

Reference: AF11/861

9<sup>th</sup> February, 2017

## MEMBERS

**NOTICE** is 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 13<sup>th</sup> February, 2017 at 5.30 p.m.

An agenda for the meeting is attached.



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

## CONFLICT OF INTEREST DISCLOSURE FORM

I \_\_\_\_\_,  
(insert name)

have received a copy of the agenda for the ☐ **ordinary** ☐ **special** meeting of the

\_\_\_\_\_ ☐ Council ☐ Committee ☐ Board  
(insert full name of Committee/Sub-Committee/Board)

to be held on: \_\_\_\_\_  
(insert date of meeting)

### CONFLICT OF INTEREST DISCLOSURE

I consider that I have a:

☐ **material** conflict of interest pursuant to section 73 (complete and sign below)

☐ **actual** or ☐ **perceived** conflict of interest pursuant to section 74 (complete and sign overleaf)

of the *Local Government Act 1999* ("the LG Act") in relation to the following agenda item:

\_\_\_\_\_  
(insert details - include Agenda Item No, Report Number, Item/Report Subject Title)

which is to be discussed at that meeting.

## MATERIAL

The nature of my **material** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why you (or a person prescribed in section 73(1) of the LG Act) stands to obtain a benefit or suffer a loss depending on the outcome of the consideration of the matter at the meeting of the Council in relation to the agenda item described above]*:

In accordance with section 74(1)(b) I will be leaving the meeting room while the matter is being discussed and voted on.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

In accordance with section 75A(2)(b) I propose ☐ to ☐ not to participate in the meeting in relation to the matter.

## ACTUAL

The nature of my **actual** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why the conflict between your interests and the public interests might lead to a decision that is contrary to the public interest in relation to the agenda item described above]:*

Where I have proposed to participate in the meeting I intend to deal with my **actual** conflict of interest in the following transparent and accountable way *[ensure sufficient detail is recorded as to the manner in which you intend to deal with the actual conflict of interest in a transparent and accountable way].*

OR

## PERCEIVED

The nature of the **perceived** conflict of interest is as follows *[ensure sufficient detail is recorded, including the reasons why you consider that an impartial fair-minded person could reasonably consider that you have a perceived conflict of interest in the matter].*

Where I have proposed to participate I intend to deal with the **perceived** conflict of interest in the following transparent and accountable way *[ensure sufficient detail is recorded as to the manner in which you intend to deal with the perceived conflict of interest in a transparent and accountable way].*

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Signature

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Date

CORPORATE AND COMMUNITY SERVICES COMMITTEE

Meeting to be held on Monday, 13<sup>th</sup> February 2017 at 5.30 p.m.

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4. CORPORATE AND COMMUNITY SERVICES REPORT NO. 08/2017 - Policy P420 Procurement and Disposal of Land and Assets - Ref. AF11/1950
5. CORPORATE AND COMMUNITY SERVICES REPORT NO. 09/2017 - Authorised Banking Signatories - Ref. AF11/636
6. CORPORATE AND COMMUNITY SERVICES REPORT NO. 10/2017 - Delegations of Powers of Council - Ref. AF11/1020
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MOTION WITH NOTICE - Nil

MOTIONS WITHOUT NOTICE

## CORPORATE AND COMMUNITY SERVICES COMMITTEE

Meeting to be held in the Reception Area, Level 4, Civic Centre, 10 Watson Terrace,  
Mount Gambier on Monday 13<sup>th</sup> February, 2017 at 5.30 p.m.

### AGENDA

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

APOLOGY: moved that the apology from be  
received.  
seconded

COUNCIL OFFICERS: Chief Executive Officer, Mark McShane  
Finance Manager, Gary Button  
Manager Community Services and Development, Barbara Cernovskis  
Manager Governance and Property, Michael McCarthy  
Administration Officer – Executive Support, Fiona McGregor  
Administration Officer – Executive Support, Ashlee Lavia

### COUNCIL OFFICERS

### APOLOGIES:

### 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.**

### PRESENTATIONS:

5.30 p.m. District Council of Grant presentation regarding an update on the Mount Gambier Airport Infrastructure Project

5.45 p.m. RSL Mount Gambier President Bob Sandow presentation regarding Saluting Monash (noting Report 11/2017 in this Agenda)

MINUTES: moved that the minutes of the previous meeting held 12<sup>th</sup> December, 2016 be taken as read and confirmed.  
seconded

### QUESTIONS:

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

### **1. FINANCIAL STATEMENT – as at 31<sup>st</sup> January, 2017**

moved it be recommended the financial statement as at 31<sup>st</sup> January, 2017 be received.  
seconded

**2. FINANCIAL MANAGEMENT – Budgeting - Annual Business Plan and Budget Consultation 2017/18 Financial Year - Ref. AF15/461**

The Chief Executive Officer reported:

- (a) In accordance with Section 123 of the Local Government Act 1999, the following Program leading up to the adoption of Annual Business Plan and Budget for 2017/2018 is proposed (actual dates to be confirmed):

<b>Date (2017)</b>	<b>Description</b>
early March	Audit Committee Meeting (LTFP, AIMP and Budget)
early April	Members LTFP, SIMP and Budget Briefing(s)
late April	Draft Business Plan and Budget released for public comment.
mid/late May	Public submissions on draft Business Plan and Budget close.
late May	First Special (public) Meeting to hear any public submissions and to discuss the draft Business Plan and Budget.
late May / early June	Second Special (public) Meeting to be held to discuss/finalise the draft Business Plan and Budget (if required).
mid/late June	Special Council meeting to be held to finalise and endorse draft Business Plan and Budget (if required).
mid July	Last date for finalisation/distribution of first quarterly rate notice and distribution of summary Annual Business Plan.
8 <sup>th</sup> September	First quarterly rate installment final payment date.

moved it be recommended:

- (a) the report be received;
- (b) the Draft 2017/2018 Annual Business Plan and Budget Program be endorsed by Council.

seconded

**3. CORPORATE AND COMMUNITY SERVICES REPORT NO. 04/2017 - Budget Update as at 31<sup>st</sup> December, 2016 - Ref. AF15/461**

moved it be recommended:

- (a) Corporate and Community Services Report No. 04/2017 be received;
- (b) the Budget Update as at 31<sup>st</sup> December, 2016 as presented with this Report be adopted by Council with all amendments to be made to the 2016/2017 Council Budget.

seconded

**4. CORPORATE AND COMMUNITY SERVICES REPORT NO. 08/2017 - Policy P420 Procurement and Disposal of Land and Assets - Ref. AF11/1950**

moved it be recommended:

- (a) Corporate and Community Services Report No. 08/2017 be received;
- (b) Council hereby adopts updated Council Policy:

P420 – Procurement, & Disposal of Land and Assets

- (c) Council makes the necessary amendments to Council's Policy Manual Index.

seconded

**5. CORPORATE AND COMMUNITY SERVICES REPORT NO. 09/2017 - Authorised Banking Signatories - Ref. AF11/636**

moved it be recommended:

- (a) Corporate and Community Services Report No. 09/2017 be received;
- (b) that the authorised signatories of the Council's general accounts and financial bank accounts and transactions etc. be any two (2) of the following:
- Mayor
  - Deputy Mayor
  - Chief Executive Officer
  - General Manager Council Business Services
  - General Manager City Growth
  - General Manager City Infrastructure
  - General Manager Community Wellbeing
  - Director Operational Services
  - Manager Business & Strategic Planning
  - Manager Community Services & Development
  - Manager Governance & Property
  - Manager Regulatory Services (Manager Development & Regulatory)
  - Engineering Manager (Engineering Design & Contract Management)
- (c) that the Chief Executive Officer may by written instrument add/amend/revoke the bank signatory authorisation of officers listed in resolution (b) as necessary to align with the organisational structure, position titles/appointments, and absence/availability of officers, for further review at the next statutory Council meeting following the November 2018 local government elections.

seconded

**6. CORPORATE AND COMMUNITY SERVICES REPORT NO. 10/2017 - Delegations of Powers of Council - Ref. AF11/1020**

moved it be recommended:

- (a) Corporate and Community Services Report No. 10/2017 be received;
- (b) 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 and Development Act Regulations 2008

Corporate and Community Services Committee Agenda, Monday 13<sup>th</sup> February, 2017 cont'd...

- 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 1999
  - 1.1.16. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005
  - 1.1.17. Public Assemblies Act 1972
  - 1.1.18. Roads (Opening & Closing) Act 1991
  - 1.1.19. Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
  - 1.1.20. South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013.
  - 1.1.21. Supported Residential Facilities Act 1992
  - 1.1.22. Unclaimed Goods Act 1987
  - 1.1.23. Work Health & Safety Act 2012
  - 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. Heavy Vehicle National Law (South Australia) Act 2013
  - 1.1.28. 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 Wednesday, 20<sup>th</sup> April, 2016 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 and Environment Protection (Waste to Resources) Policy 2010 (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 1999 (Appendix 14)
- 2.1.14. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005 (Appendix 16)
- 2.1.15. Public Assemblies Act 1972 (Appendix 17)
- 2.1.16. Roads (Opening and Closing) Act 1991 (Appendix 18)
- 2.1.17. Road Traffic Act 1961, Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014 (Appendix 20/20A/20B)
- 2.1.18. Unclaimed Goods Act 1987 (Appendix 25)
- 2.1.19. South Australian Public Health Act 2011 South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013 and South Australian Public Health (General) Regulations 2013 (Appendix 26)
- 2.1.20. Safe Drinking Water Act 2011 (Appendix 27)
- 2.1.21. Real Property Act 1886 (Appendix 28) and Electronic Conveyancing National Law (SA) Act 2013 (Appendix 28A)
- 2.1.22. Strata Titles Act 1988 (Appendix 29)
- 2.1.23. Work Health & Safety Act 2012 (Appendix 30)
- 2.1.24. Heavy Vehicle National Law (South Australia) Act 2013 (Appendix 31)
- 2.1.25. Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014 (Appendix 32)
- 2.1.26. Local Nuisance and Litter Control Act 2016 (Appendix 33)
- 2.1.27. Water Industry Act 2012 and Water Industry Regulations 2012 (Appendix 34)

- 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 further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the 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 Instrument of Delegation (Appendix 21) are hereby delegated this 21<sup>st</sup> February, 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the 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 Instrument of Delegation (Appendix 21 and which are specified in Schedule I) are hereby delegated this 21<sup>st</sup> February, 2017 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:
- 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 further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the 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 contained in Instrument of Delegation (Appendix 22) are hereby delegated this 21<sup>st</sup> February, 2017 to the person occupying the office of Chief Executive Officer ("the head of the enforcement agency" for the purposes of the Food Act 2001), subject to the conditions or limitations indicated 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 further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the 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 Instrument of Delegation (Appendix 24) are hereby delegated this 21<sup>st</sup> February, 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.
- 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 purpose 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 purpose of these delegations all further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the delegate.

**6. Authorisations and Sub-delegation 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:

Mark McShane  
Daryl Sexton  
Daryl Morgan

- 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:

Daryl Sexton  
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 Instrument of Sub-delegation (Appendix 20A) is hereby sub-delegated this 21<sup>st</sup> of February 2017 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 Sub-delegation.; 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:

Daryl Sexton  
Daryl Morgan

## **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 Instrument of Delegation (Appendix 27) are hereby delegated this 21<sup>st</sup> of February 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.
- 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.
- 7.3. 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.
- 7.4. For the purposes of these delegations all further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the delegate.

## **8. Delegations under Fire and Emergency Services Act 2005 to a Fire Prevention Officer**

- 8.1. In exercise of the power contained in Section 93 of the Fire and Emergency Services Act 2005 the powers and functions under the Fire and Emergency Services Act 2005 contained in Instrument of Delegation (Appendix 7B) are hereby delegated this 21<sup>st</sup> of February 2017 to the person appointed Fire Prevention Officer of the Council under the Fire and Emergency Services Act 2005 subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Fire and Emergency Services Act 2005.
- 8.2. Such powers and functions may be further delegated by the Fire Prevention Officer as the Fire Prevention Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Fire and Emergency Services Act 2005.
- 8.3. For the purposes of these delegations, all delegations to the Fire Prevention Officer extend to any person appointed to act in the position of Fire Prevention Officer.

seconded

Corporate and Community Services Committee Agenda, Monday 13<sup>th</sup> February, 2017 cont'd...

**7. CORPORATE AND COMMUNITY SERVICES REPORT NO. 11/2017 - Mount Gambier Community RSL - Request for Support - Saluting Monash - Ref. AF11/213**

moved it be recommended:

- (a) Corporate and Community Services Report No. 11/2017 re Saluting Monash be received;
- (b) the matter be referred to Council.

seconded

**MOTIONS WITH NOTICE - Nil**

**MOTIONS WITHOUT NOTICE**

Meeting closed at \_\_\_\_ p.m.

FM/MJT/AL

## FINANCIAL STATEMENT - Monthly Bank Reconciliation

as at 31/12/2016 \$		<u>GENERAL ACCOUNT (Westpac)</u>	as at 31/01/2017 \$
149,254.71 CR		OPENING BALANCE	124,993.35 CR
2,337,871.73		<u>PLUS</u> Receipts -	
709,238.14		Rates & Arrears	398,190.43
-		General	869,067.99
-		<u>Receipt of Cash Advance Funds</u>	
-		Transfer from CAD Loan 104	-
-		Transfer from CAD Loan 105	-
1,000,000.00		Transfer from Investment Funds	1,984,413.85
-		Transfer from Reserve Funds	-
<u>\$ 4,047,109.87</u>			<u>\$ 3,251,672.27</u>
4,196,364.58 CR			3,376,665.62 CR
733,536.27		<u>LESS</u> Direct Debits to Bank Account -	
-		Payroll - 2 Pays processed in January (6/1 & 20/1)	774,498.70
1,550,000.00		Sundry	-
-		Transfer to Investment Funds	-
<u>2,283,536.27</u>		Transfer to CAD Loan 104	-
1,912,828.31 CR			<u>774,498.70</u>
1,787,834.96			2,602,166.92 CR
		<u>LESS</u> Expenditure Statement - \$	2,036,393.02
<u>\$ 124,993.35</u> CR		<u>CASH BALANCE</u>	<u>\$ 565,773.90</u> CR
 <u>BANK RECONCILIATION</u>			
258,881.60 CR		Balance as per Bank Statement	594,961.85 CR
713.20		<u>PLUS</u> Deposits not yet credited	5,230.32
- 97,040.25		<u>LESS</u> Deposits not yet reconciled	- 5,087.08
-		<u>LESS</u> Deposits not yet updated	-
-		<u>PLUS</u> Payments not yet reconciled	
<u>162,554.55</u> CR			<u>595,105.09</u> CR
2,980.17		<u>LESS</u> Unpresented Cheques & EFT's	5,396.42
34,581.03		Unpresented Direct Debits	23,934.77
<u>\$ 124,993.35</u> CR		<u>CASH BALANCE</u>	<u>\$ 565,773.90</u> CR

Current Interest Rate on Bank Account Balance is 0.10%

# **FINANCIAL STATEMENT - Monthly Bank Reconciliation continued.....**

as at 31/12/2016 \$			as at 31/01/2017 \$	
		<u>LGFA CAD LOAN 104</u>		
-	DR	OPENING BALANCE	-	DR
-		<u>PLUS</u> Deposits	-	
-		<u>LESS</u> Withdrawals (Transfer to General Account)	-	
-		Sundry	-	
<u>\$ -</u>	DR	<u>CASH BALANCE</u>	<u>\$ -</u>	DR
		<u>LGFA CAD LOAN 105</u>		
-	DR	OPENING BALANCE	-	DR
-		<u>PLUS</u> Deposits	-	
-		<u>LESS</u> Withdrawals (Transfer to General Account)	-	
-		Sundry	-	
<u>\$ -</u>	DR	<u>CASH BALANCE</u>	<u>\$ -</u>	DR

Current Interest Rate on CAD Loan Balances is 3.75%

## LOAN FUNDS OWING (Local Government Finance Authority)

Opening Bal	Loan Purpose	Interest Rate	Maturity Date	Closing Bal
84,178.62	101 RSL Bowls - Artificial Rink	5.05%	16/03/2019	84,178.62
3,011,064.85	102 Library	5.97%	15/06/2024	3,011,064.85
-	104 CAD - Variable Int Only	3.75%	17/06/2028	-
-	105 CAD - Variable Int Only	3.75%	17/08/2030	-
<u>\$ 3,095,243.47</u>				<u>\$ 3,095,243.47</u>
				DR

# **FINANCIAL STATEMENT - Monthly Bank Reconciliation continued.....**

as at 31/12/2016 \$		as at 31/01/2017 \$
	<u>INVESTMENT FUNDS (Local Government Finance Authority)</u>	
1,429,344.16 CR	Opening Balance	1,979,344.16 CR
1,550,000.00	<u>PLUS</u> Deposits	-
	<u>PLUS</u> Interest	5,069.69
- 1,000,000.00	<u>LESS</u> Withdrawals (Transfer to Westpac)	- 1,984,413.85
-	Withdrawals (Transfer to CAD Loan 104)	-
<u>\$ 1,979,344.16</u> CR	CLOSING BALANCE	<u>\$ -</u> CR

## DOWNSTREAM DRAINAGE FUNDS (Local Government Finance Authority)

264,845.58 CR	OPENING BALANCE	264,845.58 CR
-	<u>PLUS</u> Deposits	-
-	<u>LESS</u> Withdrawals	-
<u>\$ 264,845.58</u> CR	CLOSING BALANCE	<u>\$ 264,845.58</u> CR

## INVESTMENT OF FUNDS

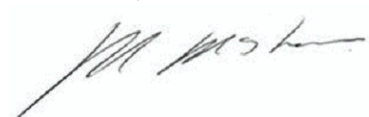
Investment Funds - all invested - 'At Call' at	1.50%
Reserve Funds - all invested - '90 Days' at	2.00%

Prepared by:



Finance Manager

Reviewed by:



Chief Executive Officer



## **CORPORATE AND COMMUNITY SERVICES REPORT NO. 04/2017**

**SUBJECT: BUDGET UPDATE AS AT 31<sup>ST</sup> DECEMBER, 2016 (BR2)**

**REF: AF15/461**

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Following the introduction of the Local Government (Financial Management) Regulations 2011, Council completed a review of its Budget reporting processes (Corporate and Community Services Report No. 30/2012 - Monitoring Council's Budget Performance) resulting in the adoption of the new Policy B300 - Budget Reporting and Amendment.

