their application was successful)
 - e) the customers payment history indicates that they have had difficulty meeting their retail services bills in the past
 - f) the customer, through self-assessment, has identified their position regarding their ability to pay.

Assisting residential customers who are experiencing financial hardship

12. We will inform a residential customer of this customer hardship policy where:
 - a) it appears to us that non-payment of a bill for retail services is due to the customer experiencing payment difficulties due to hardship, or
 - b) we are proposing to install a flow restriction device.
13. Where a residential customer has been identified as experiencing financial hardship, we will offer the customer, as soon as is reasonably practicable, flexible and frequent payment options that have regard to the hardship customer's usage, capacity to pay and current financial situation. These options will include the following:
 - a) an interest and fee free payment plan that complies with clause 28 to 32,
 - b) reoccurring BPay Payment Plan, or
 - c) other arrangement, under which the customer is given more time to pay a bill or to pay in arrears (including any disconnection or restriction charges),

recognising that some residential customers have a short-term financial hardship issue that may be resolved in the near to medium term, where others may require a different type of assistance for ongoing financial issues.
14. We will not charge a residential customer a reconnection charge where the customer is experiencing financial hardship and should have been identified as eligible for this customer hardship policy, as long as the customer agrees to participate in our hardship program, upon reconnection.
15. We will engage in discussion with the hardship customer to determine a realistic payment option in line with the customer's capacity to pay.
16. We will work with a hardship customer's financial counsellor to determine the payment arrangement and instalment amount that best suits the customer and their individual circumstances.
17. Where a hardship customer's circumstances change, we will work with the customer, and their financial counsellor, to re-negotiate their payment arrangement.
18. We will not require a hardship customer to provide a security deposit.
19. We will not restrict a customer's retail service if:
 - a) the customer has agreed to a payment arrangement and continues to adhere to the terms of that arrangement, or
 - b) we have failed to comply with the requirements of this customer hardship policy.
20. We will also offer the hardship customer:
 - a) where appropriate, information about the right to have a bill redirected to a third person, as long as that third person consents in writing to that redirection
 - b) information about, and referral to, Commonwealth and South Australian Government concessions, rebates, grants and assistance programs
 - c) information about, and referral to, accredited financial and other relevant counselling and support services, particularly where a customer is experiencing ongoing financial hardship.
21. Where a hardship customer requests information or a redirection of their bills, we will provide that information or redirection free of charge.

22. We will provide information to the hardship customer on how to reduce usage and improve water efficiency, which may include referral to relevant government water efficiency programs. This will be provided at no charge to the customer.
23. We will explain to the hardship customer how and when the customer will be returned to regular billing cycles (and collection), after they have successfully completed their hardship program.
24. We will also explain to the hardship customer that they will be removed from our hardship program, and be returned to our standard collection cycles, including debt recovery, should they cease to make payments according to the agreed payment arrangement or fail to contact us for a period of greater than 90 days.
25. We will not take any action to remove a customer from our hardship program until we have sent the customer a written notice, allowing them 10 working days from the date of the notice to contact us to re-negotiate their re-entry into the program.

Retail services provided by Councils

26. Typically, Council rates are made up of retail services (as defined in this policy) and non-retail services, for example refuse collection, parks and playgrounds, road maintenance.
27. The City of Salisbury's water retail service is billed separately to its Council rates, therefore if you are a residential customer in receipt of a water retail service provided by Council and you are experiencing financial hardship, then only the water retail element will be subject to the terms of this hardship policy.

Payment Plans

28. Our payment plan for a hardship customer will be established having regard to:
 - a) The customer's capacity to pay and current financial situation
 - b) Any arrears owing by the customer, and
 - c) The customer's expected usage needs over the following 12 month period.
29. The payment plan will also include an offer for the hardship customer to pay their retail services in advance or in arrears by instalment payments at a frequency agreed with the customer (eg weekly, fortnightly, monthly or as otherwise agreed with the customer).
30. Where a payment plan is offered to a hardship customer, we will inform the customer in writing, within 10 business days of an agreement being reached, of:
 - a) The duration of the plan
 - b) The amount of each instalment payable under the plan, the frequency of instalments and the date by which each instalment must be paid
 - c) The customer is in arrears – the number of instalments to pay the arrears, and
 - d) If the customer is to pay in advance – the basis on which the instalments are calculated.
31. We will waive any fees for late payment of a bill for a hardship customer.
32. Where a hardship customer is seeking assistance in accordance with this policy, but has failed to fulfil their obligations under an existing hardship arrangement, we will require them to sign up for reoccurring BPay payments.

Debt Recovery

33. We will suspend debt recover processes while negotiating a suitable payment arrangement with a hardship customer.
34. We will not engage in legal action or commence proceedings for the recovery of a debt relating to a retail service for a hardship customer if:
 - a) The customer has agreed to a payment arrangement and continues to adhere to the terms of that arrangement, or
 - b) We have failed to comply with the requirements of this customer hardship policy.

Rights of residential customers experiencing financial hardship

35. Every residential customer experiencing financial hardship has the right to:
 - a) Be treated respectfully on a case-by-case basis, and have their circumstances kept confidential.
 - b) Receive information about alternative payment arrangements, this customer hardship policy, and government concessions, rebates, grants and assistance programs.
 - c) Negotiate any amount they can afford to pay on a payment plan or other payment arrangement.
 - d) Consider various payment methods, and receive written confirmation of the agreed payment arrangement within 10 business days.
 - e) Renegotiate their payment arrangement if there is a change in their circumstances.
 - f) Receive information about free and independent, accredited financial counselling services.
 - g) Receive a language interpreter service at no cost to the customer.
 - h) Be shielded from legal action and additional debt recovery costs, whilst they continue to make payments according to an agreed payment arrangement.
 - i) Not have retail services restricted or disconnected as long as they have an agreed payment arrangement and continue to make payments according to an agreed plan.

General Provisions

36. We will ensure residential customers have equitable access to this customer hardship policy, and that this policy is applied consistently.
37. We will ensure appropriate training of staff dealing with residential customers in hardship to enable them to treat customers with respect and without making value judgements. Training will also assist staff in the early identification of hardship customers, with establishing payment plans based on a hardship customer's capacity to pay, and include processes for referral to an accredited financial counsellor or welfare agency for assistance.
38. This customer hardship policy is available on our website: www.salisbury.sa.gov.au
39. We will also make a copy of this policy available, upon request, and at no charge to the customer, as soon as practicable following a request to do so.
40. This customer hardship policy does not limit or prevent us from waiving any fee, charge or amount of arrears for the provisions of retail services to customers who are experiencing financial hardship.

Confidentiality

41. Any information disclosed by a customer is confidential and will not be used for any purpose other than the assessment of an application for assistance.

Complaints Handling

42. Details of our customer complaints and dispute resolution process are available on our website: www.salisbury.sa.gov.au. We will also make a copy of this process available to a residential customer, upon request, and at no charge to the customer.
43. A residential customer experiencing hardship has the right to have any complaint heard and addressed by us, and in the event that their complaint cannot be resolve, the right to escalate the complaint to the external dispute resolution body approved by the Essential Services Commission of South Australia.

E - LEGISLATION

City of Salisbury Water Industry Retail Licence (Minor Retailer);
Water Retail Code – Minor & Intermediate Retailers;
Water Industry Act 2012 (SA);
Essential Services Commission Act 2002 (SA);
Local Government Act 1999.

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