



AGENDA

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

**16 SEPTEMBER 2019 AT THE CONCLUSION OF BUDGET AND FINANCE
COMMITTEE**

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

REQUIRED STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Development, Mr T Sutcliffe
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 19 August 2019.

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OTHER BUSINESS

CLOSE



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

19 AUGUST 2019

MEMBERS PRESENT

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

STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Development, Mr T Sutcliffe
Manager Governance, Mr M Petrovski

The meeting commenced at 7.43 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

Leave of absence for this meeting was previously granted to Cr A Duncan.

PRESENTATION OF MINUTES

Moved Cr B Brug
Seconded Cr J Woodman

The Minutes of the Resources and Governance Committee Meeting held
on 15 July 2019, be taken and read as confirmed.

CARRIED

REPORTS

Administration

3.0.1 Future Reports for the Resources and Governance Committee

Moved Cr J Woodman
Seconded Cr B Brug

1. The information be received.

CARRIED

Development Control Administration

3.2.1 Building Fire Safety Committee

Moved Cr B Brug
Seconded Mayor G Aldridge

1. That the following persons be appointed to the City of Salisbury Building Fire Safety Committee for a period of three (3) years, concluding 31 August 2022:

Members

- Mr Jeff Shillabeer (City of Salisbury staff) – an accredited Building Surveyor;
- Mr Bahaa Tabet (City of Salisbury staff) – an accredited Building Surveyor;
- Mr Peter Hilhorst – Member nominated by the Chief Officer South Australian Metropolitan Fire Service.

Deputy Members

- Mr Andrew Sharred – Deputy for Peter Hilhorst nominated by the Chief Officer South Australian Metropolitan Fire Service.
2. That once established, the Building Fire Safety Committee appoint an appropriate Presiding Member (Chairperson) and Deputy Presiding Member, and review its *Terms of Reference* including where necessary alterations to the terms of reference to be consistent with the State Government's "*Guide to Council Building Fire Safety Committees*".
 3. That Staff provide a further report on the appointment of an independent member with expertise in the area of fire safety.

CARRIED

3.6.1 Review of Elected Members Records Management Policy

Moved Cr K Grenfell
Seconded Cr P Jensen

1. The Information be received.
2. The Elected Members Records Management Policy as set out in Attachment 1 to this report (Item No. 3.6.1, Resources and Governance Committee, 19/08/2019), be endorsed.

CARRIED

3.6.2 Summary Report for Attendance at Training and Development Activity - Cr Julie Woodman

Moved Mayor G Aldridge
Seconded Cr B Brug

1. The information be received.

CARRIED

3.6.3 Elected Member Training and Development Policy

Moved Cr B Brug
Seconded Mayor G Aldridge

1. That the information be received.
2. Council adjust the budget allocation for Elected Members' training and development, Council delegate activities, and attendance at conferences and seminars, by March CPI at the beginning of each financial year.

CARRIED

OTHER BUSINESS

R&G-OB1 Increase to Internet Reimbursement for Elected Members

Moved Cr K Grenfell
Seconded Cr B Brug

That a report be prepared to provide advice to Council about amending the Elected Member Allowances, Facilities and Support Policy for increasing the maximum reimbursement limit for broadband connection that is privately provided by Elected Members from \$60 to \$90 per month.

CARRIED

R&G-OB2 Payment of Elected Member Allowance

Moved Cr K Grenfell
Seconded Cr B Brug

That individual Elected Members can request for a single payment of their monthly Elected Member allowance to be paid in advance, at the discretion of the Chief Executive Officer.

CARRIED

R&G-OB3 Payment to Deputy Chair in the Absence of the Chair

Moved Cr K Grenfell
Seconded Cr B Brug

That, when the Chairperson of a sub committee is absent and is unable to Chair a meeting of the sub committee, then the Deputy Chair will be paid a sitting fee for that meeting.

CARRIED

R&G-OB4 Social Media Training for Elected Members

Moved Cr B Brug
Seconded Cr J Woodman

That a training workshop on the use of social media be provided to Elected Members by the end of November 2019.

CARRIED

The meeting closed at 9.01 pm.

• CHAIRMAN.....
....
•
DATE.....

ITEM	3.0.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 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	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.	John Darzanos
Due:	December 2019	
23/04/2018 3.3.1	Parking Technology Trials 5. A further report presenting the outcomes of the trials be presented to Council at the conclusion of the trials.	John Darzanos
Due:	November 2019	
23/07/2018 MON2	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.	John Darzanos
Due:	November 2019	
23/07/2018 3.6.3	Media Policy Review That consideration of the Media Policy be deferred to the next Council following the local government elections.	Julie Kushnir
Due:	October 2019	
26/11/2018 6.5	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.	Mick Petrovski
Due:	March 2020	
27/05/2019 6.5	Review of Footpath Policy 2. The review of the Footpath Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.5, 20/05/2019) be deferred to the July meeting of the Resources and Governance Committee.	Craig Johansen
Due:	September 2019	
Deferred to:	November 2019	
Reason:	To be raised through Asset Management Sub Committee.	
22/07/2019 3.3.1	Abandoned Shopping Trolleys 5. That Council also monitor the new bylaws implemented by the City of Marion; and report back to Council after six months on the results of their effectiveness.	John Darzanos
Due:	February 2020	

22/07/2019 3.3.1	Abandoned Shopping Trolleys 6. That Staff provide an update to this committee at the conclusion of the Local Nuisance and Litter Control Act review noting any amendments addressing trolleys to be implemented and the likelihood of them coming into effect. Due: December 2019	John Darzanos
22/07/2019 3.3.1	Abandoned Shopping Trolleys 7. Pending no action or willingness by the State Government to tackle this issue, Council review By-Law 6 Waste Management By-Law 2015 and bring a report to Council advising the process to draft changes to this bylaw and/or create a new bylaw to tackle abandoned trolleys in the City of Salisbury. Due: December 2019	John Darzanos
26/08/2019 MON7.1	Building Fire Safety Committee 3. That Staff provide a further report on the appointment of an independent member with expertise in the area of fire safety. Due: December 2019	Chris Zafiropoulos

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
Date: 09/09/19

ITEM	3.3.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 2019
HEADING	Review of the Local Nuisance and Litter Control Act 2016 - Submission
AUTHOR	James Story, Senior Environmental Health Officer, City Development
CITY PLAN LINKS	3.1 Be an adaptive community that embraces change and opportunities. 3.4 Be a proud, accessible and welcoming community. 4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	The Local Nuisance and Litter Control Act commenced in July 2017 to provide local service to manage a range of nuisance complaints and deter littering and illegal dumping. The Environment Protection Authority (EPA) has undertaken a minor review of the legislation to consider its functionality and effectiveness in addressing these issues in the community. The report provides a draft submission to the EPA providing feedback on a range of proposed amendments to the legislation.

RECOMMENDATION

1. That the report be received.
2. The City of Salisbury Local Nuisance and Litter Control Act Submission 2019 forming attachment 1 to the Planning and Policy Committee Agenda 16/9/19 Item 3.3.1 be provided to the Environment Protection Authority and Local Government Association for consideration.

ATTACHMENTS

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

1. Local Nuisance and Litter Control Act Review Draft City of Salisbury Submission
2. LGA Draft Submission Local Nuisance and Litter Control Act Review

1. BACKGROUND

- 1.1 The first anniversary of the full commencement of the Local Nuisance and Litter Control Act was 1st July 2018.
- 1.2 The milestone prompted a minor review of the operation of the Act to determine how effectively nuisance complaints and littering issues were being addressed in local communities.
- 1.3 The Environment Protection Authority (EPA) has developed a discussion paper that identifies a range of issues for review and comment by relevant stakeholders.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Development Services
- 2.1.2 Works and Services
- 2.1.3 Environmental Health and Safety

2.2 External

- 2.2.1 Local Government Association of South Australia
- 2.2.2 Norman Waterhouse Lawyers

3. REPORT

- 3.1 The EPA is undertaking consultation with relevant stakeholders in relation to the Local Nuisance and Litter Control Act and comments on the review are due on Friday 4 October 2019.
- 3.2 The EPA at the conclusion of the consultation period will prepare a report for the Minister for Environment and Water, Hon David Speirs MP for his consideration.
- 3.3 The Local Government Association has prepared a draft submission in August 2019 (Attachment 2).
- 3.4 The LGA recommendations are summarised as follows:
 - 3.4.1 LGA recommends that no amendments be made that increase the role and responsibilities of local government in responding to litter or local nuisance complaints unless they are supported by a clear policy basis or information / data that justifies the change.
 - 3.4.2 EPA to explore whether an amendment to the Act is needed to clarify that the conditions of a development authorisation are not a defense to offences under the legislation.
 - 3.4.3 In relation to noise nuisance EPA should develop a formal policy or guideline that acknowledges the different noise thresholds established under the Environment Protection Act.
 - 3.4.4 To address abandoned shopping trolleys, clarity is required if a litter abatement notice can be issued to the owner of the trolley (ie retailer) and ensuring councils have the power to require retailers to enter into abandoned shopping trolleys management plans.
- 3.5 Staff have considered the LGA submission, along with reference to previous Council resolutions relating to the Act and its functions and input from key staff, in formulating a draft response for Council's consideration (Attachment 1)

4. CONCLUSION / PROPOSAL

- 4.1 The attached submission is recommended to be presented to the EPA providing feedback on the proposed amendments to the legislation.
- 4.2 The submission has been prepared having regard to feedback from consultation and discussions with stakeholder partners including the LGA, Norman Waterhouse Lawyers, neighbouring councils, and internal departments, and relevant resolutions of Council.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 09.09.19



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Local Nuisance and Litter Control Act 2016 – City of Salisbury Submission

The Local Nuisance and Litter Control Act was introduced in 2017 and has required local government to be responsible for a range of nuisance and litter issues within their communities. The implementation of the legislation has significantly expanded councils' roles in relation to these matters and has required a significant increase and/or redirection of resources.

Council supports the LGA in undertaking further research to quantify the additional cost impact on local councils. In addition, Council supports the LGA making a case for the redirection of funding from the State Government to provide adequate ongoing funding to support councils' administration of the Act.

The following submission provides a response to the questions provided on the EPA discussion paper.

1. Liquor Licensing

- 1.1 Complaints from liquor licensed premises are currently dealt with under the Liquor Licensing Act. Matters dealt with under the Liquor Licensing Act are exempt under the Local Nuisance and Litter Control Act (LNLC Act) and cannot be addressed by councils. It is proposed that councils be given the ability to deal with nuisances not associated with the service of alcohol which may include issues such as fixed machine noise (ie noisy compressors). Should nuisance issues associated with non-licensed premises be dealt with on licensed premises?

Response: Liquor Licensing should continue address these issues to prevent the business being required to deal with multiple agencies in relation to compliance issues. If these issues are included under the LNLC Act it is considered appropriate that Liquor Licensing Officers are authorised under the legislation so they can continue to deal with all matters relating to the premises.

- 1.2 Outdoor events where alcohol is served are also excluded from the LNLC Act. The Liquor Licensing Act does not provide for immediate intervention in circumstance where nuisance occurs outside of the liquor service activities. Should the LNLC Act be amended so outdoor events can be subject to local nuisance provisions?

Response: Councils can currently deal with general nuisance issues from liquor licensed events on public land under the Local Government Act, and on private land development approval conditions can provide a level of control, noting however the limitations of enforcement procedures under the relevant development legislation. If these issues are included under the LNLC Act it is again considered appropriate that Liquor Licensing Officers are authorised under the legislation.

2. Interaction with Other Legislation

The LNLC Act sets out a number of exclusions related to different Acts in Part 3 of Schedule 1 where the issue of nuisance is adequately managed under the alternative legislation or where another Act contains a resolution or complaints process for nuisance issues. Are there other acts that should be considered for exclusion under Part 3 Schedule 1?

Response: No other Legislation has been identified.

3. Animals in Natural Habitat

3.1 Animals living in their natural habitat are declared as not being a local nuisance with the exemption of animals being actively encouraged. Does the term natural habitat include physical human structures and should the meaning of natural habitat be further defined?

Response: Council has no comment to make in relation to this proposal given that it has not arisen as an issue of community concern to date. Further investigation maybe required to determine if this issue has resulted in concerns for enforcement under the legislation.

4. Noise from Sporting Activities

4.1 Noise or other nuisance from sporting or associated activities at sporting venues is declared as 'not local nuisance' and therefore excluded from regulation under the LNLC Act, on the basis that:

- sports venues are widespread
- provide an important community function
- noise, in particular, is incidental to the playing of sport at the venue.

Motorsport venues are currently exempt but if they are historic courses not specifically dealt with under the Development Act should they be regulated under the LNLC Act?

Response: Change is not supported. Not identified as an issue for the City of Salisbury and could generally be covered under the Development Act/Planning Development and Infrastructure Act for those venues/uses that are subject to a Development Approval. If the motorsport issue occurs for a council a then the matter should be addressed under the Environment Protection Act.

5. Light as Local Nuisance

5.1 Light nuisance from domestic setting, sporting field and commercial premises is currently exempt under the LNLC Act and is dealt with as a civil matter. Should light be included as an agent causing nuisance that can be regulated by the LNLC Act.

Response: Change is not supported. Light nuisance was originally withdrawn from the draft legislation due to Council resourcing concerns. These concerns have not changed and the enforcement of light pollution is problematic and would require after hours work for enforcement officers and provides administrative difficulties with subjective assessments.

Light control issues from commercial developments are usually addressed under the development approval conditions. Antisocial light interference should be addressed by SAPol. Other minor light nuisances in residential environments could be effectively dealt with through mediation or civil remedies. Experience with these issues indicates that there are widely varying levels of tolerance in the community, and that they are commonly raised in the context of a broader neighbour dispute.

6. Noise from Vehicles

6.1 The LNLC Act currently exempts noise from vehicles (other than activities on a business premises) and issues can occur from vehicles not associated with a road causing nuisance by:

- excess revving
- recreational use of motorbikes
- faulty car alarms etc.

Should the exemption be amended to include noise from vehicles not associated with a road causing nuisance?

Response: Change is not supported. Likely to increase resources required to undertake enforcement. Difficulties in enforcement on non-road related areas to control and provide direction to moving vehicles. Issues usually relating to people noise or antisocial behavior particularly when in control of a vehicle should be dealt with through SAPol.

7. Dust from Unsealed Roads

7.1 Nuisance associated with dust from unsealed roads may cause Councils to be deemed responsible as nuisance can be attributed to a person carrying on the activity or failing to act. Should dust from unsealed roads be considered 'not a local nuisance' (exempt) from the purposes of the Act.

Response: Support a change which states dust from unsealed roads is not a local nuisance.

8. Noise from Public Infrastructure – Vibrations

Noise from public infrastructure works is prescribed as 'not local nuisance' under Schedule 1 of the LNLC Act. Should the exclusion of noise from public infrastructure be extended to also exclude vibration from public infrastructure? Should the exemption for public infrastructure be limited to activities where nuisance cannot reasonably be avoided or managed?

Response: Support a change to exclude vibration as a nuisance from public infrastructure works

9. Early Morning Concrete Pouring

9.1 Concrete pouring can be a source of noise complaints, however early morning pouring is sometimes required during extreme weather conditions as it may affect the structural integrity of the concrete. Should provisions be included to allow for early morning concrete pours during extremely hot weather and what limitations should be applied?

Response: No change is supported. Matter can be effectively dealt with and can be better regulated with conditions applied through the nuisance exemption processes included in the Act.

10. Waste Collection Vehicles

10.1 LNLC Act is currently used to regulate nuisance from vehicles collecting waste from road / road related areas, however vehicles collecting waste from private properties are exempt. Should the LNLC Act apply to waste transport vehicles operating on private property as well as when operating on roads and road-related areas?

Response: Support same regulatory processes to be consistent for all waste vehicles with private land treated the same as road related areas. Nuisance concerns from sensitive and high density residential areas can currently be addressed through development approval conditions in cases where the use is subject to approval. Application of the LNLC Act can capture 'historic' uses that may not have applicable development approval conditions.

11. Subjective Noise Assessments

11.1 Subjective noise assessments are used under the LNLC Act as opposed to objective noise assessments under the Environment Protection Act. Would any of the options discussed improve the assessment of noise nuisance under the LNLC Act and are there any other suggestions to improve the assessment of noise nuisance under the LNLC Act?

Response: Support the LGA position that a formal policy or set of guidelines that seeks to reconcile the different thresholds be established by the different regulatory frameworks. Subjective assessment are effective for general noise nuisance concerns, however quantitative assessments provide greater evidentiary support for more complex noise issues and to support and possible legal action. Experience with these issues indicates that there are widely varying levels of tolerance in the community to noise, and objective, quantitative assessments are preferred.

12. Litter Cost Recovery After Hazard Exists

12.1 Currently notices must be served under the LNLC Act and require cleanup of litter material. Councils may cleanup the material and charge costs only after the notice has not been complied with. Should a retrospective costs order be made available to councils where immediate clean-up of litter is required because it is causing a hazard?

Response: Support a change to allow for cost recovery for emergency litter cleanup.

13. Bill Posting – Car Parks

13.1 The Act currently only provides for a court imposed penalty for persons that authorise bill posting. Should car park owners be able to commence proceedings for distribution of bills on their premise and should there also be an expiation for the offence of authorising bill posting?

Response: Support change to allow expiation penalties to be issued to a person authorising bill posting. It is not supported that car park owners are empowered under this Act.

14. Illegal Dumping

14.1 A number of initiatives currently exist to ensure compliance / cost recovery with illegal dumping including:

- Penalties

- vehicle owner being responsible
- ability to order cleanups
- ability to charge for costs of cleanup.

Are there any suggested changes to the LNLC Act that would assist in tackling illegal dumping?

Response: Support LGA submission for a portion of the solid waste levy funding to be allocated to Councils to assist in resourcing illegal dumping clean-up costs and allow for greater illegal dumping deterrence strategies. In addition, support the provision for an exemption of the solid waste levy being applied for the disposal of illegally dumped materials.

15. Shopping Trolleys

15.1 Trolleys that are dumped outside of shopping centres constitute littering under the LNLC Act and the offence applies to the person doing the littering, not the owner of the trolley. Are general litter provisions sufficient to manage abandoned trolleys and if not, what would be the preferred approach for local government?

Response: Support amendments under the legislation to allow for:

- *Consistent laws for retailers to manage shopping trolleys throughout the state. Local Government By-Laws would not be preferred as they would result in confusion and costs for retailers trading in different council areas.*
- *More power for councils to enforce and take action under the Act.*
- *Requirements for retailers to prepare a shopping trolley management plan.*
- *Ability to apply litter abatement notices on retailers in relation to shopping trolleys that are abandoned beyond the legislated 100 metres from the business.*

16. Abatement Notices

16.1 It has been proposed that the LNLC Act be amended to allow councils to register nuisance abatement notices against land where the source of the nuisance at a property requires ongoing regulation to allow the notice to remain valid when the ownership of the land is transferred. Should the LNLC Act be amended to allow councils to register a notice on land when it is considered that the source of a nuisance on a property requires ongoing regulation?

Response: Support the ability to register nuisance abatement notices against land under Section 7 of the Land Business (Sale and Conveyancing) Act for nuisance issues associated with structures on the land (ie fixed machinery).

17. Improving Cost Recovery

17.1 The LNLC Act contains a number of cost recovery provisions, generally linked to contraventions of the legislation that are directed at recovering costs from offenders. What other mechanisms for cost recovery should be considered for the LNLC Act?

Response: No comment. No improved alternative cost recovery mechanisms are considered.

18. Courts

18.1 Which court is best placed to deal with nuisance, litter and illegal dumping with the current jurisdiction with the Environment Resources and Development Court (ERD). What are the views of local government regarding the current jurisdiction that the LNLC Act falls within, and what are the positives and negatives for changing the jurisdiction to the Magistrates Court?

Response: Support LGA position that the Environment, Resources and Development Court continue to have jurisdiction.

19. Administrative Appeals

19.1 The LNLC Act currently provides that appeals against litter and nuisance abatement notices are to be made to the ERD Court. Does the specialist nature of the ERD Court provide benefits when hearing appeals against notices that would outweigh any cost benefits associated with moving appeals to SACAT?

Response: Support the appeals of notices process to be undertaken through SACAT.

20. Exemptions

20.1 Persons creating nuisance may apply for an exemption from the LNLC Act (section 18) and the process requires the applicant to submit a site nuisance management plan to the satisfaction of the council that details:

- sources of the nuisance
- the steps being taken to minimise the nuisance
- details of a person that can receive complaints regarding the nuisance, among other things.

Are there any opportunities for improvement to the exemption process which reflects a balance between excessive exposure for neighbours, and the reality of some activities that cause local nuisance lasting longer than three months?

Response: Support current exemptions under the legislation.

21. Other Improvements

21.1 Are there any legislative, non-legislative or administrative suggestions that you would like to have considered as part of the review of the LNLC Act?

Response: No additional improvements identified.

Endorsed by the City of Salisbury Council

Date:

Draft

Review of the Local Nuisance and Litter Control Act 2016

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Summary of recommendations

The LGA recommendations to the review can be summarised as follows:

1. noting that, for many councils, their expanded role in responding to nuisance issues in the community has required significant additional resourcing, the LGA recommends that no amendments that increase the role and responsibility of local government in responding to litter and nuisance complaints should be made unless they are supported by a clear policy basis and information and data that justifies the need for the change;
2. in relation to nuisance risks managed under other legislation, the LGA recommends that the EPA explore whether an amendment to the LNLC Act may be needed to clarify that the conditions of a development authorisation are not a defence to an offence under the LNLC Act (except in certain circumstances). Alternatively, that the EPA explore whether a policy, guideline or practice direction may be able to provide further assistance to councils;
3. in relation to noise nuisance, the LGA recommends that the EPA develop a formal policy or guideline that acknowledges and reconciles the different thresholds established by the Environment Protection Act 1993 and the LNLC Act. Alternatively, that a process chart or procedure be considered for incorporation into regulations. The LGA recommends that these options be considered in consultation with local government bodies; and
4. in relation to abandoned shopping trolleys, the LGA recommends that a number of potential improvements to the LNLC Act be considered, such as:
 - a. Clarifying that the definition of “litter” includes abandoned shopping trolleys;
 - b. Clarifying that a litter abatement notice can be issued to the owner of the trolley, ie the retailer (not just the customer who has abandoned the trolley); and
 - c. Ensuring that councils have the power to require retailers to enter into management plans for the clean-up of abandoned shopping trolleys.

Introduction and background

About the LGA

The LGA is the voice of local government in South Australia, representing all 68 individual councils across the state. Our mission is to provide leadership to councils for the benefit of the South Australian community.

The LGA is recognised in the South Australian *Local Government Act 1999* for the purpose of promoting and advancing the interests of local government and is recognised in 29 other South Australian Acts of Parliament.

The LGA provides leadership, support, representation and advocacy relevant to the needs of our member councils. We also operate specific unit/entities providing:

- All public liability and professional indemnity cover for all South Australian councils;
- All workers compensation cover for all South Australian council employees and associated local government bodies;
- Asset cover for South Australian councils;
- Extensive education and training, procurement, online services, and a research and development scheme.

As a constituent member, the LGA also advocates on federal issues through the Australian Local Government Association.

This submission has been informed by consultation with our member councils.

Local government's role in local nuisance and litter control

Prior to the introduction of the *Local Nuisance and Litter Control Act 2016* (LNLC Act), local government was responsible for managing some nuisance and litter issues through specific provisions of the *Local Government Act 1999* (in particular, in relation to illegal dumping, bill posting and unsightly conditions). However, the implementation of the LNLC Act significantly expanded the role of local government in responding to nuisance issues in the community. Local government is now responsible for responding to community complaints relating to noise, smoke, dust and odour. Previously, the Environment Protection Authority (EPA) was responsible for responding to complaints of this nature. The EPA remains responsible for responding to complaints relating to EPA licensed facilities.

Given that the nuisance provisions of the LNLC Act commenced on 1 July 2017, councils' annual reports for the 2017-18 year provide a useful snapshot of councils' increased workload in this area. Councils' experiences administering the LNLC Act may vary greatly depending on the nature of the council area. For example, the City of Charles Sturt (as a high density council area) appears to receive a large number of noise complaints whereas the City of Onkaparinga (as a low density, peri-urban area) appears to receive a much greater proportion of littering complaints. Further, Port Adelaide Enfield's annual report for the 2017-18 year indicates that it received 872 nuisance complaints and 730 littering complaints in that timeframe. This may be due to commercial and industrial areas being located in close proximity to residential areas and the redevelopment of other residential areas leading to increased infill development.

Given this wide variety of experiences, the resourcing requirements for councils will also vary greatly. However, it is clear that for some councils their expanded role in responding to nuisance issues in the community has required significant additional resourcing. The City of Mitcham has advised that the number of litter and nuisance complaints received by council has increased tenfold since the commencement of the LNLC Act. Further, some councils have advised that community expectations for how their complaint will be dealt with seem to be higher when dealing with their local council than when dealing with a State Government agency.

A number of councils have advised the LGA that they have created a new 1.0FTE position to manage responses to litter and nuisance complaints. When administration expenses are included, this equates to approximately \$100,000 in additional costs to councils. The LGA is intending to undertake further research in the 2019-20 year to quantify the additional cost imposed on councils in this regard. If resourcing requirements are found to be significant across all councils, there may be a case for the State Government providing ongoing funding to support councils in administering the LNLC Act.

Review of the LNLC Act discussion paper

In July 2019, the EPA released the “Review of the Local Nuisance and Litter Control Act 2016 discussion paper”. The discussion paper states that “The LNLC Act provides the community with a more effective and consistent local service for the management of nuisance complaints and heightened deterrence for littering and illegal dumping”.

The discussion paper describes the scope of the review as follows:

“The first anniversary of the full commencement of the LNLC Act was 1 July 2018. This milestone provides a useful prompt to undertake a minor review of the operation of the LNLC Act. Feedback from councils, the community, and other stakeholders indicate that there is potential to fine-tune elements of the legislation. This minor review will consider the functionality of the legislation and the effectiveness of the legislation within the context of whether the scope of the legislation is appropriately addressing nuisance complaints, littering and illegal dumping issues in the community.”

The discussion paper then identifies and seeks feedback on a number of issues and possible amendments that could be made to the legislation to address them.

The LGA held an information session for member councils on the review on 25 July 2019. The EPA presented on the review at the information session and gained some initial verbal feedback on the possible amendments being considered through the review.

It is worth noting that the feedback provided by councils to the LGA is that, in general, they do not support amendments to the legislation that will further increase the role and responsibility of local government in responding to litter and nuisance complaints. Councils’ view is that no amendments that increase the role and responsibility of local government should be made unless they are supported by a clear policy basis and information and data that justifies the need for the change.

LGA feedback on the specific issues and possible amendments outlined in the discussion paper is set out below.

Separately, the discussion paper notes that the EPA and LGA have entered into a Service Level Agreement (SLA) for the provision of support services for environmental nuisance matters. The feedback provided by councils to the LGA is that they are generally happy with the support provided by

the EPA in relation to nuisance matters, they believe additional training sessions for council staff may be beneficial and they will continue to require this support for some time into the future.

1 – Local nuisance

The definition of local nuisance is set out in section 17 LNLC Act and further clarified in Schedule 1 of the LNLC Act. Section 17 states:

17 – Meaning of local nuisance

- (1) For the purposes of this Act, local nuisance is:
- (a) Any adverse effect on the amenity value of an area that-
 - (i) Is caused by-
 - (A) Noise, odour, smoke, fumes, aerosols or dust; or
 - (B) Animals, whether dead or alive; or
 - (C) Any other agent or class of agent declared by Schedule 1; and
 - (ii) Unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area; or
 - (b) Insanitary conditions on premises that unreasonably interfere with or are likely to interfere unreasonably with the enjoyment of premises occupied by persons in the vicinity; or
 - (c) Unsightly conditions, of a kind declared by Schedule 1, on premises caused by human activity or a failure to act; or
 - (d) A contravention of, or failure to comply with a provision of an environment protection policy, or of any other Act or law, declared by Schedule 1; or
 - (e) Anything declared by Schedule 1 to constitute local nuisance.

But does not include anything declared by Schedule 1 not to constitute local nuisance.

Schedule 1 provides further clarification on how an “adverse effect on amenity” will be assessed, for example, Schedule 1 states that:

“odour generated on a premises will be local nuisance if an authorised officer forms the opinion that- (i) the odour has travelled to neighbouring premises; and (ii) the nature, intensity or extent of the odour is such as to constitute an unreasonable interference with the enjoyment of the neighbouring premises by persons occupying those premises.”

Section 18 creates two separate offences of causing local nuisance (one for intentionally or recklessly causing local nuisance and one for causing local nuisance without any element of intent).

Section 19 provides councils with the ability to declare exemptions from the application of section 18 for things like construction or demolition works, concerts or events or activities using amplified sound. The process of seeking and obtaining exemptions from the LNLC Act is discussed further below.

The discussion paper identifies a number of potential additions to the definition of local nuisance.

Potential additions to the definition of local nuisance

Light and heat - the discussion paper states that:

“Light and heat were included in the definition of local nuisance when the Bill for the LNLC Act was first consulted on in 2015 but subsequently removed prior to the Bill being introduced into Parliament due to feedback from councils that the definition in the Bill was too broad. Since the Act has commenced there have been a number of councils who have indicated that being able to deal with light nuisance under the Act would be useful.”

The LGA is not aware of any councils wishing to expand the definition of local nuisance to include light or heat. Again, councils’ view is that no amendments that increase the role and responsibility of local government should be made unless they are supported by a clear policy basis and information and data that justifies the need for the change.

Noise from vehicles - the discussion paper asks whether the exclusion relating to noise from vehicles should be amended to ensure nuisance from vehicles that are not associated with use on roads are able to be regulated as local nuisance? The LGA is not aware of any councils wishing to expand the definition of local nuisance to include vehicles that are not associated with use on roads.

Waste transport vehicles on private property – the LGA is not aware of any problem with the current operation of the LNLC Act in this regard.

2 – Not local nuisance

Schedule 1 also provides further clarification on things that are not local nuisance. Schedule 1 clarifies that things are not local nuisance if the risk of nuisance is adequately managed under other legislation (eg licenced or approved activities under the Environment Protection Act 1993, Development Act 1993 etc.), a complaints process is provided for under other legislation (eg Strata Titles Act 1988, Liquor Licensing Act 1997) or the nuisance is considered a reasonable feature in the community.

The discussion paper identifies a number of issues with the current list of things that are not local nuisance. The discussion paper also identifies a number of potential additions to the list.

Risk is managed under other legislation (ie licensed or approved activities)

In relation to the exclusion for things where the risk of nuisance is adequately managed under other legislation, there are a number of considerations that must be met before the exclusion applies.

For example, Part 3 of Schedule 1 (s. 5(d)) states that the following does not constitute local nuisance:

“noise or other nuisance from any other activity carried on in accordance with an authorisation (including an approval, consent, licence, permit, exemption or entitlement) granted under any other Act (other than this act), provided that-

- (i) the authorisation imposes requirements to control, minimise or eliminate (as far as reasonably practicable) any noise or other forms of nuisance likely to result from the activity; and
- (ii) those requirements are complied with...

Therefore, noise emanating from a business (for example, a children’s play centre) that is the subject of a development authorisation will be excluded but only if the development authorisation includes conditions that effectively address noise issues and only if those conditions are complied with.

This means that, when it comes to enforcement, the situation becomes quite complex.

If the development authorisation does not include conditions relating to noise, or does include conditions relating to noise but they are not effective or not complied with, then (as noted in the discussion paper) “both the Development Act 1993 and the LNLC Act could be applied to gain compliance”. The discussion paper does not identify or discuss the enforcement provisions in the Development Act 1993 but it is worth noting that there are no enforcement provisions that can be used by councils to achieve compliance without having to proceed to court action. This is a slow, costly and time consuming process and is therefore not effective as a response to many complaints.

For these reasons, it will likely be more straightforward to use the LNLC Act provisions (ie to issue the operator with a nuisance abatement notice). However, feedback from councils is that the nature of development authorisations is often used by operators to defend or excuse their behaviour making it very difficult for councils to proceed with the nuisance abatement notice process.

The LGA recommends that the EPA explore whether an amendment to the LNLC Act may be needed to clarify that the conditions of a development authorisation are not a defence to an offence under the LNLC Act. Alternatively, the LGA recommends that the EPA explore whether a policy, guideline or practice direction may be able to provide further assistance to councils in this regard.

A complaints process is provided for under other legislation (liquor licenses)

Noise or other nuisance emanating from a licensed premises within the meaning of the Liquor Licensing Act 1997 (LL Act) may be excluded under subsection 5(d) as a licensed or approved activity or may be excluded under subsections 5(k) and (l), which refer to the LL Act itself.

Bricks and mortar licensed premises

The discussion paper notes that:

“In the context of bricks and mortar licensed premises this means nuisance noise from air conditioners or other plant on the property that would be addressed under the LNLC Act by councils on any other type of commercial premises cannot be addressed. While the process under the Liquor Licensing Act can address nuisances that are not specific to licensed premises the LNLC Act provides a more timely response in these scenarios. Council officers would be more familiar with addressing them than officers from the Office of Liquor and Gambling, who would generally deal with music and patron noise issues.”

The discussion paper asks whether noise and other nuisances, other than those related to entertainment and patrons, that are common to licensed and non-licensed premises, be dealt with under the LNLC Act? It may be appropriate to limit the exclusion for noise or other nuisance emanating from a licensed premises to those nuisances related to entertainment and the service of alcohol. The discussion paper notes that, in relation to something like a noisy air conditioner, the LNLC Act process may be more timely and more efficient. The LGA notes that it may also be fairer.

Section 106 of the Liquor Licensing Act only allows complaints to be made by the Commissioner of Police, the council for the area or a person adversely affected (but only if the complainant is authorised to make the complaint by at least 10 persons who reside, work or worship in the vicinity). This situation would seem to be particularly unfair if the noisy air conditioner is only affecting the residence immediately adjacent to the licensed premises. The LGA supports further consideration of this issue.

Outdoor events with a liquor licence

Separately, the discussion paper notes that:

“There are also issues with the application of the exclusion to the management of outdoor events. Firstly, the application of the exclusion in circumstances where only part of an event space has a liquor licence is problematic. The exclusion only applies to the area that is licensed and therefore the remainder of the event is able to be dealt with under the LNLC Act. This creates problems where council compliance staff are unable to address complaints...”

