



Reference: AF11/861 TLG

8th April, 2015

MEMBERS

NOTICE is hereby given that the Corporate and Community Services Committee will meet in the following Meeting Room on the day, date and time as follows:

Corporate and Community Services Committee
(Reception Area - Level 4):

Monday, 13th April, 2015 at 5.30 p.m.

An agenda for the meeting is enclosed herewith.

Mark McSHANE
CHIEF EXECUTIVE OFFICER

CORPORATE AND COMMUNITY SERVICES COMMITTEE

Meeting to be held on Monday, 13th April, 2015 at 5.30 p.m.

CONTENTS

1. FINANCIAL STATEMENT – as at 31st March, 2015
2. GOVERNANCE – Committees – Audit (Section 41) Committee – Minutes of Meeting held 24th March, 2015
3. GOVERNANCE – Committees – City Development Framework Sub-Committee – Minutes of Meeting held 20th March, 2015
4. GOVERNANCE – Committees – City of Mount Gambier Junior Sports Assistance Fund (Section 41) – Minutes of Meeting held 24th March, 2015
5. CORPORATE AND COMMUNITY SERVICES REPORT NO. 21/2015 – Financial Sustainability – Key Financial Indicators
6. CORPORATE AND COMMUNITY SERVICES COMMITTEE REPORT NO. 22/2015 - Members Allowances Policy - Computing Facilities
7. CORPORATE AND COMMUNITY SERVICES REPORT NO. 23/2015 - Policy Review – F225 Fraud and Corruption Prevention and W150 Whistleblowers Protection
8. CORPORATE AND COMMUNITY SERVICES REPORT NO. 24/2015 - Delegation of Powers of Council
9. CORPORATE AND COMMUNITY SERVICES REPORT NO 25/2015 - Policy Review – D140 – Development Act – Delegations

MOTIONS WITH NOTICE

MOTIONS WITHOUT NOTICE

CORPORATE AND COMMUNITY SERVICES COMMITTEE

Meeting to be held at the Reception Area, Level 4, Civic Centre, 10 Watson Terrace, Mount Gambier on Monday 13th April, 2015 at 5.30 p.m.

AGENDA

PRESENT: Cr S Perryman (Presiding Member)
Cr M Lovett, Cr J Lynagh, Cr S Meziniec, Cr H Persello

APOLOGY: moved that the apology from
be received.

seconded

COUNCIL OFFICERS: Director - Corporate Services, Grant Humphries
Manager Governance and Property, Michael McCarthy
Finance Manager, Gary Button
Manager Community Services and Development, Barbara Cernovskis
Administration Officer – Executive Support, Tracey Gritton

COUNCIL MEMBERS

AS OBSERVERS:

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

MINUTES: moved that the minutes of the previous meeting
held 10th March, 2015 be taken as read and confirmed.

seconded

QUESTIONS:

(a) With Notice - Nil received

(b) Without Notice -

1. FINANCIAL STATEMENT – as at 31st March, 2015

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance.

moved it be recommended the financial statement as at
31st March, 2015 be received.

seconded

2. GOVERNANCE – Committees – Audit (Section 41) Committee – Minutes of Meeting held 24th March, 2015 – Ref. AF11/863

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance

moved it be recommended:

Corporate and Community Services Committee Agenda, Monday 13th April, 2015 cont'd...

- (a) the minutes of the City of Mount Gambier Audit Committee meeting held on 24th March, 2015 be received;
- (b) recommendations (numbered 1 to 8) of the Audit Committee meeting held on Tuesday, 24th March, 2015 be adopted by Council.

1. COMMITTEE APPOINTMENTS/PRESIDING MEMBER

The report be received.

2. REPORTS FOR INFORMATION

The reports be received.

3. AUDIT WORK PROGRAM 2007-2014

The report be received.

4. CORPORATE AND COMMUNITY SERVICES REPORT NO. 21/2015 - Financial Sustainability - Key Financial Indicators

The report be received.

5. OPERATIONAL SERVICES REPORT NO. 6/2015 - Long Term Infrastructure and Asset Management Program

The report be received.

6. GOVERNANCE REPORT

The report be received.

7. FINANCIAL INTERNAL CONTROLS

The report be received

8. POLICY REVIEW - B300 BUDGET REPORTING AND AMENDMENT POLICY

(a) the report be received;

(b) that Council Policy B300 - Budget Reporting and Amendment be re-adopted with minor amendments as marked.

seconded

3. **GOVERNANCE – Committees – City Development Framework Sub-Committee – Minutes of Meeting held 20th March, 2015 – Ref. AF13/486**

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance

moved it be recommended:

- (a) the minutes of the City Development Framework Sub-Committee Meeting held on 20th March, 2015 be received;

Corporate and Community Services Committee Agenda, Monday 13th April, 2015 cont'd...

- (b) the following recommendation (numbered 1 to 2) of the City Development Framework Sub-Committee be adopted by Council;

1. CITY DEVELOPMENT FRAMEWORK – Hierarchy of the Strategic Planning Structure Ref. AF13/486 – Attachments – Strategic Planning Structure of Council, The Futures Paper, The Strategic Management Plan – Beyond 2015, the Corporate Plan and example Quarterly KPI Report

- (a) The report be received.
- (b) Council commence preparations to review the Strategic Plan – Beyond 2015.
- (c) A Council Member's Workshop comprising of two sessions be scheduled to:
- (i) assist Members to understand the role and process of Strategic Planning within an organisation.
- (ii) provide an overview and summary of the development of the Futures Paper as Council's long term strategic plan and the incorporation of the this framework into Council's new Strategic Plan.
- (d) External facilitators with relevant experience be invited to assist Members in these workshop sessions.

2. ECONOMIC DEVELOPMENT COMMITTEE – Charter Ref. AF 13/486

- (a) The report be received.
- (b) The Committee Structure of Council be reviewed as part of the Strategic Plan review and the development of the new Strategic Plan for Council.

seconded

4. **GOVERNANCE – Committees – City of Mount Gambier Junior Sports Assistance Fund (Section 41) – Minutes of Meeting held 24th March, 2015 – Ref. AF11/725**

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance

moved it be recommended:

- (a) the minutes of the City of Mount Gambier Junior Sports Assistance Fund Meeting held on 24th March, 2015 be received;
- (b) the following recommendation (numbered 1 to 9) of the City of Mount Gambier Sports Assistance Fund be adopted by Council;

1. STATEMENT OF INCOME AND EXPENDITURE – as at 28th February, 2015

The financial statement as at 28th February, 2015 with a cash balance of \$60,131 be received.

2. APPOINTMENT OF DEPUTY PRESIDING MEMBER

The report be received.

3. APPLICATIONS FOR FINANCIAL ASSISTANCE FOR JUNIORS

The report be received.

4. APPRECIATIONS - letters received/forwarded

The report be received.

5. GENERAL INFORMATION - Since 1st July 2014

The reports be received.

6. OTHER APPLICATIONS

The report be received.

7. MEMBER CONTRIBUTIONS – Unpaid Membership 2014/2015

(a) the report be received;

(b) a final reminder be sent to Member Organisations who have not paid their 2014/2015 Member contribution to the Junior Sports Assistance Fund advising if payment is not made on or before Friday 1st May, 2015 that they will be suspended from the Fund until their 2014/2015 contribution has been paid.

8. COACHING CLINICS APPLICATIONS - Second Call for 2014/15

(a) the report be received;

(b) the following application(s)/funding be made available in second call for 2014/15 to the Member Organisation named below to assist in the conduct of specialised coaching clinics in accordance with the guidelines for such Clinics and funded by the Mount Gambier and District Bendigo Community Bank:

(i) Shingokan Karate Mount Gambier \$1,480

(ii) Mount Gambier Showjumping Club Inc. \$1,450

(c) the successful Member Organisations to be reminded of their obligations to the Bank as detailed at (d) above.

9. COMMERCIAL CLUB INC. - Annual Donation - Exceptional Junior Program 2014

(a) the report be received;

(b) for the 2014 year the following junior receive the Commercial Club Inc. donation to assist that junior to advance in their chosen sport and to achieve their potential:

Awardee: DYLAN RIDDING
Mount Gambier and District Baseball League

- (c) the presentation of the Commercial Club Inc. donation take place at the Mount Gambier and District Baseball Clubrooms at a date and time to be confirmed.
- (d) details of the donation program and the awardee for 2014 be released to the media once the date of the presentation has been confirmed to allow media attendance.

seconded

5. CORPORATE AND COMMUNITY SERVICES REPORT NO. 21/2015 – Financial Sustainability – Key Financial Indicators - Ref: AF14/81

Goal: Governance

Strategic Objective: (i) Establish measures for Council's performance and continually compare against community expectations.
(ii) Engage with National, State, Regional and Local forums and partnerships to provide solutions and options to continually improve Councils service delivery and performance.

moved it be recommended:

- (a) Corporate and Community Services Report No. 21/2015 be received for information.

seconded

6. CORPORATE AND COMMUNITY SERVICES COMMITTEE REPORT NO. 22/2015 - Members Allowances Policy - Computing Facilities - Ref: AF12/371, AF11/1740

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance.

moved it be recommended:

- (a) Corporate and Community Services Report No. 22/2015 be received;
- (b) Council Policy M405 Members - Allowances, Reimbursements, Benefits and Facilities Policy be amended at clause 8 to reflect:
 - (i) the ability for Members to utilise the Council provided computing facilities (mobile computing device with mobile data plan) for limited private use.
 - (ii) that for each Member a maximum spend of \$600 per annum on mobile data be provided by Council after which time any further 'top-ups' be the responsibility of the Member.

seconded

7. CORPORATE AND COMMUNITY SERVICES REPORT NO. 23/2015 - Policy Review – F225 Fraud and Corruption Prevention and W150 Whistleblowers Protection - Ref: AF11/1950, AF11/1955

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance.

moved it be recommended:

- (a) Corporate and Community Services Report No. 23/2015 be received;
- (b) Council hereby adopts replacement Council Policy F225 – Fraud and Corruption Prevention, as provided with this report;
- (c) Council hereby adopts replacement Council Policy W150 – Whistleblowers Protection, as provided with this report;
- (d) Council makes the necessary amendments to Council's Policy Manual Index.

seconded

8. CORPORATE AND COMMUNITY SERVICES REPORT NO. 24/2015 - Delegation of Powers of Council - Ref: AF11/1020

Goal: Governance

Strategy: Demonstrate innovative and responsive organisational governance

moved it be recommended:

- (a) that having conducted its annual review of Councils Delegations Register in accordance with Section 44(6) of the Local Government Act, 1999, the Council:

1. Revocations

1.1 Hereby revokes all previous delegations to the Chief Executive Officer of those powers and functions under the following:

1.1.1 Community Titles Act 1996

1.1.2 Development Act 1993, Development (Development Plans) Amendment Act 2006 and Development Act Regulations 2008

1.1.3 Dog & Cat Management Act 1995

1.1.4 Electricity Act 1996

1.1.5 Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010

1.1.6 Expiation of Offences Act 1996

1.1.7 Fences Act 1975

1.1.8 Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005

- 1.1.9 Food Act 2001
- 1.1.10 Freedom of Information Act 1991
- 1.1.11 Graffiti Control Act 2001
- 1.1.12 Housing Improvement Act 1940
- 1.1.13 Land & Business (Sale and Conveyancing) Act 1994
- 1.1.14 Liquor Licensing Act 1997
- 1.1.15 Local Government Act 1934
- 1.1.16 Local Government Act 1999
- 1.1.17 Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005
- 1.1.18 Public Assemblies Act 1972
- 1.1.19 Roads (Opening & Closing) Act 1991
- 1.1.20 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
- 1.1.21 Supported Residential Facilities Act 1992
- 1.1.22 Unclaimed Goods Act 1987
- 1.1.23 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013.
- 1.1.24 Safe Drinking Water Act 2011
- 1.1.25 Real Property Act 1886
- 1.1.26 Strata Titles Act 1988
- 1.1.27 Work Health & Safety Act 2012
- 1.1.28 Heavy Vehicle National Law (South Australia) Act 2013
- 1.1.29 Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014
- 1.2 Hereby revokes its previous delegations to its Development Assessment Panel under the Development Act 1993 and Development Regulations 2008.

2. Delegations made under Local Government Act 1999

- 2.1 In exercise of the power contained in Section 44 of the Local Government Act 1999 the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Appendices 1 - 32

Corporate and Community Services Committee Agenda, Monday 13th April, 2015 cont'd...

(each of which is individually identified as indicated below) are hereby delegated this Tuesday, 21st April, 2015 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.

- 2.1.1 Community Titles Act 1996 (Appendix 1)
- 2.1.2 Dog & Cat Management Act 1995 (Appendix 2)
- 2.1.3 Electricity Act 1996 (Appendix 3)
- 2.1.4 Environment Protection Act 1993 (Appendix 4)
- 2.1.5 Expiation of Offences Act 1996 (Appendix 5)
- 2.1.6 Fences Act 1975 (Appendix 6)
- 2.1.7 Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005 (Appendix 7A and 7B)
- 2.1.8 Freedom of Information Act 1991 (Appendix 8)
- 2.1.9 Graffiti Control Act 2001 (Appendix 9)
- 2.1.10 Housing Improvement Act 1940 (Appendix 10)
- 2.1.11 Land & Business (Sale & Conveyancing) Act 1994 (Appendix 11)
- 2.1.12 Liquor Licensing Act 1997 (Appendix 12)
- 2.1.13 Local Government Act 1934 (Appendix 13)
- 2.1.14 Local Government Act 1999 (Appendix 14)
- 2.1.15 Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005 (Appendix 16)
- 2.1.16 Public Assemblies Act 1972 (Appendix 17)
- 2.1.17 Roads (Opening and Closing) Act 1991 (Appendix 18)
- 2.1.18 Road Traffic Act 1961, Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999 (Appendix 20)
- 2.1.19 Unclaimed Goods Act 1987 (Appendix 25)
- 2.1.20 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013 (Appendix 26)
- 2.1.21 Safe Drinking Water Act 2011 (Appendix 27)

2.1.22 Real Property Act 1886 (Appendix 28)

2.1.23 Strata Titles Act 1988 (Appendix 29)

2.1.24 Work Health & Safety Act 2012 (Appendix 30)

2.1.25 Heavy Vehicle National Law (South Australia) Act 2013 (Appendix 31)

2.1.26 Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014 (Appendix 32)

2.2 Such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the Local Government Act 1999 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.

2.3 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.

2.4 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

3. Delegations made under Development Act 1993

3.1 In exercise of the power contained in Section 20 and 34 (23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 21 are hereby delegated this 21st April, 2015 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.

3.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.

3.3 In exercise of the power contained in Section 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 21 and which are specified in Schedule I, attached to this Report are hereby delegated this 21st April, 2015 to the Council's Development Assessment Panel, subject to the conditions or limitations indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993:

Refer Schedule I (attached) for details of the Council Delegations to the Council Development Assessment Panel.

- 3.4 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.
- 3.5 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

4. Delegations made under Food Act 2001

- 4.1 In exercise of the powers contained in Section 91 of the Food Act 2001, the powers and functions under the Food Act 2001 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 22 are hereby delegated this 21st April, 2015 to the person occupying the office of Chief Executive Officer (“the head of the enforcement agency” for the purposes of the Food Act 2001), subject to the conditions or limitations indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Food Act 2001.
- 4.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Food Act 2001.
- 4.3 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.
- 4.4 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

5. Delegations under Supported Residential Facilities Act 1992

- 5.1 In exercise of the power contained in Section 9 of the Supported Residential Facilities Act 1992, the powers and functions under the Supported Residential Facilities Act 1992 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 24) are hereby delegated this 21st April, 2015 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 5.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 5.3 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.

- 5.4 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

6. Authorisations and Subdelegation under the Road Traffic Act 1961

- 6.1 In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the 'Instrument') the Council authorises the following person(s) pursuant to Clause A.7 of the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such person(s) shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements:

CHIEF EXECUTIVE OFFICER – Mark McShane
DIRECTOR OPERATIONAL SERVICES – Daryl Sexton

- 6.2 In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following person(s) is/are experienced traffic engineering practitioner(s) for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument:

DIRECTOR OPERATIONAL SERVICES – Daryl Sexton
ENGINEERING MANAGER – Daryl Morgan

- 6.3 In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in Section 33(1) of the Road Traffic Act 1961 and delegated to the Council pursuant to Clause G of the Instrument and contained in the proposed Instrument of Sub-delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 20A) is hereby sub-delegated this 21st of April 2015 to the person occupying the office of Chief Executive Officer of the Council subject to:

- (i) the conditions contained in the Instrument; and
- (ii) any conditions contained in this Resolution or in the Instrument of Subdelegation.; and
- (iii) the creation of a separate instrument in writing reflecting such subdelegation under the Instrument and this Resolution.
- (iv) For the purpose of this sub-delegation, the sub-delegation to the Chief Executive Officer extends to any person appointed to act in the position of Chief Executive Officer.

- 6.4 In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following person(s) has (have) an appropriate level of knowledge and expertise in the preparation of traffic management Plans:
DIRECTOR OPERATIONAL SERVICES – Daryl Sexton

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

- 7.1 In exercise of the power contained in Section 43 of the Safe Drinking Water Act 2011 the powers and functions of the Council as a relevant authority under the Safe Drinking Water Act 2011 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 27) are hereby delegated this 21st of April 2015 to the person occupying the office of Chief Executive Officer,

subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.

- 7.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.

seconded

9. **CORPORATE AND COMMUNITY SERVICES REPORT NO 25/2015 - Policy Review – D140 – Development Act – Delegations - Ref: AF11/1950**

Goal: Governance
Strategic Objective: Demonstrate innovative and responsive organisational governance.

moved it be recommended:

- (a) Corporate and Community Services Report No. 25/2015 be received;
- (b) Council hereby adopts new Council Policy D140 – Development Act – Delegations as attached to this Report;
- (c) Council makes the necessary amendments to Council's Policy Manual Index.

seconded

MOTIONS WITH NOTICE

MOTIONS WITHOUT NOTICE

Meeting closed at p.m.

TLG

FINANCIAL STATEMENT - Monthly Bank Reconciliation

as at 28/02/2015 \$		as at 31/03/2015 \$
	<u>GENERAL ACCOUNT (Westpac)</u>	
258,894.16 CR	OPENING BALANCE	675,921.65 CR
969,391.82	<u>PLUS</u> Receipts -	
519,759.98	Rates & Arrears	2,492,211.59
-	General	720,159.93
900,000.00	Receipt of Cash Advance Funds	
200,000.00	Transfer from CAD Loan 103	1,200,000.00
0.00	Transfer from Investment Funds	0.00
2,589,151.80	Transfer from Reserve Funds	-
2,848,045.96 CR		4,412,371.52
(631,813.63)	<u>LESS</u> Direct Debits to Bank Account -	
-	Payroll - 2 Pays processed in March (06/03 & 20/03)	(631,252.86)
-	Sundry	
(631,813.63)	Transfer to Investment Funds	-
	Transfer to CAD Loan 103	(1,851,005.53)
2,216,232.33 CR		(2,482,258.39)
(1,540,310.68)	<u>LESS</u> Expenditure Statement - \$	2,606,034.78 CR
\$675,921.65 CR	<u>CASH BALANCE</u>	(1,802,521.85)
		\$803,512.93 CR

BANK RECONCILIATION

605,321.14 CR	Balance as per Bank Statement	1,061,608.97 CR
76,707.05	<u>PLUS</u> Deposits not yet credited	6,901.81
(3,988.38)	<u>LESS</u> Deposits not yet reconciled	(19,826.06)
	<u>LESS</u> Deposits not yet updated	0.00
	<u>PLUS</u> Payments not yet reconciled	
678,039.81 CR		1,048,684.72 CR
(2,118.16)	<u>LESS</u> Unpresented Cheques & EFT's	(245,171.79)
\$675,921.65 CR	<u>CASH BALANCE</u>	\$803,512.93 CR

Current Interest Rate on Bank Account Balance is 0.01%

LGFA CAD LOAN 103

(1,400,000.00) DR	OPENING BALANCE	(1,851,005.53) DR
448,994.47	<u>PLUS</u> Deposits	1,851,005.53
(900,000.00)	<u>LESS</u> Withdrawals (Transfer to General Account)	(1,200,000.00)
	Sundry	-
\$ (1,851,005.53) DR	<u>CASH BALANCE</u>	(1,200,000.00) DR

Current Interest Rate on CAD Loan Balance is 4.50%

as at 28/02/2015 \$	<u>FINANCIAL STATEMENT continued.....</u>	as at 31/03/2015 \$
	INVESTMENT FUNDS (Local Government Finance Authority)	
325.47 CR	Opening Balance	0.00 CR
648,669.00	PLUS Deposits	0.00
(200,000.00)	PLUS Accrued interest	
(448,994.47)	LESS Withdrawals (Transfer to Westpac)	
	Withdrawals (Transfer to CAD Loan 103)	
<u>\$0.00 CR</u>	CLOSING BALANCE	<u>\$0.00 CR</u>

as at 28/02/2015 \$	<u>DOWNSTREAM DRAINAGE FUNDS (Local Government Finance Authority)</u>	as at 31/03/2015 \$
171,323.16 CR	OPENING BALANCE	171,946.26 CR
623.10	PLUS Deposits	0.00
	LESS Withdrawals	0.00
<u>\$171,946.26 CR</u>	CLOSING BALANCE	<u>171,946.26 CR</u>

INVESTMENT OF FUNDS

Investment Funds - all invested - 'At Call' at 2.25%

Reserve Funds - all invested - '90 Days' at 2.70%

as at 28/02/2015 \$	<u>LOAN FUNDS OWING (Local Government Finance Authority)</u>	as at 31/03/2015 \$
Opening Bal	Loan Purpose	Closing Bal
144,359.28	101 RSL Bowls - Artificial Rink	129,872.11
3,318,764.61	102 Library	3,318,764.61
1,851,005.53	103 CAD - Variable Int Only	1,200,000.00
0.00	104 CAD - Variable Int Only	0.00
<u>\$5,314,129.42 DR</u>	Interest Rate	<u>\$4,648,636.72 DR</u>
	Maturity Date	
	5.05%	
	5.97%	
	4.50%	
	4.50%	
	16/03/2019	
	15/06/2024	
	10/08/2015	
	17/06/2028	

Prepared by:



Finance Manager

Reviewed by:



Chief Executive Officer

AUDIT COMMITTEE

Minutes of Meeting held on Tuesday, 24th March, 2015 at 5.30 p.m.
in the Committee Room, Civic Centre, 10 Watson Terrace, Mount Gambier

PRESENT: Jeroen Zwijnenburg (Presiding Member)
Donald Currie
Mayor Andrew Lee

APOLOGY/IES: Mayor Lee moved that the apology from Cr Meziniec be received.

Donald Currie seconded

Carried

COUNCIL MEMBERS/
OTHERS AS
OBSERVERS:

Cr Lovett

GUESTS:

Nil

COUNCIL EMPLOYEES
IN ATTENDANCE:

Mr Grant Humphries, Director - Corporate Services
Mr Mark McShane, Chief Executive Officer (arrived at 6.15 p.m.)
Mr Gary Button, Finance Manager

OTHER APOLOGIES:

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

MINUTES: Donald Currie moved the minutes of the previous meeting held on Tuesday, 30th September, 2014 be taken as read and confirmed.

Mayor Lee seconded

Carried

QUESTIONS:

- (a) With Notice – Nil received
- (b) Without Notice – Nil submitted

1. COMMITTEE APPOINTMENTS/PRESIDING MEMBER

The Director - Corporate Services reported that in accordance with the City of Mount Gambier Audit Committee Terms of Reference and following the recent November, 2014 Local Government General Elections, Council has made the following resolutions:

- Jeroen Zwijnenburg and Donald Currie be appointed as independent members of Councils Audit Committee until November 2018 (or until such other time as Council resolves), with Jeroen Zwijnenburg to be appointed as Audit Committee Presiding Member.
- Cr Meziniec be appointed as the one additional Audit Committee Member from the Elected Members of Council.

RECOMMENDATION NO. 1

Donald Currie moved it be recommended that the report be received.

Mayor Lee seconded

Carried

2. REPORTS FOR INFORMATION

The Director - Corporate Services reported that the following Council Reports were provided to the Audit Committee for information:

- 2.1 CCS Report No. 60/2014 – SA Grants Commission 'Database' Reports
- 2.2 CCS Report No. 61/2014 – Internal Review of Council Actions
- 2.3 CCS Report No. 64/2014 – Investment Review
- 2.4 CCS Report No. 68/2014 – Budget Update (as at 30/09/2014)
- 2.5 CCS Report No. 69/2014 – Strategic Plan KPI Report (as at 30/09/2014)
- 2.6 CCS Report No. 08/2015 – Council Fees and Charges Review 2015/2016
- 2.7 CCS Report No. 09/2015 – Strategic Plan KPI Report (as at 31/12/2014)
- 2.8 CCS Report No. 11/2015 – Budget Update (as at 31/12/2014)

RECOMMENDATION NO. 2

Mayor Lee moved it be recommended that the above reports be received.

Donald Currie seconded

Carried

3. AUDIT WORK PROGRAM 2007 - 2014

The Director - Corporate Services reported:

- (a) the Audit Committee should continually review the Audit Work Program to establish whether any adjustments are required to be introduced for the particular financial years activities;
- (b) the Audit Work Program 2007-2014 was last reviewed and adopted in August 2014;
- (c) the following activities and associated timelines (extracted from the Audit Work Program) are highlighted in abbreviated form, for the Committees review:

- FEBRUARY
- Work Plan
 - Treasury Management Reviews
 - Asset Reviews
 - Policy reviews incorporating;
 - Internal Controls
 - Fraud and Corruption Framework
 - Whistleblowing
 - Risk Management
 - Budget Performance

- MAY
- Interim External Audit
 - Work Plan
 - Business Continuity
 - Business Plan and Budget

Audit Committee Minutes, Tuesday 24th March, 2015 cont'd...

- AUGUST
- Work Plan
 - Annual Report to Council incorporating;
 - Self Assessment
 - Review of Work Plan
 - Review of Terms of Reference

- NOVEMBER
- Work Plan
 - Statutory External Audit
 - AFS authorisation by Presiding Member
 - Council Annual Report Compliance

RECOMMENDATION NO. 3

Donald Currie moved it be recommended the report be received;

Mayor Lee seconded

Carried

4. CORPORATE AND COMMUNITY SERVICES REPORT NO. 21/2015 - Financial Sustainability - Key Financial Indicators

The Director – Corporate Services reported:

- (a) for information purposes, a Report has been prepared (to be repeated annually) on the subject of Financial Sustainability in local government and specifically on this Councils performance in that area.

RECOMMENDTION NO. 4

Donald Currie moved it be recommended Corporate and Community Services Report No. 21/2015 be received.

Mayor Lee seconded

Carried

5. OPERATIONAL SERVICES REPORT NO. 6/2015 - Long Term Infrastructure and Asset Management Program

The Director – Corporate Services reported:

- (a) The Infrastructure and Asset Management Plan 2014 has been completed;
- (b) the plan examines, in depth, Councils various assets (namely Infrastructure - roads, drains, footpaths, carparks, Plant and Equipment and Buildings and Structures);
- (c) the plan summarises valuations of all asset classes, establishes service standards to be maintained and provides estimates to maintain both the asset (in a fit for purpose state) and the designated service standards;
- (d) when Council is able to fund the annual 'consumption' of assets (i.e. depreciation) it is managing its assets in a sustainable manner;
- (e) the plan indicates that Council has achieved good results with infrastructure assets and plant and equipment, but buildings and structures still require further examination and investigation;
- (f) valuations for the asset classes of Infrastructure and Plant and Equipment are determined internally and Building and Structures by external consultants;

Audit Committee Minutes, Tuesday 24th March, 2015 cont'd...