The objective of the Budget Reporting and Amendment Policy is to provide management with a framework to operate in regard to the following:

- The content, timing and process to be followed for reporting to Council on its performance against budget;
- The scope and conditions associated with the Chief Executive Officer approving variations in activity (that are within the scope of the approved budget allocations);
- The process required to be followed as well as general guidelines in relation to the carrying forward of expenditure authority associated with projects included in the budget for the previous year.

The Policy provides for a Budget Update report to be prepared and included in the agenda of the Ordinary Meeting of Council's Corporate and Community Services Committee in the months of November and March (as a minimum). The report will highlight at summary level budget activity for the year to date, original and revised budget information, and include the latest revised forecast of expected budget results for the year.

The Budget Update (BR2) as at 31<sup>st</sup> December, 2016 as presented with this report, is now recommended for adoption.

### **RECOMMENDATION**

- (a) Corporate and Community Services Report No. 04/2017 be received;
- (b) the Budget Update as at 31<sup>st</sup> December, 2016 as presented with this Report be adopted by Council with all amendments to be made to the 2016/2017 Council Budget.



**Grant HUMPHRIES**  
DIRECTOR - CORPORATE SERVICES

Sighted:



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER



## **BUDGET UPDATE: BR2 FEBRUARY 2017 AS AT 31ST DECEMBER 2016**

- 1. BUDGET UPDATE COMMENTARY (PAGE 1)**
- 2. DETAILED SUMMARY OF WORK IN PROGRESS ALLOCATIONS (PAGES 2 - 5)**
- 3. NEW BUDGET SUMMARY (PAGE 6)**
- 4. HIGH LEVEL SUMMARY BY FUNCTION (PAGES 6 - 19)**
- 5. UNIFORM PRESENTATION OF FINANCES (PAGES 20 - 26)**

## 1. **BR2 Commentary**

- This is the second Budget Review for the 2016/2017 financial year other than the interim review which introduced work in progress amounts from 2015/2016 into the 2016/2017 Budget.
- BR2 takes into account most costs for the first 6 months of operating (July to December) however some creditors for the month of December are not yet to hand (processed in January).
- In overall terms BR2 provides for;
  - An increase in Operating Expenditure of \$578,000
  - An increase in Operating Revenue of \$494,000
  - A net loss to the budgeted operating result of \$84,000
- Council's Budgeted Operating commentary;
  - The adopted Budget provided for a \$79,000 Deficit
  - Interim (WIP) Review resulted in a \$119,000 Deficit
  - BR1 results in a \$92,000 deficit as at 30<sup>th</sup> September, 2016
  - BR2 results in a \$176,000 deficit as at 31<sup>st</sup> December, 2016
- Council's Overall Budget commentary:
  - Adopted Budget provided for a \$58,000 Deficit
  - The Interim (WIP) Review resulted in a \$58,000 Deficit
  - BR1 results in a \$31,000 deficit as at 31<sup>st</sup> September, 2016
  - BR2 results in a \$14,000 surplus as at 31<sup>st</sup> December, 2016
- Operating Expenditure - increase of \$578,000 was principally caused by the landfill costs to cover the leachate disposal and increases in the EPA's waste management levy.
- Operating Revenue is increased by \$494,000 principally due to additional landfill revenues from the EPA's waste management levy.
- Council's Operational Expenditure and Revenue against Budget is provided in graphical form, as an attachment.
- Capital Expenditure increases by \$111,000 principally due to a property purchase.
- Non operating Revenue increases by \$272,000 mainly due to the loan funds required for the property purchase.

## 2. DETAILED SUMMARY

Account No.	Description	Original Budget '000	Revised Budget '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Revised E of Y Budget Forecast '000
<b>2.1</b>	<b><u>OPERATING REVENUE</u></b>						
	<b>ENVIRONMENTAL</b>						
4155.0551	Environmental Sustainability - Community Grant Funds	0	0	4	4	4	4
4162.0625	Waste Management - Landfill Disposal Revenue (EPA Levy)	1,400	1,400	2,000	1,002	400	1,800
						<b>404</b>	
	<b>UNCLASSIFIED</b>						
4230.1302	Sundry Revenue - Reimbursements - Trainee Subsidies	25	25	6	3	-19	6
4230.1305	Sundry Revenue - Training Reimbursements	5	5	24	108	19	24
4230.1305	Sundry Revenue - Diesel Fuel Rebate as Revenue	5	24	49	108	25	49
4230.1305	Sundry Revenue - Insurance Schemes Special Distributions	5	49	114	108	65	114
						<b>90</b>	
	<b>OPERATING REVENUE INCREASE/(DECREASE)</b>					<b>494</b>	
<b>2.2</b>	<b><u>NON - OPERATING REVENUE</u></b>						
4260.1601	Loan Repayments - Community Groups (Exp. Offset)	8	8	40	24	32	40
4250.1524	Loan Funds (Land Purchase)	0	0	240	0	240	240
						<b>272</b>	
	<b>NON - OPERATING REVENUE INCREASE/(DECREASE)</b>					<b>272</b>	

Account No.	Description	Original Budget '000	Revised Budget '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Revised E of Y Budget Forecast '000
<b>2.3</b>	<b><u>OPERATING EXPENDITURE</u></b>						
	<b>ADMINISTRATION</b>						
6002.0206	Organisational - Legal and Professional (Land Purchase/Costs)	25	25	36	18	11	36
6013.0038	Organisational - HR Vehicle Operating	5	5	25	15	20	25
6013.0320	Organisational - HR Consultancy - Restructure Costs	15	15	40	31	25	40
6020.0021	Customer Service - Super (Employee Maternity Leave)	20	20	25	16	5	25
6022.0039	Community Engagement - Library Furniture Purchase	90	90	88	35	-2	88
						<b>59</b>	
	<b>CULTURAL</b>						
6200.0636	Cultural - Library Furniture Purchase	13	13	15	8	2	15
						<b>2</b>	
	<b>ECONOMIC</b>						
6360.0034	Tourism - Training - Digital Training	3	3	8	1	5	8
6360.0832	Tourism - TLN Promotion - Creative Digital Content	15	15	20	15	5	20
						<b>10</b>	
	<b>ENVIRONMENTAL</b>						
6410.0890	Waste Management - Landfill Operations	400	400	650	255	250	650
6410.0892	Waste Management - Waste Levy Increases	600	600	975	390	320	920
6460.0955	Environmental Sustainability - Community Grant Funding	57	72	76	34	4	76
						<b>574</b>	
	<b>RECREATION</b>						
6500.0972	Parks, Gardens, Reserves - Hastings Cunningham Reserve	10	10	18	11	8	18
						<b>8</b>	

Account No.	Description	Original Budget '000	Revised Budget '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Revised E of Y Budget Forecast '000
	<b>ENGINEERING/INDIRECT</b>						
6850.1601	Plant/Machinery - Fuel Costs (Diesel Fuel Rebate -Rev. Offset)	330	330	355	129	25	355
						25	
	<b>UNCLASSIFIED ACTIVITIES</b>						
6960.2000	Interest - Loans LGFA	477	477	377	110	-100	377
						-100	
	<b>OPERATING EXPENDITURE INCREASE/(DECREASE)</b>					578	
<b>2.4</b>	<b><u>NON-OPERATING EXPENDITURE</u></b>						
7020.3021	Loan Repayments - Community Loan Reimbursements	680	680	712	96	32	712
						32	
	<b>NON - OPERATING EXPENDITURE INCREASE/(DECREASE)</b>					32	

Account No.	Description	Original Budget '000	Revised Budget '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Revised E of Y Budget Forecast '000
<b>2.5</b>	<b><u>CAPITAL EXPENDITURE</u></b>						
	<b>ENGINEERING/INDIRECT</b>						
7740.6401	Work Depot - Trailer Shed Build	38	38	43	1	5	43
						<b>5</b>	
	<b>ADMINISTRATION</b>						
7500.5002	Occupancy - Civic Centre - GRC Panels & Reception Upgrade	20	464	480	81	16	480
						<b>16</b>	
	<b>CULTURAL</b>						
7480.4801	Land Purchase	0	240	240	0	240	240
7670.5701	Environmental Waste Management - Caroline Landfill	700	943	793	162	-150	793
						<b>90</b>	
	<b>CAPITAL EXPENDITURE INCREASE/(DECREASE)</b>					<b>111</b>	

### 3. NEW BUDGET SUMMARY

	Original Budget \$,000	Revised Budget \$,000	Variation Requested \$,000	BR2 \$,000
<b>OPERATING REVENUE</b>				
Operating Expenditure Increase (Decrease)	26,001	26,041	578	26,619
Operating Revenue Increase (Decrease)	25,922	25,949	494	26,443
<b>Operating Surplus/(Deficit)</b>	<b>-79</b>	<b>-92</b>	<b>-84</b>	<b>-176</b>
<b>CAPITAL EXPENDITURE</b>				
Capital Expenditure Increase (Decrease)	6,661	11,320	111	11,431
<b>CAPITAL REVENUE</b>				
Capital Revenue Increase (Decrease)	439	2,498	-	2,498
<b>NON OPERATING EXPENDITURE</b>				
Non Operating Expenditure Increase (Decrease )	680	680	32	712
<b>NON OPERATING REVENUE</b>				
Non Operating Revenue Increase (Decrease)	6,923	9,563	272	9,835
<b>Revised Cash Budget Surplus/(Deficit)</b>	<b>-58</b>	<b>-31</b>	<b>45</b>	<b>14</b>
<b>SUMMARY OF ALTERATIONS - SURPLUS/(DEFICIT)</b>		<b>OPERATING BUDGET</b>	<b>CASH BUDGET</b>	
Adopted Budget		(79)	(58)	
Interim Budget Update (introduction of work in progress)		(119)	(58)	
Budget Update No. 1 (as at 30th September, 2016)		(92)	(31)	
Budget Update No. 2 (as at 31st December, 2016)		(176)	14	



#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.1 ADMINISTRATION

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6000 - 6002)</b>	1,763	1,751	1,762	945	11	1,762
<b>OPERATING REVENUE (4100 - 4120)</b>	21,220	21,212	21,212	20,408	-	21,212
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	19,457	19,461	19,450	19,463	(11)	19,450
<b>CAPITAL EXPENDITURE (7500)</b>	20	464	480	81	16	480
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(20)	(464)	(480)	(81)	(16)	(480)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.2 SUPPORT SERVICES

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6011-6022)</b>	3,830	3,838	3,886	1,384	48	3,886
<b>OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(3,830)	(3,838)	(3,886)	(1,384)	(48)	(3,886)
<b>CAPITAL EXPENDITURE (7460)</b>	95	119	119	29	-	119
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(95)	(119)	(119)	(29)	-	(119)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.3 COMMUNITY

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6100 - 6138))</b>	1,823	1,823	1,823	546	-	1,823
<b>OPERATING REVENUE (4130 - 4134)</b>	122	122	122	50	-	122
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(1,701)	(1,701)	(1,701)	(496)	-	(1,701)
<b>CAPITAL EXPENDITURE (7560, 7570, 7580, 7620)</b>	65	65	65	4	-	65
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(65)	(65)	(65)	(4)	-	(65)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.4 CULTURAL

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6200 - 6240)</b>	3,245	3,256	3,258	1,014	2	3,258
<b>OPERATING REVENUE (4140 - 4142)</b>	422	422	422	274	-	422
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(2,823)	(2,834)	(2,836)	(740)	(2)	(2,836)
<b>CAPITAL EXPENDITURE (7470, 7630, 7640, 7650)</b>	210	2,302	2,542	2,083	240	2,542
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(210)	(2,302)	(2,542)	(2,083)	(240)	(2,542)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.5 ECONOMIC

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6320 - 6360)</b>	2,060	2,152	2,162	735	10	2,162
<b>OPERATING REVENUE (4151 - 4153) )</b>	310	310	310	153	-	310
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(1,750)	(1,842)	(1,852)	(582)	(10)	(1,852)
<b>CAPITAL EXPENDITURE (7660)</b>	-	-	-	-	-	-
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.6 ENVIRONMENT

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6410 - 6460)</b>	4,308	4,324	4,898	1,849	574	4,898
<b>OPERATING REVENUE (4155 - 4164)</b>	2,142	2,157	2,561	1,463	404	2,561
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(2,166)	(2,167)	(2,337)	(386)	(170)	(2,337)
<b>CAPITAL EXPENDITURE (7670, 7665, 7800)</b>	975	1,437	1,287	214	-150	1,287
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(975)	(1,437)	(1,287)	(214)	(150)	(1,287)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.7 RECREATIONAL

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6500 - 6560)</b>	2,799	2,819	2,827	1,010	8	2,827
<b>OPERATING REVENUE (4170)</b>	81	81	81	30	-	81
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(2,718)	(2,738)	(2,746)	(1,007)	(8)	(2,746)
<b>CAPITAL EXPENDITURE (7680, 7690, 7700, 7730)</b>	560	803	803	249	-	803
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(560)	(803)	(803)	(249)	-	(803)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.8 REGULATORY

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6600 - 6670)</b>	1,198	1,103	1,103	464	-	1,103
<b>OPERATING REVENUE (4180)</b>	402	402	402	256	-	402
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(796)	(701)	(701)	(208)	-	(701)
<b>CAPITAL EXPENDITURE</b>	-	-	-	-	-	-
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary



#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.9 TRANSPORT

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6720 - 6780)</b>	2,828	2,828	2,828	365	-	2,828
<b>OPERATING REVENUE (4192, 4193)</b>	965	965	965	121	-	965
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(1,863)	(1,863)	(1,863)	(244)	-	(1,863)
<b>CAPITAL EXPENDITURE (7830, 7900)</b>	2,891	4,243	4,243	572	-	4,243
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(2,891)	(4,243)	(4,243)	(572)	-	(4,243)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.10 ENGINEERING/INDIRECT

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6800 - 6860)</b>	1,262	1,262	1,287	58	25	1,287
<b>OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(1,262)	(1,262)	(1,287)	(58)	(25)	(1,287)
<b>CAPITAL EXPENDITURE (7300, 7740, 7680.5810, 7400)</b>	1,845	1,887	1,892	60	5	1,892
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	(1,845)	(1,887)	(1,892)	(60)	(5)	(1,892)
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.11 UNCLASSIFIED

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE (6900 - 6960)</b>	885	885	785	148	-100	785
<b>OPERATING REVENUE (4210, 4230, 4240)</b>	258	278	368	258	90	368
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	(627)	(607)	(417)	110	190	(417)
<b>CAPITAL EXPENDITURE</b>	-	-	-	-	-	-
<b>CAPITAL REVENUE</b>	-	-	-	-	-	-
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-
<b>NON OPERATING EXPENDITURE</b>	-	-	-	-	-	-
<b>NON OPERATING REVENUE</b>	-	-	-	-	-	-
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-