The discussion paper asks whether the LNLC Act should be amended so that outdoor events can be subject to the local nuisance provisions despite the fact that some or all of the event space also requires a liquor licence? It is clear from the above paragraph that the exclusion only applies to the area that is licensed for the supply of liquor. The LGA does not support any change to the exclusion in this regard. It would not be appropriate to require or expect councils to action complaints relating to nuisances associated with entertainment and alcohol. This is the responsibility of SA Police.

It may be appropriate to limit the exclusion of noise or other nuisance emanating from a licensed premises to those nuisances related to entertainment and the service of alcohol. In relation to an outdoor event, it appears that councils would already have the power to deal with, for example, a noisy bouncy castle under the LNLC Act. Therefore, unless councils have taken a different view of this exclusion, it would seem that no amendment in relation to outdoor events is required.

Nuisance is considered a reasonable feature in the community

Part 3 of Schedule 1 (subsection 5(f)) states that “noise or other nuisance from sporting or associated activities at sporting venues” does not constitute local nuisance. This creates a regulatory “gap” in relation to some older motorsports venues that do not have a development approval or EPA licence.

The discussion paper asks whether the exclusion for sporting venues should be amended to remove motorsports venues from the exclusion allowing such activities to be regulated under the LNLC Act (noting that these venues would continue to be excluded if they were subject to a development approval or EPA licence). The discussion paper notes that currently the Environment Protection Act 1993 may still be used to regulate such issues. The LGA recommends that motorsports venues continue to be regulated under the Environment Protection Act 1993.

Potential subtractions from the definition of local nuisance

Dust - the discussion paper asks whether dust from unsealed roads should be prescribed as “not local nuisance” for the purposes of the LNLC Act. The discussion paper notes that councils are able to assist with nuisance dust from unsealed roads by erecting signage or reducing speed limits. The LGA is not aware of any problem with the current operation of the LNLC Act in this regard.

Noise from public infrastructure – the LGA is not aware of any problem with the current operation of the LNLC Act in this regard.

Early morning concrete pours – builders that wish to undertake early morning concrete pours are able to apply for an exemption from the application of section 18 under section 19 of the LNLC Act. However, there may be some efficiencies gained by automatically allowing early morning concrete pours above a certain temperature and after a certain start time to reduce the burden associated with both applying for and processing an application for an exemption. The LGA would support further discussion with councils and the construction industry in this regard.

3 - Subjective assessment of nuisance

Noise as a nuisance

As stated above, section 17 of the LNLC Act defines a local nuisance as any adverse effect on the amenity value of an area that is caused by (amongst other things) noise. Section 18 then creates offences of causing local nuisance.

As noted in the discussion paper, section 50 of the LNLC Act provides for subjective assessment of nuisance issues by allowing authorised officers to assess the presence of nuisance using their own senses. Specifically, section 50 states that “evidence by an authorised officer that he or she formed the opinion based on his or her own senses that [a nuisance is present] constitutes proof, in the absence of proof to the contrary, of those matters”.

Schedule 1 of the LNLC Act provides further guidance on the circumstances in which noise will be assessed as constituting a nuisance. Section 4 of Schedule 1 provides, for example, that noise will constitute a local nuisance if an authorised officer forms the opinion that:

- in the case of construction noise, the noise has travelled from the location of the construction activity to neighbouring premises- on any Sunday or public holiday; or after 7pm or before 7am on any other day; and
- the level, nature or extent of the noise (including its volume, pitch, vibrational frequency, prevalence or frequency of occurrence) is such as to constitute an unreasonable interference with the enjoyment of the neighbouring premises by persons occupying those premises.

In this way, the LNLC Act only specifically provides for the subjective assessment of noise nuisance and does not provide for any objective assessment of noise nuisance.

Separate to the regulatory framework for nuisance established by the LNLC Act, is the regulatory framework for the protection of the environment under the Environment Protection Act 1993 (EP Act) (and noise as a pollutant or cause of environmental harm).

Noise as a pollutant/cause of environmental harm

Section 25 of the EP Act sets out what is known as the “general environmental duty”, being that “a person must not undertake an activity that pollutes... the environment unless the person takes all reasonable and practicable measures to prevent or minimise any resulting environmental harm”.

Section 27 of the EP Act provides that “environment protection policies may be made as contemplated by this Act or for any purpose directed towards securing the objects of the Act”. Section 27 also states that an environment protection policy may “set out requirements, standards, goals and guidelines”.

The Environment Protection (Noise) Policy 2007 (Noise Policy) has as its objectives “(a) to set out procedures for measuring noise to determine compliance with the Act and this policy... (b) to fix noise goals for most noise sources compliance with which will satisfy the general environmental duty under section 25 of the Act...”. (emphasis added)

Section 18 of the Noise Policy provides that:

- (1) “the general environmental duty under section 25 of the Act is satisfied in relation to noise from a noise source, insofar as the noise affects particular noise-affected premises, if the noise complies with the noise goals; and

- (2) The noise complies with the noise goals if measurements taken in relation to the noise source and the noise-affected premises show that-
- a. The source noise level (continuous) does not exceed the background noise level plus 5 dB(A); or
 - b. The source noise level (continuous) does not exceed the indicative noise level for the noise source.”

Therefore, the Noise Policy sets objective measures for noise levels that will not breach the general environmental duty under the EP Act. The Noise Policy does not make any statement regarding objective measures for noise levels that will or will not constitute a nuisance under the LNLC Act.

Interaction between the LNLC Act and the EP Act

The discussion paper states that:

“One issue that may arise, in the area of noise nuisance, is where a subjective determination of noise nuisance is made relating to a complaint where the noise is of a nature that is borderline with regard to causing nuisance and a further objective measurement (taken after the subjective determination by the alleged offender or a third party) may appear contradictory. For this reason, all noise complaints of a borderline nature should be assessed with an element of objective measurement to ensure that compliance requirements are reasonable and effective. Subjective assessment is still useful for very obvious offences and for obviously unreasonable complaints.” (emphasis added)

The reference in the discussion paper to objective measurements appears to be a reference to objective measurements against the goals set out in the Noise Policy. The LGA is not aware of any other standards or benchmarks for objective measurements of noise.

This statement in the discussion paper ignores the fact that there are different thresholds for when noise will constitute a nuisance and when noise will constitute a pollutant or cause environmental harm. A noise level may be within the noise goals established by the Noise Policy but still be of a level or duration/frequency etc. such that it constitutes a nuisance under the LNLC Act.

This statement in the discussion paper effectively says that councils should use objective measurements against the goals in the Noise Policy in order to assess claims of noise nuisance under the LNLC Act. This is a new policy position of the EPA that does not appear in any formal policies. The LGA recommends that the EPA develop a formal policy or set of guidelines that acknowledges and seeks to reconcile the different thresholds established by the different regulatory frameworks. This would help to ensure a consistent approach across councils. The discussion paper suggests that a process chart could be developed and/or procedure incorporated into the regulations. The LGA supports consideration of these options in consultation with local government bodies.

4 – Litter

Clean up costs

The LGA supports exploration of an amendment to the LNLC Act to allow councils to recover clean-up costs of urgent clean-ups.

Bill posting

The LGA is not aware of any problem with the current operation of the LNLC Act in this regard.

Illegal dumping

The LGA supports further discussion of changes or initiatives that could assist councils in addressing illegal dumping in their communities. Illegal dumping costs councils millions of dollars every year. For any illegal dumping that occurs in a council area, councils are forced to pay twice – they have to pay clean-up costs and then they have to pay the solid waste levy on disposal.

As noted above, the LGA is intending to undertake research in the 2019-20 year to quantify the additional cost to councils of administering the LNLC Act. This research project will also consider the cost to councils of managing illegal dumping, particularly in light of the recent unprecedented increase in the solid waste levy.

Councils will contribute \$42.5 million through the solid waste levy in the 2019-20 year and a portion of this funding should be used to support councils in cleaning up illegal dumping in their communities. The LGA continues to seek a commitment from the State Government to making 50% of the money councils pay by way of the solid waste levy available to councils for worthwhile waste and recycling projects. Some of this funding could be used for reimbursement of clean-up costs for illegally dumped materials and/or to enable a waiver of solid waste levy payments on illegally dumped materials.

Abandoned shopping trolleys

The LGA understands that the issue of abandoned shopping trolleys is a persistent problem for some councils and is a concern for the community from an amenity, environmental and safety perspective. The LGA attended the City of Marion Shopping Trolley Summit in July 2018 and found this event to be a good example of collaboration both across the local government sector and with the community.

As a result of work undertaken in preparation for the Summit and for the LNLC Act review, it is considered that there are a number of potential improvements that could be made to the LNLC Act as it relates to abandoned shopping trolleys, such as:

- Clarifying that the definition of “litter” includes abandoned shopping trolleys;
- Clarifying that a litter abatement notice can be issued to the owner of the trolley, ie the retailer (not just the customer who has abandoned the trolley); and
- Ensuring that councils have the power to require retailers to enter into management plans for the clean-up of abandoned shopping trolleys and have effective compliance and enforcement options available to them.

The LGA understands that a number of South Australian councils are considering introducing by-laws to address the issue of abandoned shopping trolleys specifically. The LGA believes that reform should be pursued at both State and local government level, as this will provide councils with the most flexibility to find a solution that best suits their community as a whole.

5 – General discussion points

Abatement notices - the LGA is not aware of any problem with the current operation of the LNLC Act in this regard.

Improving cost recovery - the LGA is not aware of any other mechanisms for cost recovery that should be considered for the LNLC Act.

Which court? - The LGA supports the Environment, Resources and Development Court (ERD Court) continuing to have jurisdiction in relation to LNLC Act matters.

Administrative appeals - the LGA does not have a view on whether the ERD Court or SACAT should hear administrative appeals on LNLC Act matters.

Timeframe for exemptions - the LGA is not aware of any problem with the current operation of the LNLC Act in this regard.

ITEM	3.4.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 2019
HEADING	Nominations Sought for the South Australian Boating Facility Advisory Committee
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	The Minister for Transport, Infrastructure and Local Government has written to the LGA requesting nominations for a Local Government Member on the South Australian Boating Facility Advisory Committee for a two year term commencing in December 2019.

RECOMMENDATION

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

ATTACHMENTS

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

1. Terms of Reference - South Australian Boating Facility Advisory Group
2. Part A Selection Criteria - South Australian Boating Facility Advisory Committee

1. BACKGROUND

- 1.1 Nominations are being sought for a Local Government Member on the South Australian Boating Facility Advisory Committee for a two year term commencing December 2019. Nominations must be forwarded to the LGA by COB Thursday 26 September 2019.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Circular 33.9 dated 14 August 2019 from the LGA was emailed to the Executive Group, Elected Members and relevant staff seeking interest. At the time of writing this report, no registrations of interest in being nominated have been received.

2.2 External

- 2.2.1 Nil

3. REPORT

- 3.1 The South Australian Boating Facility Advisory Committee is established pursuant to the *Harbors and Navigation Regulations 2009*.
- 3.2 The role of the South Australian Boating Facility Advisory Committee is to:
 - 3.2.1 advise the Minister for Transport ("the Minister") on the amount of the facilities levy that should be imposed and the application of facilities fund;
 - 3.2.2 advise the Minister, and as may be required, the Executive Director of the Department for Planning, Transport and Infrastructure (DPTI), Transport Services Division, on matters affecting the development of boating facilities in South Australia;
 - 3.2.3 assist in establishing South Australia as a prime recreational boating location for local boating enthusiasts, and interstate and international visitors; and
 - 3.2.4 assist with the continuing sustainable development of the commercial fishing industry and other commercial boating activities.
- 3.3 The Terms of Reference for the South Australian Boating Facility Advisory Committee are attached to this report for information (Attachment 1).
- 3.4 One person will be appointed by the Minister. In accordance with section 36A of the *Acts Interpretation Act 1915*, the LGA must provide a panel of at least three nominees from which the Minister will select this appointee.
- 3.5 Appointments to the South Australian Boating Facility Advisory Committee are for a period of two years commencing in December 2019. The LGA nominated person currently on the Committee, Cr Jassmine Wood, has resigned and will not be applying.
- 3.6 At the Minister's determination, members of the Committee may be paid a sitting fee (at rates determined from time to time by the Commissioner for Public Employment). An allowance for reasonable travelling and incidental expenses necessarily incurred in carrying out the business of the Committee may also be paid at the discretion of the Minister.
- 3.7 There are no sitting fees for members, however reimbursement for reasonable travelling and incidental expenses may be paid at the discretion of the Minister.
- 3.8 While actual dates and times are not available, Committee meetings are normally held on a quarterly basis - dependent on the amount and urgency of business involved and usually meet at the DPTI building, 77 Grenfell St, Adelaide. Meetings at DPTI start at 10am and finish around 2pm.
- 3.9 LGA nominations on outside bodies will, unless determined otherwise by the LGA Board of Directors, be currently serving Council Members or Council Staff.
- 3.10 Nominations addressing the Part A Selection Criteria (Attachment 2) must be forwarded to the LGA by COB Thursday 26 September 2019. Due to State Government requirements all nominees must also provide an up-to-date CV/Resume.
- 3.11 The LGA Board will consider nominations received at its meeting on Thursday 17 October 2019.

4. CONCLUSION / PROPOSAL

- 4.1 Council is asked to determine if a nomination be made for the South Australian Boating Facility Advisory Committee.
- 4.2 It should be noted that Council is not obligated to submit a nomination.

CO-ORDINATION

Officer: Executive Group
Date: 09/09/2019

SOUTH AUSTRALIAN BOATING FACILITY ADVISORY COMMITTEE

TERMS OF REFERENCE FROM 2018/19

1 GENERAL

- 1.1 Under Section 90AA of the *Harbors and Navigation Act 1993* (Act) a levy (facilities levy) is imposed for the purpose of providing a source of revenue to establish, maintain and improve facilities used by vessels in the State
- 1.2 Section 90A of the *Harbors and Navigation Act 1993* provides for a Facilities Fund (Fund) which consists of levies payable on the registration, inspection or survey of a vessel and income from investment of money belonging to the Fund.
- 1.3 The Fund is administered by the Department of Transport, Planning and Infrastructure (DPTI).
- 1.4 The South Australian Boating Facility Advisory Committee (Committee) is established by the Minister for Transport and Infrastructure (Minister) in accordance with Regulation 216 of the *Harbors and Navigation Regulations 2009*.

2 RESPONSIBILITIES OF THE COMMITTEE

- 2.1 The responsibility of the Committee is to advise the Minister on any variation of the amounts of the facilities levies, and the application of the Fund, under Section 90A of the Act.
- 2.2 The Committee will make recommendations for expenditure of the Fund to the Minister for consideration, within the approved expenditure authority.
- 2.3 Committee members shall be appointed as individuals with the expertise, experience and skills appropriate to carrying out the responsibilities of the Committee. Whilst the member may also be the corporate head or nominee of an organisation or association as listed in Regulation 216 of the *Harbors and Navigation Act 2009*, the appointment will not be primarily as that organisation or association's representative.
- 2.4 Personal or Pecuniary Interests.
 - a) A Committee member who has a direct or indirect personal or pecuniary interest in a matter under consideration must, disclose to the Committee full and accurate details of the interest, must not take part in any discussion relating to that matter and must not vote in relation to that matter.
 - b) A decision by the Committee shall not be invalidated by virtue of the failure, by a member, to disclose a personal or pecuniary interest in the matter which was the subject of the decision. However, the Committee may review its decision in such circumstances.

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3 CONDUCT OF BUSINESS

- 3.1 Subject to the *Harbor and Navigation Regulations 2009* and any directions of the Minister, the Committee may conduct its business in such manner as it thinks fit.
- 3.2 Quorum and Voting
- a) Committee Meetings shall occur in February, May, August and November of each year (or as required) and shall require a quorum of 5 members.
 - b) Decisions of the Committee shall be determined by a vote and shall require approval by a majority of members present.
 - c) In the event of a tied vote the Presiding Member (or in their absence the deputy Presiding Member) shall have a casting vote in addition to his or her deliberative vote.
 - d) Decisions of the Committee shall be recorded in writing for the information of the Minister and of the Committee, and shall be confidential unless the Minister otherwise directs.
 - e) Proponents shall be advised of Stage 1 decisions of the Committee by the Executive Officer.
 - f) Decisions of the Committee associated with Stage 2 proposals, are confidential and must either be endorsed, acknowledged or approved by the Minister, prior to proponents being notified of the outcome.
 - g) A site inspection by the Committee, if required to assist them in their assessment of proposals, shall occur at times and places determined by the Committee.
- 3.3 DPTI shall provide an Executive Officer, who will have no voting rights. Other DPTI staff may be made available to provide advice to the Committee, if requested by the Presiding Member.
- 3.4 Committee members may be reimbursed for reasonable travelling and incidental expenses necessarily incurred in carrying out the business of the Committee.
- 3.5 The Committee may, subject to the approval of the Minister, engage third parties as it considers necessary.
- 3.6 Minutes of Meetings
- a) The Executive Officer is to take minutes of the Committee's deliberations and record the resolutions made and the vote taken on all matters put to the vote.

- b) Draft minutes are to be finalised by the Executive Officer and the Presiding Member, within 10 working days of the meeting and are to be forwarded to the Minister for information. These minutes are to be clearly marked "Draft" and shall also be forwarded to the Committee members for their review.
 - c) Once the minutes of a meeting have been confirmed by the Committee at a subsequent meeting, a copy signed by the Presiding Member is to be forwarded to the Minister.
 - d) Committee members shall take reasonable precautions to ensure that minutes of meetings and any associated working papers are treated as confidential.
- 3.7 The Committee should refer any issues relating to any proposals or works in progress from the public to the Executive Officer.



HON STEPHAN KNOLL MP
MINISTER FOR TRANSPORT AND INFRASTRUCTURE

27 May 2018

July

Nominations to Outside Bodies - Part A

SA Boating Facility Advisory Committee	
Legal Status of Body	Statutory Authority
Summary Statement	The committee established in accordance with the Harbours and Navigation Regulations 2009 represents recreational boating and commercial fishing interests with a direct concern for the strategic development of recreational boating and commercial fishing industry facilities, and providing for safe recreational boating and commercial fishing operations within South Australia.
Selection criteria	
<i>The following selection criteria must be addressed when completing Part B</i>	
Qualifications <i>(formal qualifications relevant to the appointment)</i>	Nor formal qualifications required.
Industry Experience	Local Government representative (Elected Member or Senior Officer).
Board / Committee Experience	Expertise, experience and skills appropriate to carrying out the functions of a committee.
Key Expertise <i>(other relevant experience i.e. those requirements established for a Board/Committee under an Act)</i>	Experience and expertise in recreational boating issues would be advantageous.
Liability and indemnity cover	
<i>The LGA requires that persons appointed to outside bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by the outside body (on an annual basis)</i>	
Insurance information (Certificates of Currencies or equivalent) supplied by the Outside Body	Yes
Insurance Policies are valid & current	Yes

ITEM	3.6.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 2019
PREV REFS	Resources and Governance 3.6.2 Committee 17/07/2017
HEADING	Review of Code of Practice - Access to Meetings and Associated Documents - Results of Public Consultation
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents the results of community consultation for the Draft Code of Practice – Access to Meetings and Associated Documents in accordance with Section 92(5) of the <i>Local Government Act 1999</i> (the Act) and seeks Council endorsement of the Draft Code.

RECOMMENDATION

1. The information be received.
2. The Code of Practice for Access to Meetings and Associated Documents as set out in Attachment 1 to this report (Resources and Governance 3.6.1, 16/09/2019) be endorsed

ATTACHMENTS

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

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

1. BACKGROUND

- 1.1 At its meeting on 22 July 2019, Council considered the review of the Code of Practice for Access to Meetings and Associated Documents and resolved:
 1. *The information be received.*
 2. *The Draft Code of Practice for Access to Meetings and Associated Documents (as set out in Attachment 1, Resources and Governance Committee, Item No. 3.6.2, 15/07/2019) be approved for public consultation in accordance with Section 92(5) of the Local Government Act 1999.*

Resolution 0229/2019

- 1.2 In accordance with the Act, public consultation was carried out for a period of 21 days from 31 July to 21 August 2019.

- 1.3 No feedback was received on the draft Code during the consultation period.
- 1.4 The Code of Practice for Access to Meetings and Associated Documents, previously presented to Council in July 2019 for public consultation, is now presented as a final version to Council for endorsement.

2. REPORT

- 2.1 The Code of Practice for Access to Meetings and Associated Documents has reviewed and only minor editorial amendments are required.
- 2.2 At its July 2019 meeting, Council approved the Draft Code for public consultation in accordance with the provisions of the Act. This Code provides information to the community on the City of Salisbury's commitment to providing access to meetings and associated documents of Council, as prescribed by the *Local Government Act 1999* (the Act).
- 2.3 There are times when, in the broader community interest, it is necessary to restrict public access to discussions or documents and this Code summarises the legal position in relation to such access.
- 2.4 Pursuant to Section 92(5) of the Act, the Code must be made available for public consultation prior to its adoption by Council. Section 50(4) of the Act determines that public consultation must occur for a minimum of 21 days.
- 2.5 Public consultation was undertaken for a 21 day period, from 31 July to 21 August 2019. This consultation took the form of a public notice posted in the Northern Messenger as well as on Council's website and in the Civic Centre inviting interested persons to make submissions within the period stated in the notice in accordance with Council's Public Consultation Policy. In addition, copies of the Code were made available for inspection or purchase at the James Street Civic Centre.
- 2.6 No feedback was received on the draft Code during the consultation period.
- 2.7 The draft Code, previously presented to Council in July 2019, is now presented to Council for endorsement.

3. CONCLUSION / PROPOSAL

- 3.1 The Code of Practice – Access to Meetings and Associated Documents has reviewed and only minor editorial amendments are required.
- 3.2 In accordance with Section 92(5) of the Act, the Code was made available for public consultation prior to its adoption by Council.
- 3.3 Council is now asked to endorse the updated Code of Practice for Access to Meetings and Associated Documents.

CO-ORDINATION

Officer: Executive
Group

Date: 09/09/2019



Code of Practice for Access to Meetings and Associated Documents

Approved By:	Council	Decision No:	635, 2011/521, 2017/2063
Approval Date:	22 October 2007	Most Recent Approval:	25 September 2017 September 2019
Review Date:	September 2019 September 2021	Internal Reference No.:	
Department:	CEO and Governance	Division:	CEO and Governance
Function:	9 - Governance	Responsible Officer:	Manager Governance

A - PREAMBLE

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

B - SCOPE

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

C - CODE PURPOSE/OBJECTIVES

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

D - DEFINITIONS

1. 'Associated documents' refers to agendas, reports, attachments and minutes of meetings of Council.
2. 'Clear Days' means the days between the:
 - Posting of a notice of a meeting and the day the meeting is held excluding both the day on which the notice is given and the day of the meeting, e.g. when notices are given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday; or

- Holding of a meeting and the day the minutes are released ~~exelusing~~excluding the day of the meeting and the day the minutes are released.
3. **'Meetings of Council'** refers to sub-committee, committee and council meetings held in accordance with Chapter 6 (Meetings) of the *Local Government Act 1999*.

E – LOCAL GOVERNMENT ACT PROVISIONS

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

F - POLICY STATEMENT

1. The City of Salisbury will:
 - 1.1 Act in the best interest of the community, with honesty, integrity and transparency;
 - 1.2 Represent the interests of the Salisbury community through responsible, open and accessible government;
 - 1.3 Ensure confidentiality provisions will only be utilised when considered absolutely necessary;
 - 1.4 Ensure that in all cases, the information be made publicly available at the earliest possible opportunity.
2. The City of Salisbury will conduct all formal meetings of Council in public and will provide public access to all documents considered at those meetings, except where the meeting of Council is clearly satisfied that the need for confidentiality outweighs the principle of open decision making.

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

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

3. Agenda for Council and Committee Meetings

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

- At least three clear days before an ordinary meeting of Council or Council Committee meeting, a copy of the Agenda for the meeting will be placed on public display in the foyer of the Council Offices (the Agenda is defined as being a list of items of business to be considered).
- A copy of associated reports, attachments and recommendations prepared by Council Officers to be considered by the Members will be available for public inspection at the same time and place as the Agenda. Members of the public may request a copy of a particular report or reports for a small fee to cover the costs of duplication.
- Copies of agendas, reports, attachments and minutes of all meetings of Council will be published on Council's Internet site – www.salisbury.sa.gov.au.
- If, in the opinion of the Chief Executive Officer, a matter is likely to be required to be dealt with in confidence, that matter will be noted on the Agenda together with the reason that it may need to be discussed in confidence. The reason must fall within the provisions of Section 90(3) of the *Local Government Act 1999* (as outlined in Attachment 1 to this Policy).

- Where a report has been considered in confidence and restricted from public access, the report will be reviewed internally twice a year being January and July to determine its confidential status for possible release to the public.

4. Public Access to Meetings

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

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

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

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

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

5. Process to Exclude the Public

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

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

circumstances (e.g settlement of land division) the document or portion of the document will remain restricted from public access.

- h. Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting. If there is a further matter to be considered in confidence it will be necessary to again undertake the formal determination process and to resolve to exclude the public as outlined above.

6. Informal Gatherings

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

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

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

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

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

7. Person Requesting a Matter to be kept Confidential

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

8. Public Access to Documents

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

Any inquiries in relation to the process for seeking access to documents held by the Council should be directed to the Freedom of Information Officer on 8406 8222 or email:

city@salisbury.sa.gov.au.

9. Reviewing and Revoking Confidential Orders

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

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

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

Example

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

9. Person Requesting a Matter to be Kept Confidential

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

10. Accountability and Reporting to the Community

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

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

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

11. Grievances

In the first instance, any questions or complaints about the use of confidentiality provisions should be raised with the Manager Governance. The question or complaint should be made in writing (wherever possible) to ensure all grievances are considered and acted upon in a proper manner. Questions or complaints should be marked to the attention of the Manager Governance, City of Salisbury, PO Box 8, Salisbury SA 5108 or via email city@salisbury.sa.gov.au. Initially information on the application of confidentiality provisions and full explanation of the details and circumstances relating to the complaint will be provided. It is anticipated that most, if not all, questions or complaints will be resolved through this process.

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

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

12. Review

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

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

13. Further Information

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

G - LEGISLATION

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

H - REFERENCES

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

Document Control

Document ID	Code of Practice for Access to Meetings and Associated Documents
Prepared by	Joy Rowett
Release	34.0
Document Status	<u>Draft</u>
Issue Date	

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

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

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

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

(Local Government Act 1999 – Section 90)

ITEM	3.6.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 2019
PREV REFS	
HEADING	Review of Outdoor Facility Hire Policy
AUTHORS	Tim Starr, Coordinator Property, City Infrastructure Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Outdoor Facility Hire Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner. One change has been made.

RECOMMENDATION

1. The information be received.
2. The Outdoor Facility Hire Policy as set out in Attachment 1 to this report (Item No. 3.6.2, Resources and Governance Committee, 15/07/2019), be endorsed.

ATTACHMENTS

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

1. Outdoor Facility Hire Policy

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and two years thereafter.
- 1.2 This Policy was last reviewed and endorsed by Council in April 2017 and is now due again for review.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Consultation with the Manager, Property and Buildings has occurred as to the continuing relevance of the Policy and any changes that may be required.

2.2 External

- 2.2.1 Nil

3. REPORT

- 3.1 The Outdoor Facility Hire Policy has been reviewed by the Policy Owner. Item G “Salisbury Civic Square” has been removed as it has been included in the ‘Salisbury Community Hub and Civic Plaza/Inparrinthe Kumangka Bookings Policy’, endorsed by Council in August 2019.

4. CONCLUSION / PROPOSAL

- 4.1 The revised Outdoor Facility Hire Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 09/09/2019



Outdoor Facility Hire Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	544, 2011/469, 2013/1926, 2015/296, 2017/1729
Approval Date:	24 September 2007	Most Recent Approval:	22 July 2019
Review Date:	July 2021	Internal Reference No.:	
Department:	City Infrastructure	Division:	Property & Buildings
Function:	16 - Property Management	Responsible Officer:	Manager, Property & Buildings

A - PREAMBLE

1. The City of Salisbury has responsibility for a number of open space areas which have been developed and maintained at a considerable cost to ratepayers.
2. In order to ensure long term benefits for its community the use of these areas is based on the following principles:
 - a. Effectiveness: Council manages its open space areas in a responsible manner and ensures high standard of maintenance of these facilities.
 - b. Flexibility: Council's provision of open space areas is responsive to changing leisure needs and social values of the community.
 - c. Local needs: The provision and use of open space areas is based on local needs.
 - d. Accountability: Council receives an appropriate financial return for the cost of administration and maintenance of open space areas through the user's contribution toward those costs. These costs are contained within Council's Fees and Charges Register.
3. The City of Salisbury owns and maintains a number of outdoor facilities that are available for hire for commercial, community or private purposes including small and large events, displays, fund-raising activities, weddings etc.
4. Requests are received by the City of Salisbury for permission to hire these outdoor facilities within the City.
5. Council aims to ensure that the hire of outdoor venues, does not increase its liability (personal injury risks, property damage, public health issues etc) and to this end this policy addresses these issues.
6. Management of these outdoor facilities is complex and requires a series of procedures, checks and balances to be put into place.
7. Council has a procedure for dealing with hire applications for Council land that is currently leased.
8. This policy will serve as a guide to the City of Salisbury for any hire of outdoor facilities within its jurisdiction.

B - SCOPE

1. This policy is applicable to all Council outdoor facilities that are available for hire.
2. All booking requests will be required to conform to this policy.
3. This policy replaces any previous approval or process in regard to the booking of outdoor facilities within the City of Salisbury.
4. This policy clearly identifies the terms and conditions of hire of these facilities.
5. The policy also formally states Council's position in regards to applications from circuses and organisations (with performing animals) to conduct performances within the City of Salisbury.
6. This Policy provides clear direction for the use of land within the City and to ensure that circuses/carnivals or activities with animals are managed in accordance with the required standards and legislation.
7. This policy is not applicable to privately owned property.

C – POLICY PURPOSE/OBJECTIVES

1. The purpose of this policy is to:
 - a. provide Council with guidelines, procedures and hire fee schedules for the hire of Council outdoor facilities throughout the City of Salisbury;
 - b. provide a clear, open, equitable and accountable processes for the booking of Council outdoor facilities within the City;
 - c. ensure that the hire of outdoor facilities is consistent with the community interest;
 - d. ensure that the hire of outdoor facilities does not impact negatively on the future expenditure of Council;
 - e. define the allowable usage of council's outdoor facilities; and
 - f. define the conditions of hire that must be adhered to by the parties booking outdoor facilities.

D - DEFINITIONS

1. **Commercial Hirers** – are those who expect to generate income from their venture and whose net profits are dispersed to individual members.
2. **Community Groups** – are those that meet for the purpose of providing a service for the community benefit and do not profit from the function.
3. **Local Groups** whose membership is primarily made up of residents within the City of Salisbury or individuals or groups whose primary function is within the City of Salisbury area.
4. **Non commercial Hirers** – not for profit organisations which are registered charities/cooperatives/individuals whose profits are not dispersed to individual members.
5. **Private functions** are individuals who hire a venue for a function such as a wedding, birthday or family function.

E - POLICY STATEMENT

1. A number of City of Salisbury Council areas are available for hire for the staging of events and promotions.
2. The Hirer must agree to the terms and conditions of hire specified in the Casual Permit Application Form.
3. Outdoor facilities for hire are:
 - a. Pioneer Park;

- b. Harry Bowey;
 - c. Carisbrooke Park;
 - d. Mobara Park Playing Fields;
 - e. Mobara Park Cultural Park;
 - f. St Kilda Foreshore;
 - g.
 - h. Unity Park;
 - i. John Street;
 - j. Pitman Park (including the Rose Garden & Waterfall);
 - k. Bridgestone Park; or
 - l. Any other facility that is suitable for hire within the City of Salisbury.
4. The City of Salisbury has identified criteria for usage of designated reserves. These are listed on the Council Website.
 5. Other venues not listed can be hired however conditions of hire, charges etc will be negotiated.
 6. Activities Not Permitted unless detailed risk management and mitigation strategies are implemented:
 - a. activities that are likely to cause damage to the outdoor facility/surrounds;
 - b. activities likely to cause nuisance to neighbouring residents/properties;
 - c. activities that are not complementary to the venue or surrounding area; and/or
 - d. the display or distribution of materials which is of a libelous or defamatory nature.
 7. **Circuses or other events with performing animals**
 - a. Applications from circuses that use exotic animals which require either caging or shackling of their feet will be considered only if the applicant fully complies with the State Government legislation preventing cruelty to animals and produces a letter of certification from the RSPCA or similar accredited organisation that the animals are being cared for satisfactorily.
 - b. Applications from circuses and organisations with performing animals, other than exotic animals, will be considered provided that the organisation acknowledges in writing that it is aware of the provisions of the South Australian Code of Practice for the Welfare of Animals in Circuses and that the organisation will comply with all aspects of this code.
 - c. The organisation, at least 3 months prior to any proposed performance within the City (where the land and/or facility owned or vested in Council is the preferred performance site) will submit to Council the required "Casual Hire Application Form". On receipt of the application, Council will determine whether the land/facility is available and whether it is suitable for the activity proposed having due regard to:
 - i. An application is lodged under the *Development Act 1993*.
 - ii. Whether any signage proposed for the site and/or environs will require a separate Development Application.
 - iii. Whether any other hirer of the land/facility may be detrimentally affected by any decision to hire the premises to the organisation.
 - iv. Adequacy of public safety.
 - v. Adequacy of car parking and access.
 - vi. The duration of the requested hire term.

- vii. The possibility of damage to the facilities and whether security fee should be imposed.
 - viii. What commercial hiring rate for use of the facility should be levied?
 - ix. Details of the measures to be employed to ensure that environmental health standards are not compromised.
 - x. Details of the measures to be employed to ensure that the requirements of the *Environment Protection Act 1993* are addressed.
 - xi. Any other matter that is considered relevant at the time.
- d. No application will be considered until Council is satisfied that there is compliance with the intentions of this policy.
- 8. Operational Guidelines**
- a. Operational procedures have been developed for processing all applications for outdoor facility hire. These procedures can be found on the City of Salisbury Website.
- 9. Council Termination Of Events**
- a. Council reserves the right to terminate an event at its absolute discretion if it is deemed to be inappropriate or offensive or if it operates outside of the agreed terms and conditions.
- 10. Right of Refusal**
- a. The City of Salisbury has the right of Refusal.
 - b. The City of Salisbury reserves the right to refuse any booking without the necessity to give reasons for such refusal to the Hirer.
 - c. Council may refuse the booking if in the opinion of its staff it is not satisfied that the area being hired is suitable for the type of event/promotion being undertaken by the Hirer.
 - d. The City of Salisbury reserves the right to refuse any booking and to cancel a booking already made if it is desirable in the public interest. With such cancellations Council will refund the Hirer all monies paid.
- 11. Appeal Process**
- a. Any appeal made in relation to the outcomes of the approval process for booking of reserves and facilities must be in writing and addressed to the Chief Executive Officer.