(g) the Plan was adopted by Council in February, 2015.

RECOMMENDATION NO. 5

Donald Currie moved it be recommended the report be received.

Mayor Lee seconded

Carried

6. GOVERNANCE REPORT

The Director Corporate Services reported:

(a) Councils Governance Officers has provided the attached report on a range of 'Risk' or 'Compliance' matters that are currently in progress, some of which are referenced in the Audit Committee Work Plan;

(b) these progress reports are provided for information.

RECOMMENDATION NO. 6

Mayor Lee moved it be recommended the report be received.

Donald Currie seconded

Carried

7. FINANCIAL INTERNAL CONTROLS

The Director Corporate Services reported:

(a) As reported last meeting amendments made to the Local Government Act will have a significant impact on the scope and cost of annual audits;

(b) Commencing with the 2015/2016 financial year (for regional Councils) local government auditors will be required to carry out not one, but two audits and provide two separate formal opinions each year (which this Council has already done for a number of years);

(c) Previous reports and presentations have provided progress on the implementation process. The intention of the administration is to provide a final report to the May Audit Committee meeting for endorsement, including the review of Council's Internal Control Policy.

RECOMMENDATION NO. 7

Jeroen Zwijnenburg moved it be recommended the report be received.

Donald Currie seconded

Carried

8. POLICY REVIEW - B300 BUDGET REPORTING AND AMENDMENT POLICY

The Director - Corporate Services reported:

(a) the Policy last reviewed in April, 2014;

(b) minor amendments only to the existing Policy have been identified as being required.

Audit Committee Minutes, Tuesday 24th March, 2015 cont'd...

RECOMMENDATION NO. 8

Donald Currie moved it be recommended:

- (a) the report be received;**
- (b) that Council Policy B300 - Budget Reporting and Amendment be re-adopted with minor amendments as marked.**

Mayor Lee seconded

Carried

9. NEXT MEETINGS (for confirmation)

- Tuesday, 26th May, 2015
- Tuesday, 28th July, 2015
- Tuesday, 29th September, 2015

The meeting closed at 6.49 p.m.

25th March, 2015
MJT

CONFIRMED THIS DAY OF 2015.

.....
PRESIDING MEMBER

CITY DEVELOPMENT FRAMEWORK SUB-COMMITTEE

Minutes of the Meeting held in the Committee Room, Level Four of Civic Centre,
10 Watson Terrace, Mount Gambier, on Friday, 20th March 2015 at 12.00 noon

MINUTES

PRESENT: Mayor A Lee
Crs F Morello (Presiding Member) and P Richardson

ABSENT: Crs M Lovett and S Perryman

COUNCIL OFFICERS: Manager Strategic Projects, Tracy Tzioutziouklaris

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

MINUTES: Mayor Lee moved that the Minutes of the previous meeting held on Friday 20th March, 2015 be taken as read and confirmed.

Cr Richardson seconded.

Carried

QUESTIONS:

- (a) With Notice - nil submitted
- (b) Without Notice – Nil

1. **CITY DEVELOPMENT FRAMEWORK – Hierarchy of the Strategic Planning Structure Ref. AF13/486 – Attachments – Strategic Planning Structure of Council, The Futures Paper, The Strategic Management Plan – Beyond 2015, the Corporate Plan and example Quarterly KPI Report**

The Manager Strategic Projects reported:

- (a) As identified within the Elected Member Development Program session held on Tuesday 9th December, 2015 Council's Strategic Management Plan Structure consists of:

The City Development Framework Futures Paper (The overarching document), the Strategic Management Plans (Strategic Plan 2015, Long Term Financial Plan, Asset Management Plan and Annual Budget), the Corporate Plan and Business Unit Plans. A graphic illustration of Council's Strategic Planning Structure is attached to the agenda for Members information and perusal.

- (b) The City Development Framework Futures Paper was received and endorsed by Council in October, 2014. The Futures Paper is Council's key strategic document and provides a long term vision for the growth and development of the City of Mount Gambier.

- (c) Section 122 of the Local Government Act requires Council to have a Strategic Management Plan. Strategic Management Plans are to identify Council's aspirations, objectives and directions for the City of Mount Gambier. Council has declared the following plans constitute the Strategic Management Plans of Council:

- The Strategic Management Plan – Beyond 2015
- The Corporate Plan 2012
- The Long term Financial Plan
- Infrastructure and Asset Management Plan.

The Local Government Act specifies that Council may review its strategic management plans at any time, but must do a comprehensive review within two years after each general election.

- (d) The Corporate Plan is the key plan to incorporate the aspirations of the Strategic Plan – Beyond 2015 into the operational work undertaken by staff. It identifies key actions and activities including key Performance Indicators (KPIs) to satisfy the goals identified within the Strategic Plan. Quarterly reports are provided to Council on the progress and achievement of the KPIs. Together the Strategic Plan and Corporate Plan provide a high level overview of Council as an organisation.
- (e) Business Unit Plans have been developed for each distinct work group/team through the organisation. They outline the key work priorities for each work group/team. The KPIs identified within the Business Unit Plans are reviewed for each Member of staff in the Performance Appraisal process.

Mayor Lee moved it be recommended:

- (a) **The report be received.**
- (b) **Council commence preparations to review the Strategic Plan – Beyond 2015.**
- (c) **A Council Member's Workshop comprising of two sessions be scheduled to:**
- (i) **assist Members to understand the role and process of Strategic Planning within an organisation.**
 - (ii) **provide an overview and summary of the development of the Futures Paper as Council's long term strategic plan and the incorporation of the this framework into Council's new Strategic Plan.**
- (d) **External facilitators with relevant experience be invited to assist Members in these workshop sessions.**

Cr Richardson seconded

Carried

2. ECONOMIC DEVELOPMENT COMMITTEE – Charter Ref. AF 13/486

The Manager Strategic Projects reported:

- (a) There has been some discussion regarding ongoing engagement with the community and the economic/business side contained within the City Development Framework.

Minutes of the City Development Framework Sub-Committee, Friday 20th March, 2015 cont'd...

- (b) Within the 'Futures Paper' four characteristics have been identified as determinants of successful urban cities, one of which is economic development, 'Our Diverse Economy'. The three others being 'Our People', 'Our Location' and 'Our Climate'. Each of these four identified characteristics should be managed equally as they are of equal importance.
- (c) A example of an Economic Development Committee Charter from Liverpool City Council has been attached to the agenda for Members information and perusal.

Cr Morello moved it be recommended:

- (a) **The report be received.**
- (b) **The Committee Structure of Council be reviewed as part of the Strategic Plan review and the development of the new Strategic Plan for Council.**

Cr Richardson seconded.

Carried

OTHER MATTERS

Nil

MOTIONS WITHOUT NOTICE

Nil

The meeting closed at 12.55 p.m.

TT

CONFIRMED THIS DAY OF 2015.

.....
PRESIDING MEMBER

CITY OF MOUNT GAMBIER

JUNIOR SPORTS ASSISTANCE FUND

Minutes of Meeting held in the Conference Room, Level 1, Civic Centre, 10 Watson Terrace,
Mount Gambier on Tuesday 24th March, 2015 at 5.30 p.m.

PRESENT: Cr Hanna Persello (Presiding Member)
Cr Barry Kuhl
Mrs Karen McGregor
Mrs Karen Cunningham
Mrs Jenny Burston
Mr Mark McShane (Secretary)
Mrs Melissa Telford (Executive Support)

APOLOGIES: Nil

NOT IN ATTENDANCE: Mrs Jeanette Elliott

SPECIAL GUEST: Mrs Tracy Koop, Branch Manager, Mount Gambier and District
Community Bank - Branch of Bendigo Bank

OBSERVERS: Nil

MINUTES: Karen McGregor moved that the minutes of the previous meeting held on 26th
November, 2014 be received, the actions resolved therein be confirmed and the
minutes are hereby ratified as a true and correct record.

Karen Cunningham seconded

Carried

1. FINANCIAL STATEMENT AS AT 28TH FEBRUARY, 2015

**Karen McGregor moved it be recommended to Council that the financial statement as
at 28th February, 2015 be received noting a cash balance of \$60,131, however there
were \$1,400 in cheques outstanding at this time.**

Karen Cunningham seconded

Carried

2. APPOINTMENT OF DEPUTY PRESIDING MEMBER

The Secretary reported:

The Terms and Conditions of the Junior Sports Assistance Fund state:

10. DEPUTY PRESIDING MEMBER

10.1 *The Committee shall elect a Deputy Presiding Member from among their number
by a show of hands or by secret ballot at the first meeting of the Committee to be
held after the commencement date and every 48 calendar months thereafter.*

10.2 *In the absence of the Presiding Member, the Deputy Presiding Member shall
preside at any meeting of the Committee.*

10.3 *If any meeting of the Committee duly convened under these Rules, the Presiding
Member or the Deputy Presiding Member shall not be present, the Committee
shall elect an Acting Presiding Member (for that meeting only) from their number
present at the meeting and for the purposes of that meeting only, that Acting
Presiding Member shall have all of the normal powers of the Presiding Member.*

Karen McGregor moved that Cr Kuhl be appointed as Deputy Presiding Member.

Karen Cunningham seconded

Carried

3. APPLICATIONS FOR FINANCIAL ASSISTANCE FOR JUNIORS

The Secretary reported that since the last meeting viz. 26th November, 2014, the following applications have been received and payments made from the Fund for Juniors:

- (a) Mount Gambier Netball Association
Nil
- (b) Basketball Mount Gambier
 - (i) six nominees \$1,500
- (c) Lower South East Hockey Association
 - (i) one nominee \$300
 - (ii) three nominees \$900
- (d) Mount Gambier and District Baseball League
 - (i) six nominees \$1,800
- (e) Mount Gambier Softball League
 - (i) two nominees \$700
- (f) Blue Lake Y Swim Club
Nil
- (g) South Gambier Football/Netball Clubs
Nil
- (h) North Gambier Football/Netball Clubs
Nil
- (i) Mount Gambier Touch Association
Nil
- (j) Mount Gambier and District Junior Cricket
Nil
- (k) Mount Gambier Golf Club
Nil
- (l) Mount Gambier District Little Athletics
Nil

- (m) Blue Lake BMX Club
 - (i) one nominee \$200
- (n) Shingokan Karate Mount Gambier
Nil
- (o) Discretionary
 - (i) one nominee \$300
- (p) East Gambier Sportsmens Football/Netball Clubs
Nil
- (q) Mount Gambier and District Pony Club
Nil
- (r) Seishikan Karate Australia
Nil
- (s) South East Women's Football
 - (i) one nominee \$400
- (t) Mount Gambier Cycling Club
Nil

Karen McGregor moved it be recommended to Council that the actions in making the above payments from the Fund be confirmed and ratified.

Cr Kuhl seconded

Carried

4. APPRECIATION'S - letters received/forwarded

The Secretary reported that the following letters/cards have been received thanking the Fund for payments made and general correspondence since the last meeting vis 26th November, 2014:-

- Ryan Broome (letter of appreciation for donation to attend the 2015 National Youth Baseball Championships)
- Wade Chant (letter of appreciation for donation to attend the 2015 National Youth Baseball Championships)
- Basketball Mount Gambier (letter of appreciation and receipt for donation for six juniors to attend State Basketball Championships)
- Emily Close (letter of appreciation for donation to attend the U14 SA Country Basketball Championships)
- Nikeisha Facey (letter of appreciation for donation to attend the U14 SA Country Basketball Championships)
- Bella Calderwood (letter of appreciation for donation to attend the 2014 International Fijian Tournament)
- Letter from Mark McShane, Chief Executive Officer, City of Mount Gambier (Cr Persello appointed as Council representative to the Junior Sports Assistance Fund)

- Letter from Donna Hutchesson, Governance and Policy Officer, District Council of Grant (Cr Barry Kuhl appointed as Council representative to the Junior Sports Assistance Fund)
- Letter from Mount Gambier and District Baseball League (letter of appreciation and completed Financial Statement outlining expenditure for Coaching Clinic)

Karen Cunningham moved it be recommended to Council that the report be received.

Karen McGregor seconded

Carried

5. GENERAL INFORMATION - Since 1st July 2014

The Secretary reported:-

- payments to Member Organisations for Junior Sportspersons financial assistance for period 1st July 2014 to 28th February, 2015 amounts to \$11,450 and total payments since 1st July 1988 to 28th February, 2015 amounts to \$406,050;
- actual payments to Member Organisations for Coaching Clinics for the period 1st July 2014 to 28th February, 2015 amounts to \$2,000 and total actual payments since 1st July 1991 to 28th February, 2015 amounts to \$67,453;
- payments to Member Organisations for Financially Disadvantaged Juniors for period 1st July, 2014 to 28th February, 2015 amounts to \$2,400 and total payments since 22nd May, 2013 to 28th February, 2015 amounts to \$5,390.
- payments to Member Organisations for Exceptional Juniors for period 1st July 2014 to 28th February, 2015 amounts to Nil and total payments since 20th November 2013 to 20th July, 2014 amounts to \$1,000.

Note: this initiative was previously funded by a sponsor direct to the awardee.

- payments from the Junior Sports Fund on a quarterly basis over previous quarters for Juniors – State Selection only (not coaching etc). is as follows:

Financial year	Quarter	Totals each quarter \$	Accumulative Totals \$
2014/2015	J – S	4,000	4,000
	O - D	5,350	9,350
	J - 28/2/15	2,100	11,450
2013/14	J – S	6,150	6,150
	O – D	4,300	10,450
	J – M	6,250	16,700
	A – J	7,800	24,500
2012/13	J – S	6,350	6,350
	O – D	6,550	12,900
	J – M	4,600	17,500
	A – J	16,650	34,150
2011/12	J – S	7,600	7,600
	O – D	7,200	14,800
	J – M	3,200	18,000
	A – J	6,950	24,950
2010/11	J – S	5,100	5,100
	O – D	7,700	12,800
	J – M	5,650	18,450
	A – J	2,450	20,900

Karen Cunningham moved it be recommended to Council that the reports be received.

Cr Kuhl seconded

Carried

6. OTHER APPLICATIONS

The Secretary reported:

(a) there were no non-resident applications nor applications declined since the previous meeting vis 26th November, 2014;

(b) (i) the 2004 AGM of the Fund resolved:

"as a matter of Policy this Annual Meeting of Members hereby adopts and delegates the power to the Committee to make a discretionary donation to a local junior sportsperson when in the opinion of the Committee any such application deserves the Committee's support based on special merit and circumstances and where the application is not able to be processed under the current procedures of the Fund."

(ii) since being granted the ability to make discretionary donations the Committee has paid the following since the last meeting vis 26th November, 2014:

<u>NAME</u>	<u>SPORT</u>	<u>AMOUNT</u>
Isaac Manterfield	Mount Gambier 8 Ball Association	\$300

Karen McGregor moved it be recommended to Council that the report be received.

Karen Cunningham seconded

Carried

7. MEMBER CONTRIBUTIONS - Unpaid Membership 2014/2015

As at 18th March, 2015 the following Member Organisations had not paid their 2014/2015 donation to the Fund:

- Mount Gambier and District Pony Club \$400
- South Gambier Football/Netball \$400
- Blue Lake BMX Club \$705
- North Gambier Football/Netball \$400
- East Gambier Football/Netball \$400
- Mount Gambier Touch Association \$400
- Western Border Soccer Association \$400

Payment was due to be paid by Friday 14th November, 2014. Reminder letters have been sent on 2nd December, 2015 and 11th March, 2015.

Karen McGregor moved it be recommended:

(a) the report be received;

(b) a final reminder be sent to Member Organisations who have not paid their 2014/2015 Member contribution to the Junior Sports Assistance Fund advising if payment is not made on or before Friday 1st May, 2015 that they will be suspended from the Fund until their 2014/2015 contribution has been paid.

Karen Cunningham seconded

Carried

8. COACHING CLINICS APPLICATIONS - Second Call for 2014/15

The Secretary reported:

- (a) applications have been invited from Member Organisations for financial assistance to conduct specialised coaching clinics at Mount Gambier under the new guidelines i.e. juniors, coaches, umpires, etc. and clinics outside of the city (in exceptional circumstances);
- (b) the closing date for this second call for 2014/15 was 28th February, 2015;
- (c) the guidelines, coaching and eligibility rules for the Coaching Clinics are:
 - coaching clinics can be for juniors, coaches of juniors and umpires of juniors
 - the Mount Gambier and District Bendigo Community Bank is the naming rights sponsor of the annual Coaching Clinic Program providing up to \$5,000 per year 2015 (\$2,000 already dispersed);
 - one of the agreed conditions of the Banks sponsorship is that all Member Organisations are eligible to apply for Coaching Clinic funding.
- (d) Sponsorship Terms and Conditions agreed to with the City of Mount Gambier Junior Sports Assistance Fund and the Bank are:
 1. The sponsorship is up to \$5,000 per annum towards the Funds existing Coaching Clinic Program (\$2,000 already dispersed).
 2. The Funds previous allocation to the annual Coaching Clinic Program will not be required for the program (the "saved" funds be retained within the Fund).
 3. Up to two representatives of the Mount Gambier and District Bendigo Community Bank may attend the meeting when the Fund Committee considers applications received by the Fund for its annual call for Coaching Clinic applications (usually the call is made in September and closing in October and the meeting in November of each year).
 4. The Fund agrees that correspondence and forms to Member Organisations seeking applications is suitably "badged" to recognise the sponsorship of the Bank.
 5. All publicity/news releases/functions initiated in respect of the Coaching Clinic program recognises the Banks sponsorship and naming rights over the Coaching Clinic program for the period of the sponsorship.
 6. The Bank pays to the Fund the agreed annual sponsorship donation - gross value once the successful applications have been selected and the dollar values agreed to.

The Fund continues to pay to each successful Member Organisation the agreed Coaching Clinic funding for its specific initiative.
 7. Each successful Member Organisation receiving an allocation for its Coaching Clinic must:
 - (i) advise the Bank of the date(s), times, venue etc. of the actual conduct of the Coaching Clinic;

- (ii) permit the Bank to attend with media for promotional purposes and also to display the Banks reasonable marketing materials at the Coaching Clinic venue;
 - (iii) allow the Bank to make any reasonable presentations at the Coaching Clinic event;
 - (iv) permit the Bank to maximise any photo opportunities that its sponsorship of any specific Coaching Clinic event may provide;
 - (v) promote the Banks sponsorship of its Coaching Clinic event in any publicity the successful Member Organisation might generate itself.
8. The City of Mount Gambier Junior Sports Assistance Fund agrees that its previous rule that Member Organisations who received greater than \$1,000 last financial year from the Fund for their talented juniors be excluded from applying for Coaching Clinic funding be deleted i.e. all Member Organisations are now eligible to apply for Coaching Clinic funding.
- (e) the annual pool of money available for the Mount Gambier and District Bendigo Community Bank Coaching Clinics Program is up to \$5,000
 - (f) as at the 28th February, 2015 the following applications were received:
 - (i) **MOUNT GAMBIER BASEBALL ACADEMY (DISCRETIONARY)**

Coach: Scott Gladstone (Head Coach), Joe and Ben Atkins
Dates: Annual (6 week academy) Commencing October 2015
Duration: 6 weeks (24 hours of coaching over 6 weeks)
No. of Juniors/Coaches/Umpires: up to 30 attendees (28 attended in 2014)
(invitation to all juniors who are Members of the Clubs associated with the Mount Gambier and District Baseball League)

Location: Blue Lake Sports Park
Purpose: Detailed submission provided
Cost: \$2,010
Contribution from Member: Nil
Previous Funding from JSAF: Nil
Funding from JSAF this application: Nil
 - (ii) **SHINGOKAN KARATE MOUNT GAMBIER**

Coach: Shinji Fushimi and Tomoyoshi Endo
Dates: November, 2015
Duration: 4 sessions (3 hours)
No. of Juniors/Coaches/Umpires: Approximately 40
Location: 27 Percy Street, Mount Gambier
Purpose: Detailed Submission provided
Cost: \$1,980
Contribution from Member: \$500
Previous Funding from JSAF: \$5,860
Funding from JSAF this application: \$1,480

(iii) MOUNT GAMBIER SHOWJUMPING CLUB INC.

Coach: Russell Johnstone
Dates: 25/26 April, 2015
Duration: 2 days
No. of Juniors/Coaches/Umpires: 16 attendees
Location: Mount Gambier Showjumping Club Grounds, Pick Avenue
Purpose: Detailed submission provided
Cost: \$2,450
Contribution from Member: \$1,000
Previous Funding from JSAF: \$1,000
Funding from JSAF this application: \$\$1,450

(iv) MOUNT GAMBIER NETBALL ASSOCIATION

Coach: Erin Bell and Nat Von Berto
Dates: 3rd May, 2015
Duration: 1 individual clinic for 3 different age groups
No. of Juniors/Coaches/Umpires: 60 per clinic
Location: Mount Gambier Netball Association or Tenison Woods College
Purpose: Detailed submission provided
Cost: \$1,450
Contribution from Member: \$250
Previous Funding from JSAF: \$4,900
Funding from JSAF this application: Nil

Karen Cunningham moved it be recommended to Council that:

- (a) the report be received;**
- (b) the following application(s)/funding be made available in second call for 2014/15 to the Member Organisation named below to assist in the conduct of specialised coaching clinics in accordance with the guidelines for such Clinics and funded by the Mount Gambier and District Bendigo Community Bank:**
- | | |
|---|----------------|
| (i) Shingokan Karate Mount Gambier | \$1,480 |
| (ii) Mount Gambier Showjumping Club Inc. | \$1,450 |
- (c) the successful Member Organisations to be reminded of their obligations to the Bank as detailed at (d) above.**

Karen McGregor seconded

Carried

9. COMMERCIAL CLUB INC. - Annual Donation - Exceptional Junior Program 2014

The Secretary reported:

- (a) nominations have been invited from each member organisation (for consideration by the Committee) of up to two juniors who display the ideals, enthusiasm, skills and abilities to develop their fullest potential in their chosen sport and could advance to the highest levels of achievement;
- (b) the closing date for this call for 2014 was Friday, 28th February, 2015;
- (c) the Committee is to then select from all nominations received one (or two) awardees who will receive the Commercial Club Inc. grant program benefit;
- (d) as at the 28th February, 2015 the following nominations were received:

(A) MOUNT GAMBIER DISTRICT CRICKET ASSOCIATION

- (i) NOMINEE 1:

Background:

Nominee 1 has had recent successful selection in a number of State Teams (full details provided in submission) together with weekly travel to Adelaide for trainings and games.

She is also highly successful in her other chosen sports being Basketball and AFL Umpiring. In both 2014 and 2015 she was selected to represent SA in the State Tournament in Albury.

Nominee 1 was also named as the Western Border Football Umpires League as the Best Boundary Umpire for 2014.

(B) MOUNT GAMBIER AND DISTRICT BASEBALL LEAGUE

- (i) NOMINEE 2:

Background:

This young man is considered among Baseball communities as a very high prospect to bigger things. Over the years he has been selected on numerous occasions for State Teams, Country Championships the most recent being selected as part of the squad for the Under 17 Boys Baseball State Team as part of the Pacific School Games, with one of the selection coaches stating he would be one of the most scoutable players he has seen. He has had significant trips over the previous year for scheduled State training and also tournaments. He has a big future ahead of him.

Nominee 2 is from a young family with four (4) children, expenses can be high, but he is so deserving so he can strive for higher goals. He is such a great ambassador for our sport and a wonderful role model to all the younger players within the League.

He has also been highly successful in his other chosen sports also being selected at State and National Levels.

I believe this young man would accept recognition of this calibre with great honour, respect and be very humble. He is not only an outstanding player, but an exceptional person also.

(C) MOUNT GAMBIER SHOWJUMPING CLUB

(i) NOMINEE 3:

Background:

Nominee 3 has had an exceptional year with her horses. She has taken out a number of championships and first places within the District, out of the District and also at the Ag Champs.

She is a willing helper at Club events and is an avid student of equestrian pursuits.

Nominee 3, whilst successful still remains humble and respectful.

(D) MOUNT GAMBIER SHOWJUMPING CLUB

(i) NOMINEE 4:

Background:

Nominee 4 has also had an exceptional year competing with her horses. She has competed with championship wins and placing's from major carnivals to local Ag Shows.

Kate has represented SA Jumping and won the 120 cm Interschool Championships in 2014.

Kate is a well regarded rider and a willing assistant at Club events. She has recently been recognised with the Junior Showjumper Scholarship and the SACI Country Athlete Scholarship.

Karen McGregor moved it be recommended to Council:

- (a) the report be received;**
- (b) for the 2014 year the following junior receive the Commercial Club Inc. donation to assist that junior to advance in their chosen sport and to achieve their potential:**

**Awardee: DYLAN RIDDING
 Mount Gambier and District Baseball League**

- (c) the presentation of the Commercial Club Inc. donation take place at the Mount Gambier and District Baseball Clubrooms at a date and time to be confirmed.**
- (d) details of the donation program and the awardee for 2014 be released to the media once the date of the presentation has been confirmed to allow media attendance.**

Karen Cunningham seconded

Carried

Meeting closed at 6.10 p.m.

CORPORATE AND COMMUNITY SERVICES REPORT NO. 21/2015

SUBJECT: FINANCIAL SUSTAINABILITY – KEY FINANCIAL INDICATORS

REF: AF14/81

Goal: Governance

Strategic Objective: (i) Establish measures for Council's performance and continually compare against community expectations.
(ii) Engage with national, state, regional and local forums and partnerships to provide solutions and options to continually improve Councils service delivery and performance.

What is Financial Sustainability?

The definition of Financial Sustainability for Local Government emanated from the independent SA Local Government Financial Sustainability Inquiry in 2005.

It is defined as:

"A Council's long-term financial performance and position is sustainable where planned long-term service and infrastructure levels and standards are met without unplanned increases in rates or disruptive cuts to services."

The definition was endorsed nationally at the National General Assembly of Local Government in Canberra in November 2006.

As part of the financial sustainability inquiry conducted in 2005, each Council was categorised into one of 6 groups, with Category 1 being Sustainable with a very substantial margin of comfort and Category 7 being Unsustainable.

Mount Gambier's ranking at this time was a Category 4, being sustainable with a minimum margin of comfort. The definition attributed to this category was:

*"If unanticipated financial shocks/risks eventuate on top of known developments, the Council should be able to avoid a substantial per-property rates increase albeit with a minimum margin of comfort **provided** its revenue and spending policies remain unchanged over time."*

To put this into some form of context, 43 of the 68 South Australian Councils (63%) received a rating of 4 or worse.

Why is it important?

The importance of financial sustainability is to ensure that each generation 'pays their way', rather than any generation living off their assets and leaving it to the future generations to address the issue of repairing/replacing worn out infrastructure.

The Council is the custodian of infrastructure and assets with a current written down value of approximately \$250 million. Council has the responsibility to ensure that assets are managed efficiently and effectively and that decisions regarding the acquisition of new assets and the sale and maintenance of existing assets are undertaken in an open and transparent fashion.

Sound asset management is the key to financial sustainability. There is clearly a direct link between the development and implementation of Council's Infrastructure and Asset Management Plan and its LTFP. Council expends considerable funds on the acquisition and management of assets. It will be exposed to financial risk over the longer term if budget processes have little regard for ongoing costs associated with the maintenance and renewal of these assets beyond the current budget period. It is incumbent on Council to carefully consider information about the stock of infrastructure and other assets and the contribution that current ratepayers are making to their consumption.

Corporate and Community Services Report No. 21/2015 cont'd...