Financial Report: refer detailed Summary

#### 4. HIGH LEVEL SUMMARY BY FUNCTION

##### 4.12 NON - OPERATING

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
OPERATING EXPENDITURE	-	-	-	-	-	-
OPERATING REVENUE	-	-	-	-	-	-
<b>NET OPERATING - SURPLUS / (DEFICIT)</b>	-	-	-	-	-	-
CAPITAL EXPENDITURE	-	-	-	-	-	-
CAPITAL REVENUE (4280, 4500)	439	2,498	2,498	2,085	-	2,498
<b>NET CAPITAL - SURPLUS / (DEFICIT)</b>	439	2,498	2,498	2,085	-	2,498
NON OPERATING EXPENDITURE (7000)	680	680	712	16	32	712
NON OPERATING REVENUE (4250, 4260, 4270, 4280)	6,923	9,563	9,835	3,273	272	9,835
<b>NET NON OPERATING - SURPLUS / (DEFICIT)</b>	6,243	8,883	9,123	3,257	240	9,123

Financial Report: refer detailed Summary

**4. HIGH LEVEL SUMMARY BY FUNCTION****4.13 SUMMARY**

	Original Budget '000	Revised '000	Proposed Budget '000	Actual 31/12/2016 '000	Variance now Requested '000	Proposed E of Y Budget Forecast '000
<b>OPERATING EXPENDITURE</b>	26,001	26,041	26,619	8,517	578	26,619
<b>OPERATING REVENUE</b>	25,922	25,949	26,443	23,010	494	26,443
<b>NET OPERATING BUDGET SURPLUS/(DEFICIT)</b>	(79)	(92)	(176)	14,493	(84)	(176)
<b>CAPITAL EXPENDITURE</b>	6,661	11,320	11,431	3,292	111	11,431
<b>CAPITAL REVENUE</b>	439	2,498	2,498	2,085	-	2,498
<b>NON OPERATING EXPENDITURE</b>	680	680	712	16	32	712
<b>NON OPERATING REVENUE</b>	6,923	9,563	9,835	3,273	272	9,835
<b>NET BUDGET SURPLUS/(DEFICIT)</b>	(58)	(31)	14	16,543	45	14

**CITY OF MOUNT GAMBIER  
BUDGET 2017**

**Statement of Comprehensive Income**

<b>ACTUAL 2016 \$ '000</b>	<b>INCOME</b>	<b>BR2 2017 \$ '000</b>
18,327	Rates	18,632
340	Statutory Charges	402
3,806	User Charges	3,508
1,078	Grants Subsidies and Contributions	3,782
32	Investment Income	11
274	Reimbursements	108
382	Other Income	-
<hr/> 24,239	<b>TOTAL REVENUES</b>	<hr/> 26,443
	<b>EXPENSES</b>	
10,066	Wages and Salaries	10,438
8,955	Materials, contracts & other expenses	9,311
236	Finance Costs	372
6,704	Depreciation, amortisation & impairment	6,498
-	Share of loss - joint ventures & associates	-
<hr/> 25,961	<b>TOTAL EXPENSES</b>	<hr/> 26,619
	<b>OPERATING SURPLUS/(DEFICIT) BEFORE CAPITAL AMOUNTS</b>	
(1,722)		(176)
(124)	Net gain (loss) on disposal or revaluation of assets	-
1,757	Amounts specifically for new or upgraded assets	-
604	Physical resources received free of charge	-
<hr/> 515	<b>NET SURPLUS/(DEFICIT)</b>	<hr/> (176)

**CITY OF MOUNT GAMBIER  
BUDGET 2017**

**Cash Flow Statement**

<b>ACTUAL 2016 \$ '000</b>		<b>BR2 2017 \$ '000 Inflows (Outflows)</b>
	<b>CASHFLOWS FROM OPERATING ACTIVITIES</b>	
	<b>RECEIPTS</b>	
26,127	Operating Receipts	26,432
33	Investment Receipts	11
	<b>PAYMENTS</b>	
(20,544)	Operating payments to suppliers & employees	(19,749)
(237)	Finance Payments	(372)
<u>5,379</u>	<b>Net Cash provided by (or used in) Operating Activities</b>	<u>6,322</u>
	<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>	
	<b>RECEIPTS</b>	
1,757	Grants specifically for new or upgraded assets	-
368	Sale of Assets	2,498
46	Repayments of loans by community groups	40
	<b>PAYMENTS</b>	
-	Loans made to community groups	-
(4,579)	Expenditure on renewal / replacement of assets	(6,352)
(2,154)	Expenditure on new / upgraded assets	(5,079)
<u>(4,562)</u>	<b>Net Cash provided by (or used in) Investing Activities</b>	<u>(8,893)</u>
	<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>	
	<b>RECEIPTS</b>	
-	Proceeds from Borrowings	240
	<b>PAYMENTS</b>	
(839)	Repayment of Borrowings	2,178
<u>(839)</u>	<b>NET CASH USED IN FINANCING ACTIVITIES</b>	<u>2,418</u>
(22)	<b>NET INCREASE (DECREASE) IN CASH HELD</b>	(153)
969	<b>CASH AT BEGINNING OF YEAR</b>	947
<u>947</u>	<b>CASH AT END OF YEAR</b>	<u>794</u>

**CITY OF MOUNT GAMBIER  
BUDGET 2017**

**Balance Sheet**

<b>ACTUAL 2016 \$ '000</b>		<b>BR2 2017 \$ '000</b>
	<b>ASSETS</b>	
	<b>CURRENT ASSETS</b>	
991	Cash and cash equivalents	838
1,158	Trade & other receivables	1,158
39	Inventories	39
-	Other Financial Assets	-
2,188		2,035
0	Non-Current Assets held for Sale	0
2,188	<b>TOTAL CURRENT ASSETS</b>	2,035
	<b>NON-CURRENT ASSETS</b>	
68	Financial Assets	28
-	Equity accounted investments in Council businesses	-
-	Investment Property	-
234,422	Infrastructure, Property, Plant & Equipment	236,857
-	Other Non-current Assets	-
234,490	<b>TOTAL NON-CURRENT ASSETS</b>	236,885
236,678	<b>TOTAL ASSETS</b>	238,920
	<b>LIABILITIES</b>	
	<b>CURRENT LIABILITIES</b>	
2,092	Trade & Other Payables	2,092
239	Borrowings	239
2,435	Short-term Provisions	2,435
-	Other Current Liabilities	-
4,766		4,766
-	Liabilities relating to Non-current Assets held for Sale	-
4,766	<b>TOTAL CURRENT LIABILITIES</b>	4,766
	<b>NON-CURRENT LIABILITIES</b>	
-	Trade & Other Payables	-
3,675	Long-term Borrowings	6,093
209	Long-term Provisions	209
-	Other Non-current Liabilities	-
3,884	<b>TOTAL NON-CURRENT LIABILITIES</b>	6,302
8,650	<b>TOTAL LIABILITIES</b>	11,068
<b>228,028</b>	<b>NET ASSETS</b>	<b>227,852</b>
	<b>EQUITY</b>	
54,680	Accumulated Surplus	57,394
168,966	Asset Revaluation	168,966
4,382	Other Reserves	1,492
<b>228,028</b>	<b>TOTAL EQUITY</b>	<b>227,852</b>



**CITY OF MOUNT GAMBIER  
BUDGET 2017**

**Statement of Changes in Equity**

<b>ACTUAL 2016 \$ '000</b>		<b>BR2 2017 \$ '000</b>
	<b>ACCUMULATED SURPLUS</b>	
49,398	Balance at end of previous reporting period	54,680
515	Net Result for Year	(176)
7,519	Transfer From Reserves	2,890
(2,752)	Transfer To Reserves	-
54,680	<b>BALANCE AT END OF PERIOD</b>	57,394
	<b>ASSET REVALUATION RESERVE</b>	
165,034	Balance at end of previous reporting period	168,966
3,932	Gain on revaluation of infrastructure, property, plant & equipment	-
-	Transfer to Accumulated Surplus on sale of infrastructure, property, plant & equipment	-
168,966	<b>BALANCE AT END OF PERIOD</b>	168,966
	<b>LONG SERVICE LEAVE</b>	
724	Balance at end of previous reporting period	724
-	Transfer to reserve from accumulated surplus	-
-	Transfer from reserve to accumulated surplus	(100)
724	<b>BALANCE AT END OF PERIOD</b>	624
	<b>OFF STREET CAR PARK</b>	
267	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(267)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>PLANT REPLACEMENT</b>	
1,561	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(1,561)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>LADY NELSON PARK REDEVELOPMENT</b>	
6	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(6)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>ASSET REPLACEMENT</b>	
1,296	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(1,296)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-

**CITY OF MOUNT GAMBIER  
BUDGET 2017**

**Statement of Changes in Equity**

<b>ACTUAL 2016 \$ '000</b>		<b>BR2 2017 \$ '000</b>
	<b>LAND DIVISION - OUTSTANDING WORK</b>	
232	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(232)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>DOWNSTREAM DRAINAGE</b>	
174	Balance at end of previous reporting period	264
90	Transfer to reserve from accumulated surplus	-
-	Transfer from reserve to accumulated surplus	(150)
264	<b>BALANCE AT END OF PERIOD</b>	114
	<b>WORK IN PROGRESS</b>	
2,987	Balance at end of previous reporting period	2,640
2,640	Transfer to reserve from accumulated surplus	-
(2,987)	Transfer from reserve to accumulated surplus	(2,640)
2,640	<b>BALANCE AT END OF PERIOD</b>	0
	<b>CITY CENTRE IMPROVEMENT</b>	
688	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(688)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>MAJOR CAPITAL WORKS</b>	
482	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
(482)	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>RESERVE FUNDS TOTAL</b>	
-	Balance at end of previous reporting period	-
-	Transfer to reserve from accumulated surplus	-
-	Transfer from reserve to accumulated surplus	-
-	<b>BALANCE AT END OF PERIOD</b>	-
	<b>MOUNT GAMBIER CEMETERY TRUST</b>	
672	Balance at end of previous reporting period	685
13	Transfer to reserve from accumulated surplus	-
-	Transfer from reserve to accumulated surplus	-
685	<b>BALANCE AT END OF PERIOD</b>	685
	<b>JUNIOR SPORTING FUND</b>	
60	Balance at end of previous reporting period	69
9	Transfer to reserve from accumulated surplus	-
-	Transfer from reserve to accumulated surplus	-
69	<b>BALANCE AT END OF PERIOD</b>	69
<b>228,028</b>	<b>TOTAL EQUITY AT END OF REPORTING PERIOD</b>	<b>227,852</b>

**CITY OF MOUNT GAMBIER  
BUDGET 2017**

**Uniform Presentation of Finances**

<b>ACTUAL 2016 \$ '000</b>		<b>BR2 2017 \$ '000</b>
24,239	Operating Revenues	26,443
(25,961)	<i>less Operating Expenses</i>	(26,619)
<u>(1,722)</u>	<b>Operating Surplus / (Deficit) before Capital Amounts</b>	<u>(176)</u>
	<b><i>Less Net Outlays in Existing Assets</i></b>	
4,579	Capital Expenditure on renewal and replacement of Existing Assets	6,352
(6,704)	<i>less Depreciation, Amortisation and Impairment</i>	(6,498)
(368)	<i>less Proceeds from Sale of Replaced Assets</i>	(2,498)
<u>(2,493)</u>		<u>(2,644)</u>
	<b><i>Less Net Outlays on New and Upgraded Assets</i></b>	
2,154	Capital Expenditure on New and Upgraded Assets	5,079
(1,757)	<i>less Amounts received specifically for New and Upgraded Assets</i>	-
-	<i>less Proceeds from Sale of Surplus Assets</i>	-
<u>397</u>		<u>5,079</u>
374	<b>Net Lending / (Borrowing) for Financial Year</b>	(2,611)

**CITY OF MOUNT GAMBIER  
BUDGET 2017**

ACTUAL	Financial Indicators	BR2
2016		2017

These Financial Indicators have been calculated in accordance with *Information Paper 9 - Local Government Financial Indicators* prepared as part of the LGA Financial Sustainability Program for the Local Government Association of South Australia. Detailed methods of calculation are set out in the SA Model Statements.

(1,722) <b>Operating Surplus (\$'000)</b>	(176)
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*Being the operating surplus (deficit) before capital amounts .*

**Operating Surplus Ratio**

(7.0%) <u>Operating Surplus</u>	(1.0%)
---------------------------------	--------

Rates - general & other less NRM levy

*This ratio expresses the operating surplus as a percentage of general and other rates, net of NRM levy.*

6,433 <b>Net Financial Liabilities (\$'000)</b>	9,044
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*Net Financial Liabilities are defined as total liabilities less financial assets (excluding equity accounted investments in Council businesses).*

**Net Financial Liabilities Ratio**

27% <u>Net Financial Liabilities</u>	36%
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Total Operating Revenue less NRM levy

**Asset Sustainability Ratio**

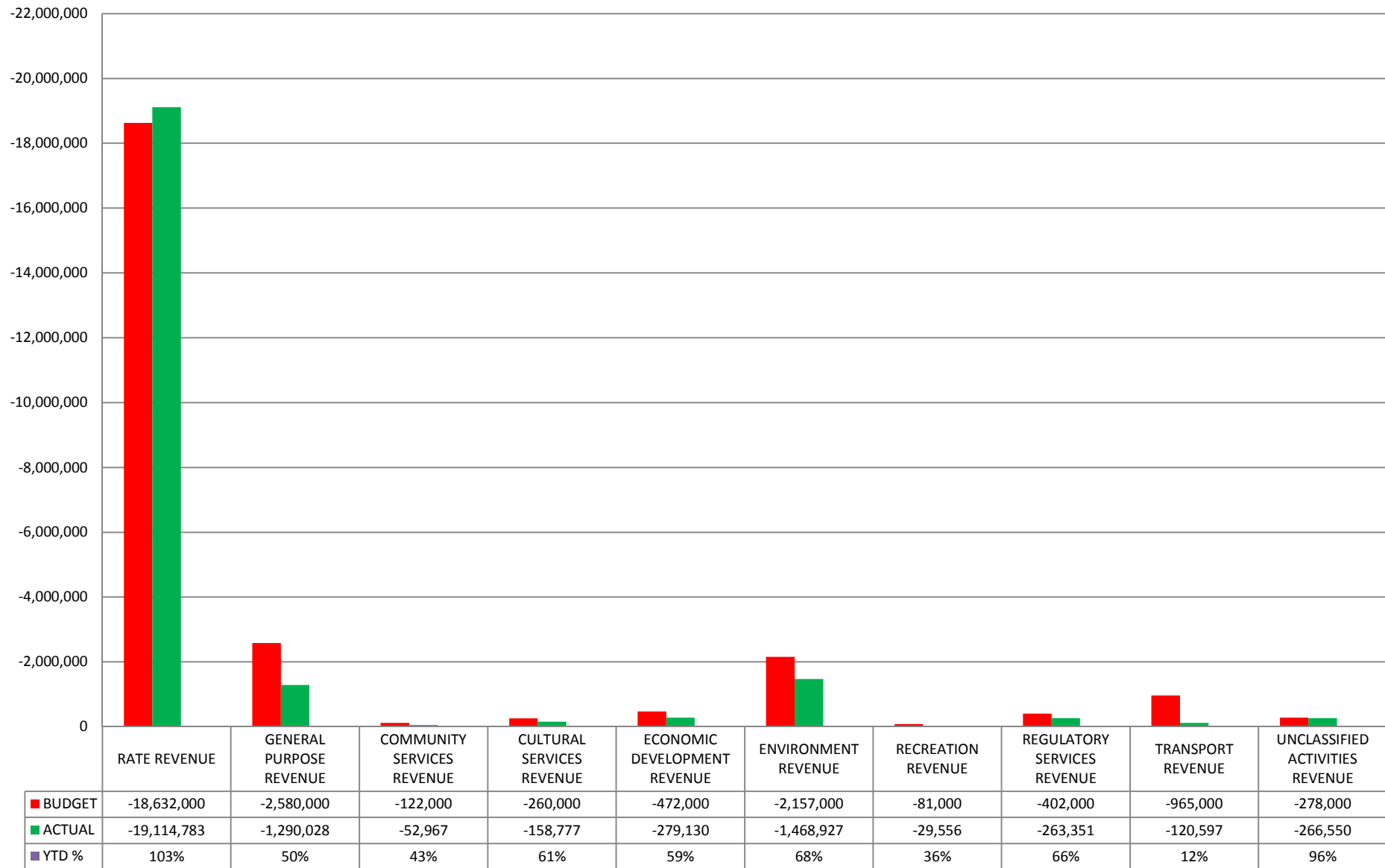
57% <u>Net Asset Renewals</u>	77%
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Infrastructure & Asset Management Plan required expenditure