F - LEGISLATION

1. The City of Salisbury requires the Hirer to comply with all relevant legislation at the State and National level which makes acts of discrimination, vilification, incitement, offensive conduct and public disorder unlawful.
2. The Hirer is required to ensure that no vilification, discrimination or incitement of hatred or violence against any person or persons based on age, gender, religion, race, ethnicity, culture, sexuality, sexual preference or physical or mental ability by any speaker at the event.
3. If the Hirer breaches this condition then the bond paid will be forfeited and the Hirer precluded from any future hiring of City of Salisbury facilities.
4. There is no legislative requirement for Council to have a policy relating to allowing circuses or carnivals or other events involving animals. However, the following Acts apply to circuses and organisations with performing animals:
 - a. The *South Australian Code of Practice for the Welfare of Animals in Circuses* outlines how animals are to be housed and treated (i.e. minimum sizes of exercise yards that must be provided).

- b. The *Environment Protection Act 1993* provides for the protection of the environment and aims to reduce any possible impact on the environment.
- c. Development approval will be required under the *Development Act 1993*. Council advises all potential applicants to seek advice from Council's Development Assessment Team in this regard.
- d. Any approval for hiring of Council property must be considered with regard to the relevant principles under the *Local Government Act 1999*.
- e. The *South Australian Public Health Act 2011* provides for the control of unsanitary conditions, offensive activities (e.g. waste, odours), health risks etc. Council's Environmental Health Team should be contacted in this regard.

H - ASSOCIATED PROCEDURES

1. Other City of Salisbury polices and guidelines that must be considered in association with this policy include but are not limited to:
 - a. Cultural Strategy;
 - b. Marketing Strategy;
 - c. The Game Plan Strategy
 - d. Corporate Signage Policy & Guidelines; and
 - e. Landscape Strategy

Document Control

Document ID	Outdoor Facility Hire Policy
Prepared by	Karen Pepe
Version	5.0
Document Status	Draft
Issue Date	

ITEM	3.6.3
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 2019
PREV REFS	
HEADING	Review of Elected Member Recognition 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 Elected Member Recognition Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and only minor editorial changes are required.

RECOMMENDATION

1. The Information be received.
2. The Elected Member Recognition Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.3, 19/08/2019), be endorsed.

ATTACHMENTS

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

1. Elected Member Recognition Policy

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and thereafter every two years.
- 1.2 The Elected Member Recognition Policy was last endorsed by Council in November 2017 and is now due for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with the Manager, Governance has occurred as to the continuing relevance of the Policy and any changes that may be required.
- 2.2 External
 - 2.2.1 Nil

3. REPORT

3.1 The Elected Member Recognition Policy has been reviewed by the Policy Owner. Apart from minor editorial changes with respect to changes in practice, no changes of substance are proposed by staff in the content of the Policy.

4. CONCLUSION / PROPOSAL

4.1 The Elected Member Recognition Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 09/09/2019



Elected Member Recognition Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2011/729, 2012/813, 2014/2397, 2014/2473, 2015/0746, 2017/2166
Approval Date:	28 November 2011	Last Reapproval Date:	27 November 2017 <u>23 September 2019</u>
Review Date:	November 2019 <u>September 2021</u>	Internal Reference No.:	
Department:	CEO and Governance	Division:	Governance
Function:	9 - Governance	Responsible Officer:	Manager, Governance

PREAMBLE

1. This Policy has been developed to provide a consistent and equitable approach to formally and officially recognise the contribution of long serving Elected Members to the City of Salisbury.
2. This policy establishes service recognition in addition to the recognition program operated by the LGA for 10, 15, 20, 25, 30, 35 and 40 years of service.
3. This Policy authorises the Mayor to bestow tributes to Elected Members in the event of illness/accident or bereavement.

SCOPE

4. This Policy covers all recognition that is extended to Elected Members who currently serve or have served the City of Salisbury.

POLICY PURPOSE/OBJECTIVES

5. The purpose of this policy is to specify the circumstances in which to acknowledge the services of current or retiring Elected Members, or Elected Members who have passed away, so that they are appropriately recognised for their contributions.

DEFINITIONS

6. *Eligible Member:* means an Elected Member with at least three terms of continuous service with the City of Salisbury.
7. *Immediate Family:* for the purposes of this Policy, 'immediate family' means spouse, children; parents; and siblings.
8. *Memorial:* an object or a landscaped feature designed to preserve the memory of a person, event or place.

9. *Monument:* an enduring physical object created in memory of a person or event or place.

POLICY STATEMENT

10. In addition to the Certificates issued by the Local Government Association, the Eligible Member will be presented at a Council meeting, the following acknowledgement of continuous years of service:
- 12 years: Framed Certificate of Service
 - 20 years: Framed Certificate of Service and Gift chosen by the Mayor to the value of \$200.
 - 30 years: Plaque of the Council Crest and engraved plate identifying the name of the Elected Member and years to service to Council. Gift chosen by the Mayor to the value of \$350.
11. Members achieving the 20 year milestone will also have their names included on a “Service Recognition Honour Board” in the Civic Centre Foyer.
12. All presentations will be made by the Mayor at a normal meeting of Council and recorded in the minutes of the meeting.
13. Elected Members who have passed away and who have been closely associated with the Council and its history, are to be acknowledged and recognised for their contribution to the City of Salisbury in the form of the following:
- A sympathy (condolence) card or a personal note to the immediate family signed by the Mayor and/or CEO on behalf of Council and staff;
 - The publication of a notice in a local or state based newspaper on the death of a current or former Elected Member;
 - A floral tribute where this form of sympathy is considered acceptable. Where appropriate, the provision of a floral tribute may be substituted by a donation to a charity nominated by the immediate family of the person who has passed away.
14. For those Elected Members who have served 20 or more years with the City of Salisbury, and have made exceptional and significant contributions to Civic or Community matters, Council may give consideration, on a case by case basis, to one of the following forms of recognition:
- naming of a road (in accordance with the City of Salisbury’s Naming of Roads Policy) and/or;
 - naming of a park or reserve and/or;
 - construction of artwork, memorial or monument and/or;
 - other form of acknowledgement
- once they no longer hold the position of Elected Member.
15. Outgoing Elected Members at the conclusion of an Elected Members term with Council, whether it is through resignation, or not successfully gaining a position following an Election, will be recognised by presentation of a Framed Certificate of Service by the Mayor with:
- Details of length of service

- Membership of Council Committees
 - Membership on external Committees
16. The Mayor is further authorised to acknowledge Elected Members or their immediate family (via card, flowers or small gift) in the event of hospitalisation or accident.
 17. Pursuant to Section 79 of the *Local Government Act 1999*, details of any benefits paid or payable to, or provided for the benefit of an Elected Member by Council will be recorded in the Register of Allowances and Benefits.
 18. Expenditure for gifts, certificates will be sourced from within the Civic Budget Area. Where artwork, a monument or memorial is to be installed, and there are insufficient funds within the existing budget to cover the costs, a new initiative bid must be submitted.

LEGISLATION

19. *Local Government Act 1999*

REFERENCES

20. Local Government Awards – LGA
21. Plaques and Memorials Policy – City of Salisbury
22. Naming of Roads Policy – City of Salisbury

Document Control

Document ID	Elected Member Recognition Policy
Prepared by	Joy Rowett
Release	45.00
Document Status	Draft
Date Printed	

ITEM	3.6.4
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 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>The delegations templates have been updated to reflect changes to legislation as contained within LGA Circular 33.7 dated 13 August 2019.</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 9 October 2019 of those powers and functions under the following:
 - 1.1 *Local Government Act 1999*
 - Section 302B – 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, 3, and 4, Item No. 3.6.4, Resources and Governance Committee, 16/09/2019) are hereby delegated from 10 October 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 *Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019, and the State Records Act 1997* as follows:

Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019

 - Clauses 2(2) and 2(3) of Schedule 1 Development (Waste Reform) Regulations – Attachment 2

State Records Act 1997

 - Complete Instrument – Attachment 4

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 Instruments of Delegation under the *Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019, and the State Records Act 1997*.

ATTACHMENTS

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

1. Table of Updates as at 1 July 2019
2. Development Act 1993, Development (Development Plans) Amendment Act 2006 and Development Regulations 2008, Development (Waste Reform) Variation Regulations 2019
3. Local Government Act 1999
4. State Records Act 1997

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 33.7 dated 13 August 2019 which sets out new and deleted provisions under the *Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019, Local Government Act 1999 and the State Records Act 1997*.

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 - LGA Circular 33.7 dated 13 August 2019.**

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

Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019

- Clauses 2(2) and 2(3) of Schedule 1 *Development (Waste Reform) Regulations 2019* – Addition as shown in shaded areas in Attachment 2.

Local Government Act 1999

- Section 302B – Deletion due to cessation of *Whistleblower Protection Act 1993* as shown in shaded area of Attachment 3.

State Records Act 1997

- Complete New Instrument – Attachment 4.

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 delegation under the *Local Government Act 1999* that has been deleted (Attachment 3) with Council then resolving to adopt the new delegations contained in the relevant Instruments of Delegation attached to this report (Attachments 2 and 4).

2.3.2 Any sub-delegations that have been made in relation to any existing delegations become void as soon as the head delegation is revoked. In order to ensure that Council Officers have necessary powers to continue their day to day activities, the resolution is worded so that the revocation of any existing delegations under the *Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019, Local Government Act 1999 and the State Records Act 1997* occurs on Wednesday 9 October 2019 with the new delegations coming into force from Thursday 10 October 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 amendments to provisions under the *Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019, Local Government Act 1999 and the State Records Act 1997* and is presented to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP
Date: 09/09/2019

ATTACHMENT 1

LOCAL GOVERNMENT ASSOCIATION
UPDATES OF DELEGATION TEMPLATES ON WEBSITE

(Note: Paragraph references below refer to updated version – As at 1 July 2019)

Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act/ Regulation	Whether change is Addition/ Amendment/ Deletion	Reason for change	Date of latest version	Recommendation
Instrument of Delegation under the Development Act, Development (Development Plans) Amendment Act 2006, Development Regulations 2008 and Development (Waste Reform) Variation Regulations 2019	120.1	Clause 2(2) Schedule 1 Development (Waste Reform) Regulations 2019	Addition	Legislative amendment	1 August 2019	Adopt updated instrument as soon as require delegations to be made
	120.2	Clause 2(3) Schedule 1 Development (Waste Reform) Regulations 2019	Addition	Legislative amendment	1 August 2019	
Instrument of Delegation under the Local Government Act 1999	148.1	302B	Deletion	Legislative amendment	1 August 2019	Use updated instrument at next review
Instrument of Delegation under the State Records Act 1997	All	All	Addition	New Instrument	1 August 2019	Make delegations under new instrument as soon as required

FXD\TABLE OF UPDATES AS AT 1 JULY 2019

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INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006, DEVELOPMENT REGULATIONS 2008 AND DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019

	the Minister to exempt the Council from the requirement to establish a council development assessment panel under Section 56A of the Act.
36.13	The power pursuant to Section 56A(28) of the Act to consult with the Minister in relation to revoking an exemption under Section 56A(27) of the Act.
37.	Building Rules Assessment Audits
37.1	The duty pursuant to Section 56B(2) to have its building assessment auditor audit the Council's activities in relation to the undertaking of assessments of proposed developments against the provisions of the Building Rules in accordance with the requirements of Section 56B.
37.2	The duty pursuant to Section 56B(5) to ensure that after the expiration of the periods prescribed in Section 56B(4) an audit under Section 56B is completed at least once in every prescribed period.
37.3	The power pursuant to Section 56B(10) to respond to a report prepared by a building assessment auditor prepared in relation to the Council under Section 56B.
37.4	The power pursuant to Section 56B(14) to make submissions to the Minister in relation to a matter concerning the possible exercise of the Minister's powers under Section 56B(12).
37.5	The duty pursuant to Section 56B(16) to comply with a direction given to the Council under Sections 56B(12) or 56B(15).
37A.	Development Plan Assessment Audits
37A.1	The power and duty pursuant to Section 56C(2) of the Act to have the Council's activities in relation to Development Plan assessments audited by a development assessment auditor in accordance with the requirements of Section 56C of the Act.
37A.2	The power pursuant to Section 56C(10) of the Act to provide a response to an auditor with a view to correcting any error or fact.
37A.3	The power pursuant to Section 56C(14) of the Act to make submissions in relation to the matter to the Minister.
37A.4	The power pursuant to Section 56C(15) of the Act to, if
37A.4.1	the Minister makes a recommendation to the Council under Section 56C(12)(a) of the Act; and
37A.4.2	the Minister subsequently considers that the Council has not,

FXD\DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008, DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019 Last amended: 1 July 2019

ATTACHMENT 2

**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS)
AMENDMENT ACT 2006, DEVELOPMENT REGULATIONS 2008 AND
DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019**

NOTES

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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

FXD\DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008, DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019 Last amended: 1 July 2019

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INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006, DEVELOPMENT REGULATIONS 2008 AND DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019

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

FXD\DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008, DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019 Last amended: 1 July 2019

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INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006, DEVELOPMENT REGULATIONS 2008 AND DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019

	Section 25(3) of the Act to prepare a proposal, to be called a 'Development Plan Amendment' (or DPA) that complies with the following requirements:
5.3.1	the DPA must be based on the outcome of investigations initiated by the Council or the Delegate in accordance with the terms of the Statement of Intent and such other investigations (if any) as the Council or the Delegate thinks fit;
5.3.2	the DPA must include an assessment of the extent to which the proposed amendment:
5.3.2.1	accords with the Planning Strategy; and
5.3.2.2	accords with the Statement of Intent; and
5.3.2.3	accords with other parts of the Development Plan; and
5.3.2.4	complements the policies in the Development Plans for adjoining areas; and
5.3.2.5	satisfies the matters prescribed in the Regulations;
5.3.3	the DPA must include:
5.3.3.1	an explanation of the intent of the proposed amendments, the relationship between that intent and the policy of the Statement of Intent, and a summary of the major policy changes (if any) that are proposed; and
5.3.3.2	a summary of the conclusions drawn from the investigations and assessments referred to above; and
5.3.3.3	a draft of the amendment, or a draft of the relevant section of the Development Plan as amended (with the amendments shown in a distinctive manner);
5.3.4	the DPA must include an assessment of the extent to which the proposed amendment accords with relevant infrastructure planning (with respect to both physical and social infrastructure) identified by the Council through strategic planning or other processes undertaken by the Council under the Act or the Local Government Act 1999 or identified by a Minister, or any other relevant government agency, in accordance with any scheme set out in the Regulations, in connection with the preparation of the DPA under the Act;
5.3.5	the DPA must include any other matter prescribed by the

FXD\DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008, DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019 Last amended: 1 July 2019

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INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006, DEVELOPMENT REGULATIONS 2008 AND DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019

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

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INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006, DEVELOPMENT REGULATIONS 2008 AND DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019

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

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

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5.14.1	informing the owner of the proposed amendment, and
5.14.2	inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.
5.15	If a proposed amendment declares a tree to be a significant tree or a stand of trees to be significant trees, the duty pursuant to Section 25(12a) of the Act, at or before the time when the DPA is released for public consultation, to give each owner of land where the tree or trees are located a written notice:
5.15.1	informing the owner of the proposed amendment; and
5.15.2	inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.
5.16	The duty pursuant to Section 25(13)(a) of the Act, after complying with the requirements of Sections 25(1)-(12a) of the Act, to, in accordance with the Regulations prepare a report on the matters raised during the consultation period, on the reasons for any failure to comply with any time set for any step under Sections 25(1)-(12a) of the Act, and on any recommended alterations to the proposed amendment.
5.17	The power pursuant to Section 25(13)(b) of the Act, if the Delegate thinks fit, by notice in writing to the Minister, to decline to proceed any further with an amendment.
5.18	The duty to send to the Minister:
5.18.1	a copy of a report under Section 25(13)(a); and
5.18.2	a certificate from the Chief Executive Officer;
	pursuant to and in accordance with Section 25(14) of the Act and the Regulations.
5.19	The power pursuant to Sections 25(15)(d) and 25(15)(f) of the Act to consult with the Minister.
5.20	The power pursuant to and in accordance with Section 25(21) of the Act to consult with, and make submissions to the Minister.
5.21	The power pursuant to Section 25(23) of the Act to consult with the Minister.
6.	Amendments by the Minister
6.1	The power pursuant to Section 26(5)(d)(i) of the Act, in relation to a DPA

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

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

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8.3.2	consult with any prescribed authority or body in the manner specified by the regulations.
8.4	The duty, pursuant to Section 30(4) of the Act, in connection with the operation of Section 30(3) of the Act, to prepare and make available the documentation prescribed by the regulations.
8.5	The duty pursuant to Section 30(5) of the Act to give a person who makes a written response to an invitation under Section 30(3)(a) of the Act an opportunity to appear personally or by representative before the Council or a Council Committee and to be heard on those submissions.
8.6	The duty pursuant to Section 30(6) of the Act, in preparing a report under Section 30 of the Act, to:
8.6.1	reach agreement with the Minister on a Statement of Intent with respect to any proposed amendments to a Development Plan that applies within the area of the Council; and
8.6.2	if relevant, prepare a DPA that is suitable for consideration under Section 25(3) of the Act.
8.7	The duty pursuant to Section 30(7) of the Act to furnish a report under Section 30 of the Act to the Minister.
8.8	The duty pursuant to Section 30(8) of the Act to, then, in accordance with any reasonable request of the Minister, enter into an agreement with the Minister on the steps that the Council will take as a result of the matters contained in the report (and the report will not be taken to have been completed unless or until such an agreement is reached with the Minister).
8.9	The power pursuant to Section 30(9) of the Act to request the Minister to exempt the Council:
8.9.1	from a requirement to prepare a particular report under Section 30 of the Act; or
8.9.2	from a particular requirement with respect to a report under Section 30 of the Act.
8.10	The duty pursuant to Section 30(12) of the Act to make copies of a report prepared under Section 30 of the Act available for inspection (without charge) by the public at the principal office of the Council.
8.11	The duty pursuant to Section 30(13) of the Act, if a report proposes amendments to a Development Plan that applies within the area of the Council, to ensure that it releases a DPA for public consultation under

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

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	development plan consent, to reserve a decision on a specified matter until further assessment of the development under the Act.
10.3	If:
10.3.1	a development only requires an assessment under paragraph (b) of Section 33(1) of the Act; and
10.3.2	the Council:
	10.3.2.1 is the relevant authority; and
	10.3.2.2 is to make the assessment under that paragraph; and
10.3.3	the Council determines to grant consent under that paragraph,
	the duty, pursuant to Section 33(4b) of the Act as the relevant authority, to issue the relevant development approval with the consent.
11.	Determination of Relevant Authority
11.1	The power pursuant to Section 34(1)(b)(iii) of the Act to request the Minister to declare the Development Assessment Commission to be the relevant authority for a proposed development.
11.2	The power pursuant to Section 34(1a) of the Act, where the Minister has made a declaration under Section 34(1)(b)(vi) of the Act, to provide the Development Assessment Commission with a report, relating to the application for development authorisation, within the time prescribed by the Regulations.
11.3	The power pursuant to Section 34(8a) of the Act to, in conjunction with the Councils for the areas in relation to which a regional development assessment panel has been constituted, remove a member from the panel for a failure to comply with the requirements of Section 34(6a) or (7) of the Act or a breach of, or failure to comply with, a code of conduct under Section 21A of the Act.
11.4	The power in accordance with Section 34(21) of the Act to withdraw from a regional development assessment panel
11.5	The duty pursuant to Section 34(27)(a) of the Act to establish a policy relating to the basis upon which the Council will make the various delegations required by Section 34(23) of the Act.
11.6	The duty pursuant to Section 34(27)(b) of the Act to ensure that a copy of the policy established by the Council under Section 34(27)(a) of the Act is

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

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	Code and the Building Rules Assessment Commission concurs in the granting of consent;
13.2.3	to determine whether to grant building rules consent where the variance is with a part of the Building Rules other than the Building Code and to determine that it is appropriate to grant the consent despite the variance on the basis that the Delegate is satisfied that:
13.2.3.1	the provisions of the Building Rules are inappropriate to the particular building or building work, or the proposed building fails to conform with the Building Rules only in minor respects and the variance is justifiable having regard to the objects of the Development Plan or the performance requirements of the Building Code and would achieve the objects of the Act as effectively, or more effectively, than if the variance were not to be allowed; or
13.2.3.2	in circumstances where the development has already occurred the variance is justifiable in the circumstances of the particular case.
13.3	The duty pursuant to Section 36(3) of the Act to modify the application of the Building Rules to avoid an inconsistency between the Building Rules and the Development Plan in relation to a State heritage place or a local heritage place.
13.4	The duty pursuant to Section 36(3a) of the Act to seek and consider the advice of the Building Rules Assessment Commission before imposing or agreeing to a requirement under Section 36(3) of the Act that would be at variance with the performance requirements of the Building Code.
13.5	The duty pursuant to Section 36(4)(a) and (b) of the Act to accept that proposed building work complies with the Building Rules to the extent that:
13.5.1	such compliance is certified by the provision of technical details, particulars, plans, drawings or specifications prepared and certified in accordance with the Regulations; or
13.5.2	such compliance is certified by a private certifier.
13.6	The power pursuant to Section 36(6) of the Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of the Building Rules for a building of that classification.

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14. Consultation With Other Authorities or Agencies	
14.1	Subject to Section 37AA of the Act, the duty pursuant to Section 37(1)(a) and (b) of the Act where an assessment is required of an application for the consent or approval of a proposed development of a prescribed class to:
14.1.1	refer the application, together with a copy of any relevant information provided by the applicant to a body prescribed by the Regulations and including the Development Assessment Commission, and
14.1.2	not make a decision until a response has been received from the prescribed body in relation to the matter or matters for which the referral was made or the presumption is made that the body does not desire to make a response or concur (as the case requires).
14.2	The duty pursuant to Section 37(5)(a) of the Act where an application has been refused or conditions imposed in respect of a development authorisation by direction of a prescribed body, to notify the applicant that the application was refused, or the conditions imposed, by direction under Section 37 of the Act.
14.3	If a relevant authority is directed by a prescribed body to refuse an application and the refusal is the subject of an appeal under the Act, the power, pursuant to Section 37(6) of the Act to make application for the relevant authority to be joined as a party to the proceedings.
15. Preliminary Advice and Agreement	
15.1	The power pursuant to and in accordance with Section 37AA(2)(e) of the Act to be satisfied that an application accords with an agreement indicated by a prescribed body in accordance with Section 37AA(2)(c) of the Act.
15.2	The power pursuant to and in accordance with Section 37AA(4) of the Act to determine that an agreement under Section 37AA of the Act is no longer appropriate due to the operation of Section 53 of the Act.
16. Proposed Development Involving Creation of Fortifications	
16.1	The duty pursuant to Section 37A(1) of the Act where the Delegate has reason to believe that a proposed development may involve the creation of fortifications, to refer the application for consent to, or approval of, the proposed development to the Commissioner of Police ('the Commissioner').
16.2	The power pursuant to Section 37A(2)(b) of the Act to receive the Commissioner's written determination under Section 37A(2)(a) of the Act.
16.3	The duty pursuant to Section 37A(5) of the Act if the Commissioner

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	determines that the proposed development involves the creation of fortifications to:
16.3.1	if the proposed development consists only of the creation of fortifications – refuse the application; or
16.3.2	in any other case – impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications.
16.4	The duty pursuant to Section 37A(6) of the Act, if the Delegate acting on the basis of a determination of the Commissioner under subsection 37A(2) refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 37A of the Act.
17.	Public Notice and Consultation
17.1	The duty, pursuant to Section 38(3) of the Act, where a person applies for a consent in respect of the Development Plan for a Category 1 development, to not on the Delegate's own initiative seek the views of the owners or occupiers of adjacent or other land in relation to the granting or refusal of development plan consent.
17.2	Where a person applies for a consent in respect of the Development Plan for a Category 2A development, -
17.2.1	the duty pursuant to Section 38(3a)(a) of the Act to:
17.2.1.1	subject to any exclusion or qualification prescribed by the Regulations – give an owner or occupier of each piece of adjoining land; and
17.2.1.2	give any other person of a prescribed class,
	notice of the application; and
17.2.2	the duty pursuant to Section 38(3a)(b) of the Act, to:
17.2.2.1	give consideration to any representations in writing made in accordance with the Regulations by a person who is entitled to be given notice under paragraph (a) of Section 38(3a) of the Act; and
17.2.2.2	forward to the applicant a copy of any representations that the relevant authority must consider under subparagraph (i) of Section 38(3a)(b) of the Act and

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	allow the applicant an opportunity to respond in writing, to those representations within the period prescribed by the Regulations; and
17.2.3	if a representation is received under paragraph (b) of Section 38(3a) of the Act within the prescribed number of days, the power pursuant to Section 38(3a)(c) of the Act to, in the Delegate's absolute discretion, allow the person who made the representation to appear personally or by representative before it to be heard in support of the representation.
17.3	The duty pursuant to Section 38(4) of the Act to give notice of a proposal for a Category 2 development.
17.4	The duty pursuant to Section 38(5) of the Act to give notice of a proposal for a Category 3 development.
17.5	The duty pursuant to Section 38(8) of the Act to forward to an applicant a copy of any representation made regarding the proposed development, and to allow the applicant to respond in writing to those representations.
17.6	The power pursuant to Section 38(10)(a) of the Act, in respect of a Category 2 development, to determine whether to allow a person who made a representation to appear personally or by representative before the Delegate.
17.7	The duty pursuant to Section 38(10)(b) of the Act, in respect of a Category 3 development, to allow a person who made a representation and who as part of that representation indicated an interest in appearing before the Delegate, a reasonable opportunity to appear personally or by representative to be heard in support of the representation.
17.8	The duty pursuant to Section 38(11) of the Act to allow an applicant to appear personally or by representative before the Delegate or the Council in order to respond to any relevant matter.
17.9	The duty pursuant to Section 38(12) of the Act, where representations have been made under Section 38 of the Act, to give notice of the decision on the application to each person who made a representation and in respect of a Category 3 development of the person's appeal rights under the Act, and give notice to the Court.
17.10	The power, pursuant to subsection 38(17) of the Act, where a relevant authority is acting under Section 38 of the Act in relation to a Category 2A or Category 2 development, to not take into account under Section 38 of the Act a representation made by a person who is not entitled to be given notice of the relevant application under Section 38 of the Act.

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17.11	The power, pursuant to subsection 38(18) of the Act, to not take into account under Section 38 of the Act, a representation that is not made in accordance with any requirement prescribed by the Regulations for the purposes of Section 38.
18.	Application and Provision of Information
18.1	The power pursuant to Section 39(2) of the Act to request an applicant to:
18.1.1	provide such additional documents or information to enable assessment of the application;
18.1.2	remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;
18.1.3	consult with an authority or body prescribed by the Regulations;
18.1.4	(where required by the Regulations) prepare a statement of effect in relation to non-complying development; and
18.1.5	comply with any other requirement prescribed by the Regulations.
18.2	If:
18.2.1	a development is of a kind that is complying development; and
18.2.2	the development falls within a class of development prescribed by the Regulations for the purpose of Section 39(2a)(b) of the Act; and
18.2.3	the applicant has complied with the requirements of Section 39(1)(a), (c) and (d),
	the duty, pursuant to Section 39(2a) of the Act, to, in making an assessment as to development plan consent, assess the application without requesting the applicant to provide additional documents or information.
18.3	If:
18.3.1	a development falls within a class of development prescribed by the Regulations for the purposes of Section 39(2b)(b) of the Act; and
18.3.2	the applicant has complied with the requirements of Section 39(1)(a), (c) and (d) of the Act,

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	the power and duty pursuant to Section 39(2b)(c) of the Act, to;
18.3.3	in making an assessment as to development plan consent, request the applicant to provide additional documents or information in relation to the application on 1 occasion only; and
	the duty pursuant to Section 39(2b)(d) of the Act, to;
18.3.4	make that request within a period prescribed by the Regulations.
18.4	Pursuant to Section 39(3)(b) of the Act, where a request is made under Section 39(2) of the Act and the request is not complied with within the time specified by the Regulations, the power pursuant to Section 39(3)(b) of the Act to:
18.4.1	subject to Section 39(3)(b)(ii) of the Act, refuse the application; and
18.4.2	refuse the application in prescribed circumstances (including, if the Regulations so provide, in a case involving development that is complying development).
18.5	The duty, pursuant to Section 39(3a) of the Act, in dealing with an application that relates to a regulated tree, to seek to make any assessment as to whether the tree is a significant tree without requesting the applicant to provide an expert or technical report relating to the tree, unless the Delegate considers that special circumstances apply.
18.6	The duty, pursuant to Section 39(3b) of the Act, in dealing with an application that relates to a regulated tree that is not a significant tree, to seek to assess the application without requesting the applicant to provide an expert or technical report relating to the tree, unless the Delegate considers that special circumstances apply.
18.7	The power pursuant to Section 39(4)(a) and Section 39(5) of the Act to permit an applicant to vary an application or vary any plans, drawings, specifications or other documents that accompanied an application.
18.8	The power pursuant to Section 39(4)(b) and Section 39(5) of the Act to permit an applicant to lodge an application without the provision of any information or document required by the Regulations.
18.9	The power pursuant to Section 39(4)(c) and Section 39(5) of the Act to waive payment of whole or part of the application fee or refund an application fee (to the extent that such fees are payable to the Council).
18.10	The power pursuant to Section 39(4)(d) of the Act and Regulation 17(3)(a) of the regulations to refuse an application that relates to a development of the kind that is described as a non-complying development under the

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	Development Plan without proceeding to make an assessment of the application.
18.11	The power pursuant to Section 39(4)(e) of the Act, if there is an inconsistency between any documents lodged with the Council for the purposes of Division 1 of Part 4 of the Act, or between any such document and a development authorisation that has already been given that is relevant in the circumstances, to return or forward any document to the applicant or to any other person and to determine not to finalise the matter until any specified matter is resolved, rectified or addressed.
18.12	The power pursuant to Section 39(7) of the Act to approve an application for variation of the conditions of the development authorisation previously given under the Act, or to extend the period for which such authorisation remains operative.
18.13	The power, pursuant to section 39(7)(c) to determine whether representations relate to any aspect of the development under consideration on account of an application for variation, and to determine whether, in the circumstances of the case, it is unnecessary to deal with the matter as Category 3 development.
18.14	The power, pursuant to section 39(7)(d) of the Act, to approve the seeking of a variation to extend the period for which the relevant authorisation remains operative.
18.15	Where granting an application for variation of a development authorisation pursuant to section 39(6), the power, pursuant to section 39(7a), to make specific provision for the variation of a condition imposed with respect to the original authorisation in its decision on the application for variation.
18.16	The power pursuant to Section 39(8) of the Act to issue a consent which provides for the undertaking of development in stages.
18.17	The power pursuant to Section 39(9) of the Act to determine that the applicant is entitled to a refund of the application fee in the event that an application is withdrawn.
19.	Determination of Application
19.1	The duty pursuant to Section 40(1) of the Act to give notice of a decision in accordance with the Regulations (and in the case of a refusal, the duty to include the reasons for the refusal and any appeal rights that exist under the Act.)
19.2	The power pursuant to Section 40(3) of the Act to extend the period of time within which a development authorisation remains operative.

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20. Time Within Which Decision Must be Made	
20.1	The duty, pursuant to Section 41(1) of the Act to deal with an application as expeditiously as possible and within the time prescribed by the Regulations.
20.2	If:
20.2.1	the relevant authority does not decide an application that relates to development that is a complying development within the time prescribed under Section 41(1) of the Act; and
20.2.2	the applicant gives the relevant authority a notice in accordance with the Regulations on the basis that the decision on the application has not been made,
	the duty pursuant to Section 41(5)(d) of the Act, subject to any exclusion or qualification prescribed by the Regulations, to refund the fee received by the relevant authority under Section 39(1)(d) in relation to the application.
21. Conditions	
21.1	The power pursuant to Sections 42(1) and (3) of the Act to attach such conditions as the Delegate thinks fit or as may be prescribed by regulation to any decision under Division 1 of Part 4 of the Act.
21.2	The duty, pursuant to Section 42(4) of the Act, in accordance with Section 42(5) of the Act and subject to Sections 42(6) and (8) of the Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the Delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).
21.3	The power, pursuant to Section 42(6) of the Act, on the application of the applicant, to determine that a payment of an amount calculated in accordance with the Regulations be made into the relevant fund in lieu of planting one or more replacement trees under Section 42(4) of the Act.
21.4	The power, pursuant to Section 42(8)(b) of the Act, after taking into account any criteria prescribed by the Regulations and if the Minister concurs, to determine that it is appropriate to grant an exemption under Section 42 of the Act in a particular case.