Council is facing new challenges in managing infrastructure and other assets as a result of issues such as increasing community expectations; population growth; development of new infrastructure; replacement of ageing infrastructure; new legislative requirements (e.g. EPA standards) and the growing demands of an ageing population.

The term “asset management” is used to describe the process by which the Council manages physical assets to meet current and future levels of service. The Council determines the policy framework within which existing assets are managed, new assets are acquired and the overall program for the maintenance and disposal of assets. This policy framework typically has regard to the link between the purchase, upgrade and disposal of assets, the delivery of services to communities and consultation processes required to ensure the community is well informed and able to influence the decisions of the Council.

How is it measured?

To ensure that each generation ‘pays its way’, it is crucial that current ratepayers effectively fund the current net cost of services provided and community assets consumed. Without this being achieved (i.e. an operating deficit), future generations are effectively subsidising the current cost of service provision and asset consumption.

Based on this, the financial sustainability of a Council is measured by the surplus/(deficit) (before capital revenues) disclosed in the Income Statement. A Council’s long-term financial sustainability is dependent upon ensuring that on average, over time its expenses are less than its associated revenues.

The following indicators have been developed specifically to focus attention on factors identified as key to securing long-term financial security:

- Operating ratio
- Net financial liabilities ratio
- Asset sustainability ratio

For each key financial indicator, which are consistent with industry standards, appropriate targets have been nominated to enable meaningful performance measurement.

What are the Key Financial Indicators?

The following is a brief explanation of the principal Key Financial Indicators used throughout the local government sector in South Australia:

- Operating Ratio – expresses the operating surplus or (deficit) as a percentage of general and other rates, net of rebates.

A positive ratio indicates the percentage of rates available to fund current and future capital expenditure. A negative ratio indicates the percentage increase in rate revenue that would have been required to achieve a break-even operating result.

When a breakeven result is achieved it means that ratepayers are meeting the costs of the services they are consuming (including depreciation).

- Net Financial Liabilities Ratio – indicates the extent to which net financial liabilities of the Council can be met by the Council’s total operating revenue.

Corporate and Community Services Report No. 21/2015 cont'd...

Where the ratio is falling it indicates the Council's capacity to meet its financial obligations from operating revenues is strengthening. Where the ratio is increasing it indicates a greater amount of Council's operating revenue is required to service its financial obligations.

- Asset Sustainability Ratio – indicates whether the Council is renewing or replacing existing physical assets at the rate at which they are wearing out.

Councils with a high ratio are replacing and renewing capital assets at a rate comparable to depreciation / wear.

Local Government sector targets for each of the key financial indicators are as follows:

- Operating Ratio: 0% - 15% over any five year period.
- Net Financial Liabilities: not to exceed total operating revenue or 100%
- Asset Sustainability Ratio: a range between 90% to 100% over any three year period.

What do our results tell us?

Key Financial Indicators Targets and Results relevant to the City of Mount Gambier over the past five (5) years are summarised in the following table.

Summary of Financial Results					
	2013/14	2012/13	2011/12	2010/11	2009/10
Operating Ratio (Target: 0% - 15% over 5 years)	(4%)	2%	(4%)	(8%)	2%
Net Financial Liabilities Ratio (Target: not to exceed 100%)	31%	23%	27%	9%	(12%)
Assets Sustainability Ratio (Target: 90% - 100% over 3 years)	107%	85%	52%	51%	50%

Operating Ratio:

A positive ratio indicates the percentage of rates available to fund current and future capital expenditure.

A negative ratio indicates the percentage increase in rate revenue that would have been required to achieve a breakeven operating result.

Result: A breakeven result (over five years) means that current day ratepayers are meeting the costs of services currently being consumed.

Net Financial Liabilities Ratio: where the ratio is falling it indicates the Councils capacity to meet its financial obligations from operating revenues is strengthening.

Where the ratio is increasing it indicates a greater amount of Councils operating revenue is required to service its financial obligations.

Result: Target (due to Councils recent major capital works) increasing a greater amount of Councils operating revenue is required to service its financial obligations.

Asset Sustainability Ratio: A high ratio indicates Council is replacing/renewing capital assets at a rate comparable to depreciation/wear.

Result: Target close to being met. Considerable focus to increase this ratio over recent years to ensure Council is replacing/renewing capital assets at a rate comparable to depreciation/wear.

Corporate and Community Services Report No. 21/2015 cont'd...

How do we compare with other SA Councils?

Each year the SA Local Government Grants Commission prepares what is commonly known as 'database' reports which are derived from SA Councils Annual Financial Statements and General Information Returns.

Corporate and Community Services Report No. 60/2014 in August 2014 provided a detailed breakdown of these statistics both in comparative form (with other SA Councils) and in a time series format (our statistics only).

Relevant extracts from that Report are repeated, for information, in this Report noting that the release of the 30th June, 2014 database reports are anticipated to be received in July, 2015 and will be subject to a further report.

**SA Local Government Grants Commission database reports 2012/2013
FINANCIAL COMPARISON**

COUNCIL	TOTAL ASSETS (\$000)	TOTAL LIABILITIES (\$000)	TOTAL EQUITY (\$000)	Total Financial Assets (\$000)	Net Financial Liabilities (\$000)	Operating Surplus Ratio (%)	Net Financial Liabilities Ratio (%)	Asset Sustainability Ratio (%)
Alexandrina	387,485	37,159	350,326	7,776	29,383	0	84	33
Barossa	304,307	26,601	277,706	13,451	13,150	1	43	35
Gawler	207,338	17,504	189,834	6,210	11,294	(1)	53	18
Mount Gambier	196,123	7,070	189,053	2,072	4,998	2	23	85
Murray Bridge	244,015	15,896	228,120	6,888	9,008	(8)	30	24
Port Augusta	203,164	27,352	175,812	8,789	18,563	(31)	60	31
Port Lincoln	155,136	4,419	150,717	5,870	(1,451)	3	(10)	29
Victor Harbor	245,026	18,247	226,779	4,450	13,797	1	67	48
Whyalla	228,827	6,798	222,030	4,173	2,625	1	11	77

**SA Local Government Grants Commission database reports 2012/2013
EXPENDITURE COMPARISON**

COUNCIL	Estimated Resident Population as 30/6/13	EMPLOYEE COSTS (\$000)	MATERIALS, CONTRACTS & OTHER EXPENSES (\$000)	FINANCE COSTS (\$000)	DEPRECIATION, AMORTISATION & IMPAIRMENT (\$000)	TOTAL OPERATING EXPENSES (\$000)	OPERATING SURPLUS / (DEFICIT) (\$000)
Alexandrina	24,824	11,565	14,104	1,524	8,424	35,619	54
Barossa	22,808	10,033	13,052	1,362	6,529	30,979	148
Gawler	21,590	8,393	8,929	901	3,397	21,653	(119)
Mount Gambier	26,092	8,318	7,837	336	5,662	22,153	299
Murray Bridge	20,579	12,411	11,435	687	6,811	31,344	(1,434)
Port Augusta	14,605	15,390	13,907	981	5,020	35,298	(4,363)
Port Lincoln	14,732	3,203	8,610	0	2,730	14,543	314
Victor Harbor	14,639	7,212	7,558	948	4,984	20,702	110
Whyalla	22,562	8,426	11,035	135	5,980	25,576	91

**Local Government Grants Commission Database
Time Series Reports**

ASSETS

Year	Cash / Cash Equiv.	Other Receivables	Inventories	Land	Buildings	Infrastructure	Plant, Equipment	Other Assets	Total Assets
2009/10	9,696,000	1,638,000	44,000	28,012,000	53,120,000	43,618,000	4,842,000	1,406,000	142,376,000
2010/11	8,298,000	2,520,000	35,000	28,363,000	56,215,000	45,263,000	4,704,000	2,425,000	135,289,000
2011/12	981,000	1,470,000	47,000	41,026,000	112,109,000	56,625,000	4,840,000	2,946,000	220,042,000
2012/13	675,000	1,397,000	40,000	41,188,000	87,340,000	58,186,000	4,627,000	2,670,000	196,123,000

FINANCIAL

Year	Total Liabilities	Total Financial Assets	Net Financial Liabilities	Total Equity	% Operating Surplus Ratio	Net Financial Liab. Ratio %	Asset Sustainability Ratio %
2009/10	9,059,000	11,334,000	(2,275,000)	133,317,000	2	(12)	55
2010/11	12,534,000	10,818,000	1,716,000	135,289,000	(8)	9	51
2011/12	8,432,000	2,451,000	5,981,000	211,612,000	(4)	27	52
2012/13	7,070,000	2,072,000	4,998,000	189,053,000	2	23	85

Further information on the Local Government Associations Financial Sustainability Program can be found at <http://www.lga.sa.gov.au/page.aspx?u=769> which include a range of Information Papers, local government sector wide reports and general information on the Sustainability Program / Inquiry.

RECOMMENDATION

- (a) Corporate and Community Services Report No. 21/2015 be received for information.



Grant HUMPHRIES
DIRECTOR – CORPORATE SERVICES

Sighted:



Mark McSHANE
CHIEF EXECUTIVE OFFICER

CORPORATE AND COMMUNITY SERVICES COMMITTEE REPORT NO. 22/2015

SUBJECT: MEMBERS ALLOWANCES POLICY - COMPUTING FACILITIES

REF: AF12/371, AF11/1740

Goal: Governance
Strategic Objective: Demonstrate innovative and responsive organisational governance.

INTRODUCTION

As part of the statutory obligations of the new Council following the November 2014 Local Government General Election, Council adopted revised Policy (M405) regarding Member's allowances and benefits.

There are two matters in particular in the Policy that the administration consider needs further consideration and clarification.

DISCUSSION

Firstly, Part 8 of the Policy "Facilities and Support" provides;

"A mobile computing device with mobile data plan and wireless connectivity to Councils wireless local area network for access to Council Members documents".

The provision of these facilities and support are made available to all Council Members (including the Mayor) under the Local Government Act on the following basis:

- they are necessary or expedient for the Council Member to perform or discharge his/her official functions or duties;*
- the facilities remain the Council's property regardless of whether they are used off site or not; and*
- they are not to be used for a private purpose or any other purpose unrelated to official Council functions and duties, unless such usage has been specifically pre-approved by the Council and the Council Member has agreed to reimburse the Council for any additional cost or expenses associated with that usage*

In this day and age the above requirement in reviewing Council Policy, is considered to be extremely inflexible and does not recognise situations where for example a Member is away from their home/work place at a meeting, conference or the like and the difficulty of using several devices rather than one.

It will therefore be recommended that the Policy M405 be amended to provide for limited private use as opposed to no private use.

The second matter relates to the provision of the mobile data plan.

Corporate and Community Services Report No. 22/2015 cont'd...

The new Policy provides for a totally mobile data solution (computing facilities available anywhere/anytime) as opposed to the previous Policy, where the data facilities provided were in the form of a reimbursement for use of the Member's personal data plan (\$360 per annum).

As indicated in the recent Friday Edition memo each member has been provided with a pre-paid data plan (\$200 for 12 GB of data) that can be used over a 12 month period.

The policy is silent in regard to the number of additional 'top-ups' of data that Council will provide and at what point Council's provision ceases and it becomes the responsibility of each Member.

A recent audit of each Member's use of the Council provided mobile data device indicates there is a wide variety in the amount of data being consumed.

Some Members are already well into a second 'top up' and will be requiring a third 'top up' in the near future whereas data use statistics for the vast majority of Members indicate the initial data plan will service their needs for at least a twelve month period.

It will be recommended that Council amend Policy M405 to include a maximum number of Council provided data 'top ups' for each Member during any 12 month period.

RECOMMENDATION

- (a) Corporate and Community Services Report No. 22/2015 be received;
- (b) Council Policy M405 Members - Allowances, Reimbursements, Benefits and Facilities Policy be amended at clause 8 to reflect:
 - (i) the ability for Members to utilise the Council provided computing facilities (mobile computing device with mobile data plan) for limited private use.
 - (ii) that for each Member a maximum spend of \$600 per annum on mobile data be provided by Council after which time any further 'top-ups' be the responsibility of the Member.



Grant HUMPHRIES
DIRECTOR – CORPORATE SERVICES

Sighted:



Mark McSHANE
CHIEF EXECUTIVE OFFICER

CORPORATE AND COMMUNITY SERVICES REPORT NO. 23/2015

SUBJECT: POLICY REVIEW – F225 FRAUD AND CORRUPTION PREVENTION AND W150 WHISTLEBLOWERS PROTECTION

REF: AF11/1950, AF11/1955

Goal: Governance

Strategic Objective: Demonstrate innovative and responsive organisational governance.

The Manager Governance & Property reported:

Council's Audit Committee reviews several policies on an annual basis as part of it's annual work plan, including Council's Fraud and Corruption Prevention Policy F225 and Whistleblowers Protection Policy W150.

At it's March 2015 meeting an update provided to the Audit Committee on a range of current risk and compliance activities included that Council's Whistleblowers Protection and Fraud & Corruption policies would be updated to reflect changes to the Local Government Association Model Policies. These changes reflect the amended reporting regimes introduced with the Independent Commissioner Against Corruption Act 2012 ("ICAC Act") and the commencement of the Commissioners Office of Public Integrity ("OPI") in 2013.

Importantly, the amended policies address intricacies between the differing internal and external disclosure and investigation requirements, including mandatory reporting to OPI under the ICAC Act.

RECOMMENDATION

- (a) Corporate and Community Services Report No. 23/2015 be received;
- (b) Council hereby adopts replacement Council Policy F225 – Fraud and Corruption Prevention, as provided with this report;
- (c) Council hereby adopts replacement Council Policy W150 – Whistleblowers Protection, as provided with this report;
- (d) Council makes the necessary amendments to Council's Policy Manual Index.



Michael McCARTHY
MANAGER GOVERNANCE & PROPERTY

Sighted:



Mark McSHANE
CHIEF EXECUTIVE OFFICER

	<h2 style="margin: 0;">W150 WHISTLEBLOWERS PROTECTION POLICY</h2>	Version No:	4
		Issued:	April, 201 5 ⁴
		Next Review:	April, 201 6 ⁵

1. Introduction

- 1.1. The City of Mount Gambier is committed to upholding the principles of transparency and accountability in its administrative and management practices and, therefore, encourages the making of disclosures that reveal public interest information.
- 1.2. The purpose of this Policy is to ensure that The City of Mount Gambier:
 - properly fulfils its responsibilities under the *Whistleblowers Protection Act 1993*;
 - encourages and facilitates Disclosures of Public Interest Information which may include occurrences of Maladministration and Waste within the Council, and corrupt or illegal conduct in general, so that internal controls may be strengthened;
 - provides a process by which Disclosures may be made so that they are properly investigated;
 - provides appropriate protection for those who make Disclosures in accordance with the Act; and
 - recognises the need to appropriately support the Whistleblower, the Responsible Officer and, as appropriate, those Public Officers affected by any allegation that affects them.

2. Scope

- 2.1. This Policy applies to appropriate Disclosures of Public Interest Information that are made in accordance with the Act by Council Members, Employees of the Council, and members of the public. This Policy is also intended to complement the reporting framework under the ICAC Act.
- 2.2. This Policy is designed to complement the existing communication channels within Council, and operate in conjunction with existing policies, including:
 - Fraud & Corruption Prevention Policy;
 - Code of Conduct for Council Employees;
 - Code of Conduct for Council Members; and
 - Internal Review of Council Decisions Policy under section 270 of the *Local Government Act 1999*.
- 2.3. The Council is committed to:
 - referring, as necessary, appropriate Disclosures to the Appropriate Authority, which, depending on the nature of the Disclosure include a Minister of the Crown, the SA Police, the Anti-Corruption Branch of the SA Police, the Auditor-General or the Ombudsman.

Further, where the Disclosure relates to Corruption it must be reported directly to the OPI in accordance with the Directions and Guidelines. A report of Misconduct or Maladministration may be made to the OPI, but it **must** be reported to the OPI if the Disclosure gives rise to a reasonable suspicion of serious or systemic Misconduct and/or Maladministration unless there is



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 201 54
Next Review:	April, 201 65

knowledge that the Disclosure has already been reported to the State Ombudsman;

- otherwise facilitating the investigation of all appropriate Disclosures of Public Interest Information in a manner which promotes fair and objective treatment of those involved; and
- rectifying any substantiated wrongdoing to the extent practicable in all the circumstances.

3. Definitions

For the purposes of this Policy the following definitions apply.

3.1. **Act** means the *Whistleblowers Protection Act 1993*.

3.2. An **Appropriate Authority** that receives disclosure of public interest information includes:

- a *Minister of the Crown*;
- a *member of the police force* - where the information relates to an illegal activity;
- the *Auditor-General* – where the information relates to the irregular or unauthorised use of public money;
- the *Ombudsman* – where the information relates to a public officer;
- a *Responsible Officer* - where the information relates to a matter falling within the sphere of responsibility of a Local Government body; or
- any other person¹ to whom, in the circumstances of the case, it is reasonable and appropriate to make the disclosure.

3.3. **Corruption in public administration** means:

3.3.1. an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- (i) bribery or corruption of public officers;
- (ii) threats or reprisals against public officers;
- (iii) abuse of public office;
- (iv) demanding or requiring benefit on basis of public office;
- (v) offences relating to appointment to public office.

3.3.2 any other offence (including an offence against Part 5 (Offences of dishonesty) of the [Criminal Law Consolidation Act 1935](#)) committed by a public officer while acting in his or her capacity as a public officer or by a

¹ Such a person may include:

- a Council employee (such as the Chief Executive Officer) to whom the whistleblower feels comfortable making the disclosure; and/or
- The OPI where the disclosure relates to corruption, maladministration or misconduct in public administration.



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 2015 4
Next Review:	April, 2016 5

former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence; or

3.3.3 any of the following in relation to an offence referred to in a preceding paragraph:

- (i) aiding, abetting, counselling or procuring the commission of the offence;
- (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
- (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- (iv) conspiring with others to effect the commission of the offence

3.4. **Detriment** includes:

- injury, damage or loss; or
- intimidation or harassment; or
- discrimination, disadvantage or adverse treatment in relation to a person's employment; or
- threats of reprisal.

3.5. **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act, which are available on the Commissioner's website (www.icac.sa.gov.au).

3.6. **Disclosure** means an appropriate disclosure of public interest information made by the Whistleblower to an Appropriate Authority, including to a Responsible Officer.

A person makes an **appropriate disclosure** of public interest information if:

(a) the person:

- i. believes on reasonable grounds that the information is true; or
- ii. is not in a position to form a belief on reasonable grounds about the truth of the information but 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; and

(b) the disclosure is made to an Appropriate Authority.

3.7. **Employee** refers to all the Council's employees and includes trainees, work experience students, volunteers, and contractors whether they are working in a full-time, part-time or casual capacity.

3.8. **Fraud** is an intentional dishonest act or omission done with the purpose of deceiving.

3.9. **ICAC Act** is the *Independent Commissioner Against Corruption Act 2012*.



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 20154
Next Review:	April, 20165

3.10. **Immunity** is an undertaking given by the Council (in accordance with the Act) to a Whistleblower in relation to action it does not intend to take against a Whistleblower as a result of receiving an appropriate disclosure of public interest information from the Whistleblower.

3.11. **Independent Assessor** is the person responsible for investigating, a disclosure made to a Responsible Officer. The Independent Assessor will be appointed by the Responsible Officer on a case-by-case basis (depending upon the nature of the disclosure) in accordance with clause 7.3 of this Policy. The Council may prepare a list of pre-approved persons who may be appointed as an Independent Assessor in any given circumstances, in which case, the Responsible Officer must have regard to this list in appointing the Independent Assessor.

3.12. **Maladministration** is defined in the *Whistleblowers Protection Act 1993* to include impropriety or negligence. Section 4 of the *Independent Commissioner Against Corruption Act 2012* defines **Maladministration in public administration** to mean:

- (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
- (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and

3.12.1. includes conduct resulting from impropriety, incompetence or negligence; and

3.12.2. is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

3.13. **Misconduct** in public administration defined at Section 4 of the *ICAC Act* means:

3.13.1. contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or

3.13.2. other misconduct of a public officer while acting in his or her capacity as a public officer.

3.14. **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:

3.14.1. receive and assess complaints about public administration from members of the public;

3.14.2. receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;

3.14.3. make recommendations as to whether and by whom complaints and reports should be investigated;

3.14.4. perform other functions assigned to the Office by the Commissioner.



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 2015 4
Next Review:	April, 2016 5

3.15. **Public administration** defined at section 4 of the *ICAC Act* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

3.16. **Public interest information**² means information that tends to show:

- (a) that an adult person, a Council or other Government Agency, is or has been involved in:
- i. an illegal activity; or
 - ii. an irregular and unauthorised use of public money; or
 - iii. substantial mismanagement of public resources; or
 - iv. conduct that causes a substantial risk to public health or safety, or to the environment; or
- (b) that a public officer is guilty of maladministration in or in relation to the performance of official functions.

3.17. **Public Officer** includes:

- a Council Member; and
- an Employee or Officer of the Council;

3.18. **Responsible Officer** is a person appointed pursuant to Section 302B of the Local Government Act 1999 who is authorised to receive and act upon public interest information received from a Whistleblower³. Each Council must ensure that a member of the staff of the Council (with qualifications prescribed by the Regulations⁴) is designated as a Responsible Officer for the Council for the purposes of the Act.

3.19. **Victimisation** occurs when a person causes detriment to another on the ground, or substantially on the ground, that the other person (or a third person) has made or intends to make an appropriate disclosure of public interest information.

3.20. **Waste** refers to the waste of public resources (including public money), which occurs as a result of the substantial mismanagement, irregular or unauthorised use of public resources.

3.21. **Whistleblower** is any person who makes an appropriate disclosure of public interest information.

² This definition captures conduct that constitutes corruption, misconduct and maladministration in public administration.

³ It is recommended that the Responsible Officer is one or two Council Officers and is not the Chief Executive Officer, the Mayor, Council Member or a Council Committee. A Council Member should not be appointed as a Responsible Officer as Council Members are not equipped to properly deal with an appropriate disclosure in terms of the roles and responsibilities of their office. Furthermore the Responsible Officer is an administrative role and the principles of good governance require division between the administrative and governing bodies of a Council.

⁴ Regulation 21B of the *Local Government (General) Regulations 1999*, states that the prescribed qualifications are the qualifications determined by the Minister. The Minister has not yet made any determination.

	W150 WHISTLEBLOWERS PROTECTION POLICY	Version No:	<u>54</u>
		Issued:	April, 201 <u>54</u>
		Next Review:	April, 201 <u>65</u>

4. Confidentiality

- 4.1. The identity of a Whistleblower will be maintained as confidential in accordance with the Act. Confidentiality will remain in all circumstances, unless the Whistleblower consents to his/her identity being disclosed or, disclosure is otherwise required so that the matter may be properly investigated. The Act does not expressly require any other information relating to a Disclosure (i.e. the nature of the allegations) to be maintained as confidential.
- 4.2. A Whistleblower may wish to remain anonymous. In the event that an anonymous Disclosure is made, the Whistleblower must ensure that the allegation is sufficiently supported by the provision of necessary details and evidence to enable the matter to be properly investigated. Accordingly, if an allegation is not supported by sufficient evidence it will not be investigated under the provisions of the Act.

5. Disclosure Process

- 5.1. A Disclosure is to be made to the Responsible Officer. A Whistleblower may alternatively choose to disclose Public Interest Information directly to an Appropriate Authority.
- 5.2. The following are relevant considerations for the Whistleblower in determining where to direct a Disclosure:
- 5.2.1. subject to this clause, when choosing to make a Disclosure internally, Disclosures relating to an elected member or a member of council staff, other than the Chief Executive Officer (or person acting in that position), should be made to a Responsible Officer;
 - 5.2.2. any Disclosure relating to a person appointed as a Responsible Officer should be made to the other person appointed as a Responsible Officer or failing this, to an Appropriate Authority external to the Council;
 - 5.2.3. any Disclosure relating to the Chief Executive Officer should be made external to the Council to the Ombudsman or, where it relates to Corruption in public administration to the OPI;
 - 5.2.4. any Disclosure relating to Maladministration or Misconduct in public administration may be reported in accordance with the ICAC Act or, if there is a reasonable suspicion that the Maladministration or Misconduct is serious or systemic, it must be reported to the OPI in accordance with the Directions and Guidelines;
 - 5.2.5. if a Disclosure contains allegations of Fraud or Corruption, the Whistleblower should report the matter in accordance with the Council's Fraud and Corruption Policy. That is, if the Disclosure relates to Corruption in public administration it should be reported to the OPI in the first instance⁵. If the Disclosure relates to Fraud, it may be reported to the Responsible Officer or direct to SAPOL.
 - 5.2.6. Any allegations of Fraud or Corruption and/or criminal conduct will **not** be investigated by an Independent Assessor under this Policy.

⁵ The OPI is the authority charged with receiving complaints and reports relating to such information. However, it remains open to the Whistleblower to make a disclosure relating to corruption in public administration to the Responsible Officer if he/she feels more comfortable doing so.



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 201 <u>5</u> 4
Next Review:	April, 201 <u>6</u> 5

- 5.3. Nothing in this Policy prevents a person from making a Disclosure to an Appropriate Authority external to the Council (i.e. the Ombudsman or the OPI). This is a choice to be made by the Whistleblower at his/her discretion.
- 5.4. A Disclosure made to the Responsible Officer may be made in person, by telephone or in writing. The relevant contact details are:

- Telephone [Director - Corporate Services 8721 2502](tel:87212502) or [Director - Operational Services 8721 2521](tel:87212521)
- Email whistleblower@mountgambier.sa.gov.au
- Address [Confidential Whistleblowers PO Box 56 Mount Gambier SA 5290](#)

- 5.5. Where a Disclosure is made by telephone, the Responsible Officer must take notes of the conversation and, where possible ask the Whistleblower to verify and sign the notes.

6. The Role of the Responsible Officer

- 6.1. Upon the receipt of a Disclosure, the Responsible Officer will:
- 6.1.1. undertake a preliminary assessment in accordance with Part 7 of this Policy below to determine the nature of the Public Interest Information contained within the Disclosure; and
 - 6.1.2. either refer the Disclosure to the Appropriate Authority (where it is appropriate to do so), or proceed with the an investigation process outlined in Part 8 of this Policy.
- 6.2. If the Disclosure relates to the Chief Executive Officer (or a person acting in that position), the Responsible Officer will immediately refer it to the Ombudsman for investigation as the Ombudsman deems appropriate. Alternatively, if the Disclosure relates to Corruption in public administration, the Responsible Officer must immediately report the matter to the OPI in accordance with the Directions and Guidelines.
- 6.3. In making any determination under this Policy (i.e. such as to refer a disclosure to the Appropriate Authority or proceed with an assessment or otherwise determining whether to pursue an investigation) :
- 6.3.1. the Responsible Officer may seek legal advice from Council's Lawyers and/or seek guidance from SAPOL or the Ombudsman in relation to the best course of action to pursue; and
 - 6.3.2. is authorised to incur costs in accordance with the Council's Budget for this purpose.
- 6.4. In the event that the Responsible Officer determines that the Disclosure warrants further investigation by the Council, the Responsible Officer will appoint an Independent Assessor for these purposes under paragraph 7.3 of this Policy.



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 201 54
Next Review:	April, 201 65

- 6.5. The Responsible Officer will liaise with the Independent Assessor and the Whistleblower in relation to any ensuing investigation process and will ensure that the Whistleblower is provided with adequate support and protection as necessary.
- 6.6. The Whistleblower will be notified of the progress of any investigation by the Responsible Officer and, wherever practicable and in accordance with the law, of the final outcome.