*Net asset renewals expenditure is defined as net capital expenditure on the renewal and replacement of existing assets, and excludes new capital expenditure on the acquisition of additional assets.*

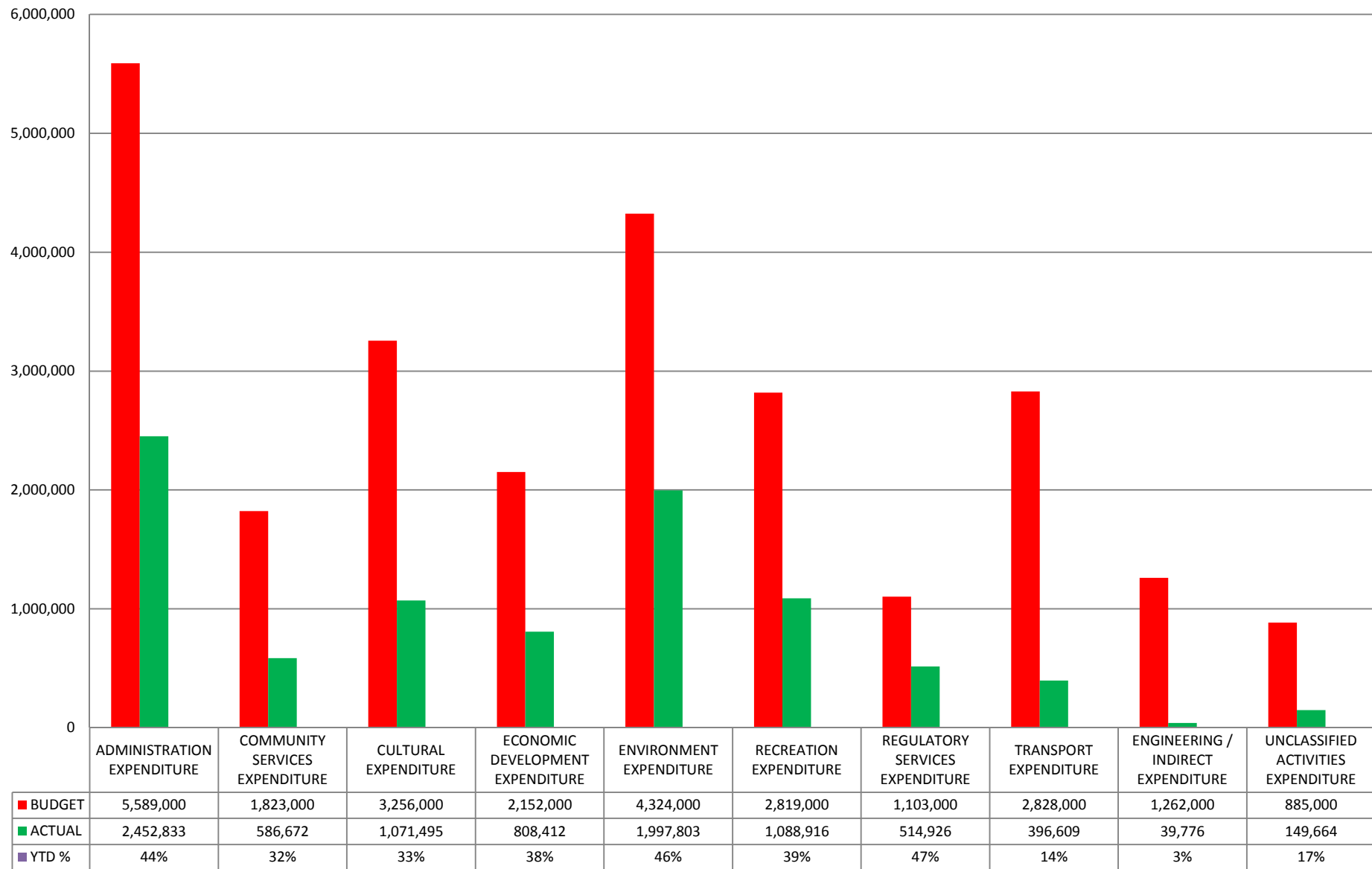
# CITY OF MOUNT GAMBIER

## Operating Revenue - As at 31 December 2016



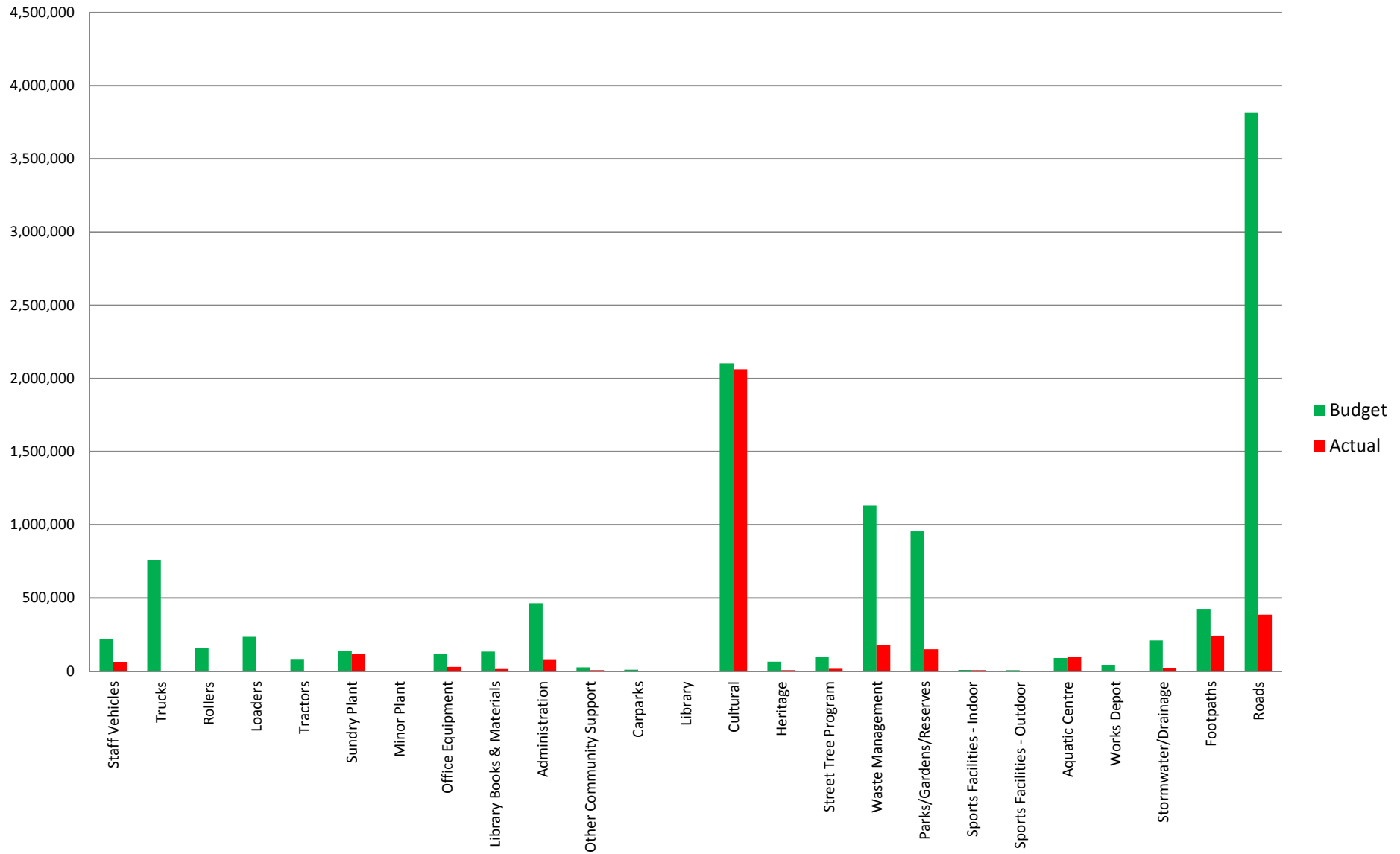
# CITY OF MOUNT GAMBIER

## Operating Expenditure - As at 31 December 2016



# CITY OF MOUNT GAMBIER

## Capital Expenditure - As at 31 December 2016



**CITY OF MOUNT GAMBIER****BUDGET REVIEW****AS AT 31 DECEMBER 2016****OPERATING REVENUE**

<b>FUNCTION</b>	<b>ACTUAL</b>	<b>BUDGET</b>	<b>VARIANCE</b>	<b>YTD %</b>
RATE REVENUE	-19,114,783	-18,632,000	482,783	<b>103%</b>
GENERAL PURPOSE REVENUE	-1,290,028	-2,580,000	-1,289,972	<b>50%</b>
COMMUNITY SERVICES REVENUE	-52,967	-122,000	-69,033	<b>43%</b>
CULTURAL SERVICES REVENUE	-278,783	-422,000	-143,217	<b>66%</b>
ECONOMIC DEVELOPMENT REVENUE	-159,123	-310,000	-150,877	<b>51%</b>
ENVIRONMENT REVENUE	-1,468,927	-2,157,000	-688,073	<b>68%</b>
RECREATION REVENUE	-29,556	-81,000	-51,444	<b>36%</b>
REGULATORY SERVICES REVENUE	-263,351	-402,000	-138,649	<b>66%</b>
TRANSPORT REVENUE	-120,597	-965,000	-844,403	<b>12%</b>
UNCLASSIFIED ACTIVITIES REVENUE	-266,550	-278,000	-11,450	<b>96%</b>
	<b>-23,044,665</b>	<b>-25,949,000</b>	<b>-2,904,335</b>	<b>89%</b>

**OPERATING EXPENDITURE**

<b>FUNCTION</b>	<b>ACTUAL</b>	<b>BUDGET</b>	<b>VARIANCE</b>	<b>YTD %</b>
ADMINISTRATION EXPENDITURE	918,440	1,751,000	832,560	<b>52%</b>
ADMINISTRATION SUPPORT EXPENDITURE	1,534,393	3,838,000	2,303,607	<b>40%</b>
COMMUNITY SERVICES EXPENDITURE	586,672	1,823,000	1,236,328	<b>32%</b>
CULTURAL EXPENDITURE	1,071,495	3,256,000	2,184,505	<b>33%</b>
ECONOMIC DEVELOPMENT EXPENDITURE	808,412	2,152,000	1,343,588	<b>38%</b>
ENVIRONMENT EXPENDITURE	1,997,803	4,324,000	2,326,197	<b>46%</b>
RECREATION EXPENDITURE	1,088,916	2,819,000	1,730,084	<b>39%</b>
REGULATORY SERVICES EXPENDITURE	514,926	1,103,000	588,074	<b>47%</b>
TRANSPORT EXPENDITURE	396,609	2,828,000	2,431,391	<b>14%</b>
ENGINEERING / INDIRECT EXPENDITURE	39,776	1,262,000	1,222,224	<b>3%</b>
UNCLASSIFIED ACTIVITIES EXPENDITURE	149,664	885,000	735,336	<b>17%</b>
	<b>9,107,105</b>	<b>26,041,000</b>	<b>16,933,895</b>	<b>35%</b>

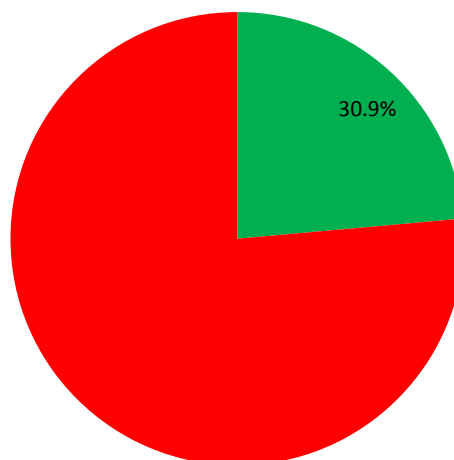
**OPERATING SURPLUS / (DEFICIT)****-92,000**



**CITY OF MOUNT GAMBIER**  
**CAPITAL EXPENDITURE**  
**AS AT 31 DECEMBER 2016**

LEDGER	DESCRIPTION	Budget	Actual	Budget v Actual	YTD %
7300	Vehicles	221,000	63,611	157,389	29%
7320	Trucks	760,000	1,890	758,110	0%
7360	Rollers	160,000	0	160,000	0%
7370	Loaders	234,000	0	234,000	0%
7390	Tractors	82,000	0	82,000	0%
7400	Sundry Plant	139,000	118,805	20,195	85%
7450	Minor Plant	0	0	0	
7460	Office Equipment	119,000	28,926	90,074	24%
7470	Library Books & Materials	134,000	13,796	120,204	10%
7500	Administration	464,000	81,485	382,515	18%
7560	Other Community Support	25,000	6,461	18,539	26%
7620	Carparks	10,000	0	10,000	0%
7630	Library	0	0	0	
7640	Cultural	2,103,000	2,062,645	40,355	98%
7650	Heritage	65,000	6,638	58,362	10%
7665	Street Tree Program	97,000	15,317	81,683	16%
7670	Waste Management	1,130,000	180,539	949,461	16%
7680	Parks/Gardens/Reserves	954,000	149,656	804,344	16%
7690	Sports Facilities - Indoor	7,000	6,683	317	95%
7700	Sports Facilities - Outdoor	6,000	0	6,000	0%
7730	Aquatic Centre	89,000	99,227	-10,227	111%
7740	Works Depot	38,000	0	38,000	0%
7800	Stormwater/Drainage	210,000	19,977	190,023	10%
7830	Footpaths	425,000	242,630	182,370	57%
7900	Roads	3,818,000	386,618	3,431,382	10%
<b>Total</b>		<b>11,290,000</b>	<b>3,484,904</b>	<b>7,805,096</b>	<b>30.9%</b>

**Capital Expenditure YTD**



## **CORPORATE AND COMMUNITY SERVICES COMMITTEE REPORT NO. 08/2017**

**SUBJECT: POLICY P420 PROCUREMENT & DISPOSAL OF LAND AND ASSETS**

**REF: AF11/1950**

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At its meeting held on the 15<sup>th</sup> March, 2016 Council adopted an updated [Policy P420 - Procurement, & Disposal of Land and Assets](#) that guides and authorises the Chief Executive Officer and delegates with respect to Council's procurement and disposal processes.

Minor changes to the policy to update position references for procurement decisions are proposed to align with the new organisational structure.

It is also proposed that the requirements for disposal of minor/low value land and assets be amended to:

- require only one (1) independent valuation of land (instead of 2), and provide an exemption from obtaining an independent valuation for low value land (such as minor boundary re-alignments or easements) where the value is estimated as less than \$25,000.
- support direct disposal of low value assets to targeted community/sporting groups where the administrative resources/cost of inviting other groups to participate in the disposal would outweigh the benefit/saving and/or exceed the value of the asset(s).

The updated Policy P420 is attached for Member's information and consideration (*Attachment 1*) and would be next scheduled for review following the 2018 local government elections.

### **RECOMMENDATION**

(a) Corporate and Community Services Report No. 08/2017 be received;

(b) Council hereby adopts updated Council Policy:

P420 – Procurement, & Disposal of Land and Assets

(c) Council makes the necessary amendments to Council's Policy Manual Index.



**Michael McCARTHY**  
MANAGER GOVERNANCE & PROPERTY

Sighted:



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

 City of Mount Gambier	<b>P420 PROCUREMENT, &amp; DISPOSAL OF LAND AND ASSETS</b>	Version No:	3
		Issued:	21/02/2017
		Next Review:	November 2019

## 1. INTRODUCTION

Section 49 of the Local Government Act 1999 requires Council to prepare and adopt policies on the contracting out of services, competitive tendering and the use of other measures to ensure that services are delivered cost-effectively, the use of local goods and services, and the sale or disposal of land or other assets.

Further, Section 49 (a1) of the Act requires Council to develop and maintain policies, practices and procedures directed towards obtaining value in the expenditure of public money, providing for ethical and fair treatment of participants, and ensuring probity, accountability and transparency in all disposal processes.

This Policy provides comprehensive guidance and authority to the Chief Executive Officer with respect to procurement and disposal processes.

All procurements and disposals are undertaken to give effect to Council's endorsed Budget and/or a specific resolution of Council.

This Policy:

- defines the methods by which Council can acquire goods and services;
- defines the methods by which Land and Assets are disposed of;
- demonstrates accountability and responsibility of Council to ratepayers;
- provides fairness and equity to all parties involved;
- enables all processes to be monitored and recorded; and
- ensures that the best possible outcome is achieved for the Council.