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22. Cancellation by a Relevant Authority
22.1 The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.
23. Investigation of Development Assessment Performance
23.1 The power pursuant to Section 45A(2) of the Act to explain the Council's actions and to make submissions (including, if relevant, an indication of undertakings that the Council is willing to give in order to take remedial action) to the Minister within a period (being at least 28 days) specified by the Minister.
23.2 The duty pursuant to Section 45A(14) of the Act to comply with a direction under Section 45A(11) or (13) of the Act.
23.3 The power pursuant to Section 45A(12) of the Act to make submissions to the Minister on the report on which the action under Section 45A(11) of the Act is based within a period (being at least 28 days) specified by the Minister.
24. Crown Development and Public Infrastructure
24.1 The power pursuant to Section 49(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.
24.2 The power pursuant to Section 49(5) of the Act to report to the Development Assessment Commission on any matters contained in a notice from the Development Assessment Commission under Section 49(4a) of the Act.
24.3 The power pursuant to Section 49(9) of the Act to withdraw opposition to a State agency proposed development.
25. Electricity Infrastructure Development
25.1 The power pursuant to Section 49A(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.
25.2 The power pursuant to Section 49A(5) of the Act, where notice of a proposal to undertake development for the purposes of the provision of electricity infrastructure has been given to the Council pursuant to Section 49A(4a) of the Act, to report to the Development Assessment Commission on any matters contained in the said notice.
25.3 The power pursuant to Section 49A(9) of the Act, in circumstances where

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	the Council's report to the Development Assessment Commission under Section 49A(5) of the Act expressed opposition to the proposed development, to withdraw that opposition.
26. Open Space Contribution System	
26.1	The power pursuant to Section 50(1) of the Act, with respect to an application for the division of land into more than 20 allotments where one or more allotments is less than one hectare in area, to require:
26.1.1	that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or
26.1.2	that the applicant make the contribution prescribed by the regulations in accordance with the requirements of by Section 50 of the Act; or
26.1.3	that the land be vested in the Council and that the applicant make a contribution determined in accordance with Section 50(7) of the Act, according to the determination and specification of the Council or Delegate.
26.2	The power pursuant to Section 50(1) of the Act, when proposing to take any action that is at variance with the Council's Development Plan to seek the concurrence of the Development Assessment Commission.
26.3	The power pursuant to Section 50(3) and 50(2)(d) of the Act to enter into an agreement on behalf of the Council with the Development Assessment Commission and the applicant under which certain land described by the relevant plan of division will be vested in the Council.
26.4	The power pursuant to Section 50(3a) of the Act to concur on behalf of the Council to the vesting of land in the Council pursuant to a requirement of the Development Assessment Commission that an area of the site of the development be kept as open space or in some other form that allows for active or passive recreation under Section 50(3a)(a) of the Act.
26.5	The power pursuant to Section 50(10) of the Act to receive payment of monies from an applicant under Section 50(1) of the Act and the duty to immediately pay that money into a special fund established for the purposes of Section 50 and to apply that money for the purpose of acquiring or developing land as open space.
26.6	The power pursuant to Section 50(11) of the Act to determine that the division of land is being undertaken in stages such that Section 50 of the Act does not apply to an application for development authorisation to the extent that an earlier application in respect of the same development has

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	addressed the requirements of Section 50 of the Act in respect of the area of land as a whole.
27. Carparking Fund	
27.1	The power pursuant to Section 50A(1) of the Act to establish a car parking fund.
27.2	The duty pursuant to Section 50A(1) of the Act to publish a notice in the Gazette in accordance with Section 50A(2) of the Act where the approval of the Minister has been obtained.
27.3	The power pursuant to Section 50A(5)(c) of the Act to determine that a proposal does not provide for sufficient spaces for the parking of cars at the site of a development.
27.4	The power pursuant to Section 50A(5)(d) of the Act to agree with an applicant that a contribution calculated in accordance with a determination of the Council or the Delegate can be made by the applicant to a car parking fund in lieu of providing a certain number of spaces for the parking of cars at the site of a development.
27.5	The power pursuant to Section 50A(5) of the Act to make a determination for the purpose of calculating amounts to be paid into a carparking fund.
27.6	The duty pursuant to and in accordance with Section 50A(6) of the Act to publish a determination for the purpose of calculating amounts to be paid into a carparking fund and any variations from time to time in the Gazette.
27.7	The power pursuant to and in accordance with Section 50A(7) of the Act to invest any money in a carparking fund and to pay any resultant income into the fund.
27.8	The power pursuant to and in accordance with Section 50A(8) of the Act to apply money standing to the credit of the car parking fund.
28. Urban Trees Fund	
28.1	The power, pursuant to Section 50B(1) of the Act, with the approval of the Minister, to establish an urban trees fund for an area designated by the Delegate (a designated area).
28.2	The duty, pursuant to Section 50B(2) of the Act, to effect establishment of the fund by notice in the Gazette.
28.3	The duty, pursuant to Section 50B(3) of the Act, to define a designated area by reference to an area established by the relevant Development

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	Plan.
28.4	The power, pursuant to Section 50B(5) of the Act, to invest any money in an urban trees fund that is not for the time being required for the purpose of the fund and the duty to pay any resultant income into the fund.
28.5	The power, pursuant to Section 50B(6) of the Act, to apply money standing to the credit of an urban trees fund to:
28.5.1	maintain or plant trees which are, or will (when fully grown) constitute, significant trees under the Act; or
28.5.2	purchase land within the designated area in order to maintain or plant trees which are, or will (when fully grown) constitute, significant trees under the Act.
28.6	The duty, pursuant to Section 50B(7) of the Act, if the Council subsequently sells land purchased under Section 50B(6)(b) of the Act, to pay the proceeds of sale into an urban trees fund maintained by the Council under Section 50B of the Act subject to the following qualifications as prescribed by Sections 50B(7)(a) and (b) of the Act:
28.6.1	if an urban trees fund is no longer maintained by the Council, the proceeds must be applied for a purpose or purpose consistent with Section 50B(6)(a) or (b) of the Act;
28.6.2	if money from an urban trees fund only constituted a proportion of the purchase price of the land (the designated proportion), the money that is subject to these requirements is the designated proportion of the proceeds of sale.
29.	Certificate in Respect of the Division of Land
29.1	The duty pursuant to Section 51(2) of the Act to provide appropriate information to the Development Assessment Commission (upon request by the Development Assessment Commission) before it issues a certificate in respect of the division of land.
30.	Saving Provisions
30.1	The power pursuant to Section 52(4) of the Act to extend the limitation period referred to in Section 52(2) of the Act in order to avoid or reduce hardship.
31.	Avoidance of Duplication of Procedures Etc
31.1	The power pursuant to Section 52A(2)(a) of the Act to accept a document under the Commonwealth Environment Protection and Biodiversity

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	Conservation Act, 1999 (and defined in Section 52A(9) of the Act, as a 'Commonwealth Act document') as an application, notice or other document for the purposes of the Act, if (subject to the provisions of Section 52A(7)) the document complies with the requirements of the Act.
31.2	The power pursuant to Section 52A(2)(b) of the Act where a document has been accepted for the purposes of the Act, to direct that a procedure taken under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 in relation to the said document will be taken to have fulfilled the requirements for a procedure in relation to the relevant document under the Act, if the requirements of the Act in relation to the procedure have been complied with under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
31.3	The power pursuant to Section 52A(2)(c) of the Act to adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used or to be used for the purposes of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as the document required under the Act, if (subject to the provisions of Section 52A(7) of the Act) the document has been prepared in compliance with the Act, and complies with the requirements of the Act.
31.4	The power pursuant to Section 52A(5) of the Act where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity or includes an activity for which a development authorisation is required under the Act to, when considering an application for a development authorisation or for the variation of a development authorisation, for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 for the purposes of the Commonwealth Minister deciding to give approval to the controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
31.5	Where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity, or includes an activity, for which a development authorisation is required under the Act:
31.5.1	in circumstances where:
31.5.1.1	the Commonwealth Minister has given his or her approval to the controlled action; and
31.5.1.2	the applicant for the development authorisation or the Commonwealth Minister has informed the relevant

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	authority of that fact;
	the duty pursuant to Section 52A(6)(a) of the Act to consider whether the conditions (if any) to be attached to the development authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999; and
31.5.2	the power pursuant to Section 52A(6)(b) of the Act to attach a condition to the development authorisation that requires compliance with all or some of the conditions attached to the Commonwealth Minister's approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.
32.	Requirement to Upgrade Building in Certain Cases
32.1	Where an application is made for building rules consent for building work in the nature of an alteration to a building constructed before the date prescribed by regulation for the purposes of subsection 53A(1) of the Act, the power pursuant to Section 53A(1) of the Act to form the opinion that the building is unsafe, structurally unsound or in an unhealthy condition and therefore require as a condition of consent that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to proper structural and health standards.
32.2	Where an application is made for building rules consent for building work in the nature of an alteration of a class prescribed by the Regulations the power pursuant to Section 53A(2) and subject to Section 53A(3) of the Act, to form the opinion that the affected part of the building does not comply with the performance requirements of the Building Code in relation to access to buildings and facilities and services within buildings, for people with disabilities and therefore require as a condition of consent that building work or other measures be carried out to the extent necessary to ensure that the affected part of the building will comply with those performance requirements of the Building Code.
33.	Urgent Building Work
33.1	The power pursuant to Section 54(2)(d) of the Act to issue any directions and specify a period of time with respect to building work performed as a matter of urgency.
34.	Action if Development Not Substantially Completed
34.1	The power pursuant to Section 55(1) of the Act to apply to the Court for an order under Section 55(3) of the Act where the development to which an

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	approval relates has been commenced but not substantially completed within the period prescribed by the Regulations for the lapse of the approval.
34.2	The power pursuant to Section 55(5) of the Act where the Court makes an order under Section 55(3)(a), (b) or (ca) of the Act and a person fails to comply with the order within the period specified by the Court, to cause any work contemplated by the order to be carried out and to recover the cost of that work as a debt from the person.
34.3	The power pursuant to Section 55(6) of the Act where an amount is recoverable from a person under Section 55(5) of the Act, by notice in writing to the person, fix a period being not less than 28 days from the date of the notice within which the amount must be paid.
35.	Completion of Work
35.1	The power pursuant to Section 56(1) of the Act to issue a notice in writing requiring an owner of land to complete a development on the land within a period specified in the notice.
35.2	The power pursuant to the Section 56(2) of the Act to cause the necessary work to be carried out where an owner has failed to carry out work as required by a notice under Section 56(1) of the Act.
35.3	The power pursuant to Section 56(3) of the Act to recover the reasonable costs and expenses incurred by the Council or any person acting on behalf of the Council under Section 56 of the Act as a debt due from the owner.
35.4	The power pursuant to Section 56(4) of the Act to, by notice in writing to the person, fix a period being not less than 28 days from the date of the notice, within which the amount must be paid by the person where an amount is recoverable from the person under Section 56(3) of the Act.
36.	Council to Establish Development Assessment Panels
36.1	The duty pursuant to Section 56A(3) of the Act to appoint a presiding member to the council development assessment panel in accordance with the requirements set out in Section 56A(3)(b) of the Act.
36.2	The duty pursuant to Section 56A(3) of the Act to appoint the remaining members of the council development assessment panel in accordance with the requirements set out in Section 56A(3)(c) of the Act.
36.3	The duty pursuant to section 56A(3)(d) of the Act to ensure that, unless granted an exemption by the Minister, at least 1 member of the panel is a woman and at least 1 is a man and to ensure that insofar as is reasonably

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	practicable, the panel consists of equal numbers of men and women.
36.4	The duty pursuant to Section 56A(3)(e) to determine the term of office for a member of the council development assessment panel, which period cannot exceed 2 years.
36.5	The duty pursuant to Section 56A(3)(f) of the Act to determine any other conditions of appointment of the members of the council development assessment panel.
36.6	The power pursuant to Section 56A(3)(g) of the Act to remove a member of the council development assessment panel from office for:
36.6.1	breach of, or failure to comply with, the conditions of appointment; or
36.6.2	misconduct; or
36.6.3	neglect of duty; or
36.6.4	incapacity to carry out satisfactorily the duty of his or her office; or
36.6.5	failure to carry out satisfactorily the duty of his or her office; or
36.6.6	failure to comply with a requirement under Section 34(6) or (7) of the Act or a breach of, or failure to comply with, a code of conduct under Section 21A of the Act.
36.7	The duty pursuant to and in accordance with Section 56A(5) of the Act to give notice of an appointment.
36.8	The duty pursuant to Section 56A(15)(b) of the Act and in accordance with Section 56A(17) of the Act to make minutes of meetings of a council development assessment available for reasonable access by members of the public.
36.9	The duty pursuant to and in accordance with Section 56A(20) of the Act to provide information to the Minister where requested by the Minister.
36.10	The duty pursuant to Section 56A(22) of the Act to appoint a public officer (who must not be a member of the council development assessment panel).
36.11	The duty pursuant to Section 56A(23) of the Act to ensure that notice of the appointment of a public officer (including the public officer's name and contact details) is published in the Gazette.
36.12	The power pursuant to Section 56A(27) of the Act to make an application to

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	within a reasonable period, taken appropriate action in view of the recommendation,
	consult with the Minister.
38.	Land Management Agreements
38.1	The power pursuant to Sections 57(2) and 57(2a) of the Act to enter into an agreement relating to the development, management, preservation or conservation of land within the area of the Council with the owner of the land.
38.2	The duty pursuant to and in accordance with Section 57(2c) of the Act and Regulation 98A of the Regulations to establish and keep a register available for public inspection (without charge).
38.3	The duty pursuant to Section 57(2e) of the Act, in relation to the granting of development plan consent with respect to a Category 2A, Category 2 or Category 3 development, to note the existence of the agreement (or the proposal to enter the agreement), and the availability of copies of the agreement for public inspection on the notice of the relevant authority's decision.
38.4	The power pursuant to Section 57(3) of the Act to carry out on private land any work for which provision is made by agreement under Section 57 of the Act.
38.5	The power pursuant to Section 57(5) of the Act, to apply to the Registrar-General to note the agreement against the relevant instrument of title or, in the case of land not under the provisions of the Real Property Act 1886, against the land.
38.6	The power pursuant to Section 57(8) of the Act to apply to the Registrar-General where an agreement in relation to which a note has been made under Section 57 of the Act has been rescinded or amended, to enter a note of the rescission or amendment made against the instrument of title or against the land.
38.7	The power pursuant to Section 57(11) of the Act to consent to the remission of rates payable to the Council provided for in an agreement entered into by the Minister.
39.	Land Management Agreements - Development Applications
39.1	The power pursuant to and subject to Section 57A(1) of the Act to enter into an agreement under Section 57A of the Act with a person who is applying for a development authorisation under the Act.

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39.2	The duty pursuant to Section 57A(3) of the Act to have regard to:
39.2.1	the provisions of the appropriate Development Plan.
39.2.2	the principle that the entering into of an agreement under Section 57A by the Council should not be used as a substitute to proceeding with an amendment to a Development Plan under the Act.
39.3	The duty pursuant to Section 57A(5) of the Act to register agreements entered into under Section 57A in accordance with the Regulations.
39.4	The duty pursuant to Section 57A(6) of the Act to keep a register available for public inspection (without charge) in accordance with the Regulations.
39.5	The power pursuant to Section 57A(7) of the Act to provide a person, on payment of the prescribed fee, a copy of an agreement registered under Section 57A(5) of the Act.
39.6	The duty, pursuant to Section 57A(8) of the Act, where an agreement is entered into under Section 57A of the Act, in connection with an application for a development authorisation with respect to a Category 2A, Category 2 or Category 3 development, to include a note of the existence of the agreement on the notice of the relevant authority's decision under the Act.
39.7	The power pursuant to Section 57A(14) of the Act to apply to the Registrar-General to note the agreement against the relevant instrument of title, or in the case of land not under the provisions of the Real Property Act 1886, against the land.
39.8	The power pursuant to Section 57A(16) of the Act to apply to the Registrar-General where an agreement under Section 57A has been rescinded or amended to enter a note of the rescission or amendment against the instrument of title, or against the land.
39.9	The power pursuant to Section 57A (18) of the Act where an agreement under Section 57A does not have effect under Section 57A within the prescribed period, to, by notice given in accordance with the regulations, lapse the relevant development approval (and the agreement will then be rescinded by force of Section 57A(18) of the Act).
40.	Notification During Building
40.1	The power pursuant to Section 59(3) of the Act to direct that building work stop when a mandatory notification stage has been reached.
41.	Classification of Buildings

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41.1	The power pursuant to Section 66(2) of the Act to assign to any building a classification that conforms with the Regulations and the duty pursuant to Section 66(4) of the Act to give notice in writing to the owner of the building to which the classification has been assigned.
42. Certificates of Occupancy	
42.1	The duty pursuant to and in accordance with the requirements of Sections 67(2), (3), (4), (5) and (6) of the Act to give a certificate of occupancy.
42.2	The power pursuant to Section 67(3)(a) of the Act to require information from an applicant for a certificate of occupancy.
42.3	The duty pursuant to Section 67(10) of the Act to give written notice to an applicant of the refusal of the certificate of occupancy.
42.4	The power pursuant to Section 67(13) of the Act to revoke a certificate of occupancy in prescribed circumstances.
43. Temporary Occupation	
43.1	The power pursuant to Sections 68(1) and (2) of the Act to approve the occupation of a building on a temporary basis without a certificate of occupancy and subject to such conditions as the Delegate thinks fit to impose.
43.2	The duty pursuant to and in accordance with Section 68(3) of the Act to give written notice to an applicant of the refusal of approval for temporary occupation of a building.
44. Emergency Orders	
44.1	Where an owner of land fails to comply with the requirements of an emergency order issued under Section 69(1) of the Act:
44.1.1	the power pursuant to Section 69(4) of the Act to cause the required work to be carried out; and
44.1.2	the power pursuant to and in accordance with Sections 69(5) and 69(6) of the Act to recover the reasonable costs and expense of that work from the owner as a debt.
44A Fire Safety	
44A.1	The power pursuant to Sections 71(18) and (19) of the Act to establish and designate a body as an appropriate authority.
44A.2	The power pursuant to Section 71(19)(a)(i) of the Act to appoint a person

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	who holds prescribed qualifications in building surveying to the appropriate authority.
44A.3	The power pursuant to Section 71(19)(a)(ii) of the Act to determine if a person is to be nominated to the appropriate authority by the Chief Officer of the South Australian Metropolitan Fire Service or the Chief Officer of the South Australian Country Fire Service (after taking into account the nature of the Council or Council's area(s)).
44A.4	The power pursuant to Section 71(19)(a)(iii) of the Act to appoint a person with expertise in the area of fire safety to the appropriate authority.
44A.5	The power pursuant to Section 71(19)(a)(iv) of the Act to determine and select a person to be appointed to the appropriate authority.
44A.6	The power pursuant to Section 71(19)(b) of the Act to determine the term of the office not exceeding three years of a member of the appropriate authority.
44A.7	The power pursuant to Section 71(19)(d) of the Act to appoint deputy members to the appropriate authority.
44A.8	The power pursuant to Section 71(19)(e) of the Act to determine the procedures of an appropriate authority.
45.	Building Inspection Policies
45.1	The duty pursuant to and in accordance with Section 71A of the Act to prepare and from time to time alter a building inspection policy.
46.	Advertisements
46.1	The power pursuant to and in accordance with Section 74(1) of the Act to:
46.1.1	form the opinion that an advertisement or advertising hoarding disfigures the natural beauty of a locality or otherwise detracts from the amenity of a locality or is contrary to a character desired for a locality under the relevant Development Plan; and
46.1.2	serve notice in writing requiring the removal or obliteration of the advertisement or the removal of the advertising hoarding (or both).
46.2	The power pursuant to Section 74(3) of the Act where a person has failed to comply with a notice under Section 74(1) of the Act, to enter on land, carry out the terms of the notice and recover the costs of doing so as a debt from the person on whom the notice was served.

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47. Enforcement Notices
47.1 The power pursuant to and in accordance with Section 84(2) of the Act to issue an enforcement notice where the Delegate has reason to believe on reasonable grounds that a person has breached the Act or a repealed Act.
47.2 The power pursuant to Section 84(3) of the Act to determine that a direction under Section 84(2) of the Act is urgently required and can be orally given by an authorised officer.
47.3 Where a person has failed to comply with a direction contained in a notice issued pursuant to Section 84(2)(b) of the Act:
47.3.1 the power pursuant to Section 84(6) of the Act to cause the necessary action to be undertaken; and
47.3.2 pursuant to and in accordance with Sections 84(7) and 84(8) of the Act to recover the costs of doing so as a debt from the person whose failure gave rise to the action.
48. Applications to Court
48.1 The power pursuant to Section 85(1) of the Act to apply to the Court for an order to remedy or restrain a breach of the Act, or a repealed Act.
48.2 Where the Court has made an order under Section 85(6)(d) of the Act and a person has failed to comply with the order, the power pursuant to and in accordance with Section 85(12) and Section 85(13) of the Act, to cause any work contemplated by the order to be carried out and to recover the costs of doing so as a debt from the person.
49. General Right to Apply to Court
49.1 Where the Council is a party to a dispute referred to in Section 86(1)(e) of the Act, the power pursuant to Section 86(1)(e) of the Act to apply to the Court for determination of the dispute.
50. Authority to be Advised of Certain Matters
50.1 The power pursuant to Section 93(1)(b)(iii) of the Act to require from a private certifier who is making a decision of a prescribed kind in relation to any aspect of building work such other information or documentation as the Delegate or the Council may require.
51. Referrals
51.1 The power pursuant to and in accordance with Section 94 of the Act to consent to the referral by a private certifier to the Council or Delegate of

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	any function under the Act.
52. Professional Advice to be Obtained in Relation to Certain Matters	
52.1	The power pursuant to Section 101(1) of the Act, in the exercise of a prescribed function, to rely on a certificate of a person with prescribed qualifications.
52.2	The duty pursuant to Section 101(2) of the Act to seek and consider the advice of a person with prescribed qualifications or person approved by the Minister in relation to a matter prescribed by the Regulations.

DELEGATIONS UNDER THE DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006

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

DELEGATIONS UNDER THE DEVELOPMENT REGULATIONS 2008

53A. Complying Development – Development Plan Consent	
53A.1	The power pursuant to Regulation 8A(1)(a) of the Development Regulations 2008 ('the Regulations'), for the purposes of Sections 33(1)

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and 35 of the Act (subject to Regulation 8A(2)) of the Regulations to:
53A.1.1 in the case of a proposed development lodged for assessment as residential code development – assess the development as being in a form described in Schedule 4 clause 1(2) or (3), 2A, 2B or 2C (including a form specified or provided for in a relevant Development Plan referred to in Schedule 4 clause 1(2) or (3), 2A, 2B or 2C); and
53A.1.2 in any other case – to assess the development as being in a form described in Schedule 4 Part 1 (including a form specified or provided for in a relevant Development Plan referred to in Schedule 4 Part 1).
53A.2 The power pursuant to Regulation 8A(1)(b) of the Regulations, for the purposes of Section 35(1b) of the Act, to:
53A.2.1 form the opinion that a variation from <i>complying</i> development (including <i>complying</i> development as declared under Regulation 8A(1)(a) of the Regulations) is minor; and
53A.2.2 determine that 2 or more minor variations, when taken together, constitute a 'minor variation from <i>complying</i> development'.
53B. Complying Building Work – Building Rules
53B.1 The power pursuant to Regulation 8B(1) of the Regulations, for the purposes of Section 36(1) of the Act to, subject to Regulation 8B(2) of the Regulations, assess building work as being in a form specified in Schedule 4 Part 2 (including a form specified or provided for in the <i>Building Code</i> referred to in Schedule 4 Part 2).
54. Infrastructure Planning
54.1 The power pursuant to Regulation 9A(1) to, in preparing the DPA, to the extent (if any) required by the Statement of Intent, seek, in accordance with Regulation 9A(2), the advice of a Minister and any other government agency, specified by the Minister as part of the agreement on the Statement of Intent.
55. Consultation with Government Departments or Agencies
55.1 The duty pursuant to Regulation 10A(1) of the Regulations if the Council is subject to a requirement under Section 25(7)(a) of the Act to ensure that a copy of any written report received from a Department or agency is furnished to the Minister for the purposes of considering the matter under Section 25(7)(b) of the Act.

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56. Public Consultation – Section 25 & 26	
56.1	Subject to Regulations 11A(3) and 11A(6) of the Regulations, for the purposes of Sections 25 and 26 of the Act, the duty pursuant to Regulation 11A(1) of the Regulations to give public notice of a DPA by publication in the designated manner of a notice:
56.1.1	advising the time and places at which the DPA is available for inspection (without charge) and purchase by the public; and
56.1.2	inviting any interested person to make written submissions on the amendment to the council within the relevant period specified in the notice; and
56.1.3	stating that the submissions will be available for inspection by any interested person at a place specified in the notice from the expiration of the period specified under Regulation 11A(1)(b) of the Regulations until the conclusion of any public meeting held for the purposes of Section 25(11)(b) or 26(5c)(b) of the Act (or, if no such meeting is to be held, until the decision is made not to hold the meeting); and
56.1.4	providing information about when and where any public meeting is proposed to be held for the purposes of Sections 25(11)(b) or 26(5c)(b) of the Act (subject to a decision being made under the relevant section not to hold a meeting).
56.2	If one or more written submissions are made in response to a notice published under Regulation 11A(1) of the Regulations, the duty pursuant to Regulation 11A(3) of the Regulations to make a copy of each submission available for inspection in accordance with the statement included under Regulation 11A(1)(c).
56.3	For the purposes of Sections 25(9)(c) and 26(5b)(c) of the Act, the duty pursuant to Regulation 11A(4) of the Regulations to include in the written notice the same information as required for a notice under Regulation 11A(1) of the Regulations.
56.4	The duty pursuant to Regulation 11A(5) of the Regulations, to ensure that a copy of any DPA released for public consultation under Section 25 of the Act is provided to the Minister within 2 business days after that release.
57. Public Meeting	
57.1	The duty pursuant to and in accordance with Regulation 12 of the Regulations to hold a public meeting if an amendment has been prepared by the Council or the Delegate.

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57.2	The power pursuant to Regulation 12(4) of the Regulations to adjourn a public meeting from time to time, and place to place if necessary or appropriate.
58.	Application to Relevant Authority
58.1	The power pursuant to Regulation 15(1)(c) of the Regulations to require an additional or lesser number of copies of plans, drawings, specifications and other documents and information relating to a proposed development than the number prescribed in Regulation 15(1)(c) of the Regulations.
58.2	The duty pursuant to and in accordance with Regulation 15(4) of the Regulations, if an application is lodged with the Council but a regional development assessment panel is the relevant authority, to retain a copy of the application and other accompanying information and to forward the application on to the appropriate person acting on behalf of the regional development assessment panel.
58.3	The duty pursuant to and in accordance with Regulation 15(5) of the Regulations, when an application is lodged with the Council but the Development Assessment Commission is the relevant authority, to forward all but one copy of the application and the accompanying information, as well as a written acknowledgment that the appropriate fees have been paid, including details of each fee component paid, to the Development Assessment Commission.
58.4	The power pursuant to Regulation 15(7)(b) of the Regulations to indicate, in such manner as may be determined by the Development Assessment Commission, that the Delegate wishes to receive written documentation instead of electronic access to the relevant documents and information via the Internet.
58.4A	The power and duty pursuant to Regulation 15(7b) of the Regulations, to within 2 business days of receipt of a copy of an application form under Regulation 15(7a) of the Regulations, furnish to the private certifier:
58.4A.1	the Development Assessment number assigned to the development proposed under the application; and
58.4A.2	if the private certifier, at the time of forwarding a copy of an application form under Regulation 15(7a) of the Regulations, requests advice on the matters set out in subparagraphs (i) and (ii), and if such advice is relevant:
58.4A.2.1	advice about any site contamination that is believed to exist at the site where the development would be undertaken;

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58.4A.2.2	advice about the likely need for approval to alter a public road under section 221 of the Local Government Act 1999 in order to establish a new access point; and
58.4A.2.3	advice about whether the relevant development plan specifies any requirements relating to finished floor levels (expressed by reference to AHD or ARI) in relation to the site where the development would be undertaken.
58.5	The power pursuant to Regulation 15(8) of the Regulations to extend the period prescribed in Regulation 15(8) for the lodging of an application for the appropriate development authorisation as required by Section 54(2)(c).
	[City of Tea Tree Gully only]
58.6	If an application relates to a proposed development that involves the division of land in the Golden Grove Development Area which is complying development in respect of the Development Plan, the duty pursuant to Regulation 15(10)(c) to forward to the Development Assessment Commission within 5 business days after receipt of the application:
58.6.1	a copy of the application; and
58.6.2	a copy of the plans, drawings, specification and other documents or information accompanying the application.
58.7	The power pursuant to Regulation 15(11) of the Regulations, to modify the requirements of Schedule 5 in relation to a particular application, subject to the following qualifications:
58.7.1	in the case of an application that is lodged with the Council for assessment as <i>residential code</i> development – the requirements of Schedule 5 may not be modified in any way by the delegate assessing the application (whether so as to require more or less information), except on authority of the Minister under Section 39(1)(a) of the Act;
58.7.2	in any other case, the delegate must not, when requiring plans, drawings, specifications and other documents in relation to the application, require the applicant to provide more information than that specified under Schedule 5 (subject to Section 39 of the Act).
58.8	The power pursuant to Regulation 15(12) of the Regulations to, in exercising the discretion under Section 39(4)(b) of the Act, dispense with the requirements of Schedule 5 in relation to a particular application.

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59.	Nature of Development
59.1	The duty pursuant to Regulation 16(1) of the Regulations, where an application requires the assessment of a proposed development against the provisions of the Development Plan, to determine the nature of the development applied for.
59.2	The power pursuant to Regulation 16(2) of the Regulations to form the opinion that a development is non-complying, and the duty if the Delegate is of the opinion that an application relates to a kind of development that is non-complying and the applicant has not identified the development as such, by notice in writing to inform the applicant of that fact.
59.3	The power pursuant to Regulation 16(3) of the Regulations to, if an application in relation to a proposed development identifies the development as <i>residential code</i> development or designated development, form the opinion that the development is <i>residential code</i> development and the duty to, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact.
59.4	The power pursuant to Regulation 16(4) of the Regulations to, if an application in relation to a proposed development identifies the development as <i>residential code</i> development or designated development, form the opinion that the development is not <i>residential code</i> development and the duty to, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact and the reasons for the Delegate's opinion.
60.	Non-Complying Development
60.1	The power pursuant to Regulation 17(3) of the Regulations, after receipt of an application which relates to a kind of development that is described as non-complying development to:
60.1.1	refuse the application pursuant to Section 39(4)(d) of the Act and notify the applicant accordingly; or
60.1.2	resolve to proceed with an assessment of the application.
60.2	The duty pursuant to Regulation 17(4) of the Regulations, in situations where the Delegate has resolved to proceed with the assessment of an application for non-complying development, to require the applicant to provide a statement of effect.
60.3	The power pursuant to Regulation 17(6) of the Regulations to determine that a proposed development is of a minor nature for the purposes of exemption from the requirements to provide a statement of effect.