7. Preliminary Assessment of Complaint

- 7.1. Where the identity of the Whistleblower is known to the Responsible Officer or is reasonably ascertainable, the Responsible Officer will acknowledge receipt of the Disclosure within 2 days and in doing so, will provide a copy of this Policy to the Whistleblower.
- 7.2. Upon receipt of a disclosure, the Responsible Officer will undertake a preliminary assessment to determine whether it:
 - 7.2.1. is frivolous, vexatious or trivial, in which case, no further action will be taken in relation to the complaint; or
 - 7.2.2. warrants referral to an Independent Assessor for a formal investigation and report to Council; or
 - 7.2.3. requires referral to an Appropriate Authority external to the Council;
- 7.3. The Responsible Officer must report the outcome of his/her determination under paragraph 7.2 above to the Chief Executive Officer (unless the disclosure relates to the Chief Executive Officer in which case it is to be dealt with pursuant to clause 6.2 above and must not be investigated by an Independent Assessor). Where the Responsible Officer determines the disclosure warrants investigation, the Responsible Officer will, having regard to available resources, appoint the Independent Assessor and refer the Disclosure to the Independent Assessor for investigation.
- 7.4. Where the Responsible Officer determines the Disclosure warrants referral to an external body, the Responsible Officer will undertake the referral.
- 7.5. The Responsible Officer will inform the Whistleblower of the outcome of his/her determination under paragraph 7.2 above in writing as soon as is reasonably practicable after the determination has been made.
- 7.6. If the Whistleblower is dissatisfied with the Responsible Officer's determination it is open to him/her to report the Disclosure to an Appropriate Authority external to the Council.

8. Investigation Procedure

- 8.1. The objectives of the investigation process are:
 - to investigate the substance of the disclosure and to determine whether there is evidence in support of the matters raised or, alternatively, to refute the report made;



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	54
Issued:	April, 2015 4
Next Review:	April, 2016 5

- to collate information relating to the allegation as quickly as possible. This may involve taking steps to protect or preserve documents, materials and equipment;
 - to consider the information collected and to draw conclusions objectively and impartially;
 - to observe procedural fairness in the treatment of any person who is subject of the disclosure;
 - to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action; and
- 8.2. The Independent Assessor will observe the principles of natural justice throughout the investigation process. The investigation will be conducted in an efficient manner and will involve a thorough and balanced assessment of the available evidence and any other factors deemed relevant to making a fair and reasonable judgement about the matter.
- 8.3. The Act requires that the Whistleblower assist with certain investigations that may result from his/her Disclosure. In the event that the Whistleblower fails, without reasonable excuse, to assist with an investigation process the protection afforded to him/her under the Act may be forfeited⁶.
- 8.4. Upon receipt of a Disclosure, the Independent Assessor will bring the fact of the Disclosure to the attention of the person who is the subject of it in writing within 5 days, and provide them with an opportunity to respond to the disclosure within a reasonable timeframe (either in writing or in person). The full details of any allegations contained in the Disclosure need not be brought to the person's attention if the Independent Assessor considers that doing so will compromise the success of the investigation.
- 8.5. At any time the Independent Assessor is required to communicate with the person subject of the Disclosure, the Whistleblower and/or other witnesses for the purposes of the investigation, the Independent Assessor will ensure the relevant person is aware of the reason for and purpose of the communication. Such notification will be provided to the relevant person at least 48 hours before such communication is to take place.
- 8.6. During any interview with the Independent Assessor, the person who is the subject of a Disclosure may be accompanied by any person providing support to him/her (including a lawyer) as he/she considers fit. Any costs incurred in relation to obtaining the assistance of a support person are the personal expenses of the person subject of the Disclosure. The support person is bound by a duty of confidentiality in relation to any matter discussed during such interview.
- 8.7. The investigation will be undertaken in confidence. The Independent Assessor will keep the identity of the Whistleblower confidential unless Disclosure of his/her identity is necessary to ensure that the proper investigation of the Disclosure.
- 8.8. The Independent Assessor will keep the Responsible Officer informed of the expected timeframes for completion of the investigation and the provision of a report to the Council.

⁶ Refer section 6(3) of the Act.

	W150 WHISTLEBLOWERS PROTECTION POLICY	Version No:	54
		Issued:	April, 201 54
		Next Review:	April, 201 65

9. Final Report and Recommendation

9.1. Upon finalising a detailed investigation the Independent Assessor must prepare a report that will contain the following:

- the allegation(s);
- an account of all relevant information received including any rejected evidence, and the reasons why the rejection occurred;
- the conclusions reached and the basis for them;
- any recommendations arising from the conclusions; and
- any remedial action which should be taken by the Council.

The report will be accompanied by:

- the transcript or other record of any verbal evidence taken, including tape recordings; and
- all documents, statements or other exhibits received by the officer and accepted as evidence during the course of the investigation.

9.2. The report will not disclose particulars that will or are likely to lead to the identification of the Whistleblower.

9.3. The report must be provided to the Chief Executive Officer to action as he/she considers appropriate.

10. Handling of Information

10.1. The Independent Assessor must ensure accurate records of the investigation process are maintained including notes of all discussions, phone calls, and interviews. It is recommended that the interviewee sign written records of interviews and interviews be taped, but only where the interviewee has consented to this. Witness statements should also be signed.

10.2. In performing his/her duties, the Independent Assessor will maintain a confidential file of information (including written documents, disks, tapes, film or other objects that contain information) that relates to a disclosure and/or is a product of the associated investigation/reporting process. All such information will be recorded in a register which is to remain confidential and be securely stored⁷.

11. Information to Elected Body

11.1. As a matter of discretion, the Chief Executive Officer may inform the elected body, on a confidential basis, of the fact an investigation of a Disclosure took place and the outcome of the investigation.

⁷ The Responsible Officer, in conjunction with the independent assessor will ensure all information relating to an appropriate disclosure is maintained as confidential and as such, will be solely responsible for the secure storage of this information. It is recommended that the information be stored separately from the Council's records. In the event that a person's appointment as a Responsible Officer is terminated, the person must provide this information to the newly-appointed Responsible Officer and having done so will continue to be bound by a duty of confidentiality in respect of the Whistleblower's identity and the information received.



W150 WHISTLEBLOWERS PROTECTION POLICY

Version No:	<u>54</u>
Issued:	April, 201 <u>54</u>
Next Review:	April, 201 <u>65</u>

11.2. Factors the Chief Executive Officer will take into account in determining whether to inform the elected body under paragraph 11.1 above and the level of detail provided in doing so are as follows:

11.2.1. the identity of the person subject of the Disclosure;

11.2.2. the impact (if any) of the investigation upon the Council's achievement of its objectives under its Strategic Plan and/or policies; and

11.2.3. the nature of the impact of any action taken to finalise the matter upon the Council's operations and/or budget.

11.3. In the event the Disclosure and investigation process is confined only to issues impacting upon Council staff and human resource processes, the Chief Executive Officer will not inform the elected body of the fact of the Disclosure and/or investigation since these matters fall outside the roles and responsibilities of elected members under the *Local Government Act 1999*.

12. Protection for the Whistleblower

12.1. The Act provides immunity from criminal or civil liability for Whistleblowers, and protection for Whistleblowers against victimisation. Accordingly the Council will take action as appropriate to protect Whistleblowers from victimisation. Furthermore, in the event that a Whistleblower is victimised, the Council will, immediately refer the matter to the SA Police.

12.2. The Act does not provide any protection to people who knowingly make false disclosures or are reckless as to whether their disclosures are true.

12.3. A person who knowingly makes a false Disclosure or is reckless as to whether the disclosure is true is guilty of an offence and may be prosecuted.

12.4. A Public Officer who knowingly makes a false disclosure, or is reckless as to whether the Disclosure is true, in addition to being guilty of an offence under the Act, may face disciplinary action taken by the Council.

13. Review and Evaluation

This Policy is scheduled for review by Council's Audit Committee annually, however, will be reviewed as required by any legislative changes which may occur.

14. Availability of Policy

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

	W150 WHISTLEBLOWERS PROTECTION POLICY	Version No:	54
		Issued:	April, 201 54
		Next Review:	April, 201 65

File Reference:	AF11/1745
Applicable Legislation:	Whistleblowers Protection Act, 1993 Local Government Act 1999 (s270) Independent Commissioner Against Corruption Act 2012 Criminal Law Consolidation Act 1935 Ombudsman Act 1972
Reference: Strategic Plan – Beyond 2015	Goal 5, Strategic Objective 5
Related Policies:	F225 Fraud and Corruption Prevention Policy C290 Internal Review of Council's Decisions Policy
Related Procedures:	ICAC Directions & Guidelines
Related Documents:	Code of Conduct for Council Employees (Gazetted 20/2/2014) Code of Conduct for Council Members (Gazetted 29/8/2013)

DOCUMENT DETAILS

Responsibility:	Manager Governance & Property / Audit Committee
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	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	4
		Issued:	April, 2014 ⁵
		Next Review:	April, 2015 ⁶

1. Introduction

- 1.1 The City of Mount Gambier ("the Council") is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.
- 1.2 The Council recognises that Fraud and Corruption in Public Administration have the potential to cause significant financial and non-financial harm and that, therefore, the prevention and control of Fraud and Corruption should feature predominantly within the systems and procedures of a responsible Council.

2. Policy Statement

- 2.1 This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council.
- 2.2 This Policy outlines the Council's approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Council Members and Council Employees.
- 2.3 The Council will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:
 - complying with the requirements of the Independent Commissioner Against Corruption Act 2012 (ICAC Act);
 - establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
 - regularly undertaking risk assessments to identify circumstances in which Fraud and Corruption could potentially occur;
 - implementing Fraud and Corruption prevention and mitigation strategies in its day to day operations;
 - taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the ICAC Act and the reporting system established by the Independent Commissioner Against Corruption (ICAC) under section 20 of the ICAC Act and where allegations are substantiated, in addition to applicable criminal sanctions, may take disciplinary action in accordance with the Codes of Conduct for Council Members and Council Employees or , if relevant, a Council Employee's contract of employment with the Council;
 - ensuring all Council Employees and Council Members are aware of their obligations in regards to the prevention of Fraud and Corruption within the Council and the inclusion of preliminary education in any induction process;
 - active participation in education and evaluation of practices relevant to Fraud and Corruption;
 - fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged; and
 - generating community awareness of the Council's commitment to the prevention of fraud and Corruption.



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

3. Scope

3.1 This Policy is intended to complement and be implemented in conjunction with other Council policies, including:

- Whistleblower Protection;
- Risk Management Framework and Internal Controls;
- Members Allowances, Reimbursements, Benefits & Facilities Policy;
- Code of Conduct for Council Employees;
- Code of Conduct for Council Members.

3.2 This Policy applies to all disclosures that relate to the actual or suspected occurrence of Fraud and/or Corruption within the Council.

4. Definitions

For the purposes of this Policy the following definitions apply:

4.1 **Corruption** in public administration means:

- a) an offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
 - (i) bribery or Corruption of public officers;
 - (ii) threats or reprisals against public officers;
 - (iii) abuse of public office;
 - (iv) demanding or requiring benefit on basis of public office;
 - (v) offences relating to appointment to public office.
- b) any other offence (including an offence against Part 5 (Offences of dishonesty) of the [Criminal Law Consolidation Act 1935](#)) committed by a public officer while acting in his or her capacity as a public officer or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or an attempt to commit such an offence (see Appendix 1 for examples of offences under the *Local Government Act 1999*, *Local Government (Elections) Act 1999* and *Development Act 1993*); or
- c) any of the following in relation to an offence referred to in a preceding paragraph:
 - (i) aiding, abetting, counselling or procuring the commission of the offence;
 - (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
 - (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
 - (iv) conspiring with others to effect the commission of the offence.



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

- 4.2 **Directions and Guidelines** is a reference to the Directions and Guidelines issued pursuant to section 20 of the ICAC Act, which are available on the Commissioner's website (www.icac.sa.gov.au).
- 4.3 An **Employee** is any person who is employed by the Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the Council.
- 4.4 A **False Disclosure** is a disclosure of information relating to Fraud or Corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.
- 4.5 **Fraud** is an intentional dishonest act or omission done with the purpose of deceiving.
- Note: unlike 'Corruption' there is no statutory definition of 'Fraud'. Fraud is a style of offending. The offences addressed under Part 5 and Part 6 of the *Criminal Law Consolidation Act 1935* are considered to constitute Fraud offences.
- 4.6 **Independent Commissioner Against Corruption (Commissioner)** means the person holding or acting in the office of the Independent Commissioner Against Corruption.
- 4.7 **Manager** means any Employee of the Council who is responsible for the direct supervision of other Employees, and/or, for the management of a Council Department.
- 4.8 **Office for Public Integrity (OPI)** is the office established under the *ICAC Act* that has the function to:
- receive and assess complaints about public administration from members of the public;
 - receive and assess reports about Corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;
 - make recommendations as to whether and by whom complaints and reports should be investigated;
 - perform other functions assigned to the Office by the Commissioner.
- 4.9 **Public administration** defined at section 4 of the *ICAC Act 2012* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.
- 4.10 **Public Officer** defined under the *ICAC Act 2012* includes:
- a Council Member;
 - a member of a Local Government body (including a subsidiary of a Council established under the *Local Government Act 1999*); and
 - an Employee or Officer of the Council.



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

4.11 A **Responsible Officer** is a person (or persons) appointed by the Council pursuant to section 302B of the *Local Government Act 1999* who is (are) authorised to receive and act upon disclosures of public interest information reported to him/her under the *Whistleblowers Protection Act 1993*.

5. Prevention

5.1 The Council recognises that:

- the occurrence of Fraud and Corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration; and
- the most effective way to prevent the occurrence of Fraud and Corruption is to promote an ethical environment in which internal control mechanisms have been implemented.

5.2 In general, the Council expects that Public Officers will assist in preventing Fraud and Corruption within the Council by:

- understanding the responsibilities of their position;
- familiarising themselves with the Council's policies and procedures and adhering to them;
- understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- maintaining an awareness of the strategies that have been implemented by the Council to minimise Fraud and Corruption;
- being continuously vigilant to the potential for Fraud and/or Corruption to occur; and
- reporting suspected or actual occurrences of Fraud or Corruption in accordance with Part 7 of this Policy.

5.3 Specific Responsibilities

5.3.1 Collectively, as the decision making body of the Council, **Council Members** are responsible for ensuring that the **Council**:

- promotes community awareness of the Council's commitment to the prevention of Fraud and Corruption;
- provides adequate security for the prevention of Fraud and Corruption. This includes the provision of secure facilities for storage of assets, and procedures to deter fraudulent or corrupt activity from occurring;
- provides mechanisms for receiving allegations of Fraud or Corruption, including by ensuring a Responsible Officer is appointed;
- ensures that, where appropriate, proper investigations are conducted into allegations that involve Fraud or Corruption;



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

- makes reports in accordance with Part 7 of this Policy and facilitates cooperation with any investigation undertaken by an external authority (such as SAPOL or the Commissioner);
- ensures that all Employees are aware of their responsibilities in relation to Fraud and Corruption through the provision of appropriate and regular training;
- promotes a culture and environment in which Fraud and Corruption is actively discouraged and is readily reported should it occur; and
- undertakes a Fraud and Corruption risk assessment on a regular basis.

5.3.2 **Managers** are responsible for:

- the conduct of any Employees whom they supervise and, will be held accountable for such;
- any property under their control and, will be held accountable for such;
- reporting in accordance with Part 7 of this Policy;
- creating an environment in which Fraud and Corruption is discouraged and readily reported by Employees. Such an environment shall be fostered by the Manager's own attitude and behaviours to Fraud and Corruption and, by the accountability and integrity they both display and encourage from other Employees;
- ensuring that new Employees for whom they are responsible are aware of their responsibilities in relation to Fraud and Corruption and, of the standard of conduct expected from all Employees as outlined in the Code of Conduct for Council Employees and this Policy;
- identifying potential Fraud and Corruption risks; and
- leading by example to promote ethical behaviour.

5.3.3 **Employees** are responsible for:

- performing their functions and duties with care, diligence, honesty and integrity;
- conducting themselves in a professional manner at all times;
- adhering to these guidelines and other Council procedures that have been established to prevent Fraud or Corruption;
- taking care for Council's property which includes avoiding the waste or misuse of the Council's resources;
- maintaining and enhancing the reputation of the Council;
- remaining scrupulous in the use of Council information, assets, funds, property, goods or services; and
- reporting in accordance with Part 7 of this Policy.

	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	<u>5</u>
		Issued:	April, 201 <u>5</u>
		Next Review:	April, 201 <u>6</u>

6. Fraud and Corruption Risk Assessment Process

- 6.1 The Council's main objective in the prevention and control of Fraud and Corruption is to minimise the occurrence of Fraud and Corruption within the Council. This objective is generally achieved by:
- identifying Fraud and Corruption Risks;
 - determining strategies to control those risks; and
 - defining responsibility for and, the time frame within which the strategies will be implemented.
- 6.2 Managers must be alert to the potential of Fraud and Corruption to occur and remain wary of factors which may leave the Council vulnerable to Fraud and Corruption, including:
- changes to Council delegations;
 - implementation of cost cutting measures;
 - contracting out and outsourcing;
 - the impact of new technology; and
 - changes to risk management practices.

7. Reporting Fraud and Corruption

Reporting Corruption in Public Administration to the OPI

Reports by Employees or Council Members to the OPI

- 7.1 Any Employee or Council Member who has or acquires knowledge of actual or suspected Corruption in public administration must report this information to the OPI as soon as practicable.
- 7.2 Where an Employee or Council Member suspects Corruption in public administration, that suspicion must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Employee or Council Member to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (i.e. there must be a factual basis for the suspicion).
- 7.3 Reports to the OPI by an Employee or Council Member must be made in accordance with the reporting obligations contained in section 11 of the Directions and Guidelines. In particular, the following information must be included in the report:
- 7.3.1 the Employee or Council Member identity; and
 - 7.3.2 the identity of the Council;
 - 7.3.3 the Employee's or Council Member's Council address, telephone number and email.

	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	<u>5</u>
		Issued:	April, 201 <u>5</u>
		Next Review:	April, 201 <u>6</u>

- 7.4 In addition, the report must:
- 7.4.1 identify the matter by reference to the conduct that the Employee or Council Member suspects is Corruption in public administration; and
 - 7.4.2 expressly identify that the Employee or Council Member suspects the conduct to be Corruption; and
 - 7.4.3 identify any public officer or other person suspected of having engaged in the conduct; and
 - 7.4.4 be accompanied by:
 - 7.4.4.1 a statement as to how the Employee or Council Member became aware of the conduct; and
 - 7.4.4.2 the evidence known to the Employee or Council Member including any documentation relevant to the conduct; and
 - 7.4.4.3 a list of those persons who the Employee or Council Member believes can give evidence relevant to the conduct.
- 7.5 A report to the OPI by an Employee or Council Member must be made on the online report form available at www.icac.sa.gov.au.
- 7.6 Where the Employee's or Council Member's knowledge of Corruption has arisen due to a complaint/report he/she has received from another person (the informant), the Employee or Council Member should not include the informant's details in the report to the OPI if:
- 7.6.1 the report/complaint was made under the *Whistleblowers Protection Act 1993*; and
 - 7.6.2 the informant has not consented to the informant's identity being divulged; and
 - 7.6.3 it is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.
- 7.7 Nothing in this section is intended to prevent an Employee or Council Member from reporting Corruption in public administration internally to a Responsible Officer in accordance with the Council's Whistleblowers Protection Policy. Where an internal report relating to Corruption in public administration is received by another under the Whistleblowers Protection Policy the Responsible Officer must report the matter to the OPI in accordance with this Policy.

Reports by the Council to the OPI

- 7.8 Where the Council (i.e. Council Members collectively) has or acquires knowledge of actual or suspected Corruption in public administration it must report this information to the OPI as soon as practicable after the Council becomes aware of the matter. The Chief Executive Officer is responsible for preparing a report to the OPI on behalf of the Council for these purposes. The Chief Executive Officer must prepare the report immediately upon receiving direction from the Council (such as via the Mayor) to do so.



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

- 7.9 Any suspicion the Council has regarding conduct that constitutes Corruption in public administration must be reasonably held. Section 6 of the Directions and Guidelines address what is required to form a reasonable suspicion. In this regard it is to be noted that suspicion is a state of mind that is distinct from a belief. It is not necessary for the Council to *believe* the relevant conduct amounts to Corruption in public administration. All that is required to make a report to the OPI is a reasonable suspicion based upon a proper consideration of the available facts (i.e. there must be a factual basis for the suspicion).
- 7.10 The report must:
- 7.10.1 identify the matter by reference to the conduct that the Council suspects is Corruption; and
 - 7.10.2 expressly identify that the Council suspects the conduct to be Corruption in public administration; and
 - 7.10.3 identify any public officer or other person suspected of having engaged in the conduct; and
 - 7.10.4 be accompanied by:
 - 7.10.4.1 a statement as to how the Council became aware of the conduct; and
 - 7.10.4.2 the evidence known to the Council including any documentation relevant to the conduct; and
 - 7.10.4.3 a list of those persons who the Council believes can give evidence relevant to the conduct.
- 7.11 A report to the OPI by the Chief Executive Officer on behalf of the Council must be made on the online report form available at www.icac.sa.gov.au.
- 7.12 Where the Council's knowledge of Corruption has arisen due to a complaint/report it received from another person (the informant), the Chief Executive Officer should not include the informant's details in the report to the OPI if:
- 7.12.1 the report/complaint was made under the *Whistleblowers Protection Act 1993*; and
 - 7.12.2 the informant has not consented to the informant's identity being divulged; and
 - 7.12.3 it is not necessary to divulge the identity of the informant to ensure that the matters to which the report to the OPI relates are properly investigated.
- 7.13 Any consideration by the Council of information relating to Corruption in public administration or a Council report to the OPI during a Council meeting must be considered in confidence. The grounds under section 90(3)(f) and (g) of the *Local Government Act 1999* may be relied upon to move into confidence for these purposes.

	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	<u>5</u>
		Issued:	April, 201 <u>5</u>
		Next Review:	April, 201 <u>6</u>

Reporting Fraud

7.14 Any Employee or Council Member that has or acquires knowledge of actual or suspected Fraud that:

7.14.1 does not constitute Corruption in public administration;¹ and

7.14.2 impacts or causes detriment (or has the potential to impact or cause detriment) to the Council -

must report such information to the Responsible Officer or the Anti-Corruption branch of SAPOL.

7.15 A report made under clause 7.14 may be made under the *Whistleblowers Protection Act 1993* and managed in accordance with the Council's Whistleblower Protection Policy.

8. Action by the Chief Executive Officer Following Report and/or Investigation into Fraud or Corruption

8.14 Following any report to the OPI or SAPOL under this Policy (or the Whistleblower Protection Policy as the case may be) of which the Chief Executive Officer has knowledge and, subject to the finalisation of any investigation undertaken by the Commissioner or SAPOL, the Chief Executive Officer will undertake a review into the area in which the Fraud or Corruption occurred to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to the Council. In undertaking any review, the Chief Executive Officer will have regard to any recommendations received from the Commissioner or the Ombudsman.

8.2 In the event that allegations of Fraud and/or Corruption are substantiated, the Council may take disciplinary action against any Employee who was involved.

9. False Disclosure

9.1 A person who knowingly makes a false or misleading statement in a complaint or report under the *ICAC Act* or makes a false or misleading disclosure, under the *Whistleblowers Protection Act 1993*, is guilty of an offence.

9.2 An Employee who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include dismissal.

10. Educating for Awareness

10.1 The Council recognises that the success and credibility of this Policy will largely depend upon how effectively it is communicated throughout the organisation and beyond.

¹ [Such conduct may, for example, relate to persons who are not a public officer such as a non-elected member of a Council Committee and/or a member of a Development Assessment Panel.](#)



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

10.2 The Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards Fraud and Corruption.

10.3 The Council will increase community awareness by:

- promoting the Council's initiatives and policies regarding the control and prevention of Fraud and Corruption on the Council's website and at the Council's offices;
- make reference to the Council's Fraud and Corruption initiatives in the Council's Annual Report; and
- facilitating public access to all of the documents that constitute the Council's Fraud and Corruption framework.

11. Conclusion

11.1 The Council has established a number of procedures to assist with the prevention and control of Fraud and Corruption. The effectiveness of these procedures will be continuously reviewed and assessed and will remain up to date with any future developments in Fraud and Corruption prevention and control techniques.

12. Review & Evaluation

This Policy is scheduled for review by Council's Audit Committee annually, however, will be reviewed as required by any legislative changes which may occur.

13. Availability of Policy

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	<u>5</u>
		Issued:	April, 201 <u>5</u>
		Next Review:	April, 201 <u>6</u>

File Reference:	AF11/1740
Applicable Legislation:	Independent Commissioner Against Corruption Act 2012 Criminal Law Consolidation Act 1935 Local Government Act 1999 Local Government (Elections) Act 1999 Development Act 1993 Ombudsman Act 1972 Whistleblowers Protection Act 1993
Reference: Strategic Plan – Beyond 2015	Goal 5, Strategic Objective 5 and 6.
Related Policies:	W150 Whistleblowers Protection Policy I105 Internal Controls Policy M405 Council Members Allowances and Benefits Policy
Related Procedures:	ICAC Directions & Guidelines
Related Documents:	Code of Conduct for Council Employees (Gazetted 20/2/2014) Code of Conduct for Council Members (Gazetted 29/8/2013)

DOCUMENT DETAILS

Responsibility:	Manager Governance & Property / Audit Committee
Version:	<u>5.0</u>
Last revised date:	April, 201 <u>5</u>
Effective date:	<u>##rd</u> April, 201 <u>5</u>
Minute reference:	<u>##rd</u> April, 201 <u>5</u> , Corporate & Community Services Item <u>#</u>
Next review date:	April, 201 <u>6</u>
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F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

APPENDIX 1 OFFENCES

Local Government Act 1999

(a) Council Members

Member duties (sections 62(3) & (4))

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council.

Maximum Penalty: \$10,000.00 or imprisonment for two years.

Provision of false information (section 69)

A member of a Council who submits a return under Chapter 5 Part 4 (Register of Interest) and Schedule 3 of the *Local Government Act 1999*, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.

Restrictions on publication of information from Register of Interests (section 71)

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice.

Maximum Penalty: \$10,000.00.

(b) Council Employees

Provision of false information (section 117)

A Council employee who submits a return under Chapter 7 Part 4 Division 2 (Register of Interest) and that is to the knowledge of the employee false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00.



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

Restrictions on disclosure (section 119(1))

A Council employee must not disclose to any other person any information furnished pursuant to Chapter 7 Part 4 Division 2 (Register of Interests) unless the disclosure is necessary for the purposes of the preparation or use of the Register by the Chief Executive Officer or is made at a meeting of the Council, a Council Committee or a Subsidiary of the council.

Maximum Penalty: \$10,000.00.

Conflict of Interest (section 120(1), (2) & (4))

The Chief Executive of a Council who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Council and must not, unless the Council otherwise determines during a Council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

An employee of the Council (other than the Chief Executive Officer) who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the council and must not, unless the council otherwise determines during a council meeting that is open to the public, act in relation to the matter.

Maximum Penalty: \$5,000.00.

If an employee is entitled to act in relation to a matter and the employee is providing advice or making recommendations to the Council or a Council Committee on the matter, the employee must also disclose the relevant interest to the Council or Council Committee.

Maximum Penalty: \$5,000.00.