This Policy does not cover:

- non-procurement expenditure such as sponsorships, grants, funding arrangements, donations and employment contracts; or
- the purchase of land by the Council.

This Policy also does not cover:

- Land sold by Council for the non-payment of rates; or
- disposal of goods which are not owned by the Council, such as abandoned vehicles; as these are dealt with in the Act.

## 2. DEFINITIONS

In this Policy, unless the contrary intention appears, these words have the following meanings:

**Act** means the Local Government Act 1999

**Asset** means any physical item that the Council owns and that has at any time been treated pursuant to the Australian Accounting Standards as an 'asset', and includes all Plant and Equipment. It **does not include** financial investments or finance related activities.

 City of Mount Gambier	<b>P420 PROCUREMENT, &amp; DISPOSAL OF LAND AND ASSETS</b>	Version No:	3
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**Authorised Officer** means a Council Officer with formal (sub)delegation and/or financial authorisation granted by written instrument from the Chief Executive Officer to enter into contracts and transactions to a specified value and unless contrary provisions apply includes the Chief Executive Officer and General Managers.

**Land** includes community land, vacant land, operational land, road reserves, any legal interest in land, and any other land-related assets, including all buildings (community and operational) on Land.

**Minor Plant, Materials and Equipment** includes all minor plant and equipment owned by Council with an original value of less than \$5,000. It includes all loose tools, store items, furniture, second hand items removed from other Plant and Equipment (such as air conditioners, bricks and pavers) and surplus bulk items.

### 3. POLICY OBJECTIVES

Council aims to achieve advantageous outcomes by:

- enhancing value for money through fair, competitive, non-discriminatory procurement and disposal;
- promoting the use of Council's financial, physical and staffing resources in an efficient, effective and ethical manner;
- making decisions with probity, accountability and transparency;
- advancing and/or working within Council's economic, social and environmental policies;
- providing reasonable opportunity for competitive and appropriately qualified and experienced local businesses to supply to Council;
- appropriately managing risk; and
- ensuring compliance with all relevant legislation.

### 4. POLICY PRINCIPLES

Council must have regard to the following principles in its Procurement and Disposal of Land and Assets:

- *Encouragement of open and effective competition*
- *Obtaining Value for Money*

Value for Money is not restricted to price alone, assessment must include consideration of (where applicable):

- the contribution to Council's long term financial plan and strategic management plans;
- any relevant direct and indirect benefits to Council, both tangible and intangible;
- efficiency and effectiveness of the proposed activity;
- the performance history, and quality, scope of services and support of each prospective supplier;

 City of Mount Gambier	<b>P420 PROCUREMENT, &amp; DISPOSAL OF LAND AND ASSETS</b>	Version No:	3
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- fitness for purpose of the proposed goods or service;
  - whole of life costs;
  - the costs of various disposal methods;
  - internal administration costs;
  - technical compliance & knowledge issues;
  - risk exposure; and
  - the value of any associated environmental benefits.
- *Probity, Ethical Behaviour and Fair Dealing*
  - *Accountability, Transparency and Reporting*
  - *Ensuring compliance with all relevant legislation*
  - *Encouragement of the development of competitive local business and industry*
    - Where other evaluation criteria are comparable, Council will also give consideration/weighting to the following:
      - the creation of local employment opportunities;
      - increased availability of local servicing support;
      - increased convenience with communications with the supplier for contract management;
      - economic growth within the local area;
      - benefit to Council of associated local commercial transaction; and/or
      - the short and long term impact of the procurement on local business.
  - *Environmental protection*
    - Council will seek to:
      - adopt purchasing practices which conserve natural resources;
      - align the Council's procurement activities with principles of ecological / environmental sustainability and the Natural Step Framework;
      - purchase recycled and environmentally preferred products where fit for purposes and it is possible and reasonable to do so;
      - integrate relevant principles of waste minimisation and energy;
      - foster the development of fit for purpose products and services which have a low environmental impact;
      - provide leadership to business, industry and the community in promoting the use of environmentally sensitive goods and services.
  - *Compliance with adopted Work, Health & Safety policies, procedures and practices.*
  - *Procurement and Disposals are undertaken within the parameters of and authority granted by Council's endorsed Budget and/or a specific resolution of Council.*

 City of Mount Gambier	<b>P420 PROCUREMENT, &amp; DISPOSAL OF LAND AND ASSETS</b>	Version No:	3
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		Next Review:	November 2019

## 5. PROCUREMENT METHODS

Generally, open and fair competition is best achieved by undertaking a tender process so that all interested parties have an opportunity to bid. However, there may be procurements in which a tender process will not necessarily deliver the most advantageous outcome for the Council – in such instances, other market approaches may be more appropriate.

The Council may, having regard to its Procurement Principles and any other factors considered relevant by the Council, in its absolute discretion determine to utilise one or more of the following procurement methods:

### Direct Purchasing

This is where Council purchases from a single source, without first obtaining competing bids.

This method may be suitable for low value, low risk goods and services, and where the supplier already has a successful service history with the Council.

Where Direct Purchasing is utilised as a procurement method for items obtained with relative frequency and volume, a supplier is to be requested to submit to Council and keep current a list of unit prices / rates for such items purchased under this purchasing method.

Direct Purchasing may be utilised by an Authorised Officer using petty cash (up to \$150) or credit card (in addition to Council's formal online requisitioning system) up to the value of \$2,000.

Direct Purchasing may also be utilised for routine purchases of any value from any single or group of suppliers under a supply contract with a fixed pricing regime established under a Tender, Panel Contract or Strategic Alliance arrangement in accordance with this Clause 5.

### Quotations

This is where Council obtains quotations from prospective suppliers.

Generally, a minimum of two written quotations should be sought. If a written quote cannot be obtained, the Council must keep detailed written records of the oral quote obtained, including details of the commercial terms of the quote.

This method may be suitable for an Authorised Officer to purchase low value, low risk goods and services with an estimated value not exceeding \$10,000.

### Request for Quotations (RFQ)

This is where Council obtains written quotations from prospective suppliers.

Generally, a minimum of three written quotations are sought.

This method may be suitable for simple, largely price-based purchases with an estimated value not exceeding \$50,000.

### Requests for Expressions of Interest (REOI)

This is where Council issues an open invitation for a proposed good(s) and/or service(s) of any value.

This method may be used by an Authorised Officer where there is potentially a large market for the proposed goods and/or service, and the Council would like to be able to prepare a short list of suppliers to invite to participate in a tender or request for quotation process.

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### Request for Tenders (RFT)

This is where the Council issues a formal tender for the supply of goods and/or service where the estimated value is in excess of \$50,000.

Council may issue a “Select” Request for Tender where it has already issued a REOI, or where it has documented reasonable grounds for only dealing with a select group of potential suppliers.

Otherwise, Council may issue an “Open” Request for Tender.

Prior to any procurement decision arising from a Request for Tender process each Tender is to be assessed against a pre-determined and documented set of criteria. Assessment is to be undertaken individually by a panel comprising at least 3 Council Officers of which at least one is not to have been involved in the development of the Tender specification or to be involved in the management of the Tender Contract.

### Panel Contracts

This is where the Council establishes panel arrangements with a select group of suppliers – generally, this occurs once the Council has completed its appointment of such suppliers in accordance with this Policy, and can include either:

- a standing offer from a pool of suppliers for the provision of goods and services on agreed terms; or
- the prequalification of certain suppliers who may or may not be engaged on terms to be agreed.

Once a panel has been established, the Council may purchase the particular goods and/or service through such panel arrangements.

A panel contract must be first endorsed by Council including the extent of goods and services and any value limit or conditions applicable to any particular contract, purchase or group/category of purchase.

An Authorised Officer may utilise a panel contract for direct purchasing of goods and services of any value within approved budget and authorisation limits.

### Strategic Alliances

This is where the Council undertakes procurement through contract arrangements already established and administered by other organisations, including:

- LGA Procurement;
- a purchasing group of which the Council is (or becomes) a member;
- Procurement Australia;
- State Government contracts.

A Strategic alliance must first be endorsed by Council including the extent of goods and services and any value limit or conditions applicable to any particular alliance, purchase or group/category of purchase.

An Authorised Officer may utilise a strategic alliance for direct purchasing goods and services of any value within approved budget and authorisation limits.



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A panel contract or strategic alliance will not require endorsement by Council where the panel or alliance is administered by the Local Government Association or under an arrangement between the constituent councils of a s43 subsidiary with which Council is associated (i.e. Limestone Coast Local Government Association).

## 6. PROCUREMENT STRUCTURE

The appropriate method of procurement will be determined by reference to a number of factors, including:

- *Value of the Purchase (all values exclusive of gst)*

Value of Purchase (\$)	Possible Method of Procurement	Assessment/Purchasing Decision Making Delegations
<b>Not exceeding \$2,000</b>	Direct Purchasing	Authorised Officer - up to \$ limit
<b>Not exceeding \$10,000</b>	Obtain at least 2 Quotations (3 written quotes over \$5,000)	Authorised Officer - up to \$ limit
<b>Not exceeding \$50,000</b>	Request for Quotation (RFQ)	Authorised Officer - up to \$ limit
<b>In excess of \$20,000</b>	Request for Expression of Interest (REOI)	N/A - refer RFQ/RFT limits
<b>In excess of \$50,000</b>	Request for Tender (RFT)	CEO up to \$100,000 Council - above \$100,000
<b>Budget</b>	Direct Purchasing (Formal Supply Contract)	Authorised Officer - up to \$ limit CEO – up to Budget
	Panel Contracts	Authorised Officer - up to \$ limit CEO – up to Budget
	Strategic Alliances	Authorised Officer - up to \$ limit CEO – up to Budget
<p><b>In accordance with Clause 2 Definitions:</b></p> <p><b>Authorised Officer</b> means a Council Officer with formal (sub)delegation and/or financial authorisation granted by written instrument from the Chief Executive Officer to enter into contracts and transactions to a specified value and unless contrary provisions apply includes the Chief Executive Officer and General Managers.</p>		



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The value of the purchase will be calculated as follows:

- *single one-off purchase* – the total amount, or estimated amount, of the purchase (excluding GST);
- *multiple purchases* – the gross value, or the estimated gross value, of the purchases (excluding GST); or
- *ongoing purchases over a period of time* – the annual gross value, or the estimated annual gross value, of the purchases (excluding GST).
- *purchase including a trade-in/changeover* – the gross changeover value being the gross value of the item being purchased minus the value of the traded-in/changed-over

*Noting always that all procurements and disposals are undertaken to give effect to and implement Council's plans and objectives within the parameters of Council's endorsed Budget and/or a specific resolution of Council.*

- *cost of an open market approach versus the value of the acquisition and the potential benefits;*
- *the particular circumstances of the procurement activity;*
- *the objectives of the procurement;*
- *the size of the market and the number of competent suppliers;*
- *the Council's leverage in the marketplace;*
- *time constraints;*
- *a holistic assessment of the risks associated with the relevant activity and /or project, including the risk profile of the procurement and any risks associated with the preferred procurement method.*

For the purpose of this clause 6, any variation in determining the procurement method in accordance with the values prescribed in the above table must be endorsed by the Chief Executive Officer and be accompanied by detailed written reasons of the relevant factors.

## 7. CONSIDERATIONS PRIOR TO DISPOSAL OF LAND AND ASSETS

Any decision to dispose of Land and Assets will be made after considering (where applicable):

- *the usefulness of the Land or Asset;*
- *the current market value of the Land or Asset;*
- *the annual cost of maintenance;*
- *any alternative future use of the Land or Asset;*
- *any duplication of the Land or Asset or the service provided by the Land or Asset;*
- *any impact the disposal of the Land or Asset may have on the community;*
- *any cultural or historical significance of the Land or Asset;*
- *the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council;*

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- *the long term plans and strategic direction of the Council;*
- *the remaining useful life, particularly of an Asset;*
- *a benefit and risk analysis of the proposed disposal;*
- *the results of any community consultation process;*
- *any restrictions on the proposed disposal;*
- *the content of any community land management plan; and*
- *any other relevant policies of the Council.*

Consideration given to these matters will be recorded in Council's corporate records management system and in the case of a decision to dispose of Land, will be presented in a report at a meeting of Council prior to the disposal decision being made.

## 8. DISPOSAL METHODS

### Land disposal

The Council may resolve to dispose of Land.

Where the Land forms or formed a road or part of a road, the Council must ensure that the Land is closed under the Roads Opening and Closing Act 1991 (SA) prior to its disposal.

Where Land is classified as community land, the Council must:

- undertake public consultation in accordance with the Act and the Council's public consultation policy; and
- ensure that the process for the revocation of the classification of Land as community land has been concluded prior to its disposal; and
- comply with all other requirements under the Act in respect of the disposal of community land.

Where the Council proposes to dispose of Land through the grant of a leasehold interest, the Council must have complied with its obligations under the Act, including its public consultation obligations under Section 202 of the Act.

The Council will, where appropriate, dispose of Land through one of the following methods:

- *open market sale* - advertisement for disposal of the Land through the local paper and where appropriate, a paper circulating in the State, or by procuring the services of a licensed real estate agent and/or auctioneer (following compliance with this Policy);
- *expressions of interest* - seeking expressions of interest for the Land;
- *select tender* - seeking tenders from a selected group of persons or companies;
- *open tender* - openly seeking bids through tenders, including public auction;
- *by negotiation* – with owners of land adjoining the Land or others with a pre-existing interest in the Land, or where the Land is to be used by a

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purchaser whose purpose for the Land is consistent with the Council's strategic objectives for the Land.

Selection of a suitable disposal method will include consideration of (where appropriate):

- the number of known potential purchasers of the Land;
- the original intention for the use of the Land;
- the current and possible preferred future use of the Land;
- the opportunity to promote local economic growth and development;
- delegation limits, taking into consideration accountability, responsibility, operation efficiency and urgency of the disposal;
- the total estimated value of the disposal; and
- compliance with statutory and other obligations.

The Council will not dispose of Land to any Council Member or employee of the Council who has been involved in any process related to a decision to dispose of the Land and/or the establishment of a reserve price.

If Land is to be auctioned or placed on the open market or disposed of by an expression of interest or select tender, then (unless the Council resolves otherwise) an independent valuation must be obtained to establish the reserve price for the Land. The independent valuation must be made no more than 6 months prior to the proposed disposal.

If Land is to be disposed of via direct sale, then (unless the Council resolves otherwise) an independent valuation must be obtained to ensure that an appropriate market value is obtained. The independent valuation must be made no more than 6 months prior to the proposed disposal.

An independent valuation will not be required for a disposal where a value estimation being for less than \$25,000 has been prepared and documented for the Land.

The Council will seek to dispose of Land by whichever method is likely to provide the Council with a maximum return at or near current market valuation, unless there are reasons for the Council to accept a lesser return which is consistent with the Council's overall strategic direction. These reasons must be documented in writing.

If the disposal is not to be on the open market, the disposal amount should have due regard to the value of the Land (independent or estimation) and the recovery of associated costs necessary to achieve the transaction.

### **Assets disposal**

The sale of Assets will be the responsibility of the relevant General Manager who is responsible for those Assets.

The Council will, where appropriate, dispose of Assets through one of the following methods:

- *trade-in* – trading in equipment to suppliers
- expressions of interest – seeking expressions of interest from buyers;

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- *select tender* – seeking tenders from a selected group of persons or companies;
- *open tender* – openly seeking bids through tenders;
- *public auction* – advertisement for auction in a paper circulating in the area, or procuring the services of an auctioneer (following compliance with this Policy).

Selection of a suitable method will include consideration of (where appropriate):

- the public demand and interest in the Asset;
- the method most likely to return the highest revenue;
- the value of the Asset;
- the costs of the disposal method compared to the expected returns; and
- compliance with statutory and other obligations.

Consideration will be given to direct disposal of Minor Plant and Equipment to a community/sporting group(s) where it is considered that such disposal provides a cost/service benefit to Council. Other groups may be provided with opportunity to participate in the disposal where the administrative resources necessary for such participation are not considered to outweigh or exceed the benefit/savings to be achieved or the Asset value.

Elected Members and employees of the Council will not be permitted to purchase Assets unless the purchase is via an open tender process or a public auction, and the tender submitted or bid made is the highest.

Purchasers of Assets must be required to agree in writing that before purchasing any Asset that no warranty is given by the Council in respect of the suitability and condition of the Asset for the purchaser and that the Council will not be responsible for the Asset in any respect following the sale.

## 9. CONSULTATION

The Council must undertake public consultation in respect of its proposed disposals in accordance with the requirements of the Act and its public consultation policies at all times.