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61. Notification of Application for Tree-Damaging Activity to Owner of Land
61.1 Where the owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, the duty pursuant to and in accordance with Regulation 18 of the Regulations:
61.1.1 to give the owner of land notice of the application; and
61.1.2 to give due consideration, in the assessment of the application, to any submission made by the owner within a reasonable time after the giving of notice of the application.
62. Amended Applications
62.1 The power pursuant to Regulation 20(4) of the Regulations to form the opinion that variations to an application are not substantial and that repeating of the referral process under Part 5 of the Regulations, or the giving of notice under Part 6 of the Regulations is not required.
62.2 The power pursuant to Regulation 20(5) of the Regulations, where a variation to an application changes the essential nature of a proposed development to (by agreement with the applicant) proceed with the variation on the basis that the application will be treated as a new application.
63. Withdrawing/Lapsing Application
63.1 The duty pursuant to Regulation 22(1) of the Regulations, where an applicant withdraws an application, to notify any agency to which an application was referred under Part 5 of the Regulations and any person who made a representation in relation to the application under Part 6 of the Regulations of the withdrawal.
63.2 Where at least two years have passed since the date on which an application for development authorisation under Part 4 of the Act was lodged with the Council the power, pursuant to Regulation 22(2) of the Regulations to lapse the said application.
63.3 Before taking action to lapse a development application under Regulation 22(2) of the Regulations the duty, pursuant to and in accordance with Regulation 22(3) of the Regulations to:
63.3.1 take reasonable steps to notify the applicant of the action under consideration; and
63.3.2 allow the applicant a reasonable opportunity to make submissions to the Council or the Delegate about the proposed course of

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	action, and the power to determine the manner and form of those submissions.
64. Contravening Development	
64.1	The power pursuant to Regulation 23(2) of the Regulations, by notice in writing to the applicant to decline to proceed with an application until proceedings under the Act have been concluded.
65. Referrals	
65.1	The duty pursuant to Regulation 24(1) of the Regulations to refer an application of a prescribed kind together with a copy of any relevant information provided by the applicant to the relevant body prescribed by Schedule 8 of the Regulations and to not make a decision on the application until a response has been received from the referral body or the time period for receipt of a response has lapsed.
66. Procedure Where Concurrence Required	
66.1	The duty pursuant to Regulation 25 of the Regulations, if concurrence must be sought from another body prior to issuing a consent or approval to forward to the other body whose concurrence must be sought that information required by Regulation 25(b) of the Regulations.
67. Additional Information or Amended Plans	
67.1	The duty pursuant to Regulation 27(1) of the Regulations, where an application has been referred to a prescribed body under Part 5 of the Regulations and additional information is received which is materially relevant to the referral, to repeat the referral process where the Delegate is of the opinion that the additional information or amendment is significant and the power to repeat the referral process in all other instances.
68. Special Provisions – Referrals	
68.1	The duty pursuant to and in accordance with Regulation 28(3) of the Regulations to refer an application for building rules consent to the relevant fire authority for comment and report where the Delegate considers that:
68.1.1	a proposed alternative solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or
68.1.2	the proposed development is at variance with a performance requirement of the Building Code which provides for fire fighting

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	operations of a fire authority; or
68.1.3	special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,
	and the duty pursuant to Regulation 28(5) of the Regulations to have regard to any report received from the fire authority under Regulation 28.
68.2	The power pursuant to Regulation 28(4) of the Regulations, when a report from a fire authority pursuant to Regulation 28(3) is not received by the Council within 20 business days, to presume that the fire authority does not desire to make a report.
68.3	If, in respect of an application referred to a fire authority under Regulation 28, the fire authority:
68.3.1	recommends against the granting of building rules consent; or
68.3.2	concur in the granting of consent on conditions specified in its report,
	but the Delegate:
68.3.3	proposes to grant building rules consent despite a recommendation referred to in Regulation 28(5a)(a) of the Regulations; or
68.3.4	does not propose to impose the conditions referred to in Regulation 28(5a)(b) of the Regulations, or proposes to impose the conditions in varied form, on the grant of consent,
	the duty pursuant to Regulation 28(5a) of the Regulations to:
68.3.5	refer the application to the Building Rules Assessment Commission; and
68.3.6	not grant consent unless the Building Rules Assessment Commission concurs in the granting of consent.
68.4	The duty pursuant to Regulation 28(6) of the Regulations to provide to the Building Rules Assessment Commission a copy of any report received from a fire authority under Regulation 28(1) that relates to an application referred to the Building Rules Assessment Commission under the Act.
68.5	The duty pursuant to Regulation 28(7) of the Regulations, where building work comprises or includes the construction or installation of a private bushfire shelter, not to grant a building rules consent unless the Building

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

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	Act; or
71.2.4	to obtain a response from the prescribed body for the purposes of Section 37 of the Act.
71.3	The power pursuant to Regulation 31A(7) of the Regulations if:
71.3.1	an application is withdrawn by the Applicant; and
71.3.2	the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,
	to notify the relevant prescribed body of the withdrawal of an application.
71.4	The power pursuant to Regulation 31A(8) of the Regulations if:
71.4.1	an application is lapsed by a relevant authority under Regulation 22 of the Regulations; and
71.4.2	the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,
	to notify the relevant prescribed body of the lapsing of an application.
71.5	The power pursuant to Regulation 31A(9) of the Regulations if:
71.5.1	an application seeks to rely on an agreement under Section 37AA of the Act in connection with the application; and
71.5.2	a notice of decision is issued by the relevant authority under Regulation 42 of the Regulations,
	to send a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under Regulation 42 of the Regulations.
71A. Public Notice Categories	
71A.1	The power pursuant to Regulation 32(2)(5) of the Regulations to determine that a form of development comprises 2 or more elements.
72. Public Inspection of Certain Applications	
72.1	The duty pursuant to and in accordance with Regulation 34(1) of the Regulations, subject to Regulation 34(4) of the Regulations to ensure that copies of documents referred to in Regulation 34(1) concerning an

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	application are reasonably available for inspection by the public (without charge).
72.2	The duty pursuant to Regulation 34(2) of the Regulations, subject to Regulation 34(4) of the Regulations, where a request is made within the time period that applies under Regulation 34(1) of the Regulations and on payment of a fee fixed by Council to provide to a member of the public a copy of any document of information available for inspection under Regulation 34(1) of the Regulations.
72.3	The power pursuant to Regulation 34(3) of the Regulations to require that a person who has made a request under Regulation 34(2) of the Regulations verify his or her name, address and contact details in such manner as the Delegate thinks fit.
72.4	The power pursuant to Regulation 34(4) of the Regulations to form the opinion that the present or future security of a building would be jeopardised if plans, drawings, specifications or other documents or information relating to the assessment of a proposed development against the Building Rules were to be made available for inspection.
73. Response by Applicant	
73.1	The power pursuant to Regulation 36 of the Regulations to extend the time within which an applicant may respond to any representation
74. Determination of Commission as Relevant Authority	
74.1	Where the Development Assessment Commission is the relevant authority under Section 34(1)(b) of the Act:
74.1.1	in a case where the Minister has made a declaration under Section 34(1)(b)(iii) or 34(1)(b)(vi) of the Act, the duty pursuant to and in accordance with Regulation 38(2)(a)(i) of the Regulations to forward to the Development Assessment Commission any application received by the Council under the Act and the Regulations in relation to the matter together with accompanying documentation or information and, as appropriate, fees; and
74.1.2	in any case, the power pursuant to and in accordance with Regulation 38(2)(b) to provide a report on matters under Section 33(1) (as relevant).
74.2	Where the Development Assessment Commission is the relevant authority under Section 34(1)(b)(iv) of the Act and the proposed development is to be undertaken within one kilometre of a boundary with the Council, the power, pursuant to Regulation 38(4) of the Regulations, to provide the Development Assessment Commission with comments on the proposed

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

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

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

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

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	copy to the Council.
90.3	The power pursuant to Regulation 60(9) of the Regulations to consult with the Development Assessment Commission before it grants an extension of the period prescribed by Regulation 60(8) of the Regulations.
91.	Declaration by The Minister - Section 46
91.1	The duty pursuant to and in accordance with Regulation 61(2) of the Regulations, to transmit to the Minister any relevant documentation (including the application and any accompanying documentation or information lodged by the proponent with the Council under Division 1 of Part 4 of the Act) within 10 business days after the receipt of a copy of a notice required by Regulation 61(1) of the Regulations.
91.2	At the same time that documents are transmitted to the Minister under Regulation 61(2) of the Regulations, the duty pursuant to Regulation 61(3) of the Regulations to also transmit to the Minister any fees that have been paid by the proponent under Schedule 6 (less any amount that the Minister determines should be retained by the Council).
91.3	Where an application lodged with the Minister under Section 46 of the Act requires an assessment against the Building Rules and the assessment against the Building Rules is to be referred to the Council, the power pursuant to Regulation 61(5)(d) of the Regulations, to require from the applicant additional copies of the plans, drawings, specifications and other documents and information required by Regulation 61(4) of the Regulations.
92.	Referral of Assessment of Building Work
92.1	Where a development application which is subject to the operation of Section 48 of the Act is referred to the Council for assessment in respect of the Building Rules the duty pursuant to and in accordance with Regulation 64(2) of the Regulations, to ensure that the assessment is consistent with any development plan consent previously given under Section 48 of the Act.
92.2	Where the Council acting under Regulation 64(1) of the Regulations determines that it is appropriate to give a certification with respect to the development complying with the Building Rules (and if the assessment of the Council is consistent with any development plan consent) the duty, pursuant to Regulation 64(3) of the Regulations to:
92.2.1	provide the certification in the form set out in Schedule 12A; and
92.2.2	to the extent that may be relevant and appropriate:

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

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

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

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	conditions attached to a development approval have been satisfied.
98.2	The power pursuant to Regulation 83(2)(d) of the Regulations where an application relates to the construction or alteration of part of a building and further building work is envisaged in respect of the remainder of the building, to require from an applicant for a certificate of occupancy reasonable evidence that in the case of a building of more than 1 storey, the requirements of Minister's Specification SA 83 have been complied with, or in any other case the building is suitable for occupation.
98.3	The power pursuant to Regulation 83(3) of the Regulations to, other than in relation to a designated building on which building work involving the use of a designated building product is carried out after the commencement of the Development (Building Cladding) Variation Regulations 2018, dispense with the requirement to provide a Statement of Compliance under Regulation 83(2)(a) if the Delegate is satisfied that a person required to complete 1 or both parts of the Statement has refused or failed to complete that part and that the person seeking the issuing of the certificate of occupancy has taken reasonable steps to obtain the relevant certification(s) and it appears to the Delegate that the relevant building is suitable for occupation.
98.4	Where:
98.4.1	a building is required by the Building Rules:
98.4.1.1	to be equipped with a booster assembly for use by a fire authority; or
98.4.1.2	to have installed a fire alarm that transmits a signal to a fire station; and
98.4.2	facilities for fire detection, fire fighting or the control of smoke must be installed in the building pursuant to an approval under the Act,
	the duty pursuant to Regulation 83(4) of the Regulations to not grant a certificate of occupancy unless or until a report has been sought from the fire authority as to whether those facilities have been installed and operate satisfactorily.
98.5	The power pursuant to Regulation 83(5) of the Regulations, when a report from the fire authority pursuant to Regulation 83(4) is not received within 15 business days, to presume that the fire authority does not desire to make a report.
98.6	The duty pursuant to Regulation 83(6) of the Regulations to have regard to any report received from a fire authority under Regulation 83(4) before

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	issuing a certificate of occupancy.
98.7	The power pursuant to Regulation 83(9) of the Regulations to revoke a certificate of occupancy.
99.	Certificate of Independent Technical Expert in Certain Case
99.1	The power pursuant to Regulation 88(3) of the Regulations, in circumstances where Regulation 88 of the Regulations applies, to rely on the certificate of an independent technical expert.
100.	Fees
100.1	The power pursuant to Regulation 95(2) of the Regulations to require an applicant to provide such information as the Delegate may reasonably require to calculate any fee payable under Schedule 6 and the power to make any other determination for the purposes of Schedule 6.
100.2	The power pursuant to the provisions of Regulation 95(3) of the Regulations to calculate any fee on the basis of estimates made by the Delegate where the Delegate believes that any information provided by an applicant is incomplete or inaccurate.
100.3	The power pursuant to Regulation 95(4) of the Regulations to, at any time, and despite any earlier acceptance of an amount in respect of the fee, reassess a fee payable under the Regulations.
100.4	The duty pursuant to Regulation 95(5) of the Regulations, on a reassessment under Regulation 95(4) of the Regulations:
100.4.1	if it appears that an overpayment has occurred, to refund any amount due in accordance with the reassessment; and
100.4.2	if it appears that an underpayment has occurred, to charge any further amount payable in accordance with the reassessment.
101.	Register Of Applications
101.1	The duty pursuant to Regulation 98 of the Regulations to keep available for public inspection a register of applications for consent, approval, or the assignment of building classifications under the Act.
101.2	The power pursuant to Regulation 98(3) to fix a fee and upon payment of that fee, make available to a member of the public a copy of any part of a register or document kept for the purposes of Regulation 98(1).
102.	Registration of Land Management Agreements

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

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104.3	The power pursuant to and in accordance with Regulation 101(3) of the Regulations to offer to give plans and specifications in the Council's possession to a building owner and if the building owner declines the offer, the power to destroy the documents.
104.4	The power pursuant to and in accordance with Regulation 101(4) of the Regulations to make available for inspection at the offices of the Council during normal office hours any document retained by the Council under Regulation 101(a1) or (1) of the Regulations (without charge) and to fix a reasonable fee for a copy of any document retained by the Council under Regulation 101(a1) or (1) of the Regulations.
104.5	The power pursuant to Regulation 101(5) of the Regulations to not make available of any plans, drawings specifications or other documents or information:
104.5.1	for inspection under Regulation 101(4)(a) if to do so would:
104.5.1.1	in the opinion of the Delegate, unreasonably jeopardise the present or future security of a building; or
104.5.1.2	constitute a breach of any other law; or
104.5.2	for copying under Regulation 101(4)(b) if to do so would:
104.5.2.1	in the opinion of the Delegate, unreasonably jeopardise the present or future security of a building; or
104.5.2.2	involve an infringement of copyright in matter contained in a document; or
104.5.2.3	constitute a breach of any other law.
104A Documents to be Provided by Private Certifier	
104A.1	The power pursuant to Regulation 102(2) of the Regulations to request a private certifier to produce to the Council within a reasonable period, a copy of any document that has been submitted to the private certifier for the purposes of an application for development plan consent (and that it is not already held by the Council under the Regulations) so that the Council can respond to a request from a member of the public for access to such document.
105. Transfer of Development Potential	
105.1	The duty pursuant to Regulation 104 of the Regulations, wherever the provisions of the Development Plan provide for the transfer of development potential, to maintain a register of development rights containing the

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

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

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

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

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118.7.2 whether the proposed division will change the nature or function of an existing road.
119. <i>DELIBERATELY LEFT BLANK</i>

<u>DELEGATIONS UNDER THE DEVELOPMENT (WASTE REFORM) VARIATION REGULATIONS 2019</u>
120. Development Authorisations to Continue
120.1 The power pursuant to clause 2(2) of Schedule 1 of the Development (Waste Reform) Variation Regulations 2019 ('the Waste Reform Regulations'), to, on the Delegate's own initiative or on application by an existing authorisee:
120.1.1 grant a new development authorisation to the person; or
120.1.2 revoke an existing development authorisation; or
120.1.3 by notice in writing to the authorisee given within 2 years after the commencement of clause 2 of Schedule 1 of the Waste Reform Regulations:
120.1.3.1 vary the terminology or numbering in the existing development authorisation; or
120.1.3.2 impose or vary a condition of the existing development authorisation,
if, in the opinion of the Delegate, it is necessary or desirable to do so as a consequence of the variation of Schedule 21 or 22 of the principal regulations by the Waste Reform Regulations.
120.2 The power pursuant to clause 2(3) of Schedule 1 of the Waste Reform Regulations, if the relevant authority takes action under clause 2(2) of Schedule 1 of the Waste Reform Regulations, to, dispense with the requirement for applications and payment of fees as the Delegate considers appropriate.

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SCHEDULE OF CONDITIONS

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

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

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

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ATTACHMENT 3

**INSTRUMENT OF DELEGATION UNDER THE
LOCAL GOVERNMENT ACT 1999****NOTES**

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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

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

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	the proposal relates to the principles under Section 26(1)(c) of the Act and the matters referred to in Section 33 of the Act (to the extent that may be relevant); and
1.10.3	sets out the reasons for the Council's or the Delegate's decision insofar as a decision of the Council or the Delegate is not to adopt any change under consideration as part of the representation options paper or the public consultation process.
1.11	The duty pursuant to Section 12(9) of the Act to make copies of the report available for public inspection at the principal office of the Council and to give public notice, by way of a notice in a newspaper circulating in its area, informing the public of its preparation of the report and its availability and inviting interested persons to make written submissions on the report to the Council or the Delegate within a period specified by the Council or the Delegate, being not less than three weeks.
1.12	The duty pursuant to Section 12(10) of the Act to give any person who makes written submissions in response to an invitation under Section 12(9), an opportunity to appear personally or by representative before the Council or a Council committee or the Delegate and to be heard on those submissions.
1.13	The duty pursuant to Section 12(11) of the Act to finalise the report including recommendations with respect to such related or ancillary matters as it sees fit.
1.14	With respect to a proposal within the ambit of Section 12(11a), the power pursuant to Section 12(11b) of the Act:
1.14.1	insofar as may be relevant in the particular circumstances, to separate a proposal (and any related proposal), from any other proposal contained in the report; and
1.14.2	to determine to conduct the relevant poll in conjunction with the next general election for the Council or at some other time.
1.15	Where a poll is required under Section 12(11a) of the Act the duty pursuant to Section 12(11c)(b) of the Act to:
1.15.1	prepare a summary of issues surrounding the proposal to assist persons who may vote at the poll; and
1.15.2	obtain a certificate from the Electoral Commissioner that he or she is satisfied that the Council or the Delegate has taken reasonable steps to ensure the summary is a fair and comprehensive overview of the arguments for and against the

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

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

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6. Commission to Receive Proposals	
6.1	The power pursuant to Section 28(1) of the Act to, subject to Section 28 of the Act, refer a proposal for the making of a proclamation under Chapter 3 of the Act to the Commission.
6.2	The power pursuant to Section 28(3) of the Act, to in relation to a proposal under Section 28 of the Act:
6.2.1	set out in general terms the nature of the proposal; and
6.2.2	comply with any requirements of the proposal guidelines.
6A Inquiries – General Proposals	
6A.1	The power pursuant to Section 31(2) of the Act to make a submission to the Commission on the proposed appointments of investigators to conduct inquiries under Section 31 of the Act.
6A.2	The power pursuant to Section 31(10) of the Act to request the Minister consult with the relevant councils about the matter.
7. General Powers and Capacities	
7.1	The power pursuant to Section 36(1)(a)(i) of the Act to enter into any kind of contract or arrangement where the common seal of the Council is not required.
7.2	The power pursuant to Section 36(1)(c) of the Act to do anything necessary, expedient or incidental but within any policy or budgetary constraints set by the Council to perform or discharge the Council's functions or duties or to achieve the Council's objectives.
7.3	The power pursuant to Section 36(2) of the Act to act outside the Council's area:
7.3.1	to the extent considered by the Delegate to be necessary or expedient to the performance of the Council's functions; or
7.3.2	in order to provide services to an unincorporated area of the State.
7.4	The duty pursuant to Section 36(3) of the Act to take reasonable steps to separate the Council's regulatory activities from its other activities in the arrangement of its affairs.
8. Provision Relating to Contract and Transactions	
8.1	The power pursuant to Section 37(b) of the Act to authorise another officer, employee or agent of the Council to enter into a contract, on

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	behalf of the Council, where the common seal of the Council is not required.
9. Committees	
9.1	The power pursuant to Section 41(1) and (2) of the Act to establish committees.
9.2	The power pursuant to Section 41(3) of the Act to determine the membership of a committee.
9.3	The power pursuant to Section 41(4) of the Act to appoint a person as a presiding member of a committee, or to make provision for the appointment of a presiding member.
9.4	The power pursuant to Section 41(6) of the Act to appoint the principal member of the Council as an ex officio member of a committee.
9.5	The power and duty pursuant to Section 41(8) of the Act, to, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.
10. Delegations	
10.1	The duty pursuant to Section 44(6) of the Act to cause a separate record to be kept of all delegations under the Act.
10.2	The duty pursuant to Section 44(7) of the Act to make available the record of delegations for inspection (without charge) by the public at the principal office of the Council during ordinary office hours.
11. Principal Office	
11.1	The duty pursuant to Section 45(1) of the Act to nominate a place as the principal office of the Council for the purposes of the Act.
11.2	The power and duty pursuant to Section 45(2) of the Act to determine the hours the principal office of the Council will be open to the public for the transaction of business and the duty to keep the principal office of Council open to the public for the transaction of business during hours determined by the Delegate or the Council.
11.3	The power pursuant to Section 45(3) of the Act to consult with the local community in accordance with Council's public consultation policy about the manner, places and times at which the Council's offices will be open to the public for the transaction of business and about any significant changes to those arrangements.

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

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

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

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	followed, provides for:
16.3.1	the publication of a notice:
16.3.1.1	in a newspaper circulating within the area of the Council; and
16.3.1.2	on a website determined by the Chief Executive Officer,
	describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and
16.3.2	the consideration of any submissions made in response to that invitation.
16.4	The power pursuant to Section 50(5) of the Act, to, from time to time, alter the Council's public consultation policy, or substitute a new policy.
16.5	Before the Council or the Delegate adopts a public consultation policy or alters, or substitutes a public consultation policy, the duty pursuant to Section 50(6) of the Act to:
16.5.1	prepare a document that sets out its proposal in relation to the matter; and
16.5.2	publish in a newspaper circulating within the area of the Council, a notice of the proposal inviting interested persons to make submissions on the proposal within a period stated in the notice, which must be at least one month;
16.5.3	consider any submissions made in response to an invitation made under Section 50(6)(d) of the Act.
16.6	The power pursuant to Section 50(7) of the Act to determine if the alteration of a public consultation policy is of minor significance that would attract little or no community interest.
16.7	The duty pursuant to Section 50(8) of the Act to ensure the public consultation policy is available for inspection (without charge) at the principal office of Council during ordinary office hours.
17.	Deliberately left blank
17.1	Deliberately left blank
17.2	Deliberately left blank

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17.3	Deliberately left blank
17.4	Deliberately left blank
17.5	Deliberately left blank
18. Inspection of Register	
18.1	The duty pursuant to Section 70(1) of the Act to make available for inspection (without charge) the Register of Interests at the principal office of the Council during ordinary office hours.
19. Reimbursement of Expenses	
19.1	The power pursuant to Section 77(1)(b) of the Act to reimburse to members of the Council expenses of a kind prescribed for the purposes of Section 77(1)(b) of the Act and approved by the Council (either specifically or under a policy established by the Council for these purposes) incurred in performing or discharging official functions and duties.
19.2	The duty pursuant to Section 77(3) of the Act to make available for inspection (without charge) any policy of Council concerning these reimbursements at the principal office of the Council during ordinary office hours.
20. Register of Allowances and Benefits	
20.1	The duty pursuant to Section 79(3) of the Act to make available for inspection (without charge) the Register of Allowances and Benefits, at the principal office of the Council during ordinary office hours.
21. Insurance of members	
21.1	The duty pursuant to Section 80 of the Act to take out a policy of insurance insuring every member of the Council and a spouse, domestic partner or another person who may be accompanying a member of the Council, against risks associated with the performance or discharge of official functions and duties by members.
22. Training and Development	
22.1	The power and duty pursuant to Section 80A(1) of the Act to prepare and adopt a training and development policy in accordance with Section 80A(2) of the Act for the Council's members.
22.2	The duty pursuant to Section 80A(2) of the Act to ensure that the Council's training and development policy is aimed at assisting the Council's members in the performance and discharge of their functions

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

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25.3	Subject to Section 91(7) of the Act, the duty pursuant to Section 91(5) of the Act to make available for inspection, without payment of a fee, at the principal office of the Council:
25.3.1	minutes of the Council and Council committee meetings; and
25.3.2	reports to the Council or to a Council committee received at a meeting of the Council or Council committee; and
25.3.3	recommendations presented to the Council in writing and adopted by resolution of the Council; and
25.3.4	budgetary or other financial statements adopted by the Council.
26. Access to Meetings and Documents – Code of Practice	
26.1	The power and duty pursuant to Section 92(1) of the Act, and subject to Section 92(4) of the Act, to prepare and adopt a Code of Practice relating to the principles, policies, procedures and practices that the Council will apply for the purposes of the operation of Parts 3 and 4 of Chapter 6 of the Act.
26.2	The power and duty pursuant to Section 92(2) of the Act to review the operation of the Council's Code of Practice within 12 months after the conclusion of each periodic election.
26.3	The power pursuant to Section 92(3) of the Act, to, at any time, alter the Council's code of practice or substitute a new code of practice.
26.4	The duty pursuant to Section 92(5) of the Act to ensure that before the Council or the Delegate adopts, alters or substitutes a code of practice that:
26.4.1	copies of the proposed code, alterations or substitute code (as the case may be) are made available for inspection or purchase at the Council's principal office and available for inspection on a website determined by the Chief Executive Officer; and
26.4.2	the relevant steps set out in the Council's Public Consultation Policy are followed.
26.5	The duty pursuant to Section 92(6) and (7) of the Act to ensure that the Code of Practice is available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of Council during ordinary office hours.

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27. Meetings of Electors	
27.1	The power pursuant to Section 93(1) of the Act to convene a meeting of electors of the area or part of the area of the Council.
27.2	The duty pursuant to Section 93(11) of the Act to provide each member of the Council with a copy of the minutes of any meeting of electors within 5 days of that meeting.
27.3	The power pursuant to Section 93(14) of the Act to determine the procedure for the purposes of making a nomination under Sections 93(3)(a)(ii) or 93(3)(b)(ii).
28. Obstructing of Meetings	
28.1	The power pursuant to Section 95 of the Act to take proceedings under the Act against a person who intentionally obstructs or hinders proceedings at a meeting of the Council or a Council committee or at a meeting of electors.
29. Register of Remuneration Salaries and Benefits	
29.1	The duty pursuant to Section 105(3) of the Act to make available the Register of Salaries of employees of the Council for inspection by the public at the principal office of the Council during ordinary office hours.
30. Certain Periods Of Service To Be Regarded As Continuous	
30.1	The duty pursuant to Sections 106(2) and 106(2a) of the Act to ensure any other council receives within one month of the Council having received written notice requiring payment, the appropriate contribution to an employee's service benefits.
30.2	The duty pursuant to Section 106(4) of the Act to supply to any other council, at its request, details of the service of an employee or former employee of the Council.
30.3	The duty pursuant to Section 106(5) of the Act to hold and apply a payment or contribution received by the Council under Section 106 in accordance with the Regulations.
31. Deliberately left blank	
31.1	Deliberately left blank
31.2	Deliberately left blank
31.3	Deliberately left blank

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31.4	Deliberately left blank
31.5	Deliberately left blank
31.6	Deliberately left blank
32.	Application of Division
32.1	The power pursuant to Section 111(b) of the Act to declare any other officer, or any other officer of a class, to be subject to the operation of Chapter 7, Part 4, Division 1 of the Act.
33.	Certain Aspects of Strategic Management Plans
33.1	The duty pursuant to Section 122(6) of the Act to develop a process or processes to ensure that members of the public are given a reasonable opportunity to be involved in the Council's development and review of its strategic management plans.
33.2	The duty pursuant to Section 122(7) of the Act to ensure that copies of the Council's strategic management plans are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
34.	Annual Business Plans and Budgets
34.1	Before the Council adopts an annual business plan, the duty pursuant to Section 123(3) of the Act to, -
34.1.1	prepare a draft annual business plan; and
34.1.2	follow the relevant steps set out in the Council's public consultation policy, taking into account and complying with the requirements of Section 123(4) of the Act.
34.2	The duty pursuant to Section 123(5) of the Act to ensure that copies of the draft annual business plan are available at the meeting arranged pursuant to and in accordance with Section 123(4)(a)(i) and (4)(b) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council and on the website at least 21 days before the date of that meeting.
34.3	The duty pursuant to Section 123(5a) of the Act to ensure that provision is made for:
34.3.1	a facility for asking and answering questions; and
34.3.2	the receipt of submissions,

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	on the Council's website during the public consultation period.
34.4	After the Council has adopted an annual business plan and a budget, the duty, pursuant to Section 123(9) of the Act, to:
34.4.1	ensure:
34.4.1.1	that a summary of the annual business plan is prepared in accordance with the requirements set out at Sections 123(10), (11) and (12) of the Act, so as to assist in promoting public awareness of the nature of the Council's services and the Council's rating and financial management policies, taking into account its objectives and activities for the ensuing financial year; and
34.4.1.2	that a copy of the summary of the annual business plan accompanies the first rates notice sent to ratepayers after the declaration of the Council's rates for the financial year; and
34.4.2	ensure:
34.4.2.1	that copies of the annual business plan and the budget (as adopted) are available for inspection (without charge) or purchase (on payment of a fee fixed by the Council); and
34.4.2.2	that copies of the summary of the annual business plan are available for inspection and to take (without charge), at the principal office of the Council; and
34.4.3	ensure that electronic copies of the annual business plan and the budget (as adopted) are published on a website determined by the Chief Executive Officer.
35.	Accounting Records to be Kept
35.1	The duty pursuant to Section 124(1) of the Act to:
35.1.1	keep such accounting records as correctly and adequately record and explain the revenues, expenses, assets and liabilities of the Council;
35.1.2	keep the Councils accounting records in such manner as will enable:
35.1.2.1	the preparation and provision of statements that fairly

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	present financial and other information; and
	35.1.2.2 the financial statements of the Council to be conveniently and properly audited.
35.2	The power pursuant to Section 124(2) to determine the form or forms and the place or places (within the state) to keep the accounting records of the Council.
36. Internal Control Policies	
36.1	The duty pursuant to Section 125 of the Act to ensure that appropriate policies, practices and procedures of internal control are implemented and maintained in order to assist the Council to carry out its activities in an efficient and orderly manner, to achieve its objectives, to ensure adherence to management policies, to safeguard the Council's assets, and to secure (as far as possible) the accuracy and reliability of the Council's records.
37. Audit Committee	
37.1	The power and duty pursuant to Section 126(1) of the Act to appoint an audit committee in accordance with Section 126(2) of the Act.
37.2	If an audit committee is appointed by the Delegate or the Council, the power to determine the membership of any audit committee in accordance with Section 126(2) of the Act.
38. Financial Statements	
38.1	The duty pursuant to Section 127(1) of the Act to prepare for each financial year:
38.1.1	financial statements and notes in accordance with standards prescribed by the regulations; and
38.1.2	other statements and documentation referring to the financial affairs of the Council required by the Regulations.
38.2	The duty pursuant to Section 127(2) of the Act to ensure that the financial statements prepared for the Council pursuant to Section 127(1) of the Act:
38.2.1	are prepared as soon as is reasonably practicable after the end of the relevant financial year and in any event before the day prescribed by the Regulations; and
38.2.2	comply with standards and principles prescribed by the Regulations; and

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38.2.3	include the information required by the Regulations.
38.3	The duty pursuant to Section 127(3) of the Act to submit for auditing by the Council's auditor the statements prepared for each financial year.
38.4	The duty pursuant to Section 127(4) of the Act to submit a copy of the auditor's statements to the persons or bodies prescribed by the Regulations on or before the day prescribed by the Regulations.
38.5	The duty pursuant to Section 127(5) of the Act to ensure that copies of the Council's audited statements are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
39. The Auditor	
39.1	The power and duty pursuant to and in accordance with Section 128(2), (3), (4), (4a), (5), (6), (7) and (8) of the Act to appoint an auditor on the recommendation of the Council's audit committee.
39.2	The duty pursuant to Section 128(8) of the Act to comply with any requirements prescribed by the Regulations with respect to providing for the independence of the auditor.
39.3	The duty pursuant to Section 128(9) of the Act to ensure that the following information is included in the Council's annual report:
39.3.1	information on the remuneration payable to the Council's auditor for work performed during the relevant financial year, distinguishing between:
39.3.1.1	remuneration payable for the annual audit of the Council's financial statements; and
39.3.1.2	other remuneration;
39.3.2	if a person ceases to be the auditor of the Council during the relevant financial year, other than by virtue of the expiration of his or her term of appointment and is not being reappointed to the office - the reason or reasons why the appointment of the Council's auditor came to an end.
40. Conduct of Audit	
40.1	The duty pursuant to Section 129(9) of the Act to ensure the opinions under Section 129(3) of the Act provided to Council under Section 129 of the Act accompany the financial statements of the Council.
41. Other Investigations	

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41.1	The power, pursuant to and in accordance with Sections 130A(1) and (2) of the Act, as the Delegate thinks fit, to request the Council's auditor, or some other person determined by the Delegate to be suitably qualified in the circumstances, to examine and report on any matter relating to financial management, or the efficiency and economy with which the Council manages or uses its resources to achieve its objectives, that would not otherwise be addressed or included as part of an annual audit under Division 4 of Chapter 8 of the Act and that is considered by the Delegate to be of such significance as to justify an examination under this Section.
41.2	Unless Section 130A(7) of the Act applies, the duty pursuant to Section 130A(6) of the Act to place the report prepared pursuant to Section 130A(1) of the Act on the agenda for consideration:
41.2.1	unless Section 130A(6)(b) of the Act applies – at the next ordinary meeting of the Council in accordance with Section 130A(6)(a), of the Act;
41.2.2	if the agenda for the next ordinary meeting of the Council has already been sent to members of the Council at the time that the report is provided to the principal member of the Council – at the ordinary meeting of the Council next following the meeting for which the agenda has already been sent unless the principal member of the Council determines, after consultation with the Chief Executive Officer, that the report should be considered at the next meeting of the Council as a late item on the agenda in accordance with Section 130A(6)(b) of the Act.
42. Annual Report to be Prepared and Adopted	
42.1	The duty pursuant to Section 131(1) of the Act and in accordance with Sections 131(2) and (3) of the Act, to prepare and adopt on or before 30 November each year, an annual report relating to the operations of the Council for the financial year ending on the preceding 30 June.
42.2	The duty pursuant to Section 131(2) and (3) of the Act to include in that report the material, and include specific reports on the matters, specified in Schedule 4 as amended from time to time by regulation.
42.3	The duty pursuant to Section 131(4) of the Act to provide a copy of the annual report to each member of the Council.
42.4	The duty pursuant to Section 131(5) of the Act to submit a copy of the annual report to:
42.4.1	the Presiding Member of both Houses of Parliament; and
42.4.2	to the persons or body prescribed by the Regulations,

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	on or before the date determined under the Regulations.
42.5	The power pursuant to Section 131(7) of the Act to provide to the electors for the area an abridged or summary version of the annual report.
42.6	The duty pursuant to Section 131(8) of the Act to ensure that copies of Council's annual report are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
43. Access to Documents	
43.1	The duty pursuant to Section 132(1) of the Act to ensure a member of the public is able:
43.1.1	to inspect a document referred to in Schedule 5 of the Act at the principal office of the Council during ordinary office hours without charge; and
43.1.2	to purchase a document referred to in Schedule 5 to the Act at the principal office of the Council during ordinary office hours for a fee fixed by the Council.
43.2	The power pursuant to Section 132(2) of the Act to make a document available in electronic form for the purposes of Section 132(1)(a).
43.3	The power and duty, pursuant to and in accordance with Section 132 (3) of the Act, to make the following documents available for inspection on a website determined by the Chief Executive Officer within a reasonable time after they are available at the principal office of the Council:
43.3.1	agendas for meetings of the Council or Council committees;
43.3.2	minutes of meetings of the Council or Council committees;
43.3.3	codes of conduct or codes of practice adopted by the Council under this Act or the Local Government (Elections) Act 1999;
43.3.4	the Council's contract and tenders policies, public consultation policy and order-making policies;
43.3.5	the Council's draft annual business plan, annual business plan (as adopted by the council) and the summary of the annual business plan required under Part 2 of this Chapter;
43.3.6	the Council's budget (as adopted by the Council for a particular year);

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43.3.7	a list of fees and charges imposed by the Council under this Act;
43.3.8	by-laws made by the Council and any determination in respect of a by-law made under Section 246(3)(e) of the Act;
43.3.9	procedures for the review of decisions established by the Council under Part 2 of Chapter 13;
43.3.10	the audited financial statements of the Council;
43.3.11	the annual report of the Council;
43.3.12	the Council's most recent information statement under the Freedom of Information Act 1991, unless the Council provides it as part of the annual report of the Council.
44. Related Administrative Standards	
44.1	The power and duty pursuant to Section 132A of the Act to ensure that appropriate policies, practices and procedures are implemented and maintained in order:
44.1.2	to ensure compliance with any statutory requirements; and
44.1.2	to achieve and maintain standards of good public administration.
45. Sources of Funds	
45.1	Subject to the Act, the power pursuant to Section 133 of the Act to obtain funds as permitted under the Act or another Act and as may otherwise be appropriate in order to carry out the Council's functions under the Act or another Act.
46. Ability of a Council to Give Security	
46.1	The power pursuant to Section 135(1) of the Act and subject to Section 135(2) of the Act to provide various forms of security, including:
46.1.1	guarantees (including guarantees relating to the liability of a subsidiary of the Council);
46.1.2	debentures charged on the general revenue of the Council (including to support a guarantee provided under Section 135(1) of the Act);
46.1.3	bills of sale, mortgages or other charges (including to support a guarantee provided under Section 135(1)(a) of the Act.