CEO to Assist Auditor (section 130)

The Chief Executive Officer must, at the request of the auditor of the Council, produce to the auditor for inspection the accounts, accounting records and other documents relating to the financial affairs or internal controls of the Council, or to any other matter that is being examined or considered by the auditor. The Chief Executive Officer must, at the request of the auditor of the Council, provide to the auditor explanations or information required by the auditor. A Chief Executive Officer must not, without reasonable excuse, fail to comply with subsection (1) or (2).

Maximum Penalty: \$10,000.00.

Other Investigations (section 130A(4))

The Chief Executive Officer must, at the request of a person conducting an examination under section 130A(1) produce to the person for inspection any documents relevant to the examination, and provide to the person explanations or information required by the person.

Maximum Penalty: \$10,000.00.



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

Powers under this Act (section 261(10))

An authorised person, or a person assisting an authorised person, who addresses offensive language to any other person; or without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$5,000.00.

Local Government (Elections) Act 1999

Conduct of officers (section 65)

An electoral officer must not fail, without proper excuse, to carry out his or her official duties in connection with the conduct of an election or poll.

Maximum Penalty: \$2,500.00 or imprisonment for six months

Offences (section 85)

A person who fails to furnish a return that the person is required to furnish under Part 14 Division 1 within the time required is guilty of an offence.

Maximum Penalty: \$10,000.00

A person who furnishes a return or other information that the person is required to furnish under Division 1; and that contains a statement that is, to the knowledge of the person, false or misleading in a material particular, is guilty of an offence.

Maximum Penalty: \$10,000.00

Elected person refusing to act (section 91)

A duly qualified person who, having been duly appointed or elected as a member of a council refuses to assume office and to act in it; or neglects to assume the office and to act in it for the first three ordinary meetings of the council (without leave of the council), is guilty of an offence.

Maximum Penalty: \$750.00

Development Act 1993

Powers of authorised officers to inspect and obtain information (section 19(11))

An authorised officer, or a person assisting an authorised officer, who addresses offensive language to any other person; or without lawful authority hinders or obstructs or uses or threatens to use force in relation to any other person, is guilty of an offence.

Maximum Penalty: \$4,000.00

Delegations (section 20(4))

Subject to section 20(7), a delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect private interest.

Maximum Penalty: \$8,000.00 or imprisonment for two years

	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	<u>5</u>
		Issued:	April, 201 <u>5</u>
		Next Review:	April, 201 <u>6</u>

Investigations (section 31A(4))

An investigator may, for the purposes of an investigation require a member or employee of the council to answer, orally or in writing, questions put by the investigator to the best of his or her knowledge, information and belief; require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration; require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation; retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or of any of their contents.

Subject to subsection (8), a person who refuses or fails to comply with a requirement under section 31A(4) is guilty of an offence.

Maximum Penalty: \$20,000.00

Conflict of Interest (Regional Development Assessment Panel) (section 34(7))

A member of a regional development assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the regional development assessment panel (other than an indirect interest that exists in common with a substantial class of persons) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

Maximum Penalty: \$15,000.00

Investigation of development assessment performance (section 45A(3))

An investigator may, for the purposes of an investigation require a member or employee of the relevant authority, or a public sector employee or council employee assigned or engaged to assist the relevant authority, to answer, orally or in writing, questions put by the investigator to the best of his or her knowledge, information and belief; require a person to whom questions are put under paragraph (a) to verify the answers to those questions by declaration; require a person to produce for examination by the investigator books, papers or other records relevant to the subject matter of the investigation; retain books, papers or other records produced under paragraph (c) for such reasonable period as the investigator thinks fit and make copies of any of them or of any of their contents.

Subject to section 45A(7), a person who refuses or fails to comply with a requirement under section 45A(3) is guilty of an offence.

Maximum Penalty: \$20,000.00

	F225 FRAUD AND CORRUPTION PREVENTION POLICY	Version No:	<u>5</u>
		Issued:	April, 201 <u>5</u>
		Next Review:	April, 201 <u>6</u>

Conflict of Interest (Council Development Assessment Panel) (section 56A(7))

A member of a council development assessment panel who has a direct or indirect personal or pecuniary interest in a matter before the council development assessment panel (other than an indirect interest that exists in common with a substantial class of persons) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the panel; and must not take part in any hearings conducted by the panel, or in any deliberations or decision of the panel, on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.

Maximum Penalty: \$15,000.00

Declaration of interest (section 88B)

If a person commences any relevant proceedings; or becomes a party to any relevant proceedings; and the person has a commercial competitive interest in the proceedings, then the person must disclose the commercial competitive interest.

If a person commences any relevant proceedings; or becomes a party to any relevant proceedings; and the person receives, in connection with those proceedings, direct or indirect financial assistance from a person who has a commercial competitive interest in the proceedings, then both the person referred to in section 88B and the person who provided the financial assistance referred to in paragraph (b) must disclose the commercial competitive interest.

A disclosure must be made to the Registrar of the relevant court and to the other parties to the relevant proceedings in accordance with any requirements prescribed by the regulations.

A person who fails to make a disclosure in accordance with the requirements of this section is guilty of an offence.

Maximum Penalty: \$30,000.00

Interactions with a private certifier (section 97)

A person who improperly gives, offers or agrees to give a benefit to a private certifier or to a third person as a reward or inducement for an act done or to be done, or an omission made or to be made, by the private certifier in the performance of a function under this Act is guilty of an offence.

Maximum Penalty: \$30,000.00

In this section— benefit does not include a benefit that consists of remuneration or any condition of appointment or employment properly attaching or incidental to the work of a private certifier under this Act.

Confidential Information (section 102)

A person performing any function under this Act must not use confidential information gained by virtue of his or her official position for the purpose of securing a private benefit for himself or herself personally or for some other person.

Maximum Penalty: \$8,000.00 or imprisonment for two years



F225 FRAUD AND CORRUPTION PREVENTION POLICY

Version No:	5
Issued:	April, 2015
Next Review:	April, 2016

A person performing any function under this Act must not intentionally disclose confidential information gained by virtue of his or her official position unless the disclosure is necessary for the proper performance of that function; or the disclosure is made to another who is also performing a function under this Act; or the disclosure is made with the consent of the person who furnished the information or to whom the information relates; or the disclosure is authorised or required under any other Act or law; or the disclosure is authorised or required by a court or tribunal constituted by law; or the disclosure is authorised by the regulations.

Maximum Penalty: \$8,000.00 or imprisonment for two years

Disclosure of financial interests – Compliance with Schedule (Schedule 2 (4))

A prescribed member of an assessment panel who fails to comply with a requirement under Schedule 2 is guilty of an offence.

Maximum Penalty: \$10,000.00

A prescribed member of an assessment panel who submits a return under this Schedule that is to the knowledge of the member false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence.

Maximum Penalty: \$10,000.00

Restrictions on publication (Schedule 2 (5))

A person must not publish information derived from a register under Schedule 2 unless the information constitutes a fair and accurate summary of the information contained in the register and is published in the public interest; or comment on the facts set forth in a register under Schedule 2 unless the comment is fair and published in the public interest and without malice.

If information or comment is published by a person in contravention of Schedule 2 clause 5(1), the person, and any person who authorised the publication of the information or comment, is guilty of an offence.

Maximum Penalty: \$10,000.00

NOTE: *This is not an exhaustive list of offences that may be committed by a public officer and fall within the definition of 'corruption' in accordance with section 5(1)(c) of the ICAC Act.*

CORPORATE AND COMMUNITY SERVICES REPORT NO. 24/2015

SUBJECT: DELEGATION OF POWERS OF COUNCIL

REF: AF11/1020

Goal: Governance
Strategy: Demonstrate innovative and responsive organisational governance

Delegations - Legislative Provisions

It is not practical or efficient for the Council as a body of elected members to perform the many functions or undertake the many activities that are required in the day to day administration of the Council's roles and functions. Delegations are the way in which the Council enables other people/bodies (usually Council officers) to undertake these steps on its behalf.

Section 44 of the Local Government Act 1999 provides that the Council may delegate a power or function vested or conferred under this or another Act. Other Acts also contain specific power of delegation.

Delegations made by the Council under Section 44 of the Local Government Act 1999 can be made to a Council committee, a subsidiary, an employee, an employee occupying a particular office or position, or an authorised person. Some other Acts specify different delegates.

A delegation made pursuant to Section 44 of the Local Government Act 1999 is revocable at will and does not prevent the Council from acting in a matter.

There are a number of powers and functions of the Local Government Act 1999 which the Council cannot delegate. These are set out in Section 44(3) of the Local Government Act 1999. If the Council purports to delegate any of these powers or functions, that delegation would be ineffective. Any action undertaken in reliance on such a delegation would be unauthorised and may cause legal and administrative problems for the Council.

The powers and functions that cannot be delegated include the following:

- (a) power to make a by-law;
- (b) power to declare rates or a charge with the character of a rate;
- (c) power to borrow money or to obtain other forms of financial accommodation;
- (d) power to adopt or revise a strategic management plan or budget of the council;
- (e) power to approve expenditure of money on works, services or operations of the council not contained in a budget approved by the council;
- (f) power to determine annual allowances under Chapter 5;
- (g) power to approve payment or reimbursement of expenses that may be paid at the discretion of the council and for which the council has not adopted a formal policy or made specific financial provision;
- (h) power to establish a subsidiary, or to participate in the establishment of a regional subsidiary;

Corporate and Community Services Report No. 24/2015 cont'd...

- (i) power to make an application or recommendation, or to report or to give a notice, to the Governor or the Minister, being an application, recommendation, report or notice for which provision is made by or under this or another Act;
- (j) power to fix, vary or revoke a fee under section 188(1)(d) to (h);
- (k) a power or function excluded from delegation by the regulations.

Section 44 of the Local Government Act 1999 sets out various other matters in relation to delegations, including:

- Section 44(6) - that the Council must cause a separate record to be kept of all delegations made under Section 44, and should at least once in every financial year review the delegations for the time being in force under Section 44;
- Section 44(7) - that a person is entitled to inspect (without charge) the record of delegations under Section 44(6) at the principal office of the Council during ordinary office hours.

As a matter of best practice it is usual for delegations to be made by the Council to the Chief Executive Officer, and for the Chief Executive Officer to make further sub-delegations under Section 101 of the Local Government Act 1999.

2015 Delegations Review

Council last conducted a full review of delegations in accordance with Section 44(6) of the Local Government Act 1999 at its meeting held on 17th December 2013. In January and March 2014 Council considered new and updated delegations for the following statutes:

- Community Titles Act 1996
- Expiation of Offences Act 1996
- Liquor Licensing Act 1997
- Strata Titles Act 1988
- Heavy Vehicle National Law (South Australia) Act 2013
- Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014

Council's delegations use the Local Government Association delegation template format, and a review process that involves the revocation and (re)adoption of all delegations to ensure that they remain up-to-date with legislative changes over time.

Since the last review a number of the LGA delegation templates have been updated due to legislative/regulatory amendments/adjustments, for the following Acts:

- Development Act 1993, Development (Development Plans) Amendments Act 2006, and Regulations [Appendix 21]
- Local Government Act 1999 [Appendix 14]
- Road Traffic Act 1961 [Appendix 20]

The proposed delegations arising from these updates are provided as attachments to this Report, for Members information.

Council's Delegations Register will be amended to reflect the updates and are now recommended for adoption by Council.

RECOMMENDATION

- (a) that having conducted its annual review of Councils Delegations Register in accordance with Section 44(6) of the Local Government Act, 1999, the Council;

1. Revocations

1.1 Hereby revokes all previous delegations to the Chief Executive Officer of those powers and functions under the following:

- 1.1.1 Community Titles Act 1996
- 1.1.2 Development Act 1993, Development (Development Plans) Amendment Act 2006 and Development Act Regulations 2008
- 1.1.3 Dog & Cat Management Act 1995
- 1.1.4 Electricity Act 1996
- 1.1.5 Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010
- 1.1.6 Expiation of Offences Act 1996
- 1.1.7 Fences Act 1975
- 1.1.8 Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005
- 1.1.9 Food Act 2001
- 1.1.10 Freedom of Information Act 1991
- 1.1.11 Graffiti Control Act 2001
- 1.1.12 Housing Improvement Act 1940
- 1.1.13 Land & Business (Sale and Conveyancing) Act 1994
- 1.1.14 Liquor Licensing Act 1997
- 1.1.15 Local Government Act 1934
- 1.1.16 Local Government Act 1999
- 1.1.17 Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005
- 1.1.18 Public Assemblies Act 1972
- 1.1.19 Roads (Opening & Closing) Act 1991
- 1.1.20 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999

Corporate and Community Services Report No. 24/2015 cont'd...

- 1.1.21 Supported Residential Facilities Act 1992
- 1.1.22 Unclaimed Goods Act 1987
- 1.1.23 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013.
- 1.1.24 Safe Drinking Water Act 2011
- 1.1.25 Real Property Act 1886
- 1.1.26 Strata Titles Act 1988
- 1.1.27 Work Health & Safety Act 2012
- 1.1.28 Heavy Vehicle National Law (South Australia) Act 2013
- 1.1.29 Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014
- 1.2 Hereby revokes its previous delegations to its Development Assessment Panel under the Development Act 1993 and Development Regulations 2008.

2. Delegations made under Local Government Act 1999

- 2.1 In exercise of the power contained in Section 44 of the Local Government Act 1999 the powers and functions under the following Acts and specified in the proposed Instruments of Delegation contained in Appendices 1 - 32 (each of which is individually identified as indicated below) are hereby delegated this Tuesday, 21st April, 2015 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.
 - 2.1.1 Community Titles Act 1996 (Appendix 1)
 - 2.1.2 Dog & Cat Management Act 1995 (Appendix 2)
 - 2.1.3 Electricity Act 1996 (Appendix 3)
 - 2.1.4 Environment Protection Act 1993 (Appendix 4)
 - 2.1.5 Expiation of Offences Act 1996 (Appendix 5)
 - 2.1.6 Fences Act 1975 (Appendix 6)
 - 2.1.7 Fire and Emergency Services Act 2005 and Fire and Emergency Services Regulations 2005 (Appendix 7A and 7B)
 - 2.1.8 Freedom of Information Act 1991 (Appendix 8)
 - 2.1.9 Graffiti Control Act 2001 (Appendix 9)
 - 2.1.10 Housing Improvement Act 1940 (Appendix 10)
 - 2.1.11 Land & Business (Sale & Conveyancing) Act 1994 (Appendix 11)

Corporate and Community Services Report No. 24/2015 cont'd...

- 2.1.12 Liquor Licensing Act 1997 (Appendix 12)
- 2.1.13 Local Government Act 1934 (Appendix 13)
- 2.1.14 Local Government Act 1999 (Appendix 14)
- 2.1.15 Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005 (Appendix 16)
- 2.1.16 Public Assemblies Act 1972 (Appendix 17)
- 2.1.17 Roads (Opening and Closing) Act 1991 (Appendix 18)
- 2.1.18 Road Traffic Act 1961, Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999 (Appendix 20)
- 2.1.19 Unclaimed Goods Act 1987 (Appendix 25)
- 2.1.20 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013 (Appendix 26)
- 2.1.21 Safe Drinking Water Act 2011 (Appendix 27)
- 2.1.22 Real Property Act 1886 (Appendix 28)
- 2.1.23 Strata Titles Act 1988 (Appendix 29)
- 2.1.24 Work Health & Safety Act 2012 (Appendix 30)
- 2.1.25 Heavy Vehicle National Law (South Australia) Act 2013 (Appendix 31)
- 2.1.26 Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014 (Appendix 32)
- 2.2 Such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the Local Government Act 1999 as the Chief Executive Officer sees fit, unless otherwise indicated herein or in the Schedule of Conditions contained in each such proposed Instrument of Delegation.
- 2.3 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.
- 2.4 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

3. Delegations made under Development Act 1993

- 3.1 In exercise of the power contained in Section 20 and 34 (23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 21 are hereby delegated this 21st April, 2015 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.
- 3.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.
- 3.3 In exercise of the power contained in Section 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 21 and which are specified in Schedule I, attached to this Report are hereby delegated this 21st April, 2015 to the Council's Development Assessment Panel, subject to the conditions or limitations indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993:

Refer Schedule I (attached) for details of the Council Delegations to the Council Development Assessment Panel.

- 3.4 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.
- 3.5 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

4. Delegations made under Food Act 2001

- 4.1 In exercise of the powers contained in Section 91 of the Food Act 2001, the powers and functions under the Food Act 2001 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 22 are hereby delegated this 21st April, 2015 to the person occupying the office of Chief Executive Officer ("the head of the enforcement agency" for the purposes of the Food Act 2001), subject to the conditions or limitations indicated in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Food Act 2001.
- 4.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Food Act 2001.

Corporate and Community Services Report No. 24/2015 cont'd...

- 4.3 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.
- 4.4 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

5. Delegations under Supported Residential Facilities Act 1992

- 5.1 In exercise of the power contained in Section 9 of the Supported Residential Facilities Act 1992, the powers and functions under the Supported Residential Facilities Act 1992 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 24) are hereby delegated this 21st April, 2015 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 5.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 5.3 For the purposes of these delegations, all delegations to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.
- 5.4 For the purposes of these delegations all delegations made by the Chief Executive Officer extends to any person who is appointed to act in the position of the sub-delegate.

6. Authorisations and Subdelegation under the Road Traffic Act 1961

- 6.1 In accordance with the Instrument of General Approval and Delegation to Council dated 22 August 2013 from the Minister for Transport and Infrastructure (the 'Instrument') the Council authorises the following person(s) pursuant to Clause A.7 of the Instrument to endorse Traffic Impact Statements for the purposes of Clause A of the Instrument provided that such person(s) shall take into account the matters specified in Clause A.7 of the Instrument in respect of Traffic Impact Statements:

CHIEF EXECUTIVE OFFICER – Mark McShane
DIRECTOR OPERATIONAL SERVICES – Daryl Sexton

- 6.2 In accordance with Clause A.7 of the Instrument, the Council is of the opinion that the following person(s) is/are experienced traffic engineering practitioner(s) for the purposes of preparing a Traffic Impact Statement as required by Clause A.7 of the Instrument:

DIRECTOR OPERATIONAL SERVICES – Daryl Sexton
ENGINEERING MANAGER – Daryl Morgan

Corporate and Community Services Report No. 24/2015 cont'd...

6.3 In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in Section 33(1) of the Road Traffic Act 1961 and delegated to the Council pursuant to Clause G of the Instrument and contained in the proposed Instrument of Sub-delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 20A) is hereby sub-delegated this 21st of April 2015 to the person occupying the office of Chief Executive Officer of the Council subject to:

- (i) the conditions contained in the Instrument; and
- (ii) any conditions contained in this Resolution or in the Instrument of Subdelegation.; and
- (iii) the creation of a separate instrument in writing reflecting such subdelegation under the Instrument and this Resolution.
- (iv) For the purpose of this sub-delegation, the sub-delegation to the Chief Executive Officer extends to any person appointed to act in the position of Chief Executive Officer.

6.4 In accordance with Clause E.2 of the Instrument, the Council is of the opinion that the following person(s) has (have) an appropriate level of knowledge and expertise in the preparation of traffic management Plans:
DIRECTOR OPERATIONAL SERVICES – Daryl Sexton

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

7.1 In exercise of the power contained in Section 43 of the Safe Drinking Water Act 2011 the powers and functions of the Council as a relevant authority under the Safe Drinking Water Act 2011 contained in the proposed Instrument of Delegation (annexed to Corporate and Community Services Report No. 24/2015 and marked Appendix 27) are hereby delegated this 21st of April 2015 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.

7.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.



Michael McCARTHY
MANAGER GOVERNANCE & PROPERTY

Sighted:



Mark McSHANE
CHIEF EXECUTIVE OFFICER



APPENDIX [14]

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

NOTES

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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



1.3	The duty pursuant to Section 12(3) of the Act to, before publishing a notice, conduct and complete a review under Section 12 of the Act for the purpose of determining whether the Council's community would benefit from an alteration to the Council's composition or ward 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:

<p>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</p>
<p>1.10.2.2 in respect of any such proposal - an analysis of how the proposal relates to the principles under Section 26(1)(c) of the Act and the matters referred to in Section 33 of the Act (to the extent that may be relevant); and</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>1.14 With respect to a proposal within the ambit of Section 12(11a), the power pursuant to Section 12(11b) of the Act:</p>
<p>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</p>
<p>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.</p>
<p>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:</p>

<p>1.15.1 prepare a summary of issues surrounding the proposal to assist persons who may vote at the poll; and</p>
<p>1.15.2 obtain a certificate from the Electoral Commissioner that he or she is satisfied that the Council or the Delegate has taken reasonable steps to ensure the summary is a fair and comprehensive overview of the arguments for and against the proposal; and</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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%.</p>

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 Gazette, after complying with the requirements of Section 13 of the Act:
2.1.1	change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council;
2.1.2	alter the name of:
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. Staffing Arrangements	
3.1	The power pursuant to Section 21(4)(b) of the Act to give the Boundary Adjustment Facilitation Panel ('the Panel') use of the Council's services, facilities or staff.
4. Functions of Panel	
4.1	The power pursuant to Section 22(b) of the Act to cooperate with the Panel in the formulation, development and implementation of proposals and submissions under Chapter 3 of the Act.
5. Council Initiated Proposal	
5.1	The power pursuant to Section 27(1) of the Act to submit to the Panel a proposal for the making of a proclamation under Chapter 3 of the Act.

5.2	The duty pursuant to Section 27(2) of the Act to ensure that any proposal submitted by the Council to the Panel includes:
5.2.1	the nature of the proposal in general terms; and
5.2.2	an examination of the effect of the proposal to the extent required by the Panel for the purposes of Section 27 of the Act; and
5.2.3	submissions by all Councils affected by the proposal, where the proposal relates to more than the Council; and
5.2.4	compliance with requirements published by the Panel.
5.3	The power pursuant to section 27(7) of the Act, to, in relation to the proposal submitted by the Council or the Delegate, request or consent to the Panel:
5.3.1	amending the proposal;
5.3.1	substituting an alternative proposal.
6. Public Initiated Submissions	
6.1	The power pursuant to Section 28(6) of the Act, on the receipt of a submission under Section 28(2) of the Act, to consider the issues determined by the Council or the Delegate to be relevant to the matter and to then decide whether or not it is willing to:
6.1.1	conduct a review in relation to the matter under Division 2 of Part 1 of the Act; or
6.1.2	formulate (or participate in the formulation of) a proposal in relation to the matter under Division 4 of Part 2 of the Act.
6.2	Where the Council is affected by a public initiated proposal under Chapter 3 of the Act, the duty to ensure that copies of the summary prepared by the Panel are made available for public inspection at the principal office of the Council and distributed to electors in accordance with the directions of the Panel, pursuant to Section 28(23)(f) and (g).
7. General Powers and Capacities	
7.1	The power pursuant to Section 36(1)(a)(i) of the Act to enter into any kind of contract or arrangement where the common seal of the Council is not required.

7.2	The power pursuant to Section 36(1)(c) of the Act to do anything necessary, expedient or incidental but within any policy or budgetary constraints set by the Council to perform or discharge the Council's functions or duties or to achieve the Council's objectives.
7.3	The power pursuant to Section 36(2) of the Act to act outside the Council's area:
7.3.1	to the extent considered by the Delegate to be necessary or expedient to the performance of the Council's functions; or
7.3.2	in order to provide services to an unincorporated area of the State.
7.4	The duty pursuant to Section 36(3) of the Act to take reasonable steps to separate the Council's regulatory activities from its other activities in the arrangement of its affairs.
8.	Provision Relating to Contract and Transactions
8.1	The power pursuant to Section 37(b) of the Act to authorise another officer, employee or agent of the Council to enter into a contract, on behalf of the Council, where the common seal of the Council is not required.
9.	Committees
9.1	The power pursuant to Section 41(1) and (2) of the Act to establish committees.
9.2	The power pursuant to Section 41(3) of the Act to determine the membership of a committee.
9.3	The power pursuant to Section 41(4) of the Act to appoint a person as a presiding member of a committee, or to make provision for the appointment of a presiding member.
9.4	The power pursuant to Section 41(6) of the Act to appoint the principal member of the Council as an ex officio member of a committee.
9.5	The power and duty pursuant to Section 41(8) of the Act, to, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.

10. Delegations	
10.1	The duty pursuant to Section 44(6) of the Act to cause a separate record to be kept of all delegations under the Act.
10.2	The duty pursuant to Section 44(7) of the Act to make available the record of delegations for inspection (without charge) by the public at the principal office of the Council during ordinary office hours.
11. Principal Office	
11.1	The duty pursuant to Section 45(1) of the Act to nominate a place as the principal office of the Council for the purposes of the Act.
11.2	The power and duty pursuant to Section 45(2) of the Act to determine the hours the principal office of the Council will be open to the public for the transaction of business and the duty to keep the principal office of Council open to the public for the transaction of business during hours determined by the Delegate or the Council.
11.3	The power pursuant to Section 45(3) of the Act to consult with the local community in accordance with Council's public consultation policy about the manner, places and times at which the Council's offices will be open to the public for the transaction of business and about any significant changes to those arrangements.
12. Commercial Activities	
12.1	Subject to the Act, the power pursuant to Section 46(1) of the Act to, in the performance of the Council's functions, engage in a commercial activity or enterprise ('a commercial project').
12.2	The power pursuant to Section 46 (2) of the Act, to, in connection with a commercial project:
12.2.1	establish a business;
12.2.2	participate in a joint venture, trust, partnership or other similar body.
13. Interests in Companies	
13.1	The power pursuant to Section 47(2)(b) of the Act to participate in the formation of, or to become a member of a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.

14. Prudential Requirements for Certain Activities	
14.00	The power and duty pursuant to Section 48(aa1) of the Act and in accordance with Section 48(a1) of the Act, to develop and maintain prudential management policies, practices and procedures for the assessment of projects to ensure that the Council -
14.00.1	acts with due care, diligence and foresight; and
14.00.2	identifies and manages risks associated with a project; and
14.00.3	makes informed decisions; and
14.00.4	is accountable for the use of Council and other public resources.
14.0	The duty pursuant to Section 48(a1) of the Act to ensure the prudential management policies, practices and procedures developed by the Council for the purposes of Section 48(aa1) of the Act, are consistent with any regulations made for the purposes of Section 48(a1) of the Act.
14.1	Without limiting Section 48(aa1) of the Act, the power and duty pursuant to Section 48(1) of the Act to obtain and consider a report, that addresses the prudential issues set out at Section 48(2) of the Act, before the Council:
14.1.1	Deliberately left blank.
14.1.2	engages in any project (whether commercial or otherwise and including through a subsidiary or participation in a joint venture, trust, partnership or other similar body) -
14.1.2.1	where the expected expenditure 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.