## 10. RECORDS

The Council must record reasons for utilising a specific procurement or disposal method in each activity and where it uses a procurement or disposal method other than a tendering process.

## 11. EXCEPTIONS TO THIS POLICY

This Policy contains general guidelines to be followed by the Council in its procurement and disposal activities. There may be emergencies, or procurements or disposals in which a tender process will not necessarily deliver the best outcome for the Council, and other market approaches may be more appropriate.

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In certain extenuating circumstances, the Chief Executive Officer may waive application of this Policy and pursue a method which will bring the best outcome for the Council.

Such circumstances might include, but not be limited to:

- emergency situations threatening life and property; or
- where the supply market is known; or
- timing constraints

The Chief Executive Officer must record in writing reasons for waiving application of this Policy.

This clause is not intended to override or avoid any other restrictive/prohibitive policy, delegation or other statutory or documented provisions or requirements.

## 12. DELEGATIONS

This policy is to be administered with regard to and consistent with duly made delegations, sub-delegations and financial authorisations of the Council and Chief Executive Officer.

## 13. PRUDENTIAL REQUIREMENTS

This policy is to be administered with regard to and consistent with Council's Prudential Management Policy, practices and procedures and s48 of the Local Government Act 1999.

## 14. RISK MANAGEMENT

This policy is to be administered with regard to and consistent with Council's Risk Management Framework Policy and risk management practices and procedures.

## 15. REVIEW OF POLICY

This Policy shall be reviewed at least once during each term of Council, and shall be reviewed and presented to Council following it's first 12 months of operation. Council may revise or review this Policy at any time (but not so as to affect any process that has already commenced).

## 16. FURTHER INFORMATION

This Policy will be published on the Council's website and will be available for inspection at the principal office of the Council.

A copy of this Policy will be provided to any person upon request following payment of a fee as prescribed in Council's Schedule of Fees and Charges.

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File Reference:	AF11/1740
Applicable Legislation:	Local Government Act 1999 (s49)
Reference: Community Plan	
Related Policies:	C375 Provision and Replacement of Council Vehicles F225 Fraud and Corruption Prevention R305 Risk Management Policy R180 Records Management Policy
Related Procedures:	
Related Documents:	<a href="#">LGA Procurement Handbook</a> Procurement Contracting Document Templates (AF11/1901) WHS Policies/Document Templates (AF13/175)

## 17. DOCUMENT DETAILS

Responsibility:	Manager - Governance & Property
Version:	3.0
Last revised date:	17 <sup>th</sup> January, 2017
Effective date:	21 <sup>st</sup> February, 2017
Minute reference:	21 <sup>st</sup> February, 2017, Corporate and Community Services Item ##
Next review date:	November, 2019
<u>Document History</u>  First Adopted By Council:  Reviewed/Amended:	25 <sup>th</sup> November 2014, 15 <sup>th</sup> March 2016  18/2/1999 Superseded Policy Q110, C250 20/7/2000 Superseded Policy Q115, 15 <sup>th</sup> March 2016

## **CORPORATE AND COMMUNITY SERVICES REPORT NO. 09/2017**

**SUBJECT: AUTHORISED BANKING SIGNATORIES**

**REF: AF11/636**

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At the Statutory Council meeting held on 25<sup>th</sup> November 2014 in relation to authorised banking signatories Council resolved as follows:

*“Cr Perryman moved that the signatories of the Council's general accounts and financial bank accounts and transactions etc be any two (2) of the following:*

- *Mayor;*
- *Deputy Mayor;*
- *Chief Executive Officer;*
- *Director - Corporate Services;*
- *Director - Operational Services;*
- *Finance Manager (when acting in the position of Director – Corporate Services);*
- *Engineering Manager (when acting in the position of Director – Operational Services).*

*Cr Von Stanke seconded*

*Carried”*

The implementation of changes arising from the organisational structure and the known absence of several banking signatories over the coming months now warrants a full review of the authorised banking signatories and process for future amendments.

Accordingly, this report recommends the following positions be authorised banking signatories:

- Mayor
- Deputy Mayor
- Chief Executive Officer
- General Manager Council Business Services
- General Manager Community Wellbeing
- General Manager City Growth
- General Manager City Infrastructure
- Director Operational Services

Whilst these signatories will provide adequate coverage in ordinary circumstances, the appointment/commencement of these new roles is expected to occur over several months during which time known absences (including during the China delegation period) will leave Council with insufficient bank signatories and no back-up for any unplanned absences.

To ensure the continuity of Council business activities in the intervening period and when General Managers are subsequently absent or unavailable this report also recommends that the following positions also be authorised as banking signatories:

- Manager Business & Strategic Planning
- Manager Community Services & Development
- Manager Governance & Property
- Manager Regulatory Services (Manager Development & Regulatory)
- Engineering Manager (Engineering Design & Contract Management)

It is further recommended that the Chief Executive Officer be specifically empowered to add/amend/revoke officer bank signatories as necessary to align with organisational structure and position titles/appointments and in accordance with any relevant Internal Controls, for further review at the next statutory Council meeting following the November 2018 local government elections.

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RECOMMENDATION

- (a) Corporate and Community Services Report No. 09/2017 be received;
- (b) that the authorised signatories of the Council's general accounts and financial bank accounts and transactions etc be any two (2) of the following:
- Mayor
  - Deputy Mayor
  - Chief Executive Officer
  - General Manager Council Business Services
  - General Manager City Growth
  - General Manager City Infrastructure
  - General Manager Community Wellbeing
  - Director Operational Services
  - Manager Business & Strategic Planning
  - Manager Community Services & Development
  - Manager Governance & Property
  - Manager Regulatory Services (Manager Development & Regulatory)
  - Engineering Manager (Engineering Design & Contract Management)
- (c) that the Chief Executive Officer may by written instrument add/amend/revoke the bank signatory authorisation of officers listed in resolution (b) as necessary to align with the organisational structure, position titles/appointments, and absence/availability of officers, for further review at the next statutory Council meeting following the November 2018 local government elections.



**Michael McCARTHY**  
MANAGER GOVERNANCE AND PROPERTY

Sighted:



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER



## **CORPORATE AND COMMUNITY SERVICES REPORT NO. 10/2017**

**SUBJECT: DELEGATION OF POWERS OF COUNCIL**

**REF: AF11/1020**

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### **Legislative Background**

It is neither practical nor 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 and are reproduced as follows:

- (a) power to make a by-law or to determine that a by-law applies only within a part or parts of the area of the council;
- (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 of the council;
- (da) power to adopt or revise an annual business 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;
- (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;
- (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);
- (ja) the power to revoke the classification of land as community land under section 194;
- (k) a power or function excluded from delegation by the regulations.

If the Council purports to delegate any of the above powers or functions that delegation would be invalid and any action undertaken in reliance on such a delegation may cause legal and administrative problems for the Council.

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

## Corporate and Community Services Report No. 10/2017 cont'd...

- 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 and administrative efficiency 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.

### 2017 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 20<sup>th</sup> April 2016.

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 new and updated LGA delegation templates have been issued due to new and amended legislative/regulatory provisions, for the following Acts:

- Local Government Act 1999 [Appendix 14]
- Road Traffic Act 1961, Road Traffic (Misc) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Misc Provisions) Regulations 2014 [Appendix 20/20B]
- Real Property Act 1886 [Appendix 28] and Electronic Conveyancing National Law (SA) Act 2013 [Appendix 28A]
- Local Nuisance and Litter Control Act 2016 [Appendix 33]
- Water Industry Act 2012 and Water Industry Regulations 2012 [Appendix 34]

The proposed delegations arising from these are provided as attachments to this Report. Delegations associated with other legislation are unchanged and are proposed to be remade.

The review and remaking of delegations are now recommended for adoption and for Council's Delegations Register to be amended accordingly.

### 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 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

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- 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 1999
- 1.1.16. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005
- 1.1.17. Public Assemblies Act 1972
- 1.1.18. Roads (Opening & Closing) Act 1991
- 1.1.19. Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
- 1.1.20. South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013.
- 1.1.21. Supported Residential Facilities Act 1992
- 1.1.22. Unclaimed Goods Act 1987
- 1.1.23. Work Health & Safety Act 2012
- 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. Heavy Vehicle National Law (South Australia) Act 2013
- 1.1.28. 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 - 34 (each of which is individually identified as indicated below) are hereby delegated this Wednesday, 20<sup>th</sup> April, 2016 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)

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- 2.1.4. Environment Protection Act 1993 and Environment Protection (Waste to Resources) Policy 2010 (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 1999 (Appendix 14)
- 2.1.14. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005 (Appendix 16)
- 2.1.15. Public Assemblies Act 1972 (Appendix 17)
- 2.1.16. Roads (Opening and Closing) Act 1991 (Appendix 18)
- 2.1.17. Road Traffic Act 1961, Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014 (Appendix 20/20A/20B)
- 2.1.18. Unclaimed Goods Act 1987 (Appendix 25)
- 2.1.19. South Australian Public Health Act 2011 South Australian Public Health (Legionella) Regulations 2013 and South Australian Public Health (Wastewater) Regulations 2013 and South Australian Public Health (General) Regulations 2013 (Appendix 26)
- 2.1.20. Safe Drinking Water Act 2011 (Appendix 27)
- 2.1.21. Real Property Act 1886 (Appendix 28) and Electronic Conveyancing National Law (SA) Act 2013 (Appendix 28A)
- 2.1.22. Strata Titles Act 1988 (Appendix 29)
- 2.1.23. Work Health & Safety Act 2012 (Appendix 30)
- 2.1.24. Heavy Vehicle National Law (South Australia) Act 2013 (Appendix 31)
- 2.1.25. Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014 (Appendix 32)
- 2.1.26. Local Nuisance and Litter Control Act 2016 (Appendix 33)
- 2.1.27. Water Industry Act 2012 and Water Industry Regulations 2012 (Appendix 34)
- 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 further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the 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 Instrument of Delegation (Appendix 21) are hereby delegated this 21<sup>st</sup> February, 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the 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 Instrument of Delegation (Appendix 21 and which are specified in Schedule I) are hereby delegated this 21<sup>st</sup> February, 2017 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:
- 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 further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the 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 contained in Instrument of Delegation (Appendix 22) are hereby delegated this 21<sup>st</sup> February, 2017 to the person occupying the office of Chief Executive Officer ("the head of the enforcement agency" for the purposes of the Food Act 2001), subject to the conditions or limitations indicated 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 further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the 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 Instrument of Delegation (Appendix 24) are hereby delegated this 21<sup>st</sup> February, 2017 to the person occupying the office of Chief Executive Officer, subject to

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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 purpose 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 purpose of these delegations all further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the delegate.

**6. Authorisations and Sub-delegation 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:

Mark McShane  
Daryl Sexton  
Daryl Morgan

- 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:

Daryl Sexton  
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 Instrument of Sub-delegation (Appendix 20A) is hereby sub-delegated this 21<sup>st</sup> of February 2017 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 Sub-delegation.; 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:

Daryl Sexton  
Daryl Morgan

**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 Instrument of Delegation (Appendix 27) are hereby delegated this 21<sup>st</sup> of February 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Safe Drinking Water Act 2011.
- 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.
- 7.3. 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.
- 7.4. For the purposes of these delegations all further delegations made by the Chief Executive Officer extend to any person who is appointed to act in the position of the delegate.

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

- 8.1. In exercise of the power contained in Section 93 of the Fire and Emergency Services Act 2005 the powers and functions under the Fire and Emergency Services Act 2005 contained in Instrument of Delegation (Appendix 7B) are hereby delegated this 21<sup>st</sup> of February 2017 to the person appointed Fire Prevention Officer of the Council under the Fire and Emergency Services Act 2005 subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Fire and Emergency Services Act 2005.
- 8.2. Such powers and functions may be further delegated by the Fire Prevention Officer as the Fire Prevention Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Fire and Emergency Services Act 2005.
- 8.3. For the purposes of these delegations, all delegations to the Fire Prevention Officer extend to any person appointed to act in the position of Fire Prevention Officer.



**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.

<b><u>POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT</u></b>	
<b>Section and Power/Function Delegated</b>	
<b>1. Composition and Wards</b>	
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.



INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

**POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

Section and Power/Function Delegated	
1.8	The duty pursuant to Section 12(7) of the Act to give public notice of the preparation of a representation options paper and notice in a newspaper circulating within the Council's area, and to ensure that the notice contains an invitation to interested persons to make written submissions to the Council or the Delegate on the subject of the review within a period specified by the Council or the Delegate, being a period of at least six weeks.
1.9	The duty pursuant to Section 12(8) of the Act to make copies of the representation options paper available for public inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council during the period that applies under Section 7(a)(ii).
1.10	At the conclusion of public consultation under Section 12(7)(a), the duty pursuant to Section 12(8a) of the Act to prepare a report that:
1.10.1	provides information on the public consultation process undertaken by the Council and the Council's or the Delegate's response to the issues arising from the submissions made as part of that process; and
1.10.2	sets out:
1.10.2.1	any proposals that the Council or the Delegate considers should be carried into effect under Section 12 of the Act; and
1.10.2.2	in respect of any such proposal - an analysis of how the proposal relates to the principles under Section 26(1)(c) of the Act and the matters referred to in Section 33 of the Act (to the extent that may be relevant); and
1.10.3	sets out the reasons for the Council's or the Delegate's decision insofar as a decision of the Council or the Delegate is not to adopt any change under consideration as part of the representation options paper or the public consultation process.
1.11	The duty pursuant to Section 12(9) of the Act to make copies of the report available for public inspection at the principal office of the Council and to give public notice, by way of a notice in a newspaper circulating in its area, informing the public of its preparation of the report and its availability and inviting interested persons to make written submissions on the report to the Council or the Delegate within a period specified by the Council or the Delegate, being not less than three weeks.
1.12	The duty pursuant to Section 12(10) of the Act to give any person who makes written submissions in response to an invitation under Section 12(9), an opportunity to appear personally or by representative before the Council or a Council committee or the Delegate and to be heard on those submissions.
1.13	The duty pursuant to Section 12(11) of the Act to finalise the report including recommendations with respect to such related or ancillary matters as it sees fit.
1.14	With respect to a proposal within the ambit of Section 12(11a), the power pursuant to Section 12(11b) of the Act:
1.14.1	insofar as may be relevant in the particular circumstances, to separate a proposal (and any related proposal), from any other proposal contained in the report; and
1.14.2	to determine to conduct the relevant poll in conjunction with the next general election for the Council or at some other time.
1.15	Where a poll is required under Section 12(11a) of the Act the duty pursuant to Section 12(11c)(b) of the Act to:
1.15.1	prepare a summary of issues surrounding the proposal to assist persons who may vote at

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

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

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

<b>POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT</b>	
<b>Section and Power/Function Delegated</b>	
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.
<b>3.</b>	<b>Deliberately left blank</b>
<b>4.</b>	<b>Deliberately left blank</b>
<b>5.</b>	<b>Council Initiated Proposal</b>
5.1	Deliberately left blank
5.2	Deliberately left blank
5.3	The power pursuant to section 27(7) of the Act, to, in relation to the proposal submitted by the Council, request or consent to the Minister:
5.3.1	amending the proposal;
5.3.1	substituting an alternative proposal.
<b>6.</b>	<b>Public Initiated Submissions</b>
6.1	The power pursuant to Section 28(6) of the Act, on the receipt of a submission under Section 28(2) of the Act, to consider the issues determined by the Council or the Delegate to be relevant to the matter and to then decide whether or not it is willing to:
6.1.1	conduct a review in relation to the matter under Division 2 of Part 1 of the Act; or
6.1.2	formulate (or participate in the formulation of) a proposal in relation to the matter under Division 4 of Part 2 of the Act.
6.2	Where the Council is affected by a public initiated proposal under Chapter 3 of the Act, the duty to ensure that copies of the summary prepared by the Minister are made available for public inspection at the principal office of the Council and distributed to electors in accordance with the directions of the Minister, pursuant to Section 28(23)(f) and (g).
<b>7.</b>	<b>General Powers and Capacities</b>
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



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

<b>POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT</b>	
<b>Section and Power/Function Delegated</b>	
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.
<b>8. Provision Relating to Contract and Transactions</b>	
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.
<b>9. Committees</b>	
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.
<b>10. Delegations</b>	
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.
<b>11. Principal Office</b>	
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.
<b>12. Commercial Activities</b>	
12.1	Subject to the Act, the power pursuant to Section 46(1) of the Act to, in the performance of the Council's functions, engage in a commercial activity or enterprise ('a commercial project').



INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

<b>POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT</b>	
<b>Section and Power/Function Delegated</b>	
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.
<b>13. Interests in Companies</b>	
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.
<b>14. Prudential Requirements for Certain Activities</b>	
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 operating expenses calculated on an accrual basis of the Council over the ensuing five years is likely to exceed 20 per cent of the Council's average annual operating expenses over the previous five financial years (as shown in the Council's financial statements); or
14.1.2.2	where the expected capital cost of the project over the ensuing five years is likely to exceed \$4,000,000.00 (indexed); or
14.1.2.3	where the Council or Delegate considers that it is necessary or appropriate.
14.2	Deliberately left blank.
14.3	The power and duty pursuant to Section 48(5) of the Act to make a report under Section 48(1) of the Act available for public inspection at the principal office of the Council once the Council has made a decision on the relevant project (and the power to make the report available at an earlier time unless the Council orders that the report be kept confidential until that time).

INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

<b>POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT</b>	
<b>Section and Power/Function Delegated</b>	
<b>15. Contracts and Tenders Policies</b>	
15.0	The power and duty pursuant to Section 49(a1) of the Act to develop and maintain procurement policies, practices and procedures directed towards:
15.0.1	obtaining value in the expenditure of public money; and
15.0.2	providing for ethical and fair treatment of participants; and
15.0.3	ensuring probity, accountability and transparency in procurement operations.
15.1	Without limiting Section 49(a1) of the Act, the power and duty pursuant to Section 49(1) of the Act to prepare and adopt policies on contracts and tenders including policies on the following:
15.1.1	the contracting out of services; and
15.1.2	competitive tendering and the use of other measures to ensure that services are delivered cost effectively; and
15.1.3	the use of local goods and services; and
15.1.4	the sale or disposal of land or other assets.
15.2	The power and duty pursuant to Section 49(2) of the Act to ensure that any policies on contracts and tenders:
15.2.1	identify circumstances where the Council will call for tenders for the supply of goods, the provision of services or the carrying out of works, or the sale or disposal of land or other assets; and
15.2.2	provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and
15.2.3	provide for the recording of reasons for entering into contracts other than those resulting from the tender process; and
15.2.4	are consistent with any requirement prescribed by the regulations.
15.3	The power pursuant to Section 49(3) of the Act to, at any time, alter a policy under Section 49 of the Act, or substitute a new policy or policies (but not so as to affect any process that has already commenced).
15.4	The duty pursuant to Section 49(4) of the Act to make available for inspection (without charge) a policy adopted under this Section at the principal office of Council during office hours.
<b>16. Public Consultation Policies</b>	
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



INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

**POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

**Section and Power/Function Delegated**

where the Act requires the policy to be followed, provides for:

- 16.3.1 the publication of a notice:
- 16.3.1.1 in a newspaper circulating within the area of the Council; and
  - 16.3.1.2 on a website determined by the Chief Executive Officer,
- describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and

16.3.2 the consideration of any submissions made in response to that invitation.

16.4 The power pursuant to Section 50(5) of the Act, to, from time to time, alter the Council's public consultation policy, or substitute a new policy.

16.5 Before the Council or the Delegate adopts a public consultation policy or alters, or substitutes a public consultation policy, the duty pursuant to Section 50(6) of the Act to:

- 16.5.1 prepare a document that sets out its proposal in relation to the matter; and
- 16.5.2 publish in a newspaper circulating within the area of the Council, a notice of the proposal inviting interested persons to make submissions on the proposal within a period stated in the notice, which must be at least one month;
- 16.5.3 consider any submissions made in response to an invitation made under Section 50(6)(d) of the Act.

16.6 The power pursuant to Section 50(7) of the Act to determine if the alteration of a public consultation policy is of minor significance that would attract little or no community interest.

16.7 The duty pursuant to Section 50(8) of the Act to ensure the public consultation policy is available for inspection (without charge) at the principal office of Council during ordinary office hours.

**17. Deliberately left blank**

**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.



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<b>POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT</b>	
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<b>21. Insurance of members</b>	
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.
<b>22. Training and Development</b>	
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).
<b>23. Committee Meetings</b>	
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: <ul style="list-style-type: none"> <li>23.2.1 the availability and convenience of members of the committee; and</li> <li>23.2.2 the nature and purpose of the committee.</li> </ul>
<b>24. Meetings To Be Held in Public Except in Special Circumstances</b>	
24.1	The duty pursuant to Section 90(7) of the Act to make a note in the minutes of the making of an order under Section 90(2) of the Act and the grounds on which it was made.
24.2	The power pursuant to Section 90(8a)(a) of the Act to adopt a policy on the holding of informal gatherings or discussions subject to Section 90(8b) of the Act.
24.3	The power pursuant to Section 90(8c) of the Act, to, from time to time, alter the Council's policy or substitute a new policy.
<b>25. Minutes and Release of Documents</b>	
25.1	The duty pursuant to Section 91(3) to supply each member of the Council with a copy of all minutes of the proceedings of the Council or Council committee meeting, within 5 days after that meeting.
25.2	Subject to Section 91(7), the duty pursuant to Section 91(4) of the Act to place a copy of the minutes of a meeting of the Council on public display in the principal office of the Council within 5 days after the meeting and to keep those minutes on display for a period of 1 month.



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25.3	Subject to Section 91(7) of the Act, the duty pursuant to Section 91(5) of the Act to make available for inspection, without payment of a fee, at the principal office of the Council:
25.3.1	minutes of the Council and Council committee meetings; and
25.3.2	reports to the Council or to a Council committee received at a meeting of the Council or Council committee; and
25.3.3	recommendations presented to the Council in writing and adopted by resolution of the Council; and
25.3.4	budgetary or other financial statements adopted by the Council.
<b>26. Access to Meetings and Documents – Code of Practice</b>	
26.1	The power and duty pursuant to Section 92(1) of the Act, and subject to Section 92(4) of the Act, to prepare and adopt a Code of Practice relating to the principles, policies, procedures and practices that the Council will apply for the purposes of the operation of Parts 3 and 4 of Chapter 6 of the Act.
26.2	The power and duty pursuant to Section 92(2) of the Act to review the operation of the Council's Code of Practice within 12 months after the conclusion of each periodic election.
26.3	The power pursuant to Section 92(3) of the Act, to, at any time, alter the Council's code of practice or substitute a new code of practice.
26.4	The duty pursuant to Section 92(5) of the Act to ensure that before the Council or the Delegate adopts, alters or substitutes a code of practice that:
26.4.1	copies of the proposed code, alterations or substitute code (as the case may be) are made available for inspection or purchase at the Council's principal office and available for inspection on a website determined by the Chief Executive Officer; and
26.4.2	the relevant steps set out in the Council's Public Consultation Policy are followed.
26.5	The duty pursuant to Section 92(6) and (7) of the Act to ensure that the Code of Practice is available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of Council during ordinary office hours.
<b>27. Meetings of Electors</b>	
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).
<b>28. Obstructing of Meetings</b>	
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.
<b>29. Register of Remuneration Salaries and Benefits</b>	
29.1	The duty pursuant to Section 105(3) of the Act to make available the Register of Salaries of

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	employees of the Council for inspection by the public at the principal office of the Council during ordinary office hours.
<b>30. Certain Periods Of Service To Be Regarded As Continuous</b>	
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.
<b>31. Deliberately left blank</b>	
<b>32. Application of Division</b>	
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.
<b>33. Certain Aspects of Strategic Management Plans</b>	
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.
<b>34. Annual Business Plans and Budgets</b>	
34.1	Before the Council adopts an annual business plan, the duty pursuant to Section 123(3) of the Act to, <ul style="list-style-type: none"> <li>34.1.1 prepare a draft annual business plan; and</li> <li>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.</li> </ul>
34.2	The duty pursuant to Section 123(5) of the Act to ensure that copies of the draft annual business plan are available at the meeting arranged pursuant to and in accordance with Section 123(4)(a)(i) and (4)(b) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council and on the website at least 21 days before the date of that meeting.
34.3	The duty pursuant to Section 123(5a) of the Act to ensure that provision is made for: <ul style="list-style-type: none"> <li>34.3.1 a facility for asking and answering questions; and</li> <li>34.3.2 the receipt of submissions,</li> </ul> on the Council's website during the public consultation period.

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- 34.4 After the Council has adopted an annual business plan and a budget, the duty, pursuant to Section 123(9) of the Act, to:
- 34.4.1 ensure:
    - 34.4.1.1 that a summary of the annual business plan is prepared in accordance with the requirements set out at Sections 123(10), (11) and (12) of the Act, so as to assist in promoting public awareness of the nature of the Council's services and the Council's rating and financial management policies, taking into account its objectives and activities for the ensuing financial year; and
    - 34.4.1.2 that a copy of the summary of the annual business plan accompanies the first rates notice sent to ratepayers after the declaration of the Council's rates for the financial year; and
  - 34.4.2 ensure:
    - 34.4.2.1 that copies of the annual business plan and the budget (as adopted) are available for inspection (without charge) or purchase (on payment of a fee fixed by the Council); and
    - 34.4.2.2 that copies of the summary of the annual business plan are available for inspection and to take (without charge),  
at the principal office of the Council; and
  - 34.4.3 ensure that electronic copies of the annual business plan and the budget (as adopted) are published on a website determined by the Chief Executive Officer.

**35. Accounting Records to be Kept**

- 35.1 The duty pursuant to Section 124(1) of the Act to:
- 35.1.1 keep such accounting records as correctly and adequately record and explain the revenues, expenses, assets and liabilities of the Council;
  - 35.1.2 keep the Councils accounting records in such manner as will enable:
    - 35.1.2.1 the preparation and provision of statements that fairly 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.

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**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.

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<b>41. Other Investigations</b>	
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.
<b>42. Annual Report to be Prepared and Adopted</b>	
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.

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**POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

**Section and Power/Function Delegated**

**43. Access to Documents**

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

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<b>46. Ability of a Council to Give Security</b>	
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: <ul style="list-style-type: none"> <li>46.1.1 guarantees (including guarantees relating to the liability of a subsidiary of the Council);</li> <li>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);</li> <li>46.1.3 bills of sale, mortgages or other charges (including to support a guarantee provided under Section 135(1)(a) of the Act.</li> </ul>
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: <ul style="list-style-type: none"> <li>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</li> <li>46.2.2 if the debentures are being offered generally to members of the public, appoint a trustee for the debenture holders.</li> </ul>
<b>47. Expenditure of Funds</b>	
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.
<b>48. Investment Powers</b>	
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: <ul style="list-style-type: none"> <li>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</li> <li>48.2.2 avoid investments that are speculative or hazardous in nature.</li> </ul>
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: <ul style="list-style-type: none"> <li>48.3.1 the purposes of the investment;</li> <li>48.3.2 the desirability of diversifying Council investments;</li> <li>48.3.3 the nature of and risk associated with existing Council investments;</li> <li>48.3.4 the desirability of maintaining the real value of the capital and income of the investment;</li> <li>48.3.5 the risk of capital or income loss or depreciation;</li> <li>48.3.6 the potential for capital appreciation;</li> <li>48.3.7 the likely income return and the timing of income return;</li> <li>48.3.8 the length of the term of a proposed investment;</li> <li>48.3.9 the period for which the investment is likely to be required;</li> <li>48.3.10 the liquidity and marketability of a proposed investment during, and on determination of, the term of the investment;</li> <li>48.3.11 the aggregate value of the assets of the Council;</li> <li>48.3.12 the likelihood of inflation affecting the value of a proposed investment;</li> <li>48.3.13 the costs of making a proposed investment;</li> <li>48.3.14 the results of any review of existing Council investments.</li> </ul>



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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.
<b>49. Review of Investment</b>	
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.
<b>50. Gifts to a Council</b>	
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.
<b>51. Duty to Insure Against Liability</b>	
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.
<b>52. Writing off Bad Debts</b>	
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.
<b>53. Recovery of Amounts due to Council</b>	
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.



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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.
<b>54. Land Against Which Rates May be Assessed</b>	
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.
<b>55. Basis of Rating</b>	
55.1	Before the Council: <ul style="list-style-type: none"> <li>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</li> <li>55.1.2 changes the basis on which land is valued for the purposes of rating; or</li> <li>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;</li> </ul> the power and duty pursuant to Section 151(5)(d) and (e) of the Act to: <ul style="list-style-type: none"> <li>55.1.4 prepare a report on the proposed change in accordance with Section 151(6) of the Act; and</li> <li>55.1.5 follow the relevant steps set out in its public consultation policy in accordance with Section 151(7) of the Act.</li> </ul>
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.
<b>56. General Rates</b>	
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.
<b>57. Service Rates and Service Charges</b>	
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.
<b>58. Basis of Differential Rates</b>	
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.

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58.2	The power and duty pursuant to Section 156(14a) of the Act, before the Council changes from declaring differential rates in relation to any land on the basis of a differentiating factor under either paragraphs (a), (b) or (c) of Section 156(1) of the Act to a differentiating factor under another of those paragraphs, to -
58.2.1	prepare a report on the proposed change in accordance with Section 156(14b) of the Act; and
58.2.2	follow the relevant steps set out in its public consultation policy in accordance with Section 156(14d) of the Act.
58.3	The duty pursuant to Section 156(14e) of the Act to ensure that copies of the report required under Section 156(14a)(a) of the Act are available at the meeting held under Section 156(14d)(a)(i); and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.
<b>59. Notice of Differentiating Factors</b>	
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.
<b>60. Preliminary</b>	
60.1	The power pursuant to Section 159(1) of the Act to determine the manner and form and such information as the Delegate may reasonably require, for a person or body to apply to the Council to determine if grounds exist for the person or body to receive a rebate of rates.
60.2	The power pursuant to Section 159(3) to grant a rebate of rates if satisfied that it is appropriate to do so (whether on application or on the Delegate's own initiative).
60.3	The power pursuant to Section 159(4) of the Act to increase the rebate on the Delegate's initiative, if a rebate specifically fixed by Division 5 Chapter 10 of the Act is less than 100%.
60.4	The power pursuant to Section 159(10) of the Act to determine, for proper cause, that an entitlement to a rebate of rates in pursuance of Division 5 no longer applies.
<b>61. Rebate of Rates - Community Services</b>	
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.
<b>62. Rebate of Rates - Educational Purposes</b>	
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.

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<b>63. Discretionary Rebates of Rates</b>	
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.

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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.
<b>64. Valuation of Land for the Purposes of Rating</b>	
64.1	The power pursuant to Section 167(1) of the Act to adopt valuations that are to apply to land within the Council's area, for rating purposes for a particular financial year.
64.2	For the purpose of adopting a valuation of land for rating, the duty pursuant to Section 167(2) of the Act and in accordance with Section 167(3), (4) and (5) of the Act, to adopt:
64.2.1	valuations made, or caused to be made, by the Valuer-General; or
64.2.2	valuations made by a valuer employed or engaged by the Council, or by a firm or consortium of valuers engaged by the Council;
	or a combination of both.
64.3	The duty pursuant to Section 167(6) of the Act to publish a notice of the adoption of valuations in the <i>Gazette</i> , within 21 days after the date of the adoption.
<b>65. Valuation of Land</b>	
65.1	The power pursuant to Section 168(1) of the Act to request the Valuer-General to value any land within the Council's area (being land that is capable of being separately rated).
65.2	The duty pursuant to Section 168(2) of the Act to furnish to the Valuer-General any information requested by the Valuer General for the purposes of valuing land within the area of the Council.
65.3	The power and duty pursuant to Section 168(3)(b) and (c) of the Act to enter a valuation in the assessment record, as soon as practicable after the valuation has been made and to give notice of the valuation to the principal ratepayer in accordance with the Regulations.

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<b>66. Objections to Valuations Made by Council</b>	
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: <ul style="list-style-type: none"> <li>66.1.1 the objection does not involve a question of law; and</li> <li>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</li> <li>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).</li> </ul>
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: <ul style="list-style-type: none"> <li>66.4.1 in the prescribed manner and form;</li> <li>66.4.2 made within 21 days after the objector receives notice of the outcome of his or her initial objection; and</li> <li>66.4.3 accompanied by the prescribed fee.</li> </ul>
66.5	The power pursuant to Section 169(15)(b) of the Act to apply to SACAT for a review of the decision of a valuer after a further review on a request under Section 169(8) of the Act, in accordance with Section 169(15a) of the Act.
<b>67. Notice of Declaration of Rates</b>	
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.
<b>68. Alterations to Assessment Record</b>	
68.1a	The duty pursuant to and in accordance with Section 172(1) to ensure that a record (the assessment record) is kept.
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.
<b>69. Inspection of Assessment Record</b>	
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.