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46.2	The power and duty pursuant to Section 135(2) of the Act, if the Council or the Delegate proposes to issue debentures on the general revenue of the Council to:
46.2.1	assign a distinguishing classification to the debentures to be included in the issue so as to distinguish them from those included or to be included in previous or subsequent issues; and
46.2.2	if the debentures are being offered generally to members of the public, appoint a trustee for the debenture holders.
47. Expenditure of Funds	
47.1	Subject to the Act or another Act, the power pursuant to Section 137 of the Act to expend the Council's approved budgeted funds in the exercise, performance or discharge of the Council's powers, functions or duties under the Act or other Acts.
48. Investment Powers	
48.1	The power pursuant to Section 139(1) of the Act to invest money under the Council's control.
48.2	The duty pursuant to Section 139(2) of the Act in exercising the power of investment, to:
48.2.1	exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
48.2.2	avoid investments that are speculative or hazardous in nature.
48.3	The duty pursuant to Section 139(3) of the Act to take into account when exercising the power of investment, so far as is appropriate in the circumstances and without limiting the matters which may be taken into account, the following matters:
48.3.1	the purposes of the investment;
48.3.2	the desirability of diversifying Council investments;
48.3.3	the nature of and risk associated with existing Council investments;
48.3.4	the desirability of maintaining the real value of the capital and income of the investment;
48.3.5	the risk of capital or income loss or depreciation;

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48.3.6	the potential for capital appreciation;
48.3.7	the likely income return and the timing of income return;
48.3.8	the length of the term of a proposed investment;
48.3.9	the period for which the investment is likely to be required;
48.3.10	the liquidity and marketability of a proposed investment during, and on determination of, the term of the investment;
48.3.11	the aggregate value of the assets of the Council;
48.3.12	the likelihood of inflation affecting the value of a proposed investment;
48.3.13	the costs of making a proposed investment;
48.3.14	the results of any review of existing Council investments.
48.4	Subject to the matters specified in Section 139(3) of the Act, the power pursuant to Section 139(4) of the Act, so far as may be appropriate in the circumstances, to have regard to:
48.4.1	the anticipated community benefit from an investment; and
48.4.2	the desirability of attracting additional resources into the local community.
48.5	The power pursuant to Section 139(5) of the Act to obtain and consider independent and impartial advice about the investment of funds or the management of the Council's investments from the person whom the Delegate reasonably believes to be competent to give the advice.
49. Review of Investment	
49.1	The duty pursuant to Section 140 of the Act to review the performance (individually and as a whole) of the Council's investments, at least once in each year.
50. Gifts to a Council	
50.1	Within the confines of Section 44(3) of the Act:
50.1.1	the power pursuant to Section 141(1) of the Act to accept a gift made to the Council;
50.1.2	the power pursuant to Section 141(2) of the Act to carry out the terms of any trust (if any) that affects a gift to Council;

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50.1.3	the power pursuant to Section 141(3) of the Act to apply to the Supreme Court for an order varying the terms of a trust for which the Council has been constituted a trustee;
50.1.4	where a variation is sought in the terms of a trust, the duty pursuant to Section 141(4) of the Act to give notice describing the nature of the variation by public notice and in any other such manner as may be directed by the Supreme Court; and
50.1.5	the duty pursuant to Section 141(6) of the Act to publish a copy of any order of the Supreme Court to vary the terms of the trust, in the <i>Gazette</i> , within 28 days after that order is made.
51. Duty to Insure Against Liability	
51.1	The duty pursuant to Section 142 of the Act to take out and maintain insurance to cover the Council's civil liabilities at least to the extent prescribed by the Regulations.
52. Writing off Bad Debts	
52.1	The power pursuant to Section 143(1) of the Act to write off any debts owed to the Council:
52.1.1	if the Council has no reasonable prospect of recovering the debts; or
52.1.2	if the costs of recovery are likely to equal or exceed the amount to be recovered,
	up to and including an amount of \$5,000.00 in respect of any one debt.
52.2	The duty pursuant to Section 143(2) of the Act to ensure that no debt is written off unless the Chief Executive Officer has certified:
52.2.1	reasonable attempts have been made to recover the debt; or
52.2.2	the costs of recovery are likely to equal or exceed the amount to be recovered.
53. Recovery of Amounts due to Council	
53.1	The power pursuant to Section 144(1) of the Act to recover as a debt, by action in a Court of competent jurisdiction, any fee, charge, expense or other amount recoverable from a person or payable by a person under this or another Act.
53.2	The power pursuant to Section 144(2), (3) and (4) of the Act to recover any fee, charge, expense or other amount as if it were a rate declared

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	on the property, after giving at least 14 days notice requiring payment, where the fee, charge, expense or other amount payable to the Council relates to something done in respect of rateable or other property.
54. Land Against Which Rates May be Assessed	
54.1	The power and duty pursuant to Section 148(2) of the Act to make decisions about the division of land and the aggregation of land for the purposes of Section 148(1) of the Act fairly and in accordance with principles and practices that apply on a uniform basis across the area of the Council.
55. Basis of Rating	
55.1	Before the Council:
55.1.1	changes the basis of the rating of any land (including by imposing differential rates on land that has not been differentially rated in the preceding financial year, or by no longer imposing differential rates on land that has been differentially rated in the preceding financial year); or
55.1.2	changes the basis on which land is valued for the purposes of rating; or
55.1.3	changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land;
	the power and duty pursuant to Section 151(5)(d) and (e) of the Act to:
55.1.4	prepare a report on the proposed change in accordance with Section 151(6) of the Act; and
55.1.5	follow the relevant steps set out in its public consultation policy in accordance with Section 151(7) of the Act.
55.2	The duty pursuant to Section 151(8) of the Act to ensure that copies of the report required under Section 151(5)(d) of the Act are available at the meeting held under Section 151(7)(a)(i) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.
56. General Rates	
56.1	The power pursuant to Section 152(2)(d) and (3) of the Act to determine, on application, if two or more pieces of rateable land within the area of the Council constitute a single farm enterprise.

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57. Service Rates and Service Charges	
57.1	The duty pursuant to Section 155(6) of the Act, subject to Section 155(7) of the Act, to apply any amounts held in a reserve established in connection with the operation of Section 155(5) of the Act for purposes associated with improving or replacing Council assets for the purposes of the relevant prescribed service.
57.2	The power pursuant to Section 155(7) of the Act, if a prescribed service under Section 155(6) of the Act is, or is to be, discontinued, to apply any excess funds held by the Council for the purposes of the service (after taking into account any expenses incurred or to be incurred in connection with the prescribed service) for another purpose specifically identified in the Council's annual business plan as being the purpose for which the funds will now be applied.
58. Basis of Differential Rates	
58.1	The power pursuant to Section 156(3), (9), (10), (11) of the Act to attribute the use of the land for any basis for a differential rate and to decide objections to any of those attributions.
58.2	The power and duty pursuant to Section 156(14a) of the Act, before the Council changes from declaring differential rates in relation to any land on the basis of a differentiating factor under either paragraphs (a), (b) or (c) of Section 156(1) of the Act to a differentiating factor under another of those paragraphs, to -
58.2.1	prepare a report on the proposed change in accordance with Section 156(14b) of the Act; and
58.2.2	follow the relevant steps set out in its public consultation policy in accordance with Section 156(14d) of the Act.
58.3	The duty pursuant to Section 156(14e) of the Act to ensure that copies of the report required under Section 156(14a)(a) of the Act are available at the meeting held under Section 156(14d)(a)(i); and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.
59. Notice of Differentiating Factors	
59.1	If the Council declares differential rates, the duty pursuant to Section 157 of the Act in each rates notice, to specify the differentiating factor or combination of factors that governs the calculation of rates on the land to which the account relates.

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60. Preliminary	
60.1	The power pursuant to Section 159(1) of the Act to determine the manner and form and such information as the Delegate may reasonably require, for a person or body to apply to the Council to determine if grounds exist for the person or body to receive a rebate of rates.
60.2	The power pursuant to Section 159(3) to grant a rebate of rates if satisfied that it is appropriate to do so (whether on application or on the Delegate's own initiative).
60.3	The power pursuant to Section 159(4) of the Act to increase the rebate on the Delegate's initiative, if a rebate specifically fixed by Division 5 Chapter 10 of the Act is less than 100%.
60.4	The power pursuant to Section 159(10) of the Act to determine, for proper cause, that an entitlement to a rebate of rates in pursuance of Division 5 no longer applies.
61. Rebate of Rates - Community Services	
61.1	The power pursuant to Section 161(1) and (3) of the Act to grant a rebate of more than 75% of the rates on land being predominantly used for service delivery or administration (or both) by a community service organisation, where that organisation:
61.1.1	is incorporated on a not-for-profit basis for the benefit of the public; and
61.1.27	provides community services without charge or for charge that is below the cost to the body of providing their services; and
61.1.3	does not restrict its services to persons who are members of the body.
62. Rebate of Rates - Educational Purposes	
62.1	The power pursuant to Section 165(1) and (2) of the Act to grant a rebate of rates at more than 75% on land:
62.1.1	occupied by a Government school under a lease or license and being used for educational purposes; or
62.1.2	occupied by non-Government school registered under the Education and Early Childhood Services (Registration and Standards) Act 2011 and being used for educational purposes; or

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62.1.3	land being used by University or University College to provide accommodation and other forms of support for students on a not-for-profit basis.
63. Discretionary Rebates of Rates	
63.1	The duty pursuant to Section 166(1a) of the Act to take into account, in deciding an application for a rebate under Section 166(1)(d), (e), (f), (g), (h), (i) or (j):
63.1.1	the nature and extent of the Council's services provided in respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in its area; and
63.1.2	the community need that is being met by activities being carried out on the land for which the rebate is sought; and
63.1.3	the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons;
63.1.4	any other matter considered relevant by the Council or the Delegate.
63.2	The power pursuant to Section 166(1), (2) and (4) of the Act and taking into account Section 166(1a) of the Act and in accordance with Section 166(3b) of the Act to grant a rebate of rates or service charges on such conditions as the Delegate sees fit and such rebate may be up to and including 100% of the relevant rates or service charge, in the following cases:
63.2.1	where the rebate is desirable for the purpose of securing the proper development of the area or part of the area;
63.2.2	where the rebate is desirable for the purpose of assisting or supporting a business in the area;
63.2.3	where the rebate will be conducive to the preservation of buildings or places of historic significance;
63.2.4	where the land is being used for educational purposes;
63.2.5	where the land is being used for agricultural, horticultural or floricultural exhibitions;
63.2.6	where the land is being used for a hospital or health centre;
63.2.7	where the land is being used to provide facilities or services for children or young persons;

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63.2.8	where the land is being used to provide accommodation for the aged or disabled;
63.2.9	where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1997 (Commonwealth) or a day therapy centre;
63.2.10	where the land is being used by an organisation which, in the opinion of the Delegate, provides a benefit or a service to the local community;
63.2.11	where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment;
63.2.12	where the rebate is considered by the Delegate to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to:
63.2.12.1	redistribution of the rates burden within the community arising from a change to the basis or structure of the Council's rates; or
63.2.12.2	change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.
63.2.13	where the rebate is considered by the Delegate to be appropriate to provide relief in order to avoid what would otherwise constitute:
63.2.13.1	liability to pay a rate or charge that is inconsistent with the liabilities that were anticipated by the Council in its annual business plan; or
63.2.13.2	liability that is unfair or unreasonable;
63.2.14	where the rebate is to give effect to a review of a decision of the Council under Chapter 13 Part 2; or
63.2.15	where the rebate is contemplated under another provision of the Act.
63.3	The power pursuant to Section 166(3) of the Act to grant a rebate of rates or charges for a period exceeding 1 year but not exceeding 10 years in the following cases:

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63.3.1	where the rebate is desirable for the purpose of securing a proper development of the area or part of the area; or
63.3.2	where the rebate is desirable for the purpose of assisting or supporting a business in the area; or
63.3.3	where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment.
63.4	The power pursuant to Section 166(3a) of the Act to grant a rebate of rates or charges under Section 166(1)(l) of the Act for a period exceeding 1 year but not exceeding 3 years.
64. Valuation of Land for the Purposes of Rating	
64.1	The power pursuant to Section 167(1) of the Act to adopt valuations that are to apply to land within the Council's area, for rating purposes for a particular financial year.
64.2	For the purpose of adopting a valuation of land for rating, the duty pursuant to Section 167(2) of the Act and in accordance with Section 167(3), (4) and (5) of the Act, to adopt:
64.2.1	valuations made, or caused to be made, by the Valuer-General; or
64.2.2	valuations made by a valuer employed or engaged by the Council, or by a firm or consortium of valuers engaged by the Council;
	or a combination of both.
64.3	The duty pursuant to Section 167(6) of the Act to publish a notice of the adoption of valuations in the <i>Gazette</i> , within 21 days after the date of the adoption.
65. Valuation of Land	
65.1	The power pursuant to Section 168(1) of the Act to request the Valuer-General to value any land within the Council's area (being land that is capable of being separately rated).
65.2	The duty pursuant to Section 168(2) of the Act to furnish to the Valuer-General any information requested by the Valuer General for the purposes of valuing land within the area of the Council.
65.3	The power and duty pursuant to Section 168(3)(b) and (c) of the Act to

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	enter a valuation in the assessment record, as soon as practicable after the valuation has been made and to give notice of the valuation to the principal ratepayer in accordance with the Regulations.
66. Objections to Valuations Made by Council	
66.1	The duty pursuant to Section 169(1), (2), (3), (4) and (5) of the Act to refer an objection to a valuation of land to the valuer who made the valuation and to request the valuer to reconsider the valuation, where:
66.1.1	the objection does not involve a question of law; and
66.1.2	the objection is made in writing (setting out a full and detailed statement of the grounds on which the objection is based); and
66.1.3	is made within 60 days after the date of service of the notice of the valuation to which the objection relates (unless the Delegate, in his/her discretion, allows an extension of time for making the objection).
66.2	The power pursuant to Section 169(3)(b) of the Act to grant an extension of time for making an objection to a valuation of land.
66.3	The duty pursuant to Section 169(7) of the Act to give the objector written notice of the outcome of the reconsideration of the objection.
66.4	The duty pursuant to and in accordance with Section 169(8) and (9) of the Act to refer the valuation to the Valuer-General for further review, if the objector remains dissatisfied with the valuation and requests such further review, provided the request is:
66.4.1	in the prescribed manner and form;
66.4.2	made within 21 days after the objector receives notice of the outcome of his or her initial objection; and
66.4.3	accompanied by the prescribed fee.
66.5	The power pursuant to Section 169(15)(b) of the Act to apply to SACAT for a review of the decision of a valuer after a further review on a request under Section 169(8) of the Act, in accordance with Section 169(15a) of the Act.
67. Notice of Declaration of Rates	
67.1	The duty pursuant to Section 170 of the Act to ensure the notice of declaration of a rate or service charge is published in the <i>Gazette</i> and in a newspaper circulating in the area within 21 days after the date of the declaration.

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68. Alterations to Assessment Record	
68.1	The power pursuant to Section 173(3) and (5) of the Act to determine the procedure for a review of a decision by the Chief Executive Officer on an application for alteration of the assessment record.
68.2	The duty pursuant to Section 173(6) of the Act to give a person written notice of Council's decision on a review of a decision of the Chief Executive Officer concerning alteration of the assessment record.
69. Inspection of Assessment Record	
69.1	The duty pursuant to Section 174(1) and (2) of the Act to ensure that the assessment record is available for inspection and purchase of an entry (on payment of a fee fixed by the Council), by the public at the principal office of the Council during ordinary office hours.
70. Liability for Rates	
70.1	The power pursuant to Section 178(3) of the Act and subject to Section 178(9) of the Act to recover rates as a debt from:
70.1.1	the principal ratepayer; or
70.1.2	any other person (not being a principal ratepayer) who is an owner or occupier of the land; or
70.1.3	any other person who was at the time of the declaration of the rates an owner or occupier of the land.
70.2	The power pursuant to Section 178(4) of the Act by written notice to a lessee or a licensee of land in respect of which rates have fallen due, to require him or her to pay to the Council rent or other consideration payable under the lease or a licence in satisfaction of any liability for rates.
70.3	Where a notice under Section 178(4) of the Act is given to a lessee or a licensee of land, the power pursuant to Section 178(5) of the Act to make and give notice of an additional charge of 5% of the amount in arrears, as payable and recoverable as part of the debt for unpaid rates.
70.4	The power pursuant to Section 178(6) of the Act to remit the charge of 5% of the amount in arrears payable under the Act in whole or in part.
71. Liability for Rates if Land is Not Rateable for the Whole of the Financial Year	
71.1	The power pursuant to Section 179(2) of the Act to adopt a valuation of

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	land that has become rateable after the adoption of valuations by the Council for the relevant financial year.
71.2	The duty pursuant to Section 179(5) of the Act to refund to the principal ratepayer an amount proportionate to the remaining part of the financial year, if land ceases to be rateable during the course of a financial year and the rates have been paid.
72. Service of Rate Notice	
72.1	The duty pursuant to Section 180(1) of the Act and in accordance with Section 180(2) of the Act to send to the principal ratepayer or, in the case of a service charge, the owner or occupier of the relevant land, a rates notice, as soon as practicable after:
72.1.1	the declaration of a rate; or
72.1.2	the imposition of a service charge; or
72.1.3	a change in the rates liability of land.
73. Payment of Rates – General Principles	
73.1	The power pursuant to Section 181(2) of the Act to determine the day on which each instalment of rates falls due in the months of September, December, March and June of the financial year for which the rates are declared.
73.2	If the Council declares a general rate for a particular financial year after 31 August in that financial year, the power, pursuant to Section 181(3) of the Act, to adjust the months in which instalments would otherwise be payable under Section 181(1) (taking into account what is reasonable in the circumstances).
73.3	The power pursuant to Section 181(4)(b) of the Act to agree with the principal ratepayer that rates will be payable in such instalments falling due on such days as may be specified in the agreement and in that event, the ratepayer's rates will then be payable accordingly.
73.4	The duty pursuant to Section 181(5) of the Act in relation to each instalment of rates to send a rates notice to the principal ratepayer shown in the assessment record in respect of the land setting out in accordance with Sections 181(6) and (7) of the Act:
73.4.1	the amount of the instalment; and
73.4.2	the date on which the instalment falls due, or in the case where payment is to be postponed under another provision of the Act, the information prescribed by the Regulations.

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73.5	The power pursuant to Section 181(7a) of the Act where the Council has entered into an agreement with a principal rate payer under Section 181(4)(b) of the Act, as part of the agreement, to vary the periods for the provision of a notice under Section 181(7) of the Act.
73.6	The power pursuant to Section 181(9) of the Act to remit any amount payable under Section 181(8) of the Act in whole or in part.
73.7	The power pursuant to Section 181(11) of the Act to grant discounts or other incentives in order to encourage:
73.7.1	the payment of instalments of rates in advance; or
73.7.2	prompt payment of rates.
73.8	The power pursuant to Section 181(12)(b) of the Act to impose a surcharge or administrative levy not exceeding 1% of the rates payable in a particular financial year with respect to the payment of rates by instalments under Section 181(4)(b) of the Act.
73.9	The power pursuant to Section 181(13) and subject to Section 44(3)(b) of the Act in relation to the payment of separate rates or service rates, by written notice incorporated in a notice for the payment of those rates sent to the principal ratepayer shown in the assessment record in respect of the land at the address shown in the assessment record, at least 30 days before an amount is payable in respect of the rates for a particular financial year, to impose a requirement that differs from the requirements of Section 181 of the Act.
73.10	The power pursuant to Section 181(15) of the Act to decide that rates of a particular kind will be payable in more than 4 instalments in a particular financial year and in such case:
73.10.1	the instalments must be payable on a regular basis (or essentially a regular basis) over the whole of the financial year, or the remainder of the financial year depending on when the rates are declared; and
73.10.2	the Delegate must give at least 30 days notice before an instalment falls due.
74. Remission and Postponement of Payment	
74.1	The power pursuant to Section 182(1) of the Act to decide on the application of a ratepayer that payment of rates in accordance with the Act would cause hardship and, if so, to:
74.1.1	postpone payment in whole or in part for such period as the Delegate thinks fit; or

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

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	the current or future financial made in accordance with Sections 182A(1) and (2) of the Act to:
75.2.1	reject an application for the postponement of rates; or
75.2.2	impose conditions on the postponement of rates but only in accordance with the Regulations.
76.	Application of money in respect of rates
76.1	The power and the duty to apply monies received or recovered in respect of rates pursuant to and in accordance with Section 183 of the Act.
77.	Sale of Land for Non-Payment of Rates
77.1	The power pursuant to Section 184(1) of the Act to sell land, if an amount payable by way of rates in respect of the land, has been in arrears for 3 years or more.
77.2	The duty pursuant to Section 184(2) of the Act before selling land for non-payment of rates, to send a notice to the principal ratepayer at the address appearing in the assessment record:
77.2.1	stating the period for which the rates have been in arrears; and
77.2.2	stating the amount of the total liability for rates presently outstanding in relation to the land; and
77.2.3	stating that if that amount is not paid in full within 1 month of service of the notice (or such longer time as the Delegate may allow), the Council intends to sell the land for non-payment of rates.
77.3	The duty pursuant to Section 184(3) of the Act to send a copy of a notice sent to a principal ratepayer under Section 184(2) of the Act:
77.3.1	to any owner of the land who is not the principal ratepayer; and
77.3.2	to any registered mortgagee of the land; and
77.3.3	if the land is held from the Crown under a lease, licence or agreement to purchase, to the Minister who is responsible for the administration of the Crown Lands Act 1929.
77.4	If:
77.4.1	the Delegate cannot, after making reasonable enquiries, ascertain the name and address of a person to whom a notice

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	is to be sent under Section 184(2) or (3) of the Act; or
77.4.2	the Delegate considers that it is unlikely that a notice sent under Section 184(2) or (3) of the Act would come to the attention of the person to whom it is to be sent,
	the power pursuant to Section 184(4) of the Act to effect service of the notice by:
77.4.3	placing a copy of the notice in a newspaper circulating throughout the State; and
77.4.4	leaving a copy of the notice in a conspicuous place on the land.
77.5	The power pursuant to Section 184(5) of the Act to proceed to have the land sold, if the outstanding amount of rates is not paid in full within the time allowed in the notice given to the ratepayer under Section 184(2) of the Act.
77.6	The duty pursuant to Section 184(6) and (7) of the Act to conduct the sale of land for non-payment of rates by public auction and the power to set the reserve price for the purposes of the auction, except in the case of land held from the Crown under a lease, licence or agreement to purchase, unless the Minister responsible for the administration of the Crown Lands Act 1929 grants consent to sale by public auction.
77.7	The duty pursuant to Section 184(8) of the Act to advertise the auction of land under Section 184 of the Act on at least 2 separate occasions in a newspaper circulating throughout the State.
77.8	The duty pursuant to Section 184(9) of the Act to call off the auction, if before the date of such an auction, the outstanding amount and the costs incurred by the Council in proceeding under this Section are paid to the Council.
77.9	The power pursuant to Section 184(10) of the Act to sell the land by private contract for the best price that can be reasonably obtained, if an auction fails or an auction is not held because the land is held from the Crown under a lease, licence or agreement to purchase.
77.10	The power and duty to apply monies received by the Council in respect of the sale of land for non-payment of rates pursuant to and in accordance with Section 184(11) of the Act.
77.11	The duty pursuant to Section 184(12) of the Act to make reasonable enquiries to find the owner of land to be sold for non-payment of rates and where the owner cannot be found, the power to deal with the amount payable to the owner as unclaimed money under the Unclaimed Moneys Act 1981.

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78. Objection, Review or Appeal	
78.1	If an objection, review or appeal in respect of a valuation of land results in the alteration of a valuation or of a decision to attribute a particular land use to land, and a due adjustment is made, the power pursuant to Section 186(2) of the Act and subject to Section 186(3), (4) and (5) of the Act:
78.1.1	to refund or credit the overpaid amount against future liabilities for rates on the land subject to the rates; or
78.1.2	to recover an additional amount payable on account of an alteration of the value as arrears after at least 30 days have expired from the date on which notification of the alteration is given to the person who initiated the objection, review or appeal.
79. Certificate of Liabilities	
79.1	The power pursuant to Section 187(1) of the Act to issue a certificate, on application by or on behalf of a person who has an interest in land within the area, stating that:
79.1.1	the amount of any liability for rates or charges on the land imposed under Part 1 of Chapter 10 or Schedule 1B of the Act (including rates and charges under Part 1 of Chapter 10 or Schedule 1B of the Act that have not yet fallen due for payment, and outstanding interest or fines payable in respect of rates and charges under Part 1 of Chapter 10 or Schedule 1B of the Act); and
79.1.2	any amount received on account of rates or charges on the land imposed under this part, that is held in credit against future liabilities for rates or charges in relation to the land.
80. Investigation by Ombudsman	
80.1	The duty pursuant to Section 187B(6) of the Act if the Ombudsman's report prepared pursuant to Section 187B(3) of the Act makes any recommendations as to action that should be taken by the Council, to within 2 months after receipt of that report, provide a written response to:
80.1.1	the Ombudsman; and
80.1.2	if relevant, the person who made the complaint.
80.2	The power pursuant to Section 187B(7) of the Act to grant a rebate or remission of any rate or service charge, or of any charge, fine or

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	interest under Part 1 of Chapter 10 of the Act, if the Ombudsman recommends that the Council do so on the ground of special circumstances pertaining to a particular ratepayer.
81. Fees and Charges	
81.1	The power pursuant to Section 188(1) and (2) of the Act to impose fees and charges:
81.1.1	for the use of any property or facility owned, controlled, managed or maintained by the Council;
81.1.2	for services supplied to a person at his or her request;
81.1.3	for carrying out work at a person's request;
81.2	The power pursuant to Section 188(3) of the Act to provide for:
81.2.1	specific fees and charges;
81.2.2	maximum fees and charges and minimum fees and charges;
81.2.3	annual fees and charges;
81.2.4	the imposition of fees or charges according to specified factors;
81.2.5	the variation of fees or charges according to specified factors in respect of fees and charges set under Section 188(1)(a) – (c) of the Act inclusive; and
81.2.6	the reduction, waiver or refund, in whole or in part, of any fees and charges.
81.3	The power pursuant to Section 188(5) of the Act to fix, vary or revoke those fees and charges set under Section 188(1)(a), (b) and (c) of the Act.
81.4	The duty pursuant to Section 188(6) of the Act to keep a list of fees and charges imposed under this Section on public display during ordinary office hours at the principal office of the Council.
81.5	The duty pursuant to Section 188(7) of the Act to, if the Council fixes or varies a fee imposed under this Section, up-date the list referred to in Section 188(6) of the Act and take reasonable steps to bring the fee or charge, or variation of the fee or charge, to the notice of persons who may be affected.
82. Acquisition of Land by Agreement	
82.1	The power pursuant to Section 190 of the Act to acquire land by

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agreement.
83. Compulsory Acquisition of Land
83.1 The power pursuant to Section 191(1) of the Act to acquire land compulsorily, in circumstances which require the Minister's written approval, after the Council has obtained the Minister's approval.
83.2 The power pursuant to Section 191(2) of the Act to acquire land compulsorily for a purpose classified by the Regulations as an approved purpose.
84. Assumption of Care, Control and Management of Land
84.1 The power pursuant to Section 192(1) of the Act to assume the care, control and management of land in the Council area that has been set aside for the use or enjoyment of the public or a section of the public under the circumstances specified in Section 192(1)(a) and (b) of the Act.
84.2 The duty pursuant to Section 192(4) of the Act to immediately cause a copy of a resolution under Section 192(1) of the Act to assume the care, control and management of land to be published in the <i>Gazette</i> .
85. Classification
85.1 The duty pursuant to Section 193(6) of the Act to give notice in the <i>Gazette</i> of a resolution:
85.1.1 to exclude land from classification as community land under Section 193(4) of the Act; or
85.1.2 to classify as community land, land that had previously been excluded from classification as such under Section 193(5) of the Act.
86. Revocation of Classification of Land as Community Land
86.1 The duty pursuant to Section 194(2) of the Act before the Council revokes the classification of land as community land to:
86.1.1 prepare and make publicly available a report on the proposal containing:
86.1.1.1 a summary of reasons for the proposal; and
86.1.1.2 a statement of any dedication, reservation or trust to which the land is subject; and
86.1.1.3 a statement of whether revocation of the classification

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

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	measure its performance against its objectives and performance targets.
88.2	If a management plan relates to land that is not in the Council's ownership, the power and duty pursuant to Section 196(4) of the Act to consult with the owner of the land at an appropriate stage during the preparation of the plan and the plan must:
88.2.1	identify the owner of the land; and
88.2.2	state the nature of any trust, dedication or restriction to which the land is subject apart from the Act; and
88.2.3	contain any provisions that the owner reasonably requires and identify those provisions as provisions required by the owner.
88.3	The duty pursuant to Section 196(5) of the Act to ensure (as far as practicable) that the management plan is consistent with other relevant official plans and policies about conservation, development and use of the land and contains any special provisions required under the Regulations.
89. Public Consultation on Proposed Management Plan	
89.1	Before the Council adopts a management plan for community land, the duty to pursuant to Section 197(1) of the Act and subject to Section 197(2) of the Act:
89.1.1	make copies of the proposed plan available for inspection or purchase at the Council's principal office; and
89.1.2	follow the relevant steps set out in Council's public consultation policy.
89.2	The duty pursuant to Section 197(3) of the Act to give public notice of the adoption of a management plan.
90. Amendment or Revocation of Management Plan	
90.1	The power pursuant to Section 198(1) of the Act and in accordance with Section 198(2) and (3) of the Act to amend or revoke a management plan by the adoption of a proposal for its amendment or revocation.
90.2	The power pursuant to Section 198(2) and (3) of the Act to conduct public consultation prior to the Council or the Delegate adopting a proposal for amendment to or revocation of a management plan, unless in the opinion of the Delegate the amendment has no impact or no significant impact on the interests of the community.

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90.3	The duty pursuant to Section 198(4) of the Act to give public notice of Council's or the Delegate's adoption of a proposal for the amendment or revocation of a management plan.
91. Effect of Management Plan	
91.1	The duty pursuant to Section 199 of the Act to manage community land in accordance with any management plan for the relevant land.
92. Use of Community Land for Business Purposes	
92.1	The power pursuant to Section 200(1), (2) and (3) of the Act to approve a person's use of community land for a business purpose, consistent with provisions of the management plan and on any conditions the Delegate considers appropriate.
93. Sale or Disposal of Local Government Land	
93.1	The power pursuant to Section 201(1) of the Act to sell or otherwise dispose of an interest in land:
93.1.1	vested in the Council in fee simple; or
93.1.2	vested in the Council as lessee.
93.2	The power pursuant to Section 201(2) of the Act to:
93.2.1	grant an easement (including a right of way) over community land; and
93.2.2	grant an easement (excluding a right of way) over a road or part of a road.
94. Alienation of Community Land by Lease or Licence	
94.1	The power pursuant to Section 202(1) and (5) of the Act and subject to Section 202(7) of the Act to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve), and to make provision in a lease or licence for:
94.1.1	the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;
94.1.2	the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges (subject to the fixing or varying of the charge by Council, pursuant to Section 44(3)(j) of the Act);
94.1.3	any other matter relevant to the use or maintenance of the

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	land.
94.2	The duty pursuant to Section 202(2) and (3) of the Act and subject to Section 202(7) of the Act before granting a lease or licence relating to community land to follow the relevant steps set out in Council's public consultation policy, unless:
94.2.1	the grant of the lease or the licence is authorised in an approved management plan for the land and the term of the proposed lease or licence is 5 years or less; or
94.2.2	the Regulations provide, in the circumstances of the case, for an exemption from compliance with the public consultation policy.
94.3	The power and duty pursuant to Section 202(4) of the Act and subject to Section 202(4a) and Section 202(7) of the Act to grant or renew a lease or a licence for a term (not exceeding 42 years) and to extend the term of the lease or licence but not so that the term extends beyond a total of 42 years.
94.4	The duty pursuant to Section 202(6) of the Act and subject to Section 202(7) of the Act to ensure that a lease or licence relating to community land is consistent with any relevant management plan.
95.	Register
95.1	The duty pursuant to Section 207(1) of the Act to keep a register of all community land in Council's area.
95.2	The duty pursuant to Section 207(2)(a) and (b) of the Act to ensure that the register:
95.2.1	contains the information required by the Regulations; and
95.2.2	contains copies of current management plans.
95.3	The power pursuant to Section 207(2)(c) of the Act to include in the register (if the Delegate so decides) a computer record of the relevant information.
95.4	The duty pursuant to Section 207(3) and (4) of the Act to make available the register of all community land in the Council's area for inspection (without charge) or purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.
96.	Ownership of Public Roads
96.1	The duty pursuant to Section 208(4) of the Act to cause a copy of a

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	resolution declaring a road or land to be a public road, or preserving an easement under Section 208(3), to be published in the <i>Gazette</i> .
97. Ownership of Fixtures and Equipment Installed on Public Roads	
97.1	The power pursuant to Section 209(3) of the Act to enter into an agreement with the provider of public infrastructure or the holder of an authorisation or permit under Section 209(1) and (2) of the Act which provides for the vesting of property in fixtures and equipment in the Council.
98. Conversion of Private Road to Public Road	
98.1	The duty pursuant to Section 210(1)(b) of the Act to make reasonable enquiries to find the owner of a private road which the Council is seeking to declare be a public road.
98.2	The duty pursuant to Section 210(2) of the Act at least 3 months before the Council makes a declaration under Section 210 of the Act to:
98.2.1	if the identity and whereabouts of the owner of the road are known to the Council, give written notice to the owner of land subject to the proposed declaration; and
98.2.2	if a person has some other form of registered legal interest over the road and the identity and whereabouts of that person are known to the Council – give written notice to the person of the proposed declaration; and
98.2.3	give public notice of the proposed declaration.
98.3	The duty pursuant to Section 210(5) to publish in the <i>Gazette</i> a declaration of the Council made in accordance with Section 210(1) of the Act.
98.4	The duty pursuant to Section 210(7) of the Act to furnish to the Registrar-General a copy of any declaration under Section 210 of the Act in a manner and form approved by the Registrar-General immediately after it is made.
99. Highways	
99.1	The power pursuant to Section 211(1)(a) of the Act to enter into an agreement with the Commissioner of Highways in order for the Council to exercise its powers under Part 2 of Chapter 11 of the Act in relation to a highway.
100. Power to Carry Out Roadwork	
100.1	The power pursuant to Section 212(1) of the Act to have road works

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carried out in the Council's area or, by agreement with another Council, in the area of another Council.
100.2 The power pursuant to Section 212(3) of the Act to do anything reasonably necessary for, or incidental, to roadwork pursuant to Section 212(2) of the Act, providing that:
100.2.1 the roadwork is carried out in compliance with any relevant requirement under the Road Traffic Act 1961; and
100.2.2 before carrying out roadwork in relation to a road that runs into or intersects with a highway (and that may have an effect on the users of that highway), consult with the Commissioner of Highways; and
100.2.3 the roadwork in relation to a private road is only carried out if:
100.2.3.1 the owner agrees; or
100.2.3.2 the Council has given the owner reasonable notice of the proposed roadwork and a reasonable opportunity to make representations and has considered any representations made in response to the notice; or
100.2.3.3 the identity or whereabouts of the owner is unknown; and
100.2.4 the roadwork on other private land is carried out with the agreement of the owner (unless otherwise provided in the Act).
101. Recovery of Cost of Roadwork
101.1 Where roadwork has been carried by agreement, the power pursuant to Section 213(1) of the Act to recover the whole of the cost or an agreed contribution determined by the Delegate under the terms of the agreement.
101.2 Where roadwork has been carried out to repair damage to a road, the power pursuant to Section 213(2) of the Act to recover the cost of carrying out the work, as a debt, from:
101.2.1 the person who caused the damage; or
101.2.2 in the case of damage caused by the bursting, explosion or fusion of any pipe, wire, cable, fitting or other object – the person who is the owner, or who has control of that infrastructure.
101.3 If the Council carries out roadwork on a private road, the power pursuant to Section 213(3) of the Act to recover the cost of the work or

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a contribution towards the cost of the work determined by the Delegate as a debt from the owner of the private road.
102. Contribution Between Councils where Road is on Boundary Between Council Areas
102.1 Where roadwork is carried out on a road on the boundary between 2 Council areas, the power pursuant to Section 214(1) and (2) of the Act to recover a reasonable contribution from the other Council towards the cost of the work, being an amount agreed between the Councils or, in the absence of an agreement, an amount determined by the Court in which the action for contribution is brought.
103. Special Provisions for Certain Kinds of Roadwork
103.1 If the Council changes the level of a road, the duty pursuant to Section 215(1) of the Act to:
103.1.1 ensure that adjoining properties have adequate access to the road; and
103.1.2 construct any retaining walls, embankments or other structures necessary to provide protection required in consequence of the change of level.
103.2 The power pursuant to Section 215(2) of the Act to carry out road work to allow water from a road to drain into adjoining property if, in the Delegate's opinion:
103.2.1 there is no significant risk of damage to the adjoining property; or
103.2.2 the road work does not significantly increase the risk of damage to adjoining property.
103.3 The duty pursuant to Section 215(4) of the Act to give reasonable notice of proposed action to drain water into land under Section 215(2) of the Act to the owner of the land, except in a case of urgency.
104. Power to Order Owner of Private Road to Carry out Specific Roadwork
104.1 The power pursuant to Section 216(1) of the Act to, by order in writing in accordance with Section 216(2) of the Act to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.
104.2 The duty pursuant to Section 216(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to:

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104.2.1 any proposal to make an order; and
104.2.2 if an order is made, any order,
under Section 216(1) of the Act.
105. Power to Order Owner of Infrastructure on Road to Carry Out Specified Maintenance or Repair Work.
105.1 The power pursuant to Section 217(1) of the Act by order in writing to the owner of a structure or equipment (including pipes, wires, cables, fittings and other objects) installed in, on, across, under or over a road, to require the owner:
105.1.1 to carry out specified work by way of maintenance or repair; or
105.1.2 to move the structure or equipment in order to allow the Council to carry out roadwork.
105.2 Where the order made pursuant to Section 217(1) of the Act is not complied with within a reasonable time fixed in the order, the power pursuant to Section 217(2)(a) of the Act to take action required by the order and to recover the cost of doing so as a debt from the owner.
106. Power to Require Owner of Adjoining Land to Carry Out Specific Work
106.1 The power pursuant to Section 218(1) of the Act to, by order in writing in accordance with Section 218(2) of the Act to the owner of land adjoining the road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.
106.2 The duty pursuant to Section 218(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to:
106.2.1 any proposal to make an order; and
106.2.2 if an order is made, any order
under Section 218(1) of the Act.
107. Power to Assign a Name, or Change the Name, of a Road or Public Place
107.1 The power pursuant to Section 219(1) of the Act to assign a name to a public or private road, or to a public place, or change the name of a public or private road, or of a public place.
107.2 The duty pursuant to Section 219(1a) of the Act to assign a name to a public road created after the commencement of Section 219(1a) of the Act by land division.