<p>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).</p>
<p>15. Contracts and Tenders Policies</p>
<p>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:</p>
<p>15.0.1 obtaining value in the expenditure of public money; and</p>
<p>15.0.2 providing for ethical and fair treatment of participants; and</p>
<p>15.0.3 ensuring probity, accountability and transparency in procurement operations.</p>
<p>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:</p>
<p>15.1.1 the contracting out of services; and</p>
<p>15.1.2 competitive tendering and the use of other measures to ensure that services are delivered cost effectively; and</p>
<p>15.1.3 the use of local goods and services; and</p>
<p>15.1.4 the sale or disposal of land or other assets.</p>
<p>15.2 The power and duty pursuant to Section 49(2) of the Act to ensure that any policies on contracts and tenders:</p>
<p>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</p>
<p>15.2.2 provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and</p>
<p>15.2.3 provide for the recording of reasons for entering into contracts other than those resulting from the tender process; and</p>
<p>15.2.4 are consistent with any requirement prescribed by the regulations.</p>

15.3	The power pursuant to Section 49(3) of the Act to, at any time, alter a policy under Section 49 of the Act, or substitute a new policy or policies (but not so as to affect any process that has already commenced).
15.4	The duty pursuant to Section 49(4) of the Act to make available for inspection (without charge) a policy adopted under this Section at the principal office of Council during office hours.
16. Public Consultation Policies	
16.1	The power and duty pursuant to Section 50(1) and (2) of the Act to prepare and adopt a public consultation policy which sets out the steps the Council will follow:
16.1.1	in cases where the Act requires the Council to follow its public consultation policy; and
16.1.2	in other cases involving Council decision making, if relevant.
16.2	The duty pursuant to Section 50(3) of the Act to include in the steps set out in the public consultation policy reasonable opportunities for interested persons to make submissions in cases where the Act requires the Council to follow its public consultation policy and to make other arrangements appropriate to other classes of decisions, within the scope of the policy.
16.3	The duty pursuant to Section 50(4) of the Act to ensure that the public consultation policy, in cases where the Act requires the policy to be followed, provides for:
16.3.1	publication in a newspaper circulating within the area of the Council of a notice describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period stated, which is not less than 21 days; 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 generally throughout the State and 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
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 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.
25. Minutes and Release of Documents
25.1 The duty pursuant to Section 91(3) to supply each member of the Council with a copy of all minutes of the proceedings of the Council or Council committee meeting, within 5 days after that meeting.
25.2 Subject to Section 91(7), the duty pursuant to Section 91(4) of the Act to place a copy of the minutes of a meeting of the Council on public display in the principal office of the Council within 5 days after the meeting and to keep those minutes on display for a period of 1 month.
25.3 Subject to Section 91(7) of the Act, the duty pursuant to Section 91(5) of the Act to make available for inspection, without payment of a fee, at the principal office of the Council:
25.3.1 minutes of the Council and Council committee meetings; and
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
26.4.2	the relevant steps set out in the Council's Public Consultation Policy are followed.
26.5	The duty pursuant to Section 92(6) and (7) of the Act to ensure that the Code of Practice is available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of Council during ordinary office hours.
27. Meetings of Electors	
27.1	The power pursuant to Section 93(1) of the Act to convene a meeting of electors of the area or part of the area of the Council.
27.2	The duty pursuant to Section 93(11) of the Act to provide each member of the Council with a copy of the minutes of any meeting of electors within 5 days of that meeting.
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
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.

<p>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 at least 21 days before the date of that meeting.</p>
<p>34.3 The duty pursuant to Section 123(5a) of the Act to ensure that provision is made for:</p>
<p>34.3.1 a facility for asking and answering questions; and</p>
<p>34.3.2 the receipt of submissions,</p>
<p>on the Council's website during the public consultation period.</p>
<p>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:</p>
<p>34.4.1 ensure:</p>
<p>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</p>
<p>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</p>
<p>34.4.2 ensure:</p>
<p>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</p>
<p>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.</p>

35. Accounting Records to be Kept
35.1 The duty pursuant to Section 124(1) of the Act to:
35.1.1 keep such accounting records as correctly and adequately record and explain the revenues, expenses, assets and liabilities of the Council;
35.1.2 keep the Councils accounting records in such manner as will enable:
35.1.2.1 the preparation and provision of statements that fairly present financial and other information; and
35.1.2.2 the financial statements of the Council to be conveniently and properly audited.
35.2 The power pursuant to Section 124(2) to determine the form or forms and the place or places (within the state) to keep the accounting records of the Council.
36. Internal Control Policies
36.1 The duty pursuant to Section 125 of the Act to ensure that appropriate policies, practices and procedures of internal control are implemented and maintained in order to assist the Council to carry out its activities in an efficient and orderly manner, to achieve its objectives, to ensure adherence to management policies, to safeguard the Council's assets, and to secure (as far as possible) the accuracy and reliability of the Council's records.
37. Audit Committee
37.1 The power and duty pursuant to Section 126(1) of the Act to appoint an audit committee in accordance with Section 126(2) of the Act.
37.2 If an audit committee is appointed by the Delegate or the Council, the power to determine the membership of any audit committee in accordance with Section 126(2) of the Act.
38. Financial Statements
38.1 The duty pursuant to Section 127(1) of the Act to prepare for each financial year:
38.1.1 financial statements and notes in accordance with standards prescribed by the regulations; and
38.1.2 other statements and documentation referring to the financial

affairs of the Council required by the Regulations.	
38.2	The duty pursuant to Section 127(2) of the Act to ensure that the financial statements prepared for the Council pursuant to Section 127(1) of the Act:
38.2.1	are prepared as soon as is reasonably practicable after the end of the relevant financial year and in any event before the day prescribed by the Regulations; and
38.2.2	comply with standards and principles prescribed by the Regulations; and
38.2.3	include the information required by the Regulations.
38.3	The duty pursuant to Section 127(3) of the Act to submit for auditing by the Council's auditor the statements prepared for each financial year.
38.4	The duty pursuant to Section 127(4) of the Act to submit a copy of the auditor's statements to the persons or bodies prescribed by the Regulations on or before the day prescribed by the Regulations.
38.5	The duty pursuant to Section 127(5) of the Act to ensure that copies of the Council's audited statements are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.
39. The Auditor	
39.1	The power and duty pursuant to and in accordance with Section 128(2), (3), (4), (4a), (5), (6), (7) and (8) of the Act to appoint an auditor on the recommendation of the Council's audit committee.
39.2	The duty pursuant to Section 128(8) of the Act to comply with any requirements prescribed by the Regulations with respect to providing for the independence of the auditor.
39.3	The duty pursuant to Section 128(9) of the Act to ensure that the following information is included in the Council's annual report:
39.3.1	information on the remuneration payable to the Council's auditor for work performed during the relevant financial year, distinguishing between:
39.3.1.1	remuneration payable for the annual audit of the Council's financial statements; and
39.3.1.2	other remuneration;

39.3.2 if a person ceases to be the auditor of the Council during the relevant financial year, other than by virtue of the expiration of his or her term of appointment and is not being reappointed to the office - the reason or reasons why the appointment of the Council's auditor came to an end.

40. Conduct of Audit

40.1 The duty pursuant to Section 129(9) of the Act to ensure the opinions under Section 129(3) of the Act provided to Council under Section 129 of the Act accompany the financial statements of the Council.

41. Other Investigations

41.1 The power, pursuant to and in accordance with Sections 130A(1) and (2) of the Act, as the Delegate thinks fit, to request the Council's auditor, or some other person determined by the Delegate to be suitably qualified in the circumstances, to examine and report on any matter relating to financial management, or the efficiency and economy with which the Council manages or uses its resources to achieve its objectives, that would not otherwise be addressed or included as part of an annual audit under Division 4 of Chapter 8 of the Act and that is considered by the Delegate to be of such significance as to justify an examination under this Section.

41.2 Unless Section 130A(7) of the Act applies, the duty pursuant to Section 130A(6) of the Act to place the report prepared pursuant to Section 130A(1) of the Act on the agenda for consideration:

41.2.1 unless Section 130A(6)(b) of the Act applies – at the next ordinary meeting of the Council in accordance with Section 130A(6)(a), of the Act;

41.2.2 if the agenda for the next ordinary meeting of the Council has already been sent to members of the Council at the time that the report is provided to the principal member of the Council – at the ordinary meeting of the Council next following the meeting for which the agenda has already been sent unless the principal member of the Council determines, after consultation with the Chief Executive Officer, that the report should be considered at the next meeting of the Council as a late item on the agenda in accordance with Section 130A(6)(b) of the Act.

42. Annual Report to be Prepared and Adopted	
42.1	The duty pursuant to Section 131(1) of the Act and in accordance with Sections 131(2) and (3) of the Act, to prepare and adopt on or before 30 November each year, an annual report relating to the operations of the Council for the financial year ending on the preceding 30 June.
42.2	The duty pursuant to Section 131(2) and (3) of the Act to include in that report the material, and include specific reports on the matters, specified in Schedule 4 as amended from time to time by regulation.
42.3	The duty pursuant to Section 131(4) of the Act to provide a copy of the annual report to each member of the Council.
42.4	The duty pursuant to Section 131(5) of the Act to submit a copy of the annual report to:
42.4.1	the Presiding Member of both Houses of Parliament; and
42.4.2	to the persons or body prescribed by the Regulations,
	on or before the date determined under the Regulations.
42.5	The power pursuant to Section 131(7) of the Act to provide to the electors for the area an abridged or summary version of the annual report.
42.6	The duty pursuant to Section 131(8) of the Act to ensure that copies of Council's annual report are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public 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 the Internet within a reasonable time after they are available at the principal office of the Council:
43.3.1	agendas for meetings of the Council or Council committees;
43.3.2	minutes of meetings of the Council or Council committees;
43.3.3	codes of conduct or codes of practice adopted by the Council under this Act or the Local Government (Elections) Act 1999;
43.3.4	the Council's contract and tenders policies, public consultation policy and order-making policies;
43.3.5	the Council's draft annual business plan, annual business plan (as adopted by the council) and the summary of the annual business plan required under Part 2 of this Chapter;
43.3.6	the Council's budget (as adopted by the Council for a particular year);
43.3.7	a list of fees and charges imposed by the Council under this Act;
43.3.8	by-laws made by the Council and any determination in respect of a by-law made under Section 246(3)(e) of the Act;
43.3.9	procedures for the review of decisions established by the Council under Part 2 of Chapter 13;
43.3.10	the audited financial statements of the Council;
43.3.11	the annual report of the Council;
43.3.12	the Council's most recent information statement under the Freedom of Information Act 1991, unless the Council provides it as part of the annual report of the Council.
44. Related Administrative Standards	
44.1	The power and duty pursuant to Section 132A of the Act to ensure that appropriate policies, practices and procedures are implemented and maintained in order:
44.1.2	to ensure compliance with any statutory requirements; and
44.1.2	to achieve and maintain standards of good public administration.

45. Sources of Funds	
45.1	Subject to the Act, the power pursuant to Section 133 of the Act to obtain funds as permitted under the Act or another Act and as may otherwise be appropriate in order to carry out the Council's functions under the Act or another Act.
46. Ability of a Council to Give Security	
46.1	The power pursuant to Section 135(1) of the Act and subject to Section 135(2) of the Act to provide various forms of security, including:
46.1.1	guarantees (including guarantees relating to the liability of a subsidiary of the Council);
46.1.2	debentures charged on the general revenue of the Council (including to support a guarantee provided under Section 135(1) of the Act);
46.1.3	bills of sale, mortgages or other charges (including to support a guarantee provided under Section 135(1)(a) of the Act.
46.2	The power and duty pursuant to Section 135(2) of the Act, if the Council or the Delegate proposes to issue debentures on the general revenue of the Council to:
46.2.1	assign a distinguishing classification to the debentures to be included in the issue so as to distinguish them from those included or to be included in previous or subsequent issues; and
46.2.2	if the debentures are being offered generally to members of the public, appoint a trustee for the debenture holders.
47. Expenditure of Funds	
47.1	Subject to the Act or another Act, the power pursuant to Section 137 of the Act to expend the Council's approved budgeted funds in the exercise, performance or discharge of the Council's powers, functions or duties under the Act or other Acts.
48. Investment Powers	
48.1	The power pursuant to Section 139(1) of the Act to invest money under the Council's control.
48.2	The duty pursuant to Section 139(2) of the Act in exercising the power of investment, to:

48.2.1	exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
48.2.2	avoid investments that are speculative or hazardous in nature.
48.3	The duty pursuant to Section 139(3) of the Act to take into account when exercising the power of investment, so far as is appropriate in the circumstances and without limiting the matters which may be taken into account, the following matters:
48.3.1	the purposes of the investment;
48.3.2	the desirability of diversifying Council investments;
48.3.3	the nature of and risk associated with existing Council investments;
48.3.4	the desirability of maintaining the real value of the capital and income of the investment;
48.3.5	the risk of capital or income loss or depreciation;
48.3.6	the potential for capital appreciation;
48.3.7	the likely income return and the timing of income return;
48.3.8	the length of the term of a proposed investment;
48.3.9	the period for which the investment is likely to be required;
48.3.10	the liquidity and marketability of a proposed investment during, and on determination of, the term of the investment;
48.3.11	the aggregate value of the assets of the Council;
48.3.12	the likelihood of inflation affecting the value of a proposed investment;
48.3.13	the costs of making a proposed investment;
48.3.14	the results of any review of existing Council investments.
48.4	Subject to the matters specified in Section 139(3) of the Act, the power pursuant to Section 139(4) of the Act, so far as may be appropriate in the circumstances, to have regard to:
48.4.1	the anticipated community benefit from an investment; and

48.4.2	the desirability of attracting additional resources into the local community.
48.5	The power pursuant to Section 139(5) of the Act to obtain and consider independent and impartial advice about the investment of funds or the management of the Council's investments from the person whom the Delegate reasonably believes to be competent to give the advice.
49. Review of Investment	
49.1	The duty pursuant to Section 140 of the Act to review the performance (individually and as a whole) of the Council's investments, at least once in each year.
50. Gifts to a Council	
50.1	Within the confines of Section 44(3) of the Act:
50.1.1	the power pursuant to Section 141(1) of the Act to accept a gift made to the Council;
50.1.2	the power pursuant to Section 141(2) of the Act to carry out the terms of any trust (if any) that affects a gift to Council;
50.1.3	the power pursuant to Section 141(3) of the Act to apply to the Supreme Court for an order varying the terms of a trust for which the Council has been constituted a trustee;
50.1.4	where a variation is sought in the terms of a trust, the duty pursuant to Section 141(4) of the Act to give notice describing the nature of the variation by public notice and in any other such manner as may be directed by the Supreme Court; and
50.1.5	the duty pursuant to Section 141(6) of the Act to publish a copy of any order of the Supreme Court to vary the terms of the trust, in the <i>Gazette</i> , within 28 days after that order is made.
51. Duty to Insure Against Liability	
51.1	The duty pursuant to Section 142 of the Act to take out and maintain insurance to cover the Council's civil liabilities at least to the extent prescribed by the Regulations.
52. Writing off Bad Debts	
52.1	The power pursuant to Section 143(1) of the Act to write off any debts owed to the Council:

52.1.1	if the Council has no reasonable prospect of recovering the debts; or
52.1.2	if the costs of recovery are likely to equal or exceed the amount to be recovered,
	up to and including an amount of \$5,000.00 in respect of any one debt.
52.2	The duty pursuant to Section 143(2) of the Act to ensure that no debt is written off unless the Chief Executive Officer has certified:
52.2.1	reasonable attempts have been made to recover the debt; or
52.2.2	the costs of recovery are likely to equal or exceed the amount to be recovered.
53. Recovery of Amounts due to Council	
53.1	The power pursuant to Section 144(1) of the Act to recover as a debt, by action in a Court of competent jurisdiction, any fee, charge, expense or other amount recoverable from a person or payable by a person under this or another Act.
53.2	The power pursuant to Section 144(2), (3) and (4) of the Act to recover any fee, charge, expense or other amount as if it were a rate declared on the property, after giving at least 14 days notice requiring payment, where the fee, charge, expense or other amount payable to the Council relates to something done in respect of rateable or other property.
54. Land Against Which Rates May be Assessed	
54.1	The power and duty pursuant to Section 148(2) of the Act to make decisions about the division of land and the aggregation of land for the purposes of Section 148(1) of the Act fairly and in accordance with principles and practices that apply on a uniform basis across the area of the Council.
55. Basis of Rating	
55.1	Before the Council:
55.1.1	changes the basis of the rating of any land (including by imposing differential rates on land that has not been differentially rated in the preceding financial year, or by no longer imposing differential rates on land that has been differentially rated in the preceding financial year); or
55.1.2	changes the basis on which land is valued for the purposes of rating; or

55.1.3	changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land;
	the power and duty pursuant to Section 151(5)(d) and (e) of the Act to:
55.1.4	prepare a report on the proposed change in accordance with Section 151(6) of the Act; and
55.1.5	follow the relevant steps set out in its public consultation policy in accordance with Section 151(7) of the Act.
55.2	The duty pursuant to Section 151(8) of the Act to ensure that copies of the report required under Section 151(5)(d) of the Act are available at the meeting held under Section 151(7)(a)(i) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.
56. General Rates	
56.1	The power pursuant to Section 152(2)(d) and (3) of the Act to determine, on application, if two or more pieces of rateable land within the area of the Council constitute a single farm enterprise.
57. Service Rates and Service Charges	
57.1	The duty pursuant to Section 155(6) of the Act, subject to Section 155(7) of the Act, to apply any amounts held in a reserve established in connection with the operation of Section 155(5) of the Act for purposes associated with improving or replacing Council assets for the purposes of the relevant prescribed service.
57.2	The power pursuant to Section 155(7) of the Act, if a prescribed service 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.

<p>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 -</p>
<p>58.2.1 prepare a report on the proposed change in accordance with Section 156(14b) of the Act; and</p>
<p>58.2.2 follow the relevant steps set out in its public consultation policy in accordance with Section 156(14d) of the Act.</p>
<p>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.</p>
<p>59. Notice of Differentiating Factors</p>
<p>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.</p>
<p>60. Preliminary</p>
<p>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.</p>
<p>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).</p>
<p>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%.</p>
<p>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.</p>

61. Rebate of Rates - Community Services	
61.1	The power pursuant to Section 161(1) and (3) of the Act to grant a rebate of more than 75% of the rates on land being predominantly used for service delivery or administration (or both) by a community service organisation, where that organisation:
61.1.1	is incorporated on a not-for-profit basis for the benefit of the public; and
61.1.27	provides community services without charge or for charge that is below the cost to the body of providing their services; and
61.1.3	does not restrict its services to persons who are members of the body.
62. Rebate of Rates - Educational Purposes	
62.1	The power pursuant to Section 165(1) and (2) of the Act to grant a rebate of rates at more than 75% on land:
62.1.1	occupied by a Government school under a lease or license and being used for educational purposes; or
62.1.2	occupied by non-Government school registered under the Education and Early Childhood Services (Registration and Standards) Act 2011 and being used for educational purposes; or
62.1.3	land being used by University or University College to provide accommodation and other forms of support for students on a not-for-profit basis.
63. Discretionary Rebates of Rates	
63.1	The duty pursuant to Section 166(1a) of the Act to take into account, in deciding an application for a rebate under Section 166(1)(d), (e), (f), (g), (h), (i) or (j):
63.1.1	the nature and extent of the Council's services provided in respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in its area; and
63.1.2	the community need that is being met by activities being carried out on the land for which the rebate is sought; and
63.1.3	the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to

	disadvantaged persons;
63.1.4	any other matter considered relevant by the Council or the Delegate.
63.2	The power pursuant to Section 166(1), (2) and (4) of the Act and taking into account Section 166(1a) of the Act and in accordance with Section 166(3b) of the Act to grant a rebate of rates or service charges on such conditions as the Delegate sees fit and such rebate may be up to and including 100% of the relevant rates or service charge, in the following cases:
63.2.1	where the rebate is desirable for the purpose of securing the proper development of the area or part of the area;
63.2.2	where the rebate is desirable for the purpose of assisting or supporting a business in the area;
63.2.3	where the rebate will be conducive to the preservation of buildings or places of historic significance;
63.2.4	where the land is being used for educational purposes;
63.2.5	where the land is being used for agricultural, horticultural or floricultural exhibitions;
63.2.6	where the land is being used for a hospital or health centre;
63.2.7	where the land is being used to provide facilities or services for children or young persons;
63.2.8	where the land is being used to provide accommodation for the aged or disabled;
63.2.9	where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1997 (Commonwealth) or a day therapy centre;
63.2.10	where the land is being used by an organisation which, in the opinion of the Delegate, provides a benefit or a service to the local community;
63.2.11	where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment;
63.2.12	where the rebate is considered by the Delegate to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer

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

<p>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:</p>
<p>64.2.1 valuations made, or caused to be made, by the Valuer-General; or</p>
<p>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;</p>
<p>or a combination of both.</p>
<p>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.</p>
<p>65. Valuation of Land</p>
<p>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).</p>
<p>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.</p>
<p>65.3 The power and duty pursuant to Section 168(3)(b) and (c) of the Act to enter a valuation in the assessment record, as soon as practicable after the valuation has been made and to give notice of the valuation to the principal ratepayer in accordance with the Regulations.</p>
<p>66. Objections to Valuations Made by Council</p>
<p>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:</p>
<p>66.1.1 the objection does not involve a question of law; and</p>
<p>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</p>
<p>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).</p>

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.
67. Notice of Declaration of Rates	
67.1	The duty pursuant to Section 170 of the Act to ensure the notice of declaration of a rate or service charge is published in the <i>Gazette</i> and in a newspaper circulating in the area within 21 days after the date of the declaration.
68. Alterations to Assessment Record	
68.1	The power pursuant to Section 173(3) and (5) of the Act to determine the procedure for a review of a decision by the Chief Executive Officer on an application for alteration of the assessment record.
68.2	The duty pursuant to Section 173(6) of the Act to give a person written notice of Council's decision on a review of a decision of the Chief Executive Officer concerning alteration of the assessment record.
69. Inspection of Assessment Record	
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

<p>70.1.2 any other person (not being a principal ratepayer) who is an owner or occupier of the land; or</p>
<p>70.1.3 any other person who was at the time of the declaration of the rates an owner or occupier of the land.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>71. Liability for Rates if Land is Not Rateable for the Whole of the Financial Year</p>
<p>71.1 The power pursuant to Section 179(2) of the Act to adopt a valuation of land that has become rateable after the adoption of valuations by the Council for the relevant financial year.</p>
<p>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.</p>
<p>72. Service of Rate Notice</p>
<p>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:</p>
<p>72.1.1 the declaration of a rate; or</p>
<p>72.1.2 the imposition of a service charge; or</p>
<p>72.1.3 a change in the rates liability of land.</p>

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

<p>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.</p>
<p>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:</p>
<p>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</p>
<p>73.10.2 the Delegate must give at least 30 days notice before an instalment falls due.</p>
<p>74. Remission and Postponement of Payment</p>
<p>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:</p>
<p>74.1.1 postpone payment in whole or in part for such period as the Delegate thinks fit; or</p>
<p>74.1.2 remit the rates in whole or in part.</p>
<p>74.2 The power pursuant to Section 182(2) of the Act on a postponement of rates:</p>
<p>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);</p>
<p>74.2.2 to grant the postponement on other conditions determined by the Delegate; and</p>
<p>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).</p>
<p>74.3 The power pursuant to Section 182(3) of the Act to grant other or</p>

additional postponements of rates:	
74.3.1	to assist or support a business in the Council's area; or
74.3.2	to alleviate the affects of anomalies that have occurred in valuations under the Act.
74.4	The power pursuant to Section 182(4) of the Act to grant other or additional remissions of rates on the same basis as applies under the Rates and Land Tax Remission Act 1986, (such remissions will be in addition to the remissions that are available under that Act).
74.5	The power pursuant to Section 182(5) of the Act to require a ratepayer who claims to be entitled to a remission of rates by virtue of a determination under Section 182(4) of the Act to provide evidence to the satisfaction of the Delegate verifying that entitlement.
74.6	The power pursuant to Section 182(6) of the Act to revoke a determination under Section 182(4) of the Act at any time (but the revocation will not affect an entitlement to remission in relation to rates declared before the revocation takes effect).
75. Postponement of Rates - Seniors	
75.1	The power pursuant to Section 182A(2) of the Act to require that an application pursuant to Section 182A(1) of the Act be accompanied by such information as the Delegate may reasonably require.
75.2	The power pursuant to Section 182A(3) of the Act, on an application for a postponement of the payment of the prescribed proportion of rates for the current or future financial made in accordance with Sections 182A(1) and (2) of the Act to:
75.2.1	reject an application for the postponement of rates; or
75.2.2	impose conditions on the postponement of rates but only in accordance with the Regulations.
76. Application of money in respect of rates	
76.1	The power and the duty to apply monies received or recovered in respect of rates pursuant to and in accordance with Section 183 of the Act.
77. Sale of Land for Non-Payment of Rates	
77.1	The power pursuant to Section 184(1) of the Act to sell land, if an amount payable by way of rates in respect of the land, has been in arrears for 3 years or more.

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

<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>78. Objection, Review or Appeal</p>
<p>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:</p>
<p>78.1.1 to refund or credit the overpaid amount against future liabilities for rates on the land subject to the rates; or</p>
<p>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.</p>

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 of the Act (including rates and charges under this Part that have not yet fallen due for payment, and outstanding interest or fines payable in respect of rates and charges under this Part); and
79.1.2	any amount received on account of rates or charges on the land imposed under this part, that is held in credit against future liabilities for rates or charges in relation to the land.
80. Investigation by Ombudsman	
80.1	The duty pursuant to Section 187B(6) of the Act if the Ombudsman's report prepared pursuant to Section 187B(3) of the Act makes any recommendations as to action that should be taken by the Council, to within 2 months after receipt of that report, provide a written response to:
80.1.1	the Ombudsman; and
80.1.2	if relevant, the person who made the complaint.
80.2	The power pursuant to Section 187B(7) of the Act to grant a rebate or remission of any rate or service charge, or of any charge, fine or interest under Part 1 of Chapter 10 of the Act, if the Ombudsman recommends that the Council do so on the ground of special circumstances pertaining to a particular ratepayer.
81. Fees and Charges	
81.1	The power pursuant to Section 188(1) and (2) of the Act to impose fees and charges:
81.1.1	for the use of any property or facility owned, controlled, managed or maintained by the Council;
81.1.2	for services supplied to a person at his or her request;
81.1.3	for carrying out work at a person's request;
81.2	The power pursuant to Section 188(3) of the Act to provide for:
81.2.1	specific fees and charges;

81.2.2	maximum fees and charges and minimum fees and charges;
81.2.3	annual fees and charges;
81.2.4	the imposition of fees or charges according to specified factors;
81.2.5	the variation of fees or charges according to specified factors in respect of fees and charges set under Section 188(1)(a) – (c) of the Act inclusive; and
81.2.6	the reduction, waiver or refund, in whole or in part, of any fees and charges.
81.3	The power pursuant to Section 188(5) of the Act to fix, vary or revoke those fees and charges set under Section 188(1)(a), (b) and (c) of the Act.
81.4	The duty pursuant to Section 188(6) of the Act to keep a list of fees and charges imposed under this Section on public display during ordinary office hours at the principal office of the Council.
81.5	The duty pursuant to Section 188(7) of the Act to, if the Council fixes or varies a fee imposed under this Section, up-date the list referred to in Section 188(6) of the Act and take reasonable steps to bring the fee or charge, or variation of the fee or charge, to the notice of persons who may be affected.
82. Acquisition of Land by Agreement	
82.1	The power pursuant to Section 190 of the Act to acquire land by agreement.
83. Compulsory Acquisition of Land	
83.1	The power pursuant to Section 191(1) of the Act to acquire land compulsorily, in circumstances which require the Minister's written approval, after the Council has obtained the Minister's approval.
83.2	The power pursuant to Section 191(2) of the Act to acquire land compulsorily for a purpose classified by the Regulations as an approved purpose.
84. Assumption of Care, Control and Management of Land	
84.1	The power pursuant to Section 192(1) of the Act to assume the care, control and management of land in the Council area that has been set aside for the use or enjoyment of the public or a section of the public under the circumstances specified in Section 192(1)(a) and (b) of the Act.

84.2	The duty pursuant to Section 192(4) of the Act to immediately cause a copy of a resolution under Section 192(1) of the Act to assume the care, control and management of land to be published in the <i>Gazette</i> .
85. Classification	
85.1	The duty pursuant to Section 193(6) of the Act to give notice in the <i>Gazette</i> of a resolution:
85.1.1	to exclude land from classification as community land under Section 193(4) of the Act; or
85.1.2	to classify as community land, land that had previously been excluded from classification as such under Section 193(5) of the Act.
86. Revocation of Classification of Land as Community Land	
86.1	The duty pursuant to Section 194(2) of the Act before the Council revokes the classification of land as community land to:
86.1.1	prepare and make publicly available a report on the proposal containing:
86.1.1.1	a summary of reasons for the proposal; and
86.1.1.2	a statement of any dedication, reservation or trust to which the land is subject; and
86.1.1.3	a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and the statement of how the Council proposes to use the proceeds; and
86.1.1.4	an assessment of how implementation of the proposal would affect the area and the local community; and
86.1.1.5	if the Council is not the owner of the land, a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification; and
86.1.2	follow the relevant steps set out in the Council's public consultation policy.
86.2	After complying with the requirements of Section 194(2) of the Act, the duty pursuant to Section 194(3) of the Act to prepare a report on all submissions made on it as part of the public consultation process.

86.3 The power pursuant to Section 194(4) of the Act to consult with the Minister in relation to a regulation made under Section 194(1) over a specific piece of land.

87. Effect of Revocation of Classification

87.1 If it appears from the Register Book that the land is subject to a dedication, reservation or trust, other than a dedication, reservation or trust under the Crown Lands Act 1929, the duty pursuant to Section 195(2) of the Act immediately after the revocation of the classification of the land as community land, to give notice of the revocation to the Registrar-General in the manner and form approved by the Registrar-General.

88. Management Plans

88.1 The power and duty pursuant to and in accordance with Section 196(1), (2), (3) and (7) of the Act to prepare and adopt management plan or management plans for the Council's community land, for which a management plan must be prepared, that:

88.1.1 identifies the land to which it applies; and

88.1.2 states the purpose for which the land is held by the Council; and

88.1.3 states the Council's objectives, policies (if any) and proposals for the management of the land; and

88.1.4 states performance targets and how the Council proposes to measure its performance against its objectives and performance targets.

88.2 If a management plan relates to land that is not in the Council's ownership, the power and duty pursuant to Section 196(4) of the Act to consult with the owner of the land at an appropriate stage during the preparation of the plan and the plan must:

88.2.1 identify the owner of the land; and

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.

<p>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.</p>
<p>89. Public Consultation on Proposed Management Plan</p>
<p>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:</p>
<p>89.1.1 make copies of the proposed plan available for inspection or purchase at the Council's principal office; and</p>
<p>89.1.2 follow the relevant steps set out in Council's public consultation policy.</p>
<p>89.2 The duty pursuant to Section 197(3) of the Act to give public notice of the adoption of a management plan.</p>
<p>90. Amendment or Revocation of Management Plan</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>91. Effect of Management Plan</p>
<p>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.</p>
<p>92. Use of Community Land for Business Purposes</p>
<p>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</p>

Delegate considers appropriate.	
93. Sale or Disposal of Local Government Land	
93.1	The power pursuant to Section 201(1) of the Act to sell or otherwise dispose of an interest in land:
93.1.1	vested in the Council in fee simple; or
93.1.2	vested in the Council as lessee.
93.2	The power pursuant to Section 201(2) of the Act to:
93.2.1	grant an easement (including a right of way) over community land; and
93.2.2	grant an easement (excluding a right of way) over a road or part of a road.
94. Alienation of Community Land by Lease or Licence	
94.1	The power pursuant to Section 202(1) and (5) of the Act and subject to Section 202(7) of the Act to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve), for:
94.1.1	the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;
94.1.2	the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges (subject to the fixing or varying of the charge by Council, pursuant to Section 44(3)(j) of the Act);
94.1.3	any other matter relevant to the use or maintenance of the land.
94.2	The duty pursuant to Section 202(2) and (3) of the Act and subject to Section 202(7) of the Act before granting a lease or licence relating to community land to follow the relevant steps set out in Council's public consultation policy, unless:
94.2.1	the grant of the lease or the licence is authorised in an approved management plan for the land and the term of the 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 21 years) and to extend the term of the lease or licence but not so that the term extends beyond a total of 21 years.
94.4	The duty pursuant to Section 202(6) of the Act and subject to Section 202(7) of the Act to ensure that a lease or licence relating to community land is consistent with any relevant management plan.
95. Register	
95.1	The duty pursuant to Section 207(1) of the Act to keep a register of all community land in Council's area.
95.2	The duty pursuant to Section 207(2)(a) and (b) of the Act to ensure that the register:
95.2.1	contains the information required by the Regulations; and
95.2.2	contains copies of current management plans.
95.3	The power pursuant to Section 207(2)(c) of the Act to include in the register (if the Delegate so decides) a computer record of the relevant information.
95.4	The duty pursuant to Section 207(3) and (4) of the Act to make available the register of all community land in the Council's area for inspection (without charge) or purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.
96. Ownership of Public Roads	
96.1	The duty pursuant to Section 208(4) of the Act to cause a copy of a resolution declaring a road or land to be a public road, or preserving an easement under Section 208(3), to be published in the <i>Gazette</i> .
97. Ownership of Fixtures and Equipment Installed on Public Roads	
97.1	The power pursuant to Section 209(3) of the Act to enter into an agreement with the provider of public infrastructure or the holder of an authorisation or permit under Section 209(1) and (2) of the Act which provides for the vesting of property in fixtures and equipment in the Council.

98. Conversion of Private Road to Public Road	
98.1	The duty pursuant to Section 210(1)(b) of the Act to make reasonable enquiries to find the owner of a private road which the Council is seeking to declare be a public road.
98.2	The duty pursuant to Section 210(2) of the Act at least 3 months before the Council makes a declaration under Section 210 of the Act to:
98.2.1	if the identity and whereabouts of the owner of the road are known to the Council, give written notice to the owner of land subject to the proposed declaration; and
98.2.2	if a person has some other form of registered legal interest over the road and the identity and whereabouts of that person are known to the Council – give written notice to the person of the proposed declaration; and
98.2.3	give public notice of the proposed declaration.
98.3	The duty pursuant to Section 210(5) to publish in the <i>Gazette</i> a declaration of the Council made in accordance with Section 210(1) of the Act.
98.4	The duty pursuant to Section 210(7) of the Act to furnish to the Registrar-General a copy of any declaration under Section 210 of the Act in a manner and form approved by the Registrar-General immediately after it is made.
99. Highways	
99.1	The power pursuant to Section 211(1)(a) of the Act to enter into an agreement with the Commissioner of Highways in order for the Council to exercise its powers under Part 2 of Chapter 11 of the Act in relation to a highway.
100. Power to Carry Out Roadwork	
100.1	The power pursuant to Section 212(1) of the Act to have road works carried out in the Council's area or, by agreement with another Council, in the area of another Council.
100.2	The power pursuant to Section 212(3) of the Act to do anything reasonably necessary for, or incidental, to roadwork pursuant to Section 212(2) of the Act, providing that:
100.2.1	the roadwork is carried out in compliance with any relevant requirement under the Road Traffic Act 1961; and

<p>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</p>
<p>100.2.3 the roadwork in relation to a private road is only carried out if:</p>
<p>100.2.3.1 the owner agrees; or</p>
<p>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</p>
<p>100.2.3.3 the identity or whereabouts of the owner is unknown; and</p>
<p>100.2.4 the roadwork on other private land is carried out with the agreement of the owner (unless otherwise provided in the Act).</p>
<p>101. Recovery of Cost of Roadwork</p>
<p>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.</p>
<p>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:</p>
<p>101.2.1 the person who caused the damage; or</p>
<p>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.</p>
<p>101.3 If the Council carries out roadwork on a private road, the power pursuant to Section 213(3) of the Act to recover the cost of the work or a contribution towards the cost of the work determined by the Delegate as a debt from the owner of the private road.</p>

<p>102. Contribution Between Councils where Road is on Boundary Between Council Areas</p>
<p>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.</p>
<p>103. Special Provisions for Certain Kinds of Roadwork</p>
<p>103.1 If the Council changes the level of a road, the duty pursuant to Section 215(1) of the Act to:</p>
<p>103.1.1 ensure that adjoining properties have adequate access to the road; and</p>
<p>103.1.2 construct any retaining walls, embankments or other structures necessary to provide protection required in consequence of the change of level.</p>
<p>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:</p>
<p>103.2.1 there is no significant risk of damage to the adjoining property; or</p>
<p>103.2.2 the road work does not significantly increase the risk of damage to adjoining property.</p>
<p>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.</p>
<p>104. Power to Order Owner of Private Road to Carry out Specific Roadwork</p>
<p>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.</p>
<p>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:</p>
<p>104.2.1 any proposal to make an order; and</p>

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.

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 give public notice of the adopting or altering of a policy under Section 219 of the Act.
108. Numbering of Premises and Allotments	
108.1	The power pursuant to Section 220(1) of the Act to adopt a numbering system for buildings and allotments adjoining a road.
108.2	The duty pursuant to Section 220(1a) of the Act to assign a number (as part of its primary street address) to all buildings or allotments adjoining a public road created after the commencement of Section 220(1a) of the Act by land division.
108.3	The duty pursuant to Section 220(1b) of the Act to ensure that an assignment under Section 220(1a) of the Act occurs within 30 days after the issue of certificate of title in relation to the relevant land division in accordance with any requirements prescribed by regulations made for the purposes of Section 220(1b) of the Act.
108.4	The power pursuant to Section 220(2) of the Act to, from time to time,

<p>alter a numbering system, or substitute a new numbering system, under Section 220 of the Act.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>109. Alteration of Road</p>
<p>109.1 The power pursuant to Section to 221(1) and (2) of the Act to authorise a person (other than the Council or a person acting under some other statutory authority) to make an alteration to a public road, such as:</p>
<p>109.1.1 altering the construction or arrangement of the road to permit or facilitate access from an adjacent property; or</p>
<p>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</p>
<p>109.1.3 changing or interfering with the construction, arrangement or materials of the road; or</p>
<p>109.1.4 changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings and other objects) associated with the road; or</p>
<p>109.1.5 planting a tree or other vegetation on the road, interfering with vegetation on the road or removing vegetation from the road.</p>
<p>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:</p>
<p>109.2.1 unduly obstruct the use of the road; or</p>
<p>109.2.2 unduly interfere with the construction of the road; or</p>
<p>109.2.3 have an adverse effect on road safety.</p>
<p>109.3 The power pursuant to Section 221(6) of the Act to grant an authorisation under Section 221 of the Act:</p>

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.
112. Conditions of Authorisation or Permit
112.1 The power pursuant to Section 224 of the Act to grant an authorisation or permit under Division 6 of Part 2, Chapter 11 on conditions the Delegate considers appropriate.

113. Cancellation of Authorisation or Permit
113.1 The power pursuant to Section 225(1) of the Act by notice in writing to the holder of an authorisation or permit, to cancel the authorisation or permit for breach of a condition.
113.2 The duty pursuant to Section 225(2) of the Act before cancelling an authorisation or permit, to:
113.2.1 give the holder of the authorisation or permit a written notice of the proposed cancellation stating the grounds on which the Delegate proposes to act and allowing the holder a reasonable period to make written representations to the Delegate on the proposed cancellation; and
113.2.2 consider any representations made in response to the notice.
113.3 The power pursuant to Section 225(3) of the Act to determine if a shorter period of notice should apply under Section 225(2)(a) of the Act, to protect the health or safety of the public, or otherwise to protect the public interest.
114. Register
114.1 The power and duty pursuant to Section 231(1) and (2) of the Act to keep a register of public roads in the Council's area, which:
114.1.1 includes the information required by regulation; and
114.1.2 may consist (if the Delegate so decides) of a computer record of the relevant information.
114.2 The duty pursuant to Section 231(3) and (4) of the Act to make the register available for public inspection (without charge) and purchase of extracts (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.
115. Trees
The power pursuant to Section 232 of the Act to 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

<p>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</p>
<p>115.1.3 road safety matters; and</p>
<p>115.1.4 other matters (if any) considered relevant by the Delegate; and</p>
<p>115.2 where the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, to follow the relevant steps set out in its public consultation policy.</p>
<p>116. Damage</p>
<p>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.</p>
<p>117. Council's Power to Remove Objects etc from Roads</p>
<p>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:</p>
<p>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</p>
<p>117.1.2 an authorisation or permit has been granted but has later expired or been cancelled.</p>
<p>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.</p>
<p>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.</p>
<p>118. Deposit of Rubbish etc</p>
<p>118.1 The power pursuant to Section 235(1) of the Act to authorise or permit the following:</p>

118.1.1	the deposit of rubbish on a public road or public place; or
118.1.2	the deposit of goods, materials, earth, stone, gravel, or any other substance on a public road or public place.
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 or farm implement 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 and the place to which it has been removed:
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.

<p>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:</p>
<p>120.4.1 firstly, in payment of the costs of and incidental to the sale;</p>
<p>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;</p>
<p>120.4.3 thirdly, in payment of the balance to the owner of the vehicle.</p>
<p>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.</p>
<p>120.6 The duty pursuant to Section 237(9) of the Act to take reasonable steps to return property found in the vehicle, and where the property cannot be returned, the duty to deal with the property as unclaimed goods under the Unclaimed Goods Act 1987 as if the Council were the bailee of those goods.</p>
<p>121. Time Limits for Dealing with Certain Applications</p>
<p>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.</p>
<p>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.</p>
<p>122. Registrar-General to Issue Certificate of Title</p>
<p>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.</p>
<p>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:</p>
<p>122.2.1 in a manner and form approved by the Registrar-General; and</p>
<p>122.2.2 accompanied by:</p>

122.2.2.1 unless otherwise required by the Registrar-General - the duplicate Certificate of Title for the land; and

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

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

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 *Gazette*.

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 *Gazette*.

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.

<p>128. Register of By-Laws and Certified Copies</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>129. Power to Make Orders</p>
<p>129.1 The power pursuant to Section 254 of the Act to order a person to do or to refrain from doing a thing specified in Column 1 of the Table in Part 2 of Chapter 12, if in the opinion of the Delegate, the circumstances specified in Column 2 of the Table exist and the person is within the description in Column 3 of the Table.</p>
<p>130. Procedures to be Followed</p>
<p>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:</p>
<p>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</p>
<p>130.1.2 stating the reasons for the proposed action; and</p>
<p>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).</p>
<p>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.</p>
<p>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</p>



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

<p>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).</p>
<p>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.</p>
<p>133.4 The power pursuant to Section 259(4) of the Act to amend a policy at any time.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>134. Appointment of Authorised Persons</p>
<p>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.</p>
<p>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.</p>
<p>134.3 The power and duty pursuant to Section 260(3) of the Act to issue to an authorised person an identity card:</p>
<p>134.3.1 containing a photograph of the authorised person; and</p>
<p>134.3.2 identifying any conditions or limitations imposed under Section 260(2) of the Act.</p>

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; or

135.00.2 complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council.

135.0 The power and duty pursuant to Section 270(a2) of the Act to ensure the policies, practices and procedures required under Section 270(a1) of the Act, are directed towards:

135.0.1 dealing with the relevant requests or complaints in a timely, effective and fair way; and

135.0.2 using information gained from the Council's community to improve its services and operations.

135.1 Without limiting Sections 270(a1) and (a2) of the Act, the power and duty pursuant to Section 270(1) of the Act and in accordance with Sections 270(2) and (4a) of the Act, to establish procedures for the review of decisions of:

135.1.1 the Council;

135.1.2 employees of the Council;

135.1.3 other persons acting on behalf of the Council,

135.2 The duty pursuant to Section 270(2) of the Act to ensure that the procedures established under Section 270(1) of the Act address the following matters (and any other matters which the Delegate or the Council determines to be relevant):

135.2.1 the manner in which an application for review may be made;

135.2.2 the assignment of a suitable person to reconsider a decision under review;

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

135.7 The power pursuant to Section 270(9) of the Act on an application for the provision of some form of relief or concession with respect to the payment of those rates, to, if appropriate, in view of the outcome of the application, refund the whole or a part of any amount that has been paid.

136. Mediation, Conciliation and Neutral Evaluation

136.1 The power pursuant to Section 271(1) of the Act as part of, or in addition to, the procedures established under Section 270 of the Act, to make provision for disputes between a person and the Council to be dealt with under a scheme involving mediation, conciliation or neutral evaluation.

136.2 The duty pursuant to Section 271(2) of the Act to provide for the constitution of panels of persons who are available to act as mediators, conciliators and evaluators, and for the selection of an appropriate mediator, conciliator or evaluator, if a dispute is to be dealt with under a Scheme established under Section 271(1) of the Act.

136A. Provision of Information to Minister

136A.1 The power and duty, pursuant to Section 271A of the Act, to, at the request of the Minister, provide to the Minister specified information, or information of a specified kind, relating to the affairs or operations of the Council.

136A.2 The power pursuant to Section 271A(3) of the Act to, provide information in accordance with a request under Section 271A(1) of the Act, even if:

136AA.2.1 the information was given to the Council in confidence;
or

136AA.2.2 is held on a confidential basis under Chapter 6 Part 4.

136B. Minister May Refer Investigation of Council to Ombudsman

136B.1 The power pursuant to Section 272(3) of the Act, to, before the Minister refers a matter, explain the Council's actions and make submissions to the Minister.

136B.2 The power pursuant to Section 272(5) of the Act, to make submissions to the Minister in relation to the matter.

136C. Action on a Report
136C.1 The power pursuant to Section 273(3) of the Act to make submissions to the Minister on the report on which the action is based.
136D. Deliberately left blank
136D.1 Deliberately left blank
136D.2 Deliberately left blank
136E. Action on a Report
136E.1 The power pursuant to Section 275(2) of the Act to make submissions to the Minister.
137. Special Jurisdiction
137.1 The power pursuant to Section 276(1) and (2) of the Act to commence, defend or participate in the following proceedings before the District Court, on behalf of the Council:
137.1.1 proceedings to try the title of a member to an office;
137.1.2 proceedings to try the right of a person to be admitted or restored to an office;
137.1.3 proceedings to compel restoration or admission;
137.1.4 proceedings to compel the Council to proceed to an election, poll or appointment;
137.1.5 proceedings to try the validity of a rate or service charge;
137.1.6 proceedings to try the validity of a by-law;
137.1.7 proceedings to compel the production or delivery of any books, voting papers, or other documents or papers to the production or possession of which the Council or person is entitled under this Act.
138. Service of Documents by Councils etc
138.1 Where a document is required or authorised to be served on or given to a person by the Council, the power and duty to effect service in accordance with and pursuant to Section 279 of the Act.

139. Service of Documents on Councils
139.1 The power pursuant to Section 280(1)(c) and (d) of the Act to determine the means available for service of documents on the Council and the power to accept or authorise a person to accept documents on Council's behalf.
140. Recovery of Amounts from Lessees or Licensees
140.1 Where an owner of land is liable to pay an amount to the Council, the power pursuant to Section 281(1) of the Act by written notice to a lessee or licensee of the land, to require him or her to pay to the Council rent or other consideration payable under the lease or license in satisfaction of the liability to the Council.
141. Ability of Occupiers to Carry out Works
141.1 Where an owner of land fails to carry out work that the Council has required the owner to carry out under an Act, the power pursuant to Section 282(1) of the Act to give approval to the occupier of the land to cause the work to be carried out.
142. Power to Enter and Occupy Land in Connection with an Activity
142.1 The duty pursuant to Section 294(1a) of the Act and subject to Section 294(1b) of the Act, to give an owner or occupier of land at least 48 hours notice in writing of an intention to exercise a power under Section 294(1)(b) or (c) of the Act.
142.2 The duty pursuant to Section 294(3) of the Act:
142.2.1 to pay to the owner or occupier of the land rent on a quarterly or half-yearly basis, at a rate to be determined by agreement between the Council and the owner or occupier or, in default of agreement, by the Land and Valuation Court; and
142.2.2 to pay to the owner or occupier of the land within 1 month after occupying the land - reasonable compensation for damage caused to any crops on the land; and
142.2.3 within 6 months of ceasing to occupy the land:
142.2.3.1 remedy damage to land caused by the Council while in occupation of the land (to such extent as this may be reasonably practicable); and

142.2.3.2 to pay to the owner or occupier of the land reasonable compensation for any other loss or damage caused by the Council, including the full value of any earth, minerals or resources taken from the land;

142.3 The duty pursuant to Section 294(5) of the Act, at the request of an owner or occupier of the land entered and occupied by Council, to erect a fence of reasonable quality and design between the occupied land and the adjoining land.

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 appeal in the same manner as an objection to or appeal against a valuation under Division 6 of Part 1, Chapter 10 of the Act.

144. Property in Rubbish

144.1 The power pursuant to Section 297 of the Act to sell or dispose of any rubbish that the Council collects within its area, as the Delegate thinks appropriate.

145. Power of Council to Act in Emergency

145.1 Where flooding in the area of the Council has occurred or is imminent and the Delegate is of the opinion that a situation of emergency has arisen in which there is danger to life or property, the power pursuant to Section 298(1) of the Act to order that action be taken as the Delegate thinks fit to avert or reduce the danger.

<p>146. Vegetation Clearance</p>
<p>146.1 The power pursuant to Section 299(1) of the Act on application of the owner or occupier of the land (the 'relevant land'), to make an order under this Section requiring the owner or occupier of adjoining land to remove or cut back vegetation encroaching on the relevant land.</p>
<p>146.2 If there is a proposal to make an order or an order is made, the power and duty to act in accordance with Divisions 2 and 3 of Part 2, Chapter 12, pursuant to Section 299(2) of the Act.</p>
<p>147. Costs of Advertisements</p>
<p>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.</p>
<p>148. Whistleblowing</p>
<p>148.1 The duty pursuant to Section 302B of the Act to ensure that a member of staff of the Council who has the qualifications prescribed by the Local Government (General) Regulations 2013 is designated as the responsible officer for the Council for the purposes of the Whistleblowers Protection Act 1993.</p>
<p>149. Preparation of Stormwater Management Plans by Councils</p>
<p>149.1 The duty pursuant to Clause 13(4) of Schedule 1A of the Act to ensure that a stormwater management plan prepared by the Council or group of councils:</p>
<p>149.1.1 complies with the guidelines issued by the Authority; and</p>
<p>149.1.2 is prepared in consultation with the relevant regional NRM board or boards; and</p>
<p>149.1.3 is prepared in accordance with any other procedures or requirements prescribed by the regulations.</p>
<p>150. Authority May Require Preparation of Stormwater Management Plan</p>
<p>150.1 The duty pursuant to Clause 14 of Schedule 1A of the Act if the Authority, of its own motion or at the request of a regional NRM board, so requires by notice in the Gazette, to prepare a stormwater management plan.</p>

<p>151. Authority May Issue Order</p>
<p>151.1 The duty pursuant to Clause 16(4) of Schedule 1A of the Act to comply with an order served by the Authority on the Council under Clause 16(1) of Schedule 1A of the Act.</p>
<p>151.2 The power pursuant to Clause 16(5) of Schedule 1A of the Act to make submissions to the Authority in relation to the matter.</p>
<p>151.3 The power pursuant to Clause 16(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 for the debt to be repaid over a period of time, subject to the payment by the Council of interest on the debt (at a rate agreed by the Authority and the Delegate).</p>
<p>152. Special Powers in Relation to Land</p>
<p>152.1 The power, pursuant to Clause 21(1) of Schedule 1A of the Act and in accordance with Clause 21(2) of Schedule 1A of the Act, for the purpose of taking action consistent with the provisions of an approved stormwater management plan or required by an order under Clause 16 of Schedule 1A of the Act, to:</p>
<p>152.1.1 enter and occupy any land; and</p>
<p>152.1.2 construct, maintain or remove any infrastructure; and</p>
<p>152.1.3 excavate any land; and</p>
<p>152.1.4 inspect, examine or survey any land and for that purpose:</p> <ul style="list-style-type: none"> (a) fix posts, stakes or other markers on the land; and (b) dig trenches or sink test holes in the land to determine the nature of the top soil and underlying strata; and (c) remove samples for analysis; and
<p>152.1.5 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</p>
<p>152.1.6 hold water in a watercourse or lake or by any other means; and</p>
<p>152.1.7 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>152.1.8 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>152.1.9 undertake any other form of work (including work undertaken for the purposes of stormwater management or flood mitigation); and</p>
<p>152.1.10 undertake any testing, monitoring or evaluation; and</p>
<p>152.1.11 undertake any other activity of a prescribed kind.</p>
<p>152.2 The duty pursuant to clause 21(2) of Schedule 1A of the Act not to exercise a power under sub-clause 21(1)(b), (c), (h) or (i) of Schedule 1A of the Act to private land with the intention that any infrastructure will be permanent unless:</p>
<p>152.2.1 it is intended that the owner of the private land will undertake the care, control or management of any relevant infrastructure and the Delegate or the Authority (as the case may be) is acting with the agreement of the owner; and</p>
<p>152.2.2 the Council or the Authority (as the case may be) has first acquired 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>153. Entry and Occupation of Land Other Than Council Land</p>
<p>153.1 The duty pursuant to Clause 22(2) of Schedule 1A of the Act and in accordance with Clauses 22(1) and 22(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 21 to the occupier of the land.</p>
<p>153.2 The duty pursuant to clause 22(3) of Schedule 1A of the Act to ensure that the period of the notice required by Clause 22(1) of Schedule 1A of the Act is at least 2 business days except:</p>
<p>153.2.1 where the occupier has given his or her consent; or</p>
<p>153.2.2 in an emergency in which case the Delegate must give such notice (if any) as the Delegate considers is reasonable in the circumstances.</p>
<p>153.3 The duty pursuant to Clause 22(4) of Schedule 1A of the Act, if the Delegate enters or occupies land to which Clause 22 applies, to:</p>



153.3.1 cause as little harm and inconvenience as practicable; and

153.3.2 not occupy the land for any longer than is reasonably necessary; and

153.3.3 leave the land as nearly as possible in the condition in which the Delegate found the land; and

153.3.4 cooperate as far as practicable with any owner or occupier of the land.



APPENDIX [20]

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

NOTES

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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



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

3. Notice of Removal of Vehicle and Disposal of Vehicle if Unclaimed
3.1 The duty pursuant to Section 40P(3) of the Act and subject to Section 40P(4) to offer a vehicle, which was removed by an officer of the Council under Section 40N of the Act and for which there had been notice given according to Section 40P(2) of the Act and the owner of the vehicle failed to take possession of the vehicle and pay all expenses in connection with the removal, custody and maintenance of the vehicle and of serving, posting or publishing the notice, within one month after service or publication of the notice in accordance with Section 40P(2) of the Act, for sale by public auction.
3.2 The power pursuant to Section 40P(4) of the Act, where a vehicle is offered for sale by public auction but is not sold at the auction or the relevant authority reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle, to dispose of the vehicle in such manner as the Delegate thinks fit.
3.3 The duty pursuant to Section 40P(5) of the Act to apply the proceeds of the sale of a vehicle as follows:
3.3.1 firstly, in payment of the costs of and incidental to the sale;
3.3.2 secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vehicle and of the notice served, posted or published under this section; and
3.3.3 thirdly, in payment of the balance to the owner of the vehicle.
3.4 The power pursuant to Section 40P(6) of the Act, if after reasonable inquiry following sale of the vehicle the owner of the vehicle cannot be found, to pay the balance of the proceeds of the sale to the Council.
4. Compensation Orders for Damage to Road Infrastructure
The power, pursuant to Section 163ZC(2) of the Act and in accordance with Section 163ZC(5) of the Act to make an application for a compensation order.



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

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



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

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

6. Event Management Plan

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

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

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

7. Permit Zones

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

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

7.1.2 the persons entitled to such permits;

7.1.3 any fees to be paid for such permits;

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

and to vary any such determination.