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

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

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109.2.2 unduly interfere with the construction of the road; or
109.2.3 have an adverse effect on road safety.
109.3 The power pursuant to Section 221(6) of the Act to grant an authorisation under Section 221 of the Act:
109.3.1 for a particular act or occasion; or
109.3.2 for a term which is, subject to revocation for breach of a condition, to remain in force for a term (not exceeding 42 years) stated in the authorisation and, at the expiration of the term, the power to renew the term for a further term (not exceeding 42 years) fixed by the Delegate at the time of the renewal.
110. Permits for Business Purposes
110.1 The power pursuant to Section 222(1) of the Act to authorise a person to use a public road for business purposes and to give a permit to do so.
110.2 Subject to the Act, the power pursuant to Section 222(2) of the Act to issue a permit that grants rights of exclusive occupation in relation to part of a public road.
110.3 The power pursuant to Section 222(3) of the Act to issue a permit to use a public road for a particular occasion or for a term stated in the permit.
111. Public Consultation
111.1 The duty pursuant to Section 223(1) of the Act before granting the authorisation to alter a public road or the permit to use a public road for business purposes, to follow the relevant steps set out in Council's public consultation policy, if the Delegate proposes to grant an authorisation or permit:
111.1.1 that confers a right of exclusive occupation; or
111.1.2 that would have the effect of restricting access to a road; or
111.1.3 in relation to a use or activity for which public consultation is required under the Regulations.
111.2 The duty pursuant to Section 223(2) of the Act to give written notice of the proposal to agencies that are, under the Regulations, to be notified of the proposal to grant an authorisation to alter a public road or to permit the use of a public road for business purposes.

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112. Conditions of Authorisation or Permit
112.1 The power pursuant to Section 224 of the Act subject to Sections 224(2) and (4) of the Act to grant an authorisation or permit under Division 6 of Part 2, Chapter 11 on conditions the Delegate considers appropriate.
113. Cancellation of Authorisation or Permit
113.1 The power pursuant to Section 225(1) of the Act by notice in writing to the holder of an authorisation or permit:
113.1.1 in the case of a permit for the purposes of a mobile food vending business under Section 222 of the Act – cancel the permit for breach of a condition if the breach is sufficiently serious to justify cancellation of the permit; or
113.1.2 in the any other case - cancel the authorisation or permit for breach of a condition.
113.2 The duty pursuant to Section 225(2) of the Act before cancelling an authorisation or permit, to:
113.2.1 give the holder of the authorisation or permit a written notice of the proposed cancellation stating the grounds on which the Delegate proposes to act and allowing the holder a reasonable period to make written representations to the Delegate on the proposed cancellation; and
113.2.2 consider any representations made in response to the notice.
113.3 The power pursuant to Section 225(3) of the Act to determine if a shorter period of notice should apply under Section 225(2)(a) of the Act, to protect the health or safety of the public, or otherwise to protect the public interest.
113.4 The power pursuant to Section 225(4) of the Act if the Council cancels a permit under Section 225(1)(a) of the Act, to specify at the time of cancellation a period (not exceeding six months) that an application for a permit for the purposes of a mobile food vending business under Section 222 of the Act must not be made by or on behalf of the person who, before the cancellation, held the permit.
113A Location Rules – General
113A.1 The power pursuant to Section 225A(1) of the Act and subject to Section 225A(2) of the Act, to prepare and adopt rules (location rules) that set out locations within the Council area in which mobile food vending businesses may operate.

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113A.2 The power pursuant to Section 225A(4) of the Act to:
113A.2.1 from time to time amend the Council's location rules;
113A.2.2 amend its location rules in order that the rules comply with:
113A.2.2.1 any requirement specified by the Minister under Section 225A(2)(b) of the Act; or
113A.2.2.2 any direction given by the Small Business Commissioner under Section 225A(7) of the Act.
114. Register
114.1 The power and duty pursuant to Section 231(1) and (2) of the Act to keep a register of public roads in the Council's area, which:
114.1.1 includes the information required by regulation; and
114.1.2 may consist (if the Delegate so decides) of a computer record of the relevant information.
114.2 The duty pursuant to Section 231(3) and (4) of the Act to make the register available for public inspection (without charge) and purchase of extracts (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.
115. Trees
The power pursuant to Section 232 of the Act to plant vegetation or authorise or permit the planting of vegetation, on a road, only after complying with the following matters (in addition to complying with any other statutory requirement):
115.1 giving consideration to whether the vegetation is, on balance, appropriate to the proposed site taking into account -
115.1.1 environmental and aesthetic issues; and
115.1.2 the use and construction of the road (including the potential for interference with the construction of the road or with structures (including pipes, wires, cables, fixtures, fittings or other objects) in the road); and
115.1.3 road safety matters; and
115.1.4 other matters (if any) considered relevant by the Delegate; and
115.2 where the vegetation may have a significant impact on residents, the

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proprietors of nearby businesses or advertisers in the area, to follow the relevant steps set out in its public consultation policy.
116. Damage
116.1 The power pursuant to Section 233(1) and (2) of the Act to recover damages, in the same way as damages for a tort, where a person, without the Council's permission, intentionally or negligently damages a road or a structure (including pipes, wires, cables, fixtures, fittings and other objects) belonging to the Council associated with the road.
117. Council's Power to Remove Objects etc from Roads
117.1 The power pursuant to Section 234(1) of the Act to remove and dispose of any structure, object or substance from a road if:
117.1.1 it has been erected, placed or deposited on the road without the authorisation or permit required under Part 2 of Chapter 11 of the Act; or
117.1.2 an authorisation or permit has been granted but has later expired or been cancelled.
117.2 The power pursuant to Section 234(2) of the Act to recover the cost of acting under Section 234 of the Act as a debt from the person who erected, placed or deposited the structure, object or substance on the road.
117.3 Where, as a result of an accident involving a vehicle or vehicles, any wreckage, objects or materials are left on a road, the power pursuant to Section 234(3) of the Act to clear the area and to recover the cost from the driver of the vehicle or, if more than one vehicle was involved, the driver of any one of the vehicles.
118. Deliberately left blank
119. Abandonment of Vehicles and Farm Implements
119.1 The power pursuant to Section 236(2) of the Act to seek an order from the court by which a person is convicted of an offence against Section 236(1) of the Act, that the convicted person pay to the Council any costs incurred by the Council in removing or disposing of a vehicle abandoned on a public road or public place.
120. Removal of Vehicles
120.1 The duty pursuant to Section 237(4) of the Act to ensure that the owner of the vehicle is notified of the removal of the vehicle:

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120.1.1	by written notice in the prescribed form:
120.1.1.1	served on the owner personally; or
120.1.1.2	served on the owner by the use of person-to-person registered post,
	as soon as practicable after the removal of the vehicle; or
120.1.2	if the owner is unknown or cannot be found – by public notice published in a newspaper circulating generally in the State within 14 days after the removal of the vehicle.
120.2	If the owner of a removed vehicle does not, within 1 month after service or publication of the notice, pay all expenses in connection with the removal, custody and maintenance of the vehicle, and of serving, publishing or posting the notice, and take possession of the vehicle, the power and duty pursuant to Section 237(5) of the Act to, subject to Section 237(6)(b) of the Act, offer the vehicle for sale by public auction or public tender.
120.3	The power pursuant to Section 237(6) of the Act to dispose of the vehicle in such manner as the Delegate thinks fit if:
120.3.1	the vehicle is offered for sale but not sold; or
120.3.2	the Delegate reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle or the costs incidental to removing or holding the vehicle, or those costs combined.
120.4	The duty pursuant to Section 237(7) of the Act, where the vehicle is sold, to apply the proceeds of sale as follows:
120.4.1	firstly, in payment of the costs of and incidental to the sale;
120.4.2	secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vehicle and of the notice served, posted or published under Section 237 of the Act;
120.4.3	thirdly, in payment of the balance to the owner of the vehicle.
120.5	The duty pursuant to Section 237(8) of the Act to make reasonable inquiry to find the owner of the vehicle following sale and, if after that reasonable inquiry, the owner cannot be found, the duty to pay the balance of the proceeds of sale to the Council.
120.6	The duty pursuant to Section 237(9) of the Act to take reasonable steps

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to return property found in the vehicle, and where the property cannot be returned, the duty to deal with the property as unclaimed goods under the Unclaimed Goods Act 1987 as if the Council were the bailee of those goods.
121. Time Limits for Dealing with Certain Applications
121.1 Where the power to decide upon certain applications to which the Section applies has been delegated, the duty pursuant to Section 242(1) and (2) of the Act within two months after the relevant date, to make a decision in respect of the application and, if not so decided, it is taken to have been refused.
121.2 The duty pursuant to Section 242(3) of the Act to notify the applicant in writing as soon as practicable of a decision or presumptive decision on an application to which Section 242 of the Act applies.
122. Registrar-General to Issue Certificate of Title
122.1 The duty pursuant to Section 243(1) of the Act to apply to the Registrar-General for the issue of a Certificate of Title for the land under the Real Property Act 1896, where land vests for an estate in fee simple in the Council under this Act.
122.2 The duty pursuant to Section 243(2) of the Act to make such application to the Registrar-General for the issue of a Certificate of Title as follows:
122.2.1 in a manner and form approved by the Registrar-General; and
122.2.2 accompanied by:
122.2.2.1 Deliberately left blank
122.2.2.2 any surveys of the land and other materials that the Registrar-General may reasonably require; and
122.2.2.3 a fee fixed by the Registrar-General.
123. Liability for Injury, Damage or Loss Caused by Certain Trees
123.1 The power and duty pursuant to Section 245 of the Act to take reasonable action in response to a written request by an owner or occupier of property adjacent to a road for the Council to take reasonable action to avert a risk of damage to property of the owner or occupier from a tree growing in the road (whether planted by the Council or not).
124. Council May Require Bond or Other Security in Certain Circumstances

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124.1 Subject to Section 245A of the Act, if,
124.1.1 a person has approval to carry out development under the Development Act 1993; and
124.1.2 the delegate has reason to believe that the performance of work in connection with the development could cause damage to any local government land (including a road) within the vicinity of the site of the development,
the power, pursuant to Section 245A of the Act, to, by notice in writing serve on the person who has the benefit of the approval, require the person to enter into an agreement that complies with any requirements prescribed by the regulations so as to ensure that money is available to address the cost of any damage that may be caused.
124.2 The power pursuant to Sections 37(b) and 245A of the Act, where a person has approval to carry out development under the Development Act 1993 and a notice in writing has been served pursuant to Section 245A of the Act on the person who has the benefit of the approval, to enter into an agreement that complies with any requirements prescribed by the regulations so as to ensure that money is available to address the cost of any damage that may be caused.
125. Power to Make By-Laws
125.1 The duty pursuant to Section 246(4a) of the Act, if the Council makes a determination under Section 246(3)(e) of the Act, to ensure that notice of the determination is published in the Gazette and in a newspaper circulating in the area of the Council.
126. Passing By-Laws
126.1 If it is proposed that the Council make a by-law, then at least 21 days before the Council resolves to make the by-law, the duty pursuant to Section 249(1) of the Act to:
126.1.1 make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for public inspection, without charge and during ordinary office hours, at the principal office of the Council, and so far as is reasonable practicable on the Internet; and
126.1.2 by notice in a newspaper circulating in the area of the Council:
126.1.2.1 inform the public of the availability of the proposed by-law; and

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126.1.2.2 set out the terms of the by-law, or describe in general terms the by-law's nature and effect.
126.2 Before the Council makes a by-law, the duty pursuant to Section 249(4) of the Act to obtain a certificate, in the prescribed form, signed by a legal practitioner certifying that, in the opinion of the legal practitioner:
126.2.1 the Council has power to make the by-law by virtue of a statutory power specified in the certificate; and
126.2.2 the by-law is not in conflict with the Act.
126.3 The duty pursuant to Section 249(5) of the Act to publish a by-law in the <i>Gazette</i> .
126.4 The duty pursuant to Section 249(7) of the Act to publish a notice of the making of a by-law under Section 249 of the Act in a newspaper circulating in the area of the Council.
127. Model By-Laws
127.1 The duty pursuant to Section 250(5) of the Act to publish the resolution adopting a model by-law or alteration made under Section 250 of the Act in the <i>Gazette</i> .
127.2 The duty pursuant to Section 250(7) of the Act to publish a notice of the adoption of a model by-law or alteration made under Section 250 of the Act in a newspaper circulating in the area of the Council.
128. Register of By-Laws and Certified Copies
128.1 The duty pursuant to Section 252(1) and (2) to cause a separate register to be kept of all by-laws made or adopted by the Council; such register to include a copy of any code, standard or other document referred to or incorporated in a by-law.
128.2 The duty pursuant to Section 252(3) and (4) of the Act to make available the register of by-laws for inspection or purchase an extract from the register (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.
128.4 The duty pursuant to Section 252(5) of the Act to make available, on payment of a fee fixed by the Council, a certified copy of a by-law of the Council in force at the particular time.
129. Power to Make Orders
129.1 The power pursuant to Section 254 of the Act to order a person to do or to refrain from doing a thing specified in Column 1 of the Table in Part 2

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of Chapter 12, if in the opinion of the Delegate, the circumstances specified in Column 2 of the Table exist and the person is within the description in Column 3 of the Table.
130. Procedures to be Followed
130.1 The duty pursuant to Section 255(1) of the Act before taking action to make an order under Part 2 of Chapter 12 (but subject to this Section), to give the person to whom it is proposed that the order be directed a notice in writing:
130.1.1 stating the proposed action, including the terms of the proposed order and the period within which compliance with the order will be required; and
130.1.2 stating the reasons for the proposed action; and
130.1.3 inviting the person to show, within a specified time (being a reasonable period), why the proposed action should not be taken (by making representations to the Delegate).
130.2 If a notice of intention to make an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(2) of the Act to take reasonable steps to serve a copy of the notice on the owner.
130.3 The power pursuant to Section 255(3) of the Act after considering representations made within the time specified under Section 255(1) of the Act:
130.3.1 to make an order in accordance with the terms of the original proposal; or
130.3.2 to make an order with modifications from the terms of the original proposal; or
130.3.3 to determine not to proceed with an order.
130.4 The power pursuant to Section 255(5) of the Act to:
130.4.1 include two or more orders in the same instrument;
130.4.2 direct two or more persons to do something specified in the order jointly.
130.5 The duty pursuant to Section 255(6) of the Act to ensure that the order:
130.5.1 subject to Section 255 of the Act, specifies a reasonable period within which compliance with the order is required; and

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130.5.2 states the reasons for the order.
130.6 The duty pursuant to Section 255(7) of the Act to serve an order in accordance with Part 2 of Chapter 14 of the Act on the person to whom it is addressed.
130.7 If an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(8) of the Act to take reasonable steps to serve a copy of the order on the owner.
130.8 The power pursuant to Section 255(11) of the Act at the request or with the agreement of the person to whom an order is directed, to vary the order on the Delegate's own initiative, or to revoke an order if satisfied that it is appropriate to do so.
130.9 If the Delegate, in the circumstances of a particular case, considers:
130.9.1 that an activity constitutes, or is likely to constitute, a threat to life or an immediate threat to public health or public safety; or
130.9.2 that an emergency situation otherwise exists,
the Delegate has the power pursuant to Section 255(12) of the Act to:
130.9.3 Proceed immediately to make an order under this Section without giving notice under Section 255(1); and
130.9.4 require immediate compliance with an order despite Section 255(6)(a).
131. Rights of Review
131.1 The duty pursuant to Section 256(1) and (2) of the Act to ensure that an order made under Part 2 of Chapter 12 includes a statement setting out the rights of the person to seek a review of the order under the Act, and to include the information specified by the Regulations to the Act.
132. Action on Non-Compliance
132.1 The power pursuant to Section 257(1) of the Act, where the requirements of an order are not complied with within the time fixed for compliance, or if there is an application for review, within 14 days after the determination of the review, to (subject to the outcome of any review) take the action required by the order.
132.2 The power pursuant to Section 257(2) of the Act to authorise an employee or another person to take action under Section 257(1) of the Act.

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132.3	The power pursuant to Section 257(3) of the Act to take action to recover the reasonable costs and expenses incurred by the Council in taking action for the non-compliance with an order, as a debt from the person who failed to comply with the requirements of the order.
132.4	The power pursuant to Section 257(5) of the Act where an amount is recoverable from a person by the Council for action of non-compliance with an order, by notice in writing to the person, to fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid and, if the amount is not paid by the person within that period:
132.4.1	the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and
132.4.2	if the person is the owner of the land to which the order relates – the power, in accordance with Schedule 6, to impose a charge over the land for the unpaid amount, together with interest.
133. Councils to Develop Policies	
133.1	The power and duty pursuant to Section 259(1) of the Act to take reasonable steps to prepare and adopt policies concerning the operation of Part 2 of Chapter 12 of the Act.
133.2	The power and duty pursuant to Section 259(2) of the Act to:
132.2.1	prepare a draft of a Policy; and
133.2.2	by notice in a newspaper circulating in the area of the Council, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the Council or the Delegate (being at least four weeks).
133.3	The duty pursuant to Section 259(3) of the Act to consider any submission made on a proposed policy in response to an invitation under Section 259(2) of the Act.
133.4	The power pursuant to Section 259(4) of the Act to amend a policy at any time.
133.5	The duty pursuant to Section 259(5) of the Act before adopting an amendment to a policy, to take the steps specified in Section 259(2) and (3) (as if the amendment were a new policy), unless the Council or the Delegate determines the amendment is only of minor significance.

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133.6	The duty pursuant to Sections 259(6) and (7) of the Act to make a policy available for inspection (without charge) and purchase (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.
133.7	The duty pursuant to Section 259(8) of the Act in considering whether to make an order under Part 2 of Chapter 12 of the Act, to deal with the particular case on its merits and the duty to take into account any relevant policy under Division 3 of Part 2, Chapter 12 of the Act.
134. Appointment of Authorised Persons	
134.1	The power, pursuant to Section 260(1) of the Act by instrument in writing, to appoint a person (other than a member of the Council) to be an authorised person.
134.2	The power pursuant to Section 260(2) of the Act to make an appointment of an authorised person subject to such conditions or limitations as the Delegate determines and specified in the instrument of appointment.
134.3	The power and duty pursuant to Section 260(3) of the Act to issue to an authorised person an identity card:
134.3.1	containing a photograph of the authorised person; and
134.3.2	identifying any conditions or limitations imposed under Section 260(2) of the Act.
134.4	The power pursuant to Section 260(5) of the Act to at any time revoke an appointment under Section 260 of the Act, or to vary or revoke a condition or limitation, or impose a further condition or limitation on the appointment.
135. Procedures for Review of Decisions and Requests for Services	
135.00	The power and duty pursuant to Section 270(a1) of the Act and in accordance with Sections 270(a2) and (4a) of the Act, to develop and maintain policies, practices and procedures for dealing with:
135.00.1	any reasonable request for the provision of a service by the Council or for the improvement of a service provided by the Council; and
135.00.2	complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council.
135.0	The power and duty pursuant to Section 270(a2) of the Act to ensure the policies, practices and procedures required under Section 270(a1)

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of the Act, are directed towards:
135.0.1 dealing with the relevant requests or complaints in a timely, effective and fair way; and
135.0.2 using information gained from the Council's community to improve its services and operations.
135.1 Without limiting Sections 270(a1) and (a2) of the Act, the power and duty pursuant to Section 270(1) of the Act and in accordance with Sections 270(2) and (4a) of the Act, to establish procedures for the review of decisions of:
135.1.1 the Council;
135.1.2 employees of the Council;
135.1.3 other persons acting on behalf of the Council,
135.2 The duty pursuant to Section 270(2) of the Act to ensure that the procedures established under Section 270(1) of the Act address the following matters (and any other matters which the Delegate or the Council determines to be relevant):
135.2.1 the manner in which an application for review may be made;
135.2.2 the assignment of a suitable person to reconsider a decision under review;
135.2.3 the matters that must be referred to the Council itself for consideration or further consideration;
135.2.3A in the case of applications that relate to the impact that any declaration of rates or service charges may have had on ratepayers – the provision to be made to ensure that these applications can be dealt with promptly and, if appropriate, addressed through the provision of relief or concessions under the Act;
135.2.4 the notification of the progress and outcome of an application for review;
135.2.5 the timeframes within which notifications will be made and procedures on a review will be completed.
135.3 The power pursuant to Section 270(4) of the Act to refuse to consider an application for review of a decision under Section 270 of the Act, if:
135.3.1 the application was made by an employee of the Council and

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	relates to an issue concerning his or her employment; or
135.3.2	it appears that the application is frivolous or vexatious; or
135.3.3	the applicant does not have a sufficient interest in the matter.
135.4	The power and duty pursuant to Section 270(5) of the Act to ensure that copies of a document concerning the policies, practices and procedures that apply under Section 270 of the Act are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
135.5	The power pursuant to Section 270(6) of the Act to, from time to time, amend the policies, practices and procedures established under Section 270 of the Act.
135.6	The power and duty pursuant to Section 270(8) of the Act to, on an annual basis, initiate and consider a report that relates to:
135.6.1	the number of applications for review made under Section 270; and
135.6.2	the kinds of matters to which the applications relate; and
135.6.3	the outcome of applications under this Section; and
135.6.4	such other matters as may be prescribed by the Regulations.
135.7	The power pursuant to Section 270(9) of the Act on an application for the provision of some form of relief or concession with respect to the payment of those rates, to, if appropriate, in view of the outcome of the application, refund the whole or a part of any amount that has been paid.
136. Mediation, Conciliation and Neutral Evaluation	
136.1	The power pursuant to Section 271(1) of the Act as part of, or in addition to, the procedures established under Section 270 of the Act, to make provision for disputes between a person and the Council to be dealt with under a scheme involving mediation, conciliation or neutral evaluation.
136.2	The duty pursuant to Section 271(2) of the Act to provide for the constitution of panels of persons who are available to act as mediators, conciliators and evaluators, and for the selection of an appropriate mediator, conciliator or evaluator, if a dispute is to be dealt with under a Scheme established under Section 271(1) of the Act.

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136A. Provision of Information to Minister	
136A.1	The power and duty, pursuant to Section 271A of the Act, to, at the request of the Minister, provide to the Minister specified information, or information of a specified kind, relating to the affairs or operations of the Council.
136A.2	The power pursuant to Section 271A(3) of the Act to, provide information in accordance with a request under Section 271A(1) of the Act, even if:
136AA.2.1	the information was given to the Council in confidence; or
136AA.2.2	is held on a confidential basis under Chapter 6 Part 4.
136B. Minister May Refer Investigation of Council to Ombudsman	
136B.1	The power pursuant to Section 272(3) of the Act, to, before the Minister refers a matter, explain the Council's actions and make submissions to the Minister.
136B.2	The power pursuant to Section 272(5) of the Act, to make submissions to the Minister in relation to the matter.
136C. Action on a Report	
136C.1	The power pursuant to Section 273(3) of the Act to make submissions to the Minister on the report on which the action is based.
136D. Deliberately left blank	
136E. Action on a Report	
136E.1	The power pursuant to Section 275(2) of the Act to make submissions to the Minister.
137. Special Jurisdiction	
137.1	The power pursuant to Section 276(1) and (2) of the Act to commence, defend or participate in the following proceedings before the District Court, on behalf of the Council:
137.1.1	proceedings to try the title of a member to an office;
137.1.2	proceedings to try the right of a person to be admitted or restored to an office;

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137.1.3 proceedings to compel restoration or admission;
137.1.4 proceedings to compel the Council to proceed to an election, poll or appointment;
137.1.5 proceedings to try the validity of a rate or service charge;
137.1.6 proceedings to try the validity of a by-law;
137.1.7 proceedings to compel the production or delivery of any books, voting papers, or other documents or papers to the production or possession of which the Council or person is entitled under this Act.
138. Service of Documents by Councils etc
138.1 Where a document is required or authorised to be served on or given to a person by the Council, the power and duty to effect service in accordance with and pursuant to Section 279 of the Act.
139. Service of Documents on Councils
139.1 The power pursuant to Section 280(1)(c) and (d) of the Act to determine the means available for service of documents on the Council and the power to accept or authorise a person to accept documents on Council's behalf.
140. Recovery of Amounts from Lessees or Licensees
140.1 Where an owner of land is liable to pay an amount to the Council, the power pursuant to Section 281(1) of the Act by written notice to a lessee or licensee of the land, to require him or her to pay to the Council rent or other consideration payable under the lease or license in satisfaction of the liability to the Council.
141. Ability of Occupiers to Carry out Works
141.1 Where an owner of land fails to carry out work that the Council has required the owner to carry out under an Act, the power pursuant to Section 282(1) of the Act to give approval to the occupier of the land to cause the work to be carried out.
142. Power to Enter and Occupy Land in Connection with an Activity
142.1 The duty pursuant to Section 294(1a) of the Act and subject to Section 294(1b) of the Act, to give an owner or occupier of land at least 48 hours notice in writing of an intention to exercise a power under Section 294(1)(b) or (c) of the Act.

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142.2 The duty pursuant to Section 294(3) of the Act:
142.2.1 to pay to the owner or occupier of the land rent on a quarterly or half-yearly basis, at a rate to be determined by agreement between the Council and the owner or occupier or, in default of agreement, by the Land and Valuation Court; and
142.2.2 to pay to the owner or occupier of the land within 1 month after occupying the land - reasonable compensation for damage caused to any crops on the land; and
142.2.3 within 6 months of ceasing to occupy the land:
142.2.3.1 remedy damage to land caused by the Council while in occupation of the land (to such extent as this may be reasonably practicable); and
142.2.3.2 to pay to the owner or occupier of the land reasonable compensation for any other loss or damage caused by the Council, including the full value of any earth, minerals or resources taken from the land;
142.3 The duty pursuant to Section 294(5) of the Act, at the request of an owner or occupier of the land entered and occupied by Council, to erect a fence of reasonable quality and design between the occupied land and the adjoining land.
143. Reclamation of Land
143.1 Where the Council raises, fills in, improves, drains, levels or reclaims land in the area of the Council, the power pursuant to Section 296(1) of the Act to recover the whole or a proportion of the cost of the work from the owners of adjacent or adjoining rateable land improved by the performance of the work in proportion to additional value the work has added to the land.
143.2 The power pursuant to Section 296 (2) of the Act to appoint a valuer to determine the additional value added to the land by Council's activities, under Section 296(1) of the Act.
143.3 The duty pursuant to Section 296(3) of the Act to give notice of a valuation to the relevant owner under this Section of the Act.
143.4 The duty pursuant to Section 296(5) of the Act to conduct an objection or review in the same manner as an objection to or appeal against a valuation under Division 6 of Part 1, Chapter 10 of the Act.
144. Property in Rubbish

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144.1 The power pursuant to Section 297 of the Act to sell or dispose of any rubbish that the Council collects within its area, as the Delegate thinks appropriate.
145. Power of Council to Act in Emergency
145.1 Where flooding in the area of the Council has occurred or is imminent and the Delegate is of the opinion that a situation of emergency has arisen in which there is danger to life or property, the power pursuant to Section 298(1) of the Act to order that action be taken as the Delegate thinks fit to avert or reduce the danger.
146. Deliberately left blank
146.1 Deliberately left blank.
146.2 Deliberately left blank.
147. Costs of Advertisements
147.1 The duty pursuant to Section 300(1) of the Act to pay the cost of an advertisement required by the Act, or where the Council or an employee of the Council takes any action that immediately necessitates the advertisement.
148. Deliberately left blank – Was Whistleblowing - Repealed
148A Use of Facilities
148A.1 The power pursuant to Clause 13 of Schedule 1A of the Act to arrange with the Authority for the Authority to make use of the services of the staff, equipment or facilities of the Council.
149. Deliberately left blank
150. Deliberately left blank
151. Deliberately left blank
151A Preparation of Stormwater Management Plans by Councils
151A.1 The power pursuant to Clause 17(1) of Schedule 1A of the Act to prepare a stormwater management plan which: <ul style="list-style-type: none"> (a) complies with the guidelines issued by the Authority; and (b) is prepared in consultation with the relevant regional NRM board or boards; and (c) is prepared in accordance with any other procedures or

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requirements prescribed by the Regulations.
151B Authority May Issue Order
151B.1 The power pursuant to Clause 20(5) of Schedule 1A of the Act, before the Authority takes any action under Clause 20(4) of Schedule 1A of the Act, to make submissions to the Authority in relation to the matter.
151B.2 The power pursuant to Clause 20(6) of Schedule 1A of the Act, if costs and expenses are to be recovered from the Council as a debt, to enter into an agreement with the Authority for the debt to be repaid over a period of time, subject to the payment by the Council of interest on the debt (and the power to agree the rate with the Authority).
152. Deliberately left blank
153. Deliberately left blank
154. Special Powers in Relation to Land
<p>154.1 The power pursuant to Clause 24(1) of Schedule 1A of the Act and in accordance with Clause 24(2) of Schedule 1A of the Act, for the purpose of taking action consistent with the provisions of an approved stormwater management plan or a condition imposed on approval of a stormwater management plan or action required by an order under Clause 20 of Schedule 1 of the Act, to:</p> <ul style="list-style-type: none"> (a) enter and occupy any land; and (b) construct, maintain or remove any infrastructure; and (c) excavate any land; and (d) inspect, examine or survey any land and for that purpose: <ul style="list-style-type: none"> (i) fix posts, stakes or other markers on the land; and (ii) dig trenches or sink test holes in the land to determine the nature of the top soil and underlying strata; and (iii) remove samples for analysis. (e) alter water table levels, stop or reduce the flow of water in a watercourse, divert water flowing in a watercourse to another watercourse or to a lake or control the flow of water in any other manner; and (f) hold any water in a watercourse or lake or by any other means; and

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<p>(g) divert water to an underground aquifer, dispose of water to a lake, underground aquifer or the sea, or deal with water in any other manner; and</p> <p>(h) deepen, widen or change the course of a watercourse, deepen or widen a lake or take action to remove any obstruction to the flow of water; and</p> <p>(i) undertake any other form of work (including work undertaken for the purposes of stormwater management or flood mitigation); and</p> <p>(j) undertake any testing, monitoring or evaluation; and</p> <p>(k) undertake any other activity of a prescribed kind.</p>
<p>154.2 The power pursuant to Clauses 24(2)(b) and 25 of Schedule 1A of the Act to acquire an easement or other appropriate interest over the relevant land by agreement with the owner or in accordance with the Land Acquisition Act 1969 and any other applicable laws.</p>
<p>155. Entry and Occupation of Land Other Than Council Land</p>
<p>155.1 The power pursuant to Clause 25(2) of Schedule 1A of the Act, subject to Clause 25(3) of Schedule 1A of the Act, to give reasonable notice of an intention to enter, or to enter and occupy, land in accordance with Clause 24 of Schedule 1A of the Act to the occupier of the land.</p>
<p>155.2 The power pursuant to Clause 25(3)(b) of Schedule 1A of the Act to, in an emergency, give such notice (if any) as the delegate considers is reasonable in the circumstances.</p>
<p>156. Vesting of Infrastructure, etc</p>
<p>156.1 The power pursuant to Clause 26(3) of Schedule 1A of the Act to, before the Minister publishes a notice vesting the care, control and management of infrastructure or land in the Council under Clauses 26(1) or (2) of Schedule 1A of the Act make submissions to the Minister in relation to the proposed notice.</p>
<p>157. Building Upgrade Agreement (May only be delegated to CEO)</p>
<p>157.1 The power pursuant to Clause 2(1) of Schedule 1B of the Act, subject to Clause 2 of Schedule 1B of the Act, to, in relation to a building situated on land within the area of the Council, enter into an agreement (a <i>building upgrade agreement</i>) under which:</p>
<p>157.1.1 the building owner agrees to undertake upgrade works in respect of the building; and</p>
<p>157.1.2 a finance provider agrees to advance money to the building</p>