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



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

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

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



APPENDIX [21]

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

NOTES

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

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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



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

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



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

5.3	Subject to Sections 25(4) and 25(5) of the Act the power pursuant to Section 25(3) of the Act to prepare a proposal, to be called a 'Development 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;



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

5.3.5	the DPA must include any other matter prescribed by the 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.



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

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 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.



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

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 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.



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

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:
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.



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

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 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



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

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 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



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

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
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).



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

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 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;



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

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 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.



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

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 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.



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

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 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



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

	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.
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).



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

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 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.



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

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 allow the applicant an opportunity to respond in writing, to those representations within the period prescribed by the Regulations; and



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

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.



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

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



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

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



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

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



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

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



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

21.3	The power, pursuant to Section 42(6) of the Act, on the application of the applicant, to determine that a payment of an amount calculated in accordance with the Regulations be made into the relevant fund in lieu of planting one or more replacement trees under Section 42(4) of the Act.
21.4	The power, pursuant to Section 42(8)(b) of the Act, after taking into account any criteria prescribed by the Regulations and if the Minister concurs, to determine that it is appropriate to grant an exemption under Section 42 of the Act in a particular case.
22.	Cancellation by a Relevant Authority
22.1	The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.
23.	Investigation of Development Assessment Performance
23.1	The power pursuant to Section 45A(2) of the Act to explain the Council's actions and to make submissions (including, if relevant, an indication of undertakings that the Council is willing to give in order to take remedial action) to the Minister within a period (being at least 28 days) specified by the Minister.
23.2	The duty pursuant to Section 45A(14) of the Act to comply with a direction under Section 45A(11) or (13) of the Act.
23.3	The power pursuant to Section 45A(12) of the Act to make submissions to the Minister on the report on which the action under Section 45A(11) of the Act is based within a period (being at least 28 days) specified by the Minister.
24.	Crown Development and Public Infrastructure
24.1	The power pursuant to Section 49(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.
24.2	The power pursuant to Section 49(5) of the Act to report to the 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.



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

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



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

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



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

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



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

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



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

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 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.



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

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 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.



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

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 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.



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

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 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.



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

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, within a reasonable period, taken appropriate action in view of the recommendation,
	consult with the Minister.



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

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.
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.



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

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.



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

41. Classification of Buildings
41.1 The power pursuant to Section 66(2) of the Act to assign to any building a classification that conforms with the Regulations and the duty pursuant to Section 66(4) of the Act to give notice in writing to the owner of the building to which the classification has been assigned.
42. Certificates of Occupancy
42.1 The duty pursuant to and in accordance with the requirements of Sections 67(2), (3), (4), (5) and (6) of the Act to give a certificate of occupancy.
42.2 The power pursuant to Section 67(3)(a) of the Act to require information from an applicant for a certificate of occupancy.
42.3 The duty pursuant to Section 67(10) of the Act to give written notice to an applicant of the refusal of the certificate of occupancy.
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.



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

44A Fire Safety
44A.1 The power pursuant to Sections 71(18) and (19) of the Act to establish and designate a body as an appropriate authority.
44A.2 The power pursuant to Section 71(19)(a)(i) of the Act to appoint a person who holds prescribed qualifications in building surveying to the appropriate authority.
44A.3 The power pursuant to Section 71(19)(a)(ii) of the Act to determine if a person is to be nominated to the appropriate authority by the Chief Officer of the South Australian Metropolitan Fire Service or the Chief Officer of the South Australian Country Fire Service (after taking into account the nature of the Council or Council's area(s)).
44A.4 The power pursuant to Section 71(19)(a)(iii) of the Act to appoint a person with expertise in the area of fire safety to the appropriate authority.
44A.5 The power pursuant to Section 71(19)(a)(iv) of the Act to determine and select a person to be appointed to the appropriate authority.
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



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

46.1.2	serve notice in writing requiring the removal or obliteration of the advertisement or the removal of the advertising hoarding (or both).
46.2	The power pursuant to Section 74(3) of the Act where a person has failed to comply with a notice under Section 74(1) of the Act, to enter on land, carry out the terms of the notice and recover the costs of doing so as a debt from the person on whom the notice was served.
47.	Enforcement Notices
47.1	The power pursuant to and in accordance with Section 84(2) of the Act to issue an enforcement notice where the Delegate has reason to believe on reasonable grounds that a person has breached the Act or a repealed Act.
47.2	The power pursuant to Section 84(3) of the Act to determine that a direction under Section 84(2) of the Act is urgently required and can be orally given by an authorised officer.
47.3	Where a person has failed to comply with a direction contained in a notice issued pursuant to Section 84(2)(b) of the Act:
47.3.1	the power pursuant to Section 84(6) of the Act to cause the 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.



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

50. Authority to be Advised of Certain Matters
50.1 The power pursuant to Section 93(1)(b)(iii) of the Act to require from a private certifier who is making a decision of a prescribed kind in relation to any aspect of building work such other information or documentation as the Delegate or the Council may require.
51. Referrals
51.1 The power pursuant to and in accordance with Section 94 of the Act to consent to the referral by a private certifier to the Council or Delegate of any function under the Act.
52. Professional Advice to be Obtained in Relation to Certain Matters
52.1 The power pursuant to Section 101(1) of the Act, in the exercise of a prescribed function, to rely on a certificate of a person with prescribed qualifications.
52.2 The duty pursuant to Section 101(2) of the Act to seek and consider the advice of a person with prescribed qualifications or person approved by the Minister in relation to a matter prescribed by the Regulations.

**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.



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

<u>DELEGATIONS UNDER THE DEVELOPMENT REGULATIONS 2008</u>	
54. Infrastructure Planning	
54.1	The power pursuant to Regulation 9A(1) of the Development Regulations 2008 ('the Regulations') to, in preparing the DPA, to the extent (if any) required by the Statement of Intent, seek, in accordance with Regulation 9A(2), the advice of a Minister and any other government agency, specified by the Minister as part of the agreement on the Statement of Intent.
55. Consultation with Government Departments or Agencies	
55.1	The duty pursuant to Regulation 10A(1) of the Regulations if the Council is subject to a requirement under Section 25(7)(a) of the Act to ensure that a copy of any written report received from a Department or agency is furnished to the Minister for the purposes of considering the matter under Section 25(7)(b) of the Act.
56. Public Consultation – Section 25 & 26	
56.1	Subject to Regulations 11A(3) and 11A(6) of the Regulations, for the purposes of Sections 25 and 26 of the Act, the duty pursuant to Regulation 11A(1) of the Regulations to give public notice of a DPA by publication in the designated manner of a notice:
56.1.1	advising the time and places at which the DPA is available for inspection (without charge) and purchase by the public; and
56.1.2	inviting any interested person to make written submissions on the amendment to the council within the relevant period specified in 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).



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

56.2	If one or more written submissions are made in response to a notice published under Regulation 11A(1) of the Regulations, the duty pursuant to Regulation 11A(3) of the Regulations to make a copy of each submission available for inspection in accordance with the statement included under Regulation 11A(1)(c).
56.3	For the purposes of Sections 25(9)(c) and 26(5b)(c) of the Act, the duty pursuant to Regulation 11A(4) of the Regulations to include in the written notice the same information as required for a notice under Regulation 11A(1) of the Regulations.
56.4	The duty pursuant to Regulation 11A(5) of the Regulations, to ensure that a copy of any DPA released for public consultation under Section 25 of the Act is provided to the Minister within 2 business days after that release.
57. Public Meeting	
57.1	The duty pursuant to and in accordance with Regulation 12 of the Regulations to hold a public meeting if an amendment has been prepared by the Council or the Delegate.
57.2	The power pursuant to Regulation 12(4) of the Regulations to adjourn a public meeting from time to time, and place to place if necessary or appropriate.
58. Application to Relevant Authority	
58.1	The power pursuant to Regulation 15(1)(c) of the Regulations to require an additional or lesser number of copies of plans, drawings, specifications and other documents and information relating to a proposed development than the number prescribed in Regulation 15(1)(c) of the Regulations.
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.



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

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 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 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; and
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.
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).
	<i>[City of Tea Tree Gully only]</i>
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.



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

58.7	The power pursuant to Regulation 15(11) and subject to Regulation 15(12) of the Regulations, to, in an appropriate case, dispense with or modify the requirements of Schedule 5 in relation to a particular application.
58.8	The duty pursuant to Regulation 15(12) of the Regulations to not modify the requirements of Schedule 5 in relation to an application if the application is in relation to <i>residential code</i> development.
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



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

60.1.2	resolve to proceed with an assessment of the application.
60.2	The duty pursuant to Regulation 17(4) of the Regulations, in situations where the Delegate has resolved to proceed with the assessment of an application for non-complying development, to require the applicant to provide a statement of effect.
60.3	The power pursuant to Regulation 17(6) of the Regulations to determine that a proposed development is of a minor nature for the purposes of exemption from the requirements to provide a statement of effect.
61.	Notification of Application for Tree-Damaging Activity to Owner of Land
61.1	Where the owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, the duty pursuant to and in accordance with Regulation 18 of the Regulations:
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.



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

63.2	Where at least two years have passed since the date on which an application for development authorisation under Part 4 of the Act was lodged with the Council the power, pursuant to Regulation 22(2) of the Regulations to lapse the said application.
63.3	Before taking action to lapse a development application under Regulation 22(2) of the Regulations the duty, pursuant to and in accordance with Regulation 22(3) of the Regulations to:
63.3.1	take reasonable steps to notify the applicant of the action under consideration; and
63.3.2	allow the applicant a reasonable opportunity to make submissions to the Council or the Delegate about the proposed course of action, and the power to determine the manner and form of those submissions.
64.	Contravening Development
64.1	The power pursuant to Regulation 23(2) of the Regulations, by notice in 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.



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

68. Special Provisions – Referrals
68.1 The duty pursuant to and in accordance with Regulation 28(3) of the Regulations to refer an application for building rules consent to the relevant fire authority for comment and report where the Delegate considers that:
68.1.1 a proposed alternative solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or
68.1.2 the proposed development is at variance with a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or
68.1.3 special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,
and the duty pursuant to Regulation 28(5) of the Regulations to have regard to any report received from the fire authority under Regulation 28.
68.2 The power pursuant to Regulation 28(4) of the Regulations, when a report from a fire authority pursuant to Regulation 28(3) is not received by the Council within 20 business days, to presume that the fire authority does not desire to make a report.
68.3 If, in respect of an application referred to a fire authority under Regulation 28, the fire authority:
68.3.1 recommends against the granting of building rules consent; or
68.3.2 concurs in the granting of consent on conditions specified in its report,
but the Delegate:
68.3.3 proposes to grant building rules consent despite a recommendation referred to in Regulation 28(5a)(a) of the Regulations; or
68.3.4 does not propose to impose the conditions referred to in Regulation 28(5a)(b) of the Regulations, or proposes to impose the conditions in varied form, on the grant of consent,
the duty pursuant to Regulation 28(5a) of the Regulations to:



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

68.3.5	refer the application to the Building Rules Assessment Commission; and
68.3.6	not grant consent unless the Building Rules Assessment Commission concurs in the granting of consent.
68.4	The duty pursuant to Regulation 28(6) of the Regulations to provide to the Building Rules Assessment Commission a copy of any report received from a fire authority under Regulation 28(1) that relates to an application referred to the Building Rules Assessment Commission under the Act.
68.5	The duty pursuant to Regulation 28(7) of the Regulations, where building work comprises or includes the construction or installation of a private bushfire shelter, not to grant a building rules consent unless the Building Rules Assessment Commission concurs in the granting of the consent.
69.	Land Division Applications
69.1	The duty pursuant to Regulation 29(1) of the Regulations, subject to the provisions in Regulation 29(2) of the Regulations, to withhold making a 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.



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

71. Preliminary Advice and Agreement - Section 37AA
71.1 The power pursuant to Regulation 31A(6)(b) of the Regulations to determine that an application no longer accords with an agreement indicated by the prescribed body.
71.2 The power pursuant to Regulation 31A(6) of the Regulations if:
71.2.1 a relevant authority permits an applicant to vary an application under Section 39(4) of the Act; and
71.2.2 the relevant authority determines that the application no longer accords with the agreement indicated by the prescribed body, to refer the application (unless withdrawn) to the prescribed body:
71.2.3 to obtain a variation to the agreement under Section 37AA of the Act; or
71.2.4 to obtain a response from the prescribed body for the purposes of Section 37 of the Act.
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:



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

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.
72.	Public Inspection of Certain Applications
72.1	The duty pursuant to and in accordance with Regulation 34(1) of the Regulations, subject to Regulation 34(4) of the Regulations to ensure that copies of documents referred to in Regulation 34(1) concerning an application are reasonably available for inspection by the public (without charge).
72.2	The duty pursuant to Regulation 34(2) of the Regulations, subject to 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:



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

74.1.1	in a case where the Minister has made a declaration under Section 34(1)(b)(iii) or 34(1)(b)(vi) of the Act, the duty pursuant to and in accordance with Regulation 38(2)(a)(i) of the Regulations to forward to the Development Assessment Commission any application received by the Council under the Act and the Regulations in relation to the matter together with accompanying documentation or information and, as appropriate, fees; and
74.1.2	in any case, the power pursuant to and in accordance with Regulation 38(2)(b) to provide a report on matters under Section 33(1) (as relevant).
74.2	Where the Development Assessment Commission is the relevant authority under Section 34(1)(b)(iv) of the Act and the proposed development is to be undertaken within one kilometre of a boundary with the Council, the power, pursuant to Regulation 38(4) of the Regulations, to provide the Development Assessment Commission with comments on the proposed development.
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.



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

78. Notification of Decision to Owner of Land
78.1 The duty pursuant to and in accordance with Regulation 44 of the Regulations to send a copy of any notice issued under Regulation 42 of the Regulations to the owner of land to which a decision on the application relates where the owner is not a party to the application.
79. Scheme Description – Community Titles
79.1 The duty pursuant to Regulation 45(2) of the Regulations to endorse a scheme description under Section 3 of the Community Titles Act 1996 in the following terms:
79.1.1 All the consents or approvals required under the Development Act 1993 in relation to the division of the land (and a change in the use of the land (if any)) in accordance with the scheme description and the relevant plan of community division under the Community Titles Act 1996 have been granted. OR 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. 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. Signed: Dated:
79.2 The power pursuant to Regulation 45(2) of the Regulations to include in an endorsement of a scheme description under Section 3 of the Community Titles Act 1996, notes concerning conditions on any consent or approval, and notes concerning additional approvals that may be required in the future and to sign and date the endorsement.
80. Special Provisions Relating to Staged Consents
80.1 The duty pursuant to and in accordance with Regulation 46(1) of the Regulations, and in a case where the development is within the ambit of Schedule 1A, subject to, in accordance with Regulations 46(4) and (5) of the Regulations, any step that the Delegate, as the relevant authority considers it needs to take under Section 42 of the Act, to issue a Notice of Approval in the circumstances prescribed by Regulation 46 of the Regulations.



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

81. Endorsed Plans
81.1 The duty pursuant to Regulation 47 of the Regulations to return to a successful applicant, a copy of the plans, drawings, specifications and other documents and information lodged by the applicant duly endorsed with the building rules consent.
81A. Minor Variation of Development Authorisation
81A.1 The power pursuant to Regulation 47A 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.
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.



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

85.2	The power pursuant to Regulation 53(4) of the Regulations to dispense with the requirements of Regulation 53(3) of the Regulations that adequate provision be made for the turning of vehicles at the head of a cul-de-sac where the Delegate is of the opinion that the cul-de-sac is likely to become a through road.
85.3	The power pursuant to Regulation 53(6) of the Regulations to dispense with the requirements of Regulation 53(5) dealing with the forming of footpaths, water-tables, kerbing, culverts and drains on proposed roads.
86.	Construction of Roads, Bridges, Drains and Services
86.1	The power pursuant to Regulation 54(1) of the Regulations to require the paving and sealing of the roadway of proposed roads.
87.	Supplementary Provisions
87.1	The duty pursuant to Regulation 55(1) of the Regulations to consider and if appropriate approve a road location and grading plan for the forming of any 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.



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

89. Division of Land by Strata Title
89.1 The power pursuant to Regulation 59(1) of the Regulations to advise the Development Assessment Commission that an applicant has entered into a binding arrangement with the Council for the satisfaction of the requirements of Section 33(1)(d) of the Act and that the arrangement is supported by adequate security.
90. General Provisions
90.1 The power pursuant to and in accordance with Regulation 60(1) of the Regulations to enter into a form of arrangement with an applicant to the satisfaction of the Development Assessment Commission for the purposes of Section 51(1) of the Act.
90.2 The power pursuant to Regulation 60(7) of the Regulations, for the purposes of Section 51(4) of the Act, to request (in such a manner as may be determined by the Development Assessment Commission) that a copy of a certificate or plan (or certificates and plans) referred to in Regulation 60(4) of the Regulations be furnished to the Council by sending a written copy to the Council.
90.3 The power pursuant to Regulation 60(9) of the Regulations to consult with 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.



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

92. Referral of Assessment of Building Work
92.1 Where a development application which is subject to the operation of Section 48 of the Act is referred to the Council for assessment in respect of the Building Rules the duty pursuant to and in accordance with Regulation 64(2) of the Regulations, to ensure that the assessment is consistent with any development plan consent previously given under Section 48 of the Act.
92.2 Where the Council acting under Regulation 64(1) of the Regulations determines that it is appropriate to give a certification with respect to the development complying with the Building Rules (and if the assessment of the Council is consistent with any development plan consent) the duty, pursuant to Regulation 64(3) of the Regulations to:
92.2.1 provide the certification in the form set out in Schedule 12A; and
92.2.2 to the extent that may be relevant and appropriate:
92.2.2.1 issue a schedule of essential safety provisions under 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.



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

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 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.



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

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.
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 duty pursuant to Regulation 82(4) of the Regulations to assign the appropriate classification under the Building Code to a building upon being satisfied that the building possesses the attributes appropriate to its present or intended use.
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 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.



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

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



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

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



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

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



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

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 information prescribed in Regulation 104(1) and to make the said register available for public inspection on payment of the appropriate fee.



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

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 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.



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

110. Schedule 8 – Development Near The Coast
110.1 The power pursuant to Item 1(b) of Clause 2 of Schedule 8 of the Regulations, where development is on coastal land, to form the opinion that the development is of a minor nature only, and comprises the alteration of an existing building or the construction of a building to facilitate the use of an existing building.
111. Schedule 8 - Development Adjacent To Main Roads
111.1 The power pursuant to Item 3 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is likely to:
111.1.1 alter an existing access; or
111.1.2 change the nature of movement through an existing access; or
111.1.3 create a new access; or
111.1.4 encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972,
in relation to an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, or within 25 metres of a junction with an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan).
112. Schedule 8 - State Heritage Places
112.1 The power pursuant to Item 5(1) of Clause 2 of Schedule 8 of the Regulations to form the opinion that a development materially affects the context within which a State Heritage place is situated
113. Schedule 8 – Mining – General
113.1 The power pursuant to and in accordance with Item 7 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is of a minor nature only.



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

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 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.



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

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 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



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

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
118.7.2	whether the proposed division will change the nature or function of an existing road.
119. Schedule 10 - Decisions by Development Assessment Commission	
119.1	In circumstances where the Council is undertaking development within the meaning of that term under Section 4 of the Act and:
119.1.1	the development involves the construction (but not alteration of or change in use to a hotel or tavern, or tourist accommodation, or an entertainment complex, or a cinema, or a hospital) but where the Council's interest is limited to the ownership of rights associated with an easement, road or reserve, the power pursuant to Clause 2(a) of Schedule 10 of the Regulations to form the opinion that the purpose of the easement, road or reserve will not be materially affected;
119.1.2	in circumstances where the development involves the construction of, or a change in use to, a shop or office or the construction of a building for the purposes of, or a change in use to, a form of industry and the interest of the Council is limited to the ownership of rights associated with an easement, road or reserve, the power pursuant to Clause 2(b) of Schedule 10 of the Regulations to form the opinion that the purpose of the easement, road or reserve will not be materially affected.



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

SCHEDULE OF CONDITIONS

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

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

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

SCHEDULE I

**DELEGATIONS MADE UNDER DEVELOPMENT ACT 1993
TO COUNCILS DEVELOPMENT ASSESSMENT PANEL**

Head Delegation Reference	Section/Regulation	Details
1	Section 6	Change of land use declaration
10.1.1	Section 33(1)a	Assessment of Development Proposal - Provisions of appropriate Development Plan
10.1.3	Section 33(1)c	Assessment of Development Proposal - Land Division/Conditions
10.1.4	Section 33(1)d	Assessment of Development Proposal - Land Division
10.1.5	Section 33(1)e	Assessment of Development Proposal - Encroachments
10.2	Section 33(3)	Assessment of Development Proposal - Reserved Decision
12	Section 35	Special provisions relating to Development Plan Assessment
14	Section 37	Consultation with other authorities or agencies
16	Section 37A	Developments involving fortifications
17	Section 38	Public Notification
18.10	Section 39 / Reg. 17	Refuse Non Complying Development
21	Section 42	Attaching of Conditions
26.1	Section 50	Open Space Contribution
30.1	Section 52	Saving Provisions
46.1	Section 74	Advertisements
59.1	Regulation 16	Nature of Development
60	Regulation 17	Non Complying Development
62	Regulation 20	Amended Applications
65	Regulation 24	Referrals and concurrence
69	Regulation 29	Land Division Applications
70	Regulation 30	Underground Mains Area
83	Regulation 51	Width of Roads and thoroughfares
84	Regulation 52	Road Widening
85	Regulation 53	Requirements as to forming roads
86	Regulation 54	Construction of Roads, Bridges, Drains and Services
87	Regulation 55	Supplementary Land Division Provisions
88	Regulation 58	General Land Division
89	Regulation 59	Division of Land by Strata Title
90	Regulation 60	General Provisions

CORPORATE AND COMMUNITY SERVICES REPORT NO 25/2015

SUBJECT: POLICY REVIEW – D140 – DEVELOPMENT ACT – DELEGATIONS

REF: AF11/1950

Goal: Governance
Strategic Objective: Demonstrate innovative and responsive organisational governance.

In March 2014, Council considered Operational Services Report No. 07/2014 in relation to the review of Operational Services Policies and resolved:

- (d) *amalgamation and/or review of remaining Operational Services Policies continue to be undertaken on a prioritised and periodical basis under the direction of the Operational Services Committee.*

In accordance with that resolution, Council Policy *D140 – Development Act – Delegations* has been reviewed and the resulting policy is presented for consideration and adoption, as attached to this report. Reference should also be made to Corporate and Community Services Report 24/2015, which contains the annual review of delegations pursuant to the Development Act 1993.

The changes that have been made to this Policy include:

- Update to ensure that the Policy is applicable to current legislative requirements; and
- Formatting into the new Council Policy template.

The existing Policy can be found on Council's website:

<http://www.mountgambier.sa.gov.au/docs/council/policies/D140.pdf>

RECOMMENDATION

- (a) Corporate and Community Services Report No. 25/2015 be received;
- (b) Council hereby adopts new Council Policy D140 – Development Act – Delegations as attached to this Report;
- (c) Council makes the necessary amendments to Council's Policy Manual Index.



Jessica PORTER
PLANNING OFFICER

Sighted:



Mark McSHANE
CHIEF EXECUTIVE OFFICER

	COUNCIL POLICY D140 – DEVELOPMENT ACT - DELEGATIONS	Version No:	2.0
		Issued:	April 2015
		Next Review:	April 2016

1. INTRODUCTION

This policy is established pursuant to Section 34(27) of the Development Act 1993 (“the Act”).

Under the Act and the Development Regulations 2008 (“the Regulations”), the City of Mount Gambier (“the Council”) is responsible for the management of most development within its area.

Under Section 34(23) of the Act the Council is *required* to delegate all of its powers and functions as a relevant authority, with respect to determining whether or not to grant development plan consent under the Act. This means, that Council’s *development assessment* functions must be exercised by a person (e.g. an officer of Council) or body (e.g. the Council Development Assessment Panel) that has been given delegated authority by the Council.

The Council therefore delegates its development assessment powers and functions, under the Act and the Regulations, to other persons or bodies.

2. DELEGATIONS

- (a) Council will make the various delegations required by Section 34(23) of the Act.
- (b) Section 20 of the Act determines Council’s power to delegate its development assessment powers and functions under the Act and states:

*“(1) ... a council, may delegate a power or function vested or conferred under this Act.
(2) A delegation—*

- (a) may be made—*
 - (i) to a particular person or body; or*
 - (ii) to the person for the time being occupying a particular office or position; or*
 - (iii) to a subsidiary established under the Local Government Act 1999; and...*
- (c) may be made subject to conditions and limitations specified in the instrument of appointment; and*
- (d) subject to any other provision of this Act or the regulations, is revocable at will and does not derogate from the power of the delegator to act in a matter; and*
- (3) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.”*

- (c) Section 34(23) of the Act states:

“A council must delegate its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent under this Act to—

- (a) its council development assessment panel; or*
- (b) a person for the time being occupying a particular office or position (but not including a person who is a member of the council); or*
- (c) a regional development assessment panel (if such a delegation is consistent with the extent to which the panel may act under the provisions of the regulations constituting the panel and in addition to the operation of subsection (1)(ab)).”*

	COUNCIL POLICY D140 – DEVELOPMENT ACT - DELEGATIONS	Version No:	2.0
		Issued:	April 2015
		Next Review:	April 2016


- (c) Council delegates all of its powers and functions under the Act and Regulations to the Chief Executive Officer of the Council (“the CEO”). The Council also empowers the CEO to sub delegate those powers and functions to other Council officers.
- (d) Council also delegates its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent (“the development assessment powers and functions”) to the City of Mount Gambier Council Development Assessment Panel (“the CDAP”).

The CDAP delegations are set out in Schedule I of Appendix 21 (Delegations made under the Development Act 1993) of Council’s Delegation Register.

- (e) Where the CDAP, the Chief Executive Officer and sub-delegates share the same delegated powers and functions, a determination on a development application may only be made by one delegate. Accordingly, it is the policy of this Council that:
- i. Where the CDAP, the Chief Executive Officer and sub-delegates share the same delegated powers and functions, the sub-delegate or Chief Executive Officer will, subject to (ii), exercise the delegated power or function.
 - ii. The Chief Executive Officer, Director – Operational Services, or sub-delegate, will refer any development application to the CDAP for determination in the following circumstances:
 - a) where an application has been publicly notified and representations received; or
 - b) where the Chief Executive Officer, Director - Operational Services, or sub-delegate consider in the circumstances that determination by the CDAP is warranted.

3. AVAILABILITY OF POLICY

This Policy will be available for inspection at Council’s principal office during ordinary business hours and on the Council’s website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council’s Schedule of Fees and Charges.

	COUNCIL POLICY D140 – DEVELOPMENT ACT - DELEGATIONS	Version No:	2.0
		Issued:	April 2015
		Next Review:	April 2016

File Reference:	AF11/1746, AF11/1020, AF14/108
Applicable Legislation:	Local Government Act 1999 Development Act 1993
Reference: Strategic Plan – Beyond 2015	
Related Policies:	
Related Procedures:	
Related Documents:	City of Mount Gambier Delegations Register Sub-Delegation Register Instrument of sub-delegation, Appendices & Schedule

DOCUMENT DETAILS

Responsibility:	MANAGER - GOVERNANCE AND PROPERTY
Version:	2.0
Last revised date:	21 st April, 2015
Effective date:	21 st April, 2015
Minute reference:	21 st April, 2015, Corporate & Community Services, Item #
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