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owner for the purpose of funding those upgrade works; and
157.1.3 the Council agrees:
157.1.3.1 to levy a charge on the relevant land (a <i>building upgrade charge</i>), to be paid by the building owner, for the purpose of recouping the money advanced by the finance provider for the upgrade works (and any interest or other charges payable to the finance provider under the agreement); and
157.1.3.2 to pay to the finance provider any money paid to the Council by way of the building upgrade charge (other than any service fee or late payment fee that the Council is permitted by the agreement to deduct and retain).
157.2 The power pursuant to Clause 2(3) of Schedule 1B of the Act to include in a building upgrade agreement, payment to the finance provider of penalty interest on money advanced by the finance provider under the agreement, at such rate as determined in accordance with the regulations, and, if the regulations do not provide for the determination of the rate at such rate as determined in accordance with the agreement.
157.3 The power pursuant to Clause 2(4) of Schedule 1B of the Act to agree that a building upgrade agreement may be entered into by any other persons that the delegate considers should be parties to the agreement.
158. Variation or Termination of Agreement (<i>May only be delegated to CEO</i>)
158.1 The power pursuant to Clause 4 of Schedule 1B of the Act to vary or terminate a building upgrade agreement by further agreement between the primary parties.
159. Contents of Agreement (<i>May only be delegated to CEO</i>)
159.1 The power pursuant to Clause 5(1) of Schedule 1B of the Act to make a building upgrade agreement in writing and specify:
159.1.1 the upgrade works to be undertaken by or on behalf of the building owner under the agreement; and
159.1.2 the amount of money to be advanced by the finance provider under the agreement; and
159.1.3 the amount of the building upgrade charge to be levied by the Council under the agreement; and

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159.1.4	the schedule for the payment, by the building owner, of a building upgrade charge to the Council; and
159.1.5	the amount of, or a method for calculating the amount of, any service fee or late payment fee that the Council may deduct and retain; and
159.1.6	any prescribed matters.
159.2	The power pursuant to Clause 5(2) of Schedule 1B of the Act to, in a building upgrade agreement:
159.2.1	provide for the early repayment of any amount payable under the agreement; and
159.2.2	include and agree to other provisions.
160. Declaration of Building Upgrade Charge <i>(May only be delegated to CEO)</i>	
160.1	The power pursuant to Clause 6(1) of Schedule 1B of the Act, after the Council enters into a building upgrade agreement, to, in accordance with the terms of the agreement, declare a building upgrade charge in respect of the relevant land (being a charge of the agreed amount specified in the building upgrade agreement).
160.2	The power pursuant to Clause 6(2) of Schedule 1B of the Act, if the Council or delegate declares a building upgrade charge, to, within 28 days after the declaration give the building owner written notice in accordance with Clauses 6(3) and (4) of Schedule 1B of the Act specifying:
160.2.1	the name and address of the building owner; and
160.2.2	a description of the relevant land in respect of which the building upgrade charge is being levied; and
160.2.3	the building upgrade agreement under which the building upgrade charge is being levied; and
160.2.4	the amount for which the building owner is liable; and
160.2.5	the manner of payment of the amount; and
160.2.6	the due date for payment of the amount, in accordance with the schedule for the payment of the building upgrade charge to the Council (specified in the building upgrade agreement); and
160.2.7	the amount of, or method of calculating, any service fee of the Council authorised by the building upgrade agreement and any

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late payment fee that may be imposed by the Council if the building owner fails to pay an amount for which the building owner is liable by the due date; and
160.2.8 any prescribed matters.
160.3 The power pursuant to Clause 6(4) of Schedule 1B of the Act, to, in relation to each payment in respect of a building upgrade charge for which a building owner is liable, give a notice under Clause 6(2) of Schedule 1B of the Act to the building owner at least 28 days before the date for payment specified in the notice.
161. Payment of Building Upgrade Charge
161.1 The power pursuant to Clause 7(2) of Schedule 1B of the Act, on payment of money in respect of a building upgrade charge to the Council, to deduct and retain any service fee and late payment fee authorised by the building upgrade agreement.
161.2 The power pursuant to Clause 7(3) of Schedule 1B of the Act in relation to money paid to the Council in respect of a building upgrade charge, to, other than any service fee and late payment fee retained by the Council,
161.2.1 hold that money on behalf of the finance provider pending payment to the finance provider; and
161.2.2 pay that money to the finance provider in accordance with the terms of the building upgrade agreement under which the charge was levied.
162. Sale of Land for Non-payment of Building Upgrade Charge
162.1 The power pursuant to Clause 9(1) of Schedule 1B of the Act, subject to clause 9 of Schedule 1B of the Act to, if an amount for which a building owner is liable in respect of a building upgrade charge remains unpaid for more than 3 years, sell the relevant land in accordance with the regulations.
162.2 The power pursuant to Clause 9(2) of Schedule 1B of the Act to, apply any money received by the Council in respect of the sale of land under Clause 9 of Schedule 1B of the Act as follows:
162.2.1 firstly – in paying the costs of the sale and any other costs incurred in proceeding under Clause 9 of Schedule 1B of the Act;
162.2.2 secondly – in discharging any liabilities to the Council in respect of the land (other than any building upgrade charge, service fee or late payment fee in relation to a building upgrade

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charge);
162.2.3 thirdly – in discharging any liability to the Council for a building upgrade charge, service fee or late payment fee in relation to a building upgrade charge;
162.2.4 fourthly – in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;
162.2.5 fifthly – in discharging any liabilities secured by registered mortgages, encumbrances or charges;
162.2.6 sixthly – in discharging any other mortgages, encumbrances or charges of which the Council has notice;
162.2.7 seventhly – in payment to the owner of the land.
162.3 The power pursuant to Clause 9(3) of Schedule 1B of the Act, if the owner cannot be found after making reasonable inquiries as to his or her whereabouts, to deal with an amount payable to the owner as unclaimed money under the Unclaimed Moneys Act 1891.
163. Repayment of Advances to Finance Provider
163.1 The power pursuant to Clause 10(2) of Schedule 1B of the Act, if a building upgrade agreement is terminated before all the money that the finance provider agreed to advance to the building owner is advanced, to:
163.1.1 adjust the building upgrade charge to reflect the lower amount advanced to the building owner; and
163.1.2 give the building owner written notice of the adjustment.
163.2 The power pursuant to Clause 10(3) of Schedule 1B of the Act, if, as a result of an adjustment being made to a building upgrade charge under clause 10 of Schedule 1B of the Act:
163.2.1 the building owner has made payment in respect of the charge in excess of the adjusted amount; and
163.2.2 the excess amount has been paid by the Council to the finance provider,
to refund the building owner the excess amount paid.
164. Register of Building Upgrade Agreements
164.1 The power pursuant to Clause 13(1) of Schedule 1B of the Act to keep

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a register of building upgrade agreements in accordance with Clause 13(2) of Schedule 1B of the Act.
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164.2 The power pursuant to Clause 13(3) of Schedule 1B of the Act to make available the register for inspection (without charge) by a member of the public at the principal office of the Council during ordinary office hours and to provide a person with an extract from the register (without charge).

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

SCHEDULE OF CONDITIONS

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

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

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

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Last amended: 1 July 2019

ATTACHMENT 4

**INSTRUMENT OF DELEGATION UNDER THE
STATE RECORDS 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

1.	Surveys of Official Records and Record Management
1.1	The power pursuant to Section 15(2) of the State Records Act 1997 (the Act) to, afford the Manager reasonable cooperation and assistance in the conduct of a survey under Section 15 of the Act.
2.	Voluntary Transfer to State Records' Custody
2.1	The power pursuant to Section 18(1) of the Act to, subject to Section 18(2) of the Act, deliver any of the Council's records into the custody of State Records.
3.	Mandatory Transfer to State Records' Custody
3.1	The power pursuant to and subject to Section 19(1) of the Act, to deliver an official record of the Council into the custody of State Records (unless sooner delivered to State Records) or dispose of an official record of the Council in accordance with this Act):
3.1.1	when the Council ceases to require access to the record for current administrative purposes; or
3.1.2	during the year occurring 15 years after the record came into existence,
	whichever first occurs.
3.2	The power pursuant to and subject to Section 19(3) of the Act, to postpone the delivery of records into the custody of State Records:

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**INSTRUMENT OF DELEGATION UNDER
STATE RECORDS ACT 1997**

3.2.1	in accordance with record management standards issued by the Manager; or
3.2.2	with the Manager's approval, in cases where the Manager is satisfied (after consultation with the Council) that the records are further required for current administrative purposes or should be retained for any other special reason.
3.3	The power pursuant to Section 19(3)(c) of the Act, to make submissions to the Manager for the delivery of records into the custody of State Records to be postponed.
3.4	The power pursuant to Section 19(5) of the Act, to apply to the Manager for an exemption granted under Section 19(4) of the Act to be varied or revoked.
4.	Keeping of Official Records in Premises Other than State Records' Premises
4.1	The power pursuant to Section 22(2) of the Act, to require an arrangement under Section 22(1) of the Act to be subject to such conditions as the Delegate may reasonably require.
5.	Disposal of Official Records by Agency
5.1	The power pursuant to Section 23(1) of the Act, to dispose of official records in accordance with a determination made by the Manager with the approval of the State Records Council.
5.2	The power pursuant to Section 23(2) of the Act, to request the Manager make a determination as to the disposal of official records.
5.3	The power pursuant to Section 23(4) of the Act, if there is a dispute as to a determination under Section 23 of the Act to make an application to the Minister to determine the matter.
6.	Disposal of Official Records by Manager
6.1	The power pursuant to Section 24(3) of the Act, to consent and make submissions to the Minister in relation to the disposal of a record under Section 24(1) of the Act.
7.	Agency's Access to Records in Custody of State Records
7.1	The power pursuant to Section 25(1) of the Act, to have such access to, and make or direct such use of as the Delegate requires, official records in the custody of State Records for which the Council is responsible.
7.2	The power pursuant to Section 25(3) of the Act, if there is a dispute as to

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**INSTRUMENT OF DELEGATION UNDER
STATE RECORDS ACT 1997**

	access under Section 25 of the Act, to make an application to the Minister to determine the matter.
8.	Public Access to Records in Custody of State Records
8.1	The power pursuant to Section 26(1) of the Act, in relation to official records in the custody of State Records for which the Council is responsible, to, in consultation with the Manager:
8.1.1	determine that access to the record (other than by the Council) is not subject to any restrictions other than those determined by the Manager under Section 26(2) of the Act; or
8.1.2	determine conditions excluding or restricting access to the record.

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**INSTRUMENT OF DELEGATION UNDER
STATE RECORDS 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
Nil	Nil

ITEM	3.6.5
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	16 September 2019
HEADING	Public Interest Disclosure Act 2018 Policy
AUTHOR	Janet Crook, Risk & Governance Program Manager, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	The <i>Public Interest Disclosure Act 2018 (SA)</i> came into operation on 1 July 2019 and repeals the <i>Whistleblowers Protection Act 1993</i> . On 13 August 2019 the Executive Group approved a document setting out procedures for a person who wants to make an appropriate disclosure of public interest information, and for officers and employees dealing with such a disclosure. That document is called the Public Interest Disclosure Act 2018 Policy.

RECOMMENDATION

1. That Council note the Public Interest Disclosure Act 2018 Policy to respond to the *Public Interest Disclosure Act 2018*.

ATTACHMENTS

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

1. Public Interest Disclosure Act 2018 Policy

1. BACKGROUND

- 1.1 On 1 July 2019 the *Public Interest Disclosure Act 2018* (“the Act”) came into operation and repealed the *Whistleblowers Protection Act 1993*.
- 1.2 The objects of the Act are to encourage and facilitate the disclosure, in the public interest, of information about substantial risks to public health or safety, or to the environment, and about corruption, misconduct and maladministration in public administration by:
 - 1.2.1 Ensuring that proper procedures are in place for the making of such disclosures and for dealing with such disclosures; and
 - 1.2.2 Providing appropriate protections for those who make such disclosures.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Nil
- 2.2 External
 - 2.2.1 Kelledy Jones Lawyers

3. REPORT

- 3.1 The Act states that it is “*An Act to encourage and facilitate disclosures of certain information in the public interest by ensuring that proper procedures are in place for making and dealing with such disclosures and by providing protection for persons making such disclosures; to make related amendments to the Local Government Act 1999 and the Public Sector Act 2009; to repeal the Whistleblowers Protection Act 1993; and for other purposes.*”
- 3.2 The principal officer of the council is the Chief Executive Officer.
- 3.3 Section 12(4) of the Act provides that “*the principal officer of a public sector agency must ensure that a document setting out procedures-*
- (a) for a person who wants to make an appropriate disclosure of public interest information to the agency; and*
 - (b) for officers and employees of the agency dealing with such a disclosure,*
- is prepared and maintained in accordance with any applicable guidelines prepared under section 14.*”
- 3.4 Notably, the section relates to public officers of a public sector agency. It does not specify public officers of a council. A council does not fall under the definition of a public sector agency for the purposes of the *Public Sector Act 2009*. There is no statutory requirement for City of Salisbury to prepare and maintain a document such as that set out in section 12(4), however it is recommended that City of Salisbury have one because elected members, officers and employees of the Council will all be ‘relevant officers’ for the purposes of the Act. Therefore, having a procedure document in place will assist them in understanding the Act and their responsibilities.
- 3.5 Accordingly, and in accordance with the Act, the policy was developed and put in place as of 13 August 2019. The Public Interest Disclosure Act 2018 Policy appears as Attachment 1 to this report.
- 3.6 The procedure:
- 3.6.1 provides a process by which an appropriate disclosure of public interest information may be made by a person to a relevant authority at the Council;
 - 3.6.2 specifies the manner in which the relevant authority at the Council will receive such a disclosure, including the manner in which the information may be safely received and stored;
 - 3.6.3 sets out the criteria that will be applied in the assessment of a public interest information disclosure and the manner in which the details of the assessment will be securely stored; and
 - 3.6.4 specifies the manner in which an informant will be notified as to action taken in respect of an appropriate disclosure of public interest information.

4. CONCLUSION / PROPOSAL

- 4.1 On 1 July 2019 the Act came into operation and repealed the *Whistleblowers Protection Act 1993*.
- 4.2 The Act provides that a public sector agency must have a document setting out the procedures for a person who wants to make an appropriate disclosure of public interest information and for officers and employees of the agency dealing with such a disclosure.
- 4.3 While the Act does not prescribe that the principal officer of a council must put a procedure in place, City of Salisbury adopts a procedure for the benefit of staff and potential informants.

CO-ORDINATION

Officer: Executive Group
Date: 09/09/2019



Public Interest Disclosure Act 2018 Policy

Policy Type:	Policy	Decision No:	
Approved By:	Executive Group	Last Reapproval Date:	
Approval Date:	13 August 2019	Internal Reference No.:	
Review Date:	August 2020	Division:	Governance
Department:	CEO and Governance	Responsible Officer:	Manager, Governance
Function:	9 - Governance		

A - PREAMBLE

1. Principal Officer's Statement

As the Chief Executive Officer of the City of Salisbury ("the Council"), I am also the *principal officer* of the Council for the purposes of the *Public Interest Disclosure Act 2018* ("the Act").

In giving effect to my role as *principal officer*, I have caused the preparation of this Procedure which sets out the process for a person (an informant) who wishes to make an *appropriate disclosure of public interest information* to the Council. It also sets out the process for officers, employees and elected members of the Council in dealing with such disclosures.

The Council is committed to the protection of informants, as well as to the genuine and efficient consideration and action of *appropriate disclosures of public interest information* made under the Act.

In my capacity as CEO and *principal officer*, I expect that all *appropriate disclosures of public interest information* made to a relevant authority at the Council will be dealt with in the strictest confidence and with the utmost priority.

In preparing this Procedure, the Council is giving effect to its obligations under the Act to encourage and facilitate *disclosures of public interest information* by ensuring that proper procedures are in place for making and dealing with such disclosures and by providing protections, in accordance with the Act, for persons who make disclosures.

Chief Executive Officer

B - SCOPE

1. The City of Salisbury ("the Council") is committed to its obligations to act as a representative, informed and responsible public authority and supports its officers, employees and elected members to uphold the values of honesty, integrity, accountability and transparency, for the purposes of fostering community confidence and trust in the Council specifically but also in Local Government

generally.

2. This Procedure applies to all officers, employees, and elected members of the Council, as well as to all persons who make an appropriate disclosure of public interest information to a relevant authority at the Council for the purposes of the Act.

C – POLICY PURPOSE/OBJECTIVES

1. This Procedure has been developed to ensure that the Council, in meeting its obligations under the Act, encourages and facilitates appropriate disclosures of public interest information and, in doing so, provides protections in accordance with the Act for persons making such disclosures.
2. This Procedure:
 - 2.1. provides a process by which an appropriate disclosure of public interest information may be made by a person to a relevant authority at the Council;
 - 2.2. specifies the manner in which the relevant authority at the Council will receive such a disclosure, including the manner in which the information may be safely received and stored;
 - 2.3. sets out the criteria that will be applied in the assessment of a public interest information disclosure and the manner in which the details of the assessment will be securely stored; and
 - 2.4. specifies the manner in which an informant will be notified as to action taken in respect of an appropriate disclosure of public interest information.
3. The Council recognises its responsibilities under the Act to not only support persons who make an appropriate disclosure of public interest information, but also to those persons to whom the information relates.

D – DEFINITION

1. *Act* means the *Public Interest Disclosure Act 2018 (SA)*.
2. *appropriate disclosure* means a disclosure of public interest information made in the manner described in clause 4 of this Procedure.
3. *Council* is a comprehensive term and is to be read, as necessary, as encompassing officers, employees and elected members of the Council.
4. *detriment* takes its meaning from section 9(7) of the Act and includes loss or damage (including damage to reputation); or injury or harm (including psychological harm); or intimidation or harassment; or discrimination, disadvantage or adverse treatment in relation to a person's employment; or threats of reprisal.
5. *environmental and health information* is information that raises a potential issue of a substantial risk to the environment, or to the health or safety of the public generally, or a significant section of the public, whether occurring before or after the commencement of the Act.
6. *Guidelines* means the Public Interest Disclosure Guidelines published by the ICAC/OPI.

7. **ICAC Act** means the *Independent Commissioner Against Corruption Act 2012 (SA)*
8. **informant** means a person who makes an appropriate disclosure of public interest information under the Act.
9. **OPI** means the Office for Public Integrity established under the ICAC Act.
10. **principal officer** means the Chief Executive Officer of the Council.
11. **public administration information** is information that raises a potential issue of corruption, misconduct or maladministration in public administration (as those terms are defined under the ICAC Act), whether occurring before or after the commencement of the Act.
12. **public interest disclosure** and **disclosure** are used interchangeably in this Procedure and mean an appropriate disclosure of public interest information under the Act.
13. **public interest information** means:
 - 13.1. environmental and health information; or
 - 13.2. public administration information.
14. **public officer** has the same meaning as in the ICAC Act and includes officers, employees and elected members of the Council.
15. **recipient** includes a relevant authority to whom a disclosure has been made, a relevant authority to whom such a disclosure is referred (which includes a Responsible Officer or the CEO of the Council), or a person who otherwise knows that such a disclosure has been made.
16. **relevant authority** is defined at section 5(5) of the Act and includes, but is not limited to;
 - 16.1. where the information relates to a public officer, a person who is responsible for the management or supervision of the public officer, or a Responsible Officer; and
 - 16.2. where the information relates to a location within the area of the Council, a member, officer or employee of the Council.
17. **responsible officer** means a person designated as a responsible officer by the CEO under section 12 of the Act and is also a relevant authority for purposes of the Act.

E - POLICY STATEMENT

1. Appropriate Disclosures

- 1.1. The Act establishes a scheme to encourage and facilitate the appropriate disclosure of public interest information to a relevant authority.
- 1.2. Subject to the provisions of the Act, if a person makes an appropriate disclosure of public interest information to a relevant authority, the person will not be subject to any liability as a result of that disclosure and is entitled to have their identity kept confidential.
- 1.3. Public interest information means:

- 1.3.1. environmental and health information; and
 - 1.3.2. public administration information.
 - 1.4. Immunity for an appropriate disclosure of public interest information will follow if:
 - 1.4.1. a person makes an appropriate disclosure of environmental and health information; or
 - 1.4.2. a public officer makes an appropriate disclosure of public administration information.
 - 1.5. Whilst anyone can make a disclosure of public administration information, **only public officers** who make such a disclosure are eligible for the protections provided under the Act.
 - 1.6. *Environmental and Health Information*
 - 1.6.1. A person makes an appropriate disclosure of environmental and health information for the purposes of the Act if the disclosure is made to a relevant authority and the person:
 - 1.6.1.1. believes on reasonable grounds that the information is true; or
 - 1.6.1.2. not being in a position to form such a belief, believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated
 - 1.6.2. Where the information relates to a location within the area of the Council, a person may make a disclosure to an elected member, officer or employee of the Council.
 - 1.1. *Public Administration Information*
 - 1.1.1. A public officer makes an appropriate disclosure of public administration information for the purposes of the Act if the disclosure is made to a relevant authority and the public officer reasonably suspects that the information raises a potential issue of corruption, misconduct or maladministration in public administration, as those terms are defined under the ICAC Act.
 - 1.1.2. Where the information relates to a public officer, a person who is designated under the Guidelines or a person who is responsible for the management or supervision of that public officer or a responsible officer, are relevant authorities for the purposes of the Act.
 - 1.1.3. For the avoidance of doubt, where the public administration information relates to a location within the area of the Council, an elected member, officer or employee of the Council **are also** relevant authorities for the purposes of the Act.
- 2. Assessment of a Disclosure**
- 2.1. A relevant authority of the Council to whom an appropriate disclosure of public interest information is made, must assess the information as soon as practicable after its disclosure.
 - 2.2. The criteria that will be applied to the initial assessment of the information will include, (but not necessarily be limited to), whether it:
 - 2.2.1. relates to information within the scope of the Act, namely whether it pertains to environmental and health information and/or public administration information;

- 2.2.2. raises matters that are within the Council’s scope of authority, including if the information relates to a location within the area of the Council, or to an officer, employee or elected member of the Council;
 - 2.2.3. justifies the taking of further action, or relates to a matter that has already been investigated or acted upon by a relevant authority (whether by the Council or other relevant authority) and there is no reason to re-examine the matter, or there is other good reason why action should not be taken in respect of the matter; and
 - 2.2.4. gives rise to a concern of imminent risk of serious physical injury or death to any person, or the public generally, in which case, the relevant authority will need to give immediate consideration to the matters set out at clause 5.7.
- 2.3. If the relevant authority of the Council who receives the disclosure, being an officer, employee or elected member, determines that they **require assistance** with the appropriate assessment and management of the disclosure, the recipient is **encouraged to seek the assistance of a responsible officer** of the Council (or the CEO, in circumstances where the disclosure relates to the responsible officer(s)), who are also each relevant authorities for the purposes of the Act.
- 2.4. It is also open for the relevant authority who receives the disclosure, to determine, based on the training, expertise, access to resources and appropriate support mechanisms in place at the Council, that it is appropriate, in all of the circumstances, **to refer the disclosure to the responsible officer** (or the CEO) for action, in accordance with section 7(3) of the Act.
- 2.5. Nothing in this Procedure, or under the Act, prevents a relevant authority of the Council who has received a disclosure, or who is assisting in the assessment and management of a disclosure, from obtaining legal advice from one of the Council’s legal advisors.
- 2.6. In giving effect to the above, consideration must be carefully given as to whether the identity of the informant is required to be disclosed, noting that section 8 of the Act requires that the identity of an informant is to be kept confidential, **except so far as may be necessary to ensure that the matters to which the information relates are properly investigated.**
- 2.7. Following the assessment of the information the subject of the disclosure:
- 2.7.1. if the content gives rise to a concern of imminent risk of serious physical injury or death to any person, or the public generally, the recipient must immediately communicate such information as may be necessary to mitigate that risk to the most appropriate agency, such as SAPOL, SafeWorkSA, SA Ambulance or the Environment Protection Authority;
- and
- 2.7.2. if the recipient of the public interest disclosure forms a reasonable suspicion that the matter(s), the subject of the disclosure, involves corruption in public administration, or serious systemic misconduct or maladministration, the recipient of the disclosure must also comply with his or her reporting obligations under the ICAC Act.
- 2.8. If the recipient of a public interest disclosure, or other relevant authority of the Council to whom a disclosure has been referred, assesses the content of the disclosure as requiring no further action, the recipient of the disclosure must notify the informant (if his or her identity is known) within thirty (30) days that:
- 2.8.1. an assessment of the information has been made;

- 2.8.2 no action is being taken in relation to the information; and
- 2.8.3 the reasons why no action is being taken in relation to the information.
- 2.9 If the recipient of a public interest disclosure assesses the content of the disclosure as **requiring further action**, the recipient of the disclosure must ensure that:
- 2.9.1 such action as appropriate in the circumstances is taken to ensure the matter(s), subject of the public interest disclosure, are properly addressed; or
- 2.9.2 if such action consists of referring the disclosure (whether to a responsible officer, or to the CEO of the Council, or to another relevant authority), such information as is necessary to enable action to be taken is communicated to the most appropriate person or relevant authority to take such action.
- 2.10 If the recipient has assessed the disclosure as requiring further action, the recipient of the disclosure must notify the informant (if his or her identity is known) within thirty (30) days of the action being taken in relation to the information.
- 2.11 If the action taken does not consist of referring the disclosure, the relevant authority with the Council responsible for the management of the disclosure must, **within ninety (90) days** of receiving the disclosure, take reasonable steps to notify the informant (if his or her identity is known) of the outcome of that action.
- 2.12 Notification to the informant can occur by personal meeting, telephone, email or letter, on election at the absolute discretion of the informant.
- 2.13 If an informant is dissatisfied with the manner in which his or her disclosure has been managed, or otherwise believes that his or her disclosure has been dealt with inappropriately, the informant may contact a responsible officer at the Council, (or the CEO if their concern pertains to the responsible officer(s)) to express their concern at the first instance.
- 2.14 Following which, the responsible officer (or CEO), will review the disclosure and confirm with the informant the assessment made, and the action to be taken.
- 2.15 If the informant remains dissatisfied following the further assessment made by a responsible officer (or CEO, as the case may be), it is open to the informant to make the public interest disclosure to an alternative relevant authority, such as the Ombudsman or the OPI.
- 3. Notifying the OPI**
- 3.1. Following receipt, and assessment, of a public interest disclosure, irrespective of whether the relevant authority at the Council responsible for the disclosure determines that further action is, or is not, required, the recipient of the public interest disclosure **must** notify the OPI as soon as reasonably practicable that they are in receipt of a public interest disclosure.
- 3.2. Notification is to occur by way of the notification form on the ICAC website (www.icac.sa.gov.au) and **must include** the following information:
- 3.2.1. the date the disclosure was received;
- 3.2.2. the name and contact details of the recipient of the disclosure (being the relevant authority with the Council who initially received the disclosure);

3.2.3.a summary of the content of the disclosure;

3.2.4.the assessment made of the disclosure;

3.2.5.the action taken by the recipient of the disclosure, including:

- a. whether the disclosure was referred to another relevant authority (including to a responsible officer or the CEO of the Council), public authority, public officer, or another person; and
- b. if the disclosure was referred to a relevant authority, public authority, public officer or another person:
 - (i) the date of the referral;
 - (ii) the identity of that relevant authority, public authority, public officer or another person;
 - (iii) the manner of the referral; and
 - (iv) the action to be taken by that relevant authority, public authority or public officer or another person (if known).

3.2.6.whether the identity of the informant is known only to the recipient of the disclosure, or if the identity of the informant has been communicated to another relevant authority, public authority, public officer or other person (and if so, the reasons why); and

3.2.7.if no action was taken by the recipient of the disclosure, the reasons why.

3.3. The recipient of the disclosure must retain the unique reference number issued by the OPI upon making a notification and must provide this to any other person or authority to whom the disclosure is referred.

4. Action Taken on a Disclosure

- 4.1. Informants who make an appropriate disclosure of public interest information must provide sufficient detail and evidence for the matter to be assessed.
- 4.2. If the relevant authority determines that there is not sufficient evidence to facilitate an assessment of a disclosure of public interest information, no action can be taken on the disclosure, and the OPI will be advised accordingly.
- 4.3. Relevant authorities with the Council **will not** be responsible for investigating disclosures of public administration information (being information that raises a potential issue of corruption, misconduct or maladministration in public administration) **in the absence of a direction to do so from the Manager OPI or the ICAC.**
- 4.4. Conversely, appropriate disclosures of environmental and health information **may be** assessed and subsequently investigated by or on behalf of a relevant authority with the Council.
- 4.5. The outcomes of any investigation into a disclosure of environmental and health information will be reported to the CEO, and the relevant authority of the Council, responsible for the management of the investigation, will notify the informant of the outcome (where his or her identity is known).

4.6. If a relevant authority with the Council takes action in response to the receipt of a public interest information disclosure (which does not consist of a referral), the relevant authority with the Council responsible for the management of the disclosure, must, as soon as reasonably practicable, provide the OPI with information in relation to the outcome of the action taken by way of the online notification form (www.icac.sa.gov.au) detailing:

4.6.1.the unique identification number issued by the OPI upon notification of the original disclosure;

4.6.2.the name and contact details of the notifier;

4.6.3.the name and contact details of the person or authority responsible for taking the action;

4.6.4.what (if any) findings were made in respect of the disclosure;

4.6.5.the nature of the action taken (if any);

4.6.6.the outcome of any action taken;

4.6.7.whether the identity of the informant was disclosed to a person other than the original recipient of the disclosure; and

4.6.8.whether the informant was notified of the action taken and, if so, when that notification was made.

5. Confidentiality

5.1. In accordance with section 8 of the Act, it is a **criminal offence** for the identity of an informant to be disclosed in the absence of his or her consent unless:

5.1.1.it is necessary to divulge the identity of the informant to ensure that the matters to which the information relates are properly investigated;

or

5.1.2. the recipient believes on reasonable grounds that it is necessary to divulge the identity of the informant to prevent or lessen an imminent risk of serious harm to any person; and

5.1.3. the identity of the informant is divulged to a person or authority that the recipient believes on reasonable grounds is the most appropriate authority or person to be able to take action to prevent or minimise the imminent risk of serious harm;

or

5.1.4. the recipient has been issued with a notice from the OPI advising that the identity of the informant is required by the OPI, in which case the recipient may disclose the identity of the informant to the OPI.

5.2. The details of the public interest disclosure and its assessment, will be securely stored in confidential electronic and hard copy files by the Council and will only be accessible by the recipient, or another relevant authority of the Council, involved in the assessment and management of the disclosure.

- 5.3 The Responsible Officer(s) of the Council are required to ensure, so far as reasonably practicable, that all information in relation to public interest disclosures are received and maintained in a confidential manner.
- 5.4 In giving effect to this responsibility, a responsible officer may employ security measures including, but not limited to:
- 5.4.1 keeping all printed material in secure files that are clearly marked as “CONFIDENTIAL”, and which warn of the criminal penalties that apply to any unauthorised access, use or divulging of information concerning a public interest disclosure;
 - 5.4.2 keeping all printed material in a locked cabinet that is only accessible to the relevant authority at the Council who is responsible for the management of the assessment and/or action of the disclosure;
 - 5.4.3 assigning specific password protections to all electronic material, which are provided to only the relevant authority at the Council who is responsible for the management of the assessment and/or action of the disclosure;
 - 5.4.4 ensuring that all electronic material is only accessible by the relevant authority at the Council who is responsible for the management of the assessment and/or action of the disclosure; and
 - 5.4.5 conducting all telephone calls and meetings in relation to a public interest disclosure privately and in the strictest of confidence.
- 5.5 Council may elect to tailor additional IT treatments or other measures in relation to the receipt and management of disclosures.
- 5.6 A public interest disclosure can also be securely received by a responsible officer at the Council in the first instance, in person, by telephone, in writing or via email.
- 5.7 Written disclosures should be addressed as follows:
- Confidential
Responsible Officer
12 James Street, Salisbury SA 5108
- 5.8 Additional contact details for the Council’s responsible officer(s) are as follows:
- Manager Governance
Telephone: 08 8406 8331
Email: mpetrovski@salisbury.sa.gov.au
- Manager People and Culture
Telephone: 08 8406 8203
Email: gspage@salisbury.sa.gov.au
- Risk and Governance Program Manager
Telephone: 08 8406 8508
Email: jcrook@salisbury.sa.gov.au

6. Subject of a Public Interest Disclosure

- 6.1. In accordance with section 12 of the Act, the CEO must ensure there are risk management steps for assessing and minimising detriment to people against whom allegations are made in a public interest disclosure.
- 6.2. The Council commits to providing the same protections to persons, subject of a disclosure, as to informants, which will include, but not necessarily be limited to:
- 6.2.1. keeping the identity of the informant, and the subject of the disclosure, confidential;
- 6.2.2. flexibility as to when meetings are held, if and when necessary; and
- 6.2.3. the opportunity to make reasonable requests in relation to how and when the relevant authority of the Council, responsible for the management of the disclosure, makes contact with them, to minimise the potential for the person (being either the informant, or subject of the disclosure) to be subject to detriment.

7. Review

- 7.1. This Procedure will be reviewed annually, or as required as a consequence of amendments to the Act, Regulations, Guidelines or the public integrity statutory framework generally.

8. Availability of the Procedure

- 8.1. This Procedure is available for inspection at the Council offices during ordinary business hours at 8:30am-5:00pm.
- 8.2. A copy of the Procedure will also be provided to the public upon request and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.
- 8.3. The Procedure is also available to download via the Council's website www.salisbury.sa.gov.au

F - LEGISLATION

1. *Public Interest Disclosure Act 2018*

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