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<b>70. Liability for Rates</b>	
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: <ul style="list-style-type: none"> <li>70.1.1 the principal ratepayer; or</li> <li>70.1.2 any other person (not being a principal ratepayer) who is an owner or occupier of the land; or</li> <li>70.1.3 any other person who was at the time of the declaration of the rates an owner or occupier of the land.</li> </ul>
70.2	The power pursuant to Section 178(4) of the Act by written notice to a lessee or a licensee of land in respect of which rates have fallen due, to require him or her to pay to the Council rent or other consideration payable under the lease or a licence in satisfaction of any liability for rates.
70.3	Where a notice under Section 178(4) of the Act is given to a lessee or a licensee of land, the power pursuant to Section 178(5) of the Act to make and give notice of an additional charge of 5% of the amount in arrears, as payable and recoverable as part of the debt for unpaid rates.
70.4	The power pursuant to Section 178(6) of the Act to remit the charge of 5% of the amount in arrears payable under the Act in whole or in part.
<b>71. Liability for Rates if Land is Not Rateable for the Whole of the Financial Year</b>	
71.1	The power pursuant to Section 179(2) of the Act to adopt a valuation of land that has become rateable after the adoption of valuations by the Council for the relevant financial year.
71.2	The duty pursuant to Section 179(5) of the Act to refund to the principal ratepayer an amount proportionate to the remaining part of the financial year, if land ceases to be rateable during the course of a financial year and the rates have been paid.
<b>72. Service of Rate Notice</b>	
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: <ul style="list-style-type: none"> <li>72.1.1 the declaration of a rate; or</li> <li>72.1.2 the imposition of a service charge; or</li> <li>72.1.3 a change in the rates liability of land.</li> </ul>
<b>73. Payment of Rates – General Principles</b>	
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.

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



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74.3	The power pursuant to Section 182(3) of the Act to grant other or additional postponements of rates:
74.3.1	to assist or support a business in the Council's area; or
74.3.2	to alleviate the affects of anomalies that have occurred in valuations under the Act.
74.4	The power pursuant to Section 182(4) of the Act to grant other or additional remissions of rates on the same basis as applies under the Rates and Land Tax Remission Act 1986, (such remissions will be in addition to the remissions that are available under that Act).
74.5	The power pursuant to Section 182(5) of the Act to require a ratepayer who claims to be entitled to a remission of rates by virtue of a determination under Section 182(4) of the Act to provide evidence to the satisfaction of the Delegate verifying that entitlement.
74.6	The power pursuant to Section 182(6) of the Act to revoke a determination under Section 182(4) of the Act at any time (but the revocation will not affect an entitlement to remission in relation to rates declared before the revocation takes effect).
<b>75. Postponement of Rates - Seniors</b>	
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.
<b>76. Application of money in respect of rates</b>	
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.
<b>77. Sale of Land for Non-Payment of Rates</b>	
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.



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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.
77.6	The duty pursuant to Section 184(6) and (7) of the Act to conduct the sale of land for non-payment of rates by public auction and the power to set the reserve price for the purposes of the auction, except in the case of land held from the Crown under a lease, licence or agreement to purchase, unless the Minister responsible for the administration of the Crown Lands Act 1929 grants consent to sale by public auction.
77.7	The duty pursuant to Section 184(8) of the Act to advertise the auction of land under Section 184 of the Act on at least 2 separate occasions in a newspaper circulating throughout the State.
77.8	The duty pursuant to Section 184(9) of the Act to call off the auction, if before the date of such an auction, the outstanding amount and the costs incurred by the Council in proceeding under this Section are paid to the Council.
77.9	The power pursuant to Section 184(10) of the Act to sell the land by private contract for the best price that can be reasonably obtained, if an auction fails or an auction is not held because the land is held from the Crown under a lease, licence or agreement to purchase.
77.10	The power and duty to apply monies received by the Council in respect of the sale of land for non-payment of rates pursuant to and in accordance with Section 184(11) of the Act.
77.11	The duty pursuant to Section 184(12) of the Act to make reasonable enquiries to find the owner of land to be sold for non-payment of rates and where the owner cannot be found, the power to deal with the amount payable to the owner as unclaimed money under the Unclaimed Moneys Act 1981.
<b>78. Objection, Review or Appeal</b>	
78.1	If an objection, review or appeal in respect of a valuation of land results in the alteration of a valuation or of a decision to attribute a particular land use to land, and a due adjustment is made, the power pursuant to Section 186(2) of the Act and subject to Section 186(3), (4) and (5) of the Act:
78.1.1	to refund or credit the overpaid amount against future liabilities for rates on the land subject to the rates; or
78.1.2	to recover an additional amount payable on account of an alteration of the value as arrears after at least 30 days have expired from the date on which notification of the alteration is given to the person who initiated the objection, review or appeal.

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<b>79. Certificate of Liabilities</b>	
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.
<b>80. Investigation by Ombudsman</b>	
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.
<b>81. Fees and Charges</b>	
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.

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<b>82. Acquisition of Land by Agreement</b>	
82.1	The power pursuant to Section 190 of the Act to acquire land by agreement.
<b>83. Compulsory Acquisition of Land</b>	
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.
<b>84. Assumption of Care, Control and Management of Land</b>	
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> .
<b>85. Classification</b>	
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.
<b>86. Revocation of Classification of Land as Community Land</b>	
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.

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<b>87. Effect of Revocation of Classification</b>	
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.
<b>88. Management Plans</b>	
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: <ul style="list-style-type: none"> <li>88.1.1 identifies the land to which it applies; and</li> <li>88.1.2 states the purpose for which the land is held by the Council; and</li> <li>88.1.3 states the Council's objectives, policies (if any) and proposals for the management of the land; and</li> <li>88.1.4 states performance targets and how the Council proposes to measure its performance against its objectives and performance targets.</li> </ul>
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: <ul style="list-style-type: none"> <li>88.2.1 identify the owner of the land; and</li> <li>88.2.2 state the nature of any trust, dedication or restriction to which the land is subject apart from the Act; and</li> <li>88.2.3 contain any provisions that the owner reasonably requires and identify those provisions as provisions required by the owner.</li> </ul>
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.
<b>89. Public Consultation on Proposed Management Plan</b>	
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: <ul style="list-style-type: none"> <li>89.1.1 make copies of the proposed plan available for inspection or purchase at the Council's principal office; and</li> <li>89.1.2 follow the relevant steps set out in Council's public consultation policy.</li> </ul>
89.2	The duty pursuant to Section 197(3) of the Act to give public notice of the adoption of a management plan.
<b>90. Amendment or Revocation of Management Plan</b>	
90.1	The power pursuant to Section 198(1) of the Act and in accordance with Section 198(2) and (3) of the Act to amend or revoke a management plan by the adoption of a proposal for its amendment or revocation.
90.2	The power pursuant to Section 198(2) and (3) of the Act to conduct public consultation prior to the Council or the Delegate adopting a proposal for amendment to or revocation of a management plan, unless in the opinion of the Delegate the amendment has no impact or no significant impact on the interests of the community.

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90.3	The duty pursuant to Section 198(4) of the Act to give public notice of Council's or the Delegate's adoption of a proposal for the amendment or revocation of a management plan.
<b>91. Effect of Management Plan</b>	
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.
<b>92. Use of Community Land for Business Purposes</b>	
92.1	The power pursuant to Section 200(1), (2) and (3) of the Act to approve a person's use of community land for a business purpose, consistent with provisions of the management plan and on any conditions the Delegate considers appropriate.
<b>93. Sale or Disposal of Local Government Land</b>	
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.
<b>94. Alienation of Community Land by Lease or Licence</b>	
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 42 years) and to extend the term of the lease or licence but not so that the term extends beyond a total of 42 years.
94.4	The duty pursuant to Section 202(6) of the Act and subject to Section 202(7) of the Act to ensure that a lease or licence relating to community land is consistent with any relevant management plan.

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<b>95. Register</b>	
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.
<b>96. Ownership of Public Roads</b>	
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> .
<b>97. Ownership of Fixtures and Equipment Installed on Public Roads</b>	
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.
<b>98. Conversion of Private Road to Public Road</b>	
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.
<b>99. Highways</b>	
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.

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<b>100. Power to Carry Out Roadwork</b>	
100.1	The power pursuant to Section 212(1) and 212(2) and in accordance with Section 212(3) 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
100.2.2	before carrying out roadwork in relation to a road that runs into or intersects with a highway (and that may have an effect on the users of that highway), consult with the Commissioner of Highways; and
100.2.3	the roadwork in relation to a private road is only carried out if:
100.2.3.1	the owner agrees; or
100.2.3.2	the Council has given the owner reasonable notice of the proposed roadwork and a reasonable opportunity to make representations and has considered any representations made in response to the notice; or
100.2.3.3	the identity or whereabouts of the owner is unknown; and
100.2.4	the roadwork on other private land is carried out with the agreement of the owner (unless otherwise provided in the Act).
<b>101. Recovery of Cost of Roadwork</b>	
101.1	Where roadwork has been carried by agreement, the power pursuant to Section 213(1) of the Act to recover the whole of the cost or an agreed contribution determined by the Delegate under the terms of the agreement.
101.2	Where roadwork has been carried out to repair damage to a road, the power pursuant to Section 213(2) of the Act to recover the cost of carrying out the work, as a debt, from:
101.2.1	the person who caused the damage; or
101.2.2	in the case of damage caused by the bursting, explosion or fusion of any pipe, wire, cable, fitting or other object – the person who is the owner, or who has control of that infrastructure.
101.3	If the Council carries out roadwork on a private road, the power pursuant to Section 213(3) of the Act to recover the cost of the work or a contribution towards the cost of the work determined by the Delegate as a debt from the owner of the private road.
<b>102. Contribution Between Councils where Road is on Boundary Between Council Areas</b>	
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.



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<b>103. Special Provisions for Certain Kinds of Roadwork</b>	
103.1	If the Council changes the level of a road, the duty pursuant to Section 215(1) of the Act to:
103.1.1	ensure that adjoining properties have adequate access to the road; and
103.1.2	construct any retaining walls, embankments or other structures necessary to provide protection required in consequence of the change of level.
103.2	The power pursuant to Section 215(2) of the Act to carry out road work to allow water from a road to drain into adjoining property if, in the Delegate's opinion:
103.2.1	there is no significant risk of damage to the adjoining property; or
103.2.2	the road work does not significantly increase the risk of damage to adjoining property.
103.3	The duty pursuant to Section 215(4) of the Act to give reasonable notice of proposed action to drain water into land under Section 215(2) of the Act to the owner of the land, except in a case of urgency.
<b>104. Power to Order Owner of Private Road to Carry out Specific Roadwork</b>	
104.1	The power pursuant to Section 216(1) of the Act to, by order in writing in accordance with Section 216(2) of the Act to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.
104.2	The duty pursuant to Section 216(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to:
104.2.1	any proposal to make an order; and
104.2.2	if an order is made, any order, under Section 216(1) of the Act.
<b>105. Power to Order Owner of Infrastructure on Road to Carry Out Specified Maintenance or Repair Work.</b>	
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.
<b>106. Power to Require Owner of Adjoining Land to Carry Out Specific Work</b>	
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.



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<b>107. Power to Assign a Name, or Change the Name, of a Road or Public Place</b>	
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: <ul style="list-style-type: none"> <li>107.3.1 give the adjoining council at least 2 months notice of the proposed change; and</li> <li>107.3.2 consider any representations made by the adjoining council in response to that notice.</li> </ul>
107.4	The duty pursuant to Section 219(3) of the Act to: <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul>
107.5	The duty pursuant to Section 219(4) of the Act to give public notice of the assigning or changing of a name under Section 219(1) of the Act.
107.6	The power pursuant to Section 219(5) of the Act to prepare and adopt a policy relating to the assigning of names under Section 219 of the Act.
107.7	The power pursuant to Section 219(6) of the Act to, at any time, alter a policy or substitute a new policy.
107.8	The duty pursuant to Section 219(7) of the Act to publish notice of the adopting or altering of a policy under Section 219 of the Act: <ul style="list-style-type: none"> <li>107.8.1 in the Gazette; and</li> <li>107.8.2 in a newspaper circulating in the area of the council; and</li> <li>107.8.3 on a website determined by the Chief Executive Officer.</li> </ul>
<b>108. Numbering of Premises and Allotments</b>	
108.1	The power pursuant to Section 220(1) of the Act to adopt a numbering system for buildings and allotments adjoining a road.
108.2	The duty pursuant to Section 220(1a) of the Act to assign a number (as part of its primary street address) to all buildings or allotments adjoining a public road created after the commencement of Section 220(1a) of the Act by land division.
108.3	The duty pursuant to Section 220(1b) of the Act to ensure that an assignment under Section 220(1a) of the Act occurs within 30 days after the issue of certificate of title in relation to the relevant land division in accordance with any requirements prescribed by regulations made for the purposes of Section 220(1b) of the Act.
108.4	The power pursuant to Section 220(2) of the Act to, from time to time, alter a numbering system, or substitute a new numbering system, under Section 220 of the Act.
108.5	The duty pursuant to Section 220(3) of the Act to give public notice of the adopting, altering or substituting of a numbering system for a particular road.
108.6	The duty pursuant to Section 220(4) of the Act to notify the Valuer-General of the decision to adopt,

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	alter or substitute a numbering system.
108.7	The power pursuant to Section 220(6) of the Act to request an owner of land to ensure that the appropriate number for the owner's building or allotment is displayed in a form directed or approved by the Delegate.
<b>109. Alteration of Road</b>	
109.1	The power pursuant to Section 221(1) and (2) of the Act to authorise a person (other than the Council or a person acting under some other statutory authority) to make an alteration to a public road, such as: <ul style="list-style-type: none"> <li>109.1.1 altering the construction or arrangement of the road to permit or facilitate access from an adjacent property; or</li> <li>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</li> <li>109.1.3 changing or interfering with the construction, arrangement or materials of the road; or</li> <li>109.1.4 changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings and other objects) associated with the road; or</li> <li>109.1.5 planting a tree or other vegetation on the road, interfering with vegetation on the road or removing vegetation from the road.</li> </ul>
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: <ul style="list-style-type: none"> <li>109.2.1 unduly obstruct the use of the road; or</li> <li>109.2.2 unduly interfere with the construction of the road; or</li> <li>109.2.3 have an adverse effect on road safety.</li> </ul>
109.3	The power pursuant to Section 221(6) of the Act to grant an authorisation under Section 221 of the Act: <ul style="list-style-type: none"> <li>109.3.1 for a particular act or occasion; or</li> <li>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.</li> </ul>
<b>110. Permits for Business Purposes</b>	
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.

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<b>111. Public Consultation</b>	
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.
<b>112. Conditions of Authorisation or Permit</b>	
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.
<b>113. Cancellation of Authorisation or Permit</b>	
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.
<b>114. Register</b>	
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.

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<p><b>115. Trees</b></p>
<p>The power pursuant to Section 232 of the Act to plant vegetation or authorise or permit the planting of vegetation, on a road, only after complying with the following matters (in addition to complying with any other statutory requirement):</p> <p>115.1 giving consideration to whether the vegetation is, on balance, appropriate to the proposed site taking into account -</p> <p>115.1.1 environmental and aesthetic issues; and</p> <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><b>116. Damage</b></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><b>117. Council's Power to Remove Objects etc from Roads</b></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><b>118. Deposit of Rubbish etc</b></p>
<p>118.1 The power pursuant to Section 235(1) of the Act to authorise or permit the following:</p> <p>118.1.1 the deposit of rubbish on a public road or public place; or</p> <p>118.1.2 the deposit of goods, materials, earth, stone, gravel, or any other substance on a public road or public place.</p>

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<b>119. Abandonment of Vehicles and Farm Implements</b>	
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.
<b>120. Removal of Vehicles</b>	
120.1	The duty pursuant to Section 237(4) of the Act to ensure that the owner of the vehicle is notified of the removal of the vehicle:
120.1.1	by written notice in the prescribed form:
120.1.1.1	served on the owner personally; or
120.1.1.2	served on the owner by the use of person-to-person registered post, as soon as practicable after the removal of the vehicle; or
120.1.2	if the owner is unknown or cannot be found – by public notice published in a newspaper circulating generally in the State within 14 days after the removal of the vehicle.
120.2	If the owner of a removed vehicle does not, within 1 month after service or publication of the notice, pay all expenses in connection with the removal, custody and maintenance of the vehicle, and of serving, publishing or posting the notice, and take possession of the vehicle, the power and duty pursuant to Section 237(5) of the Act to, subject to Section 237(6)(b) of the Act, offer the vehicle for sale by public auction or public tender.
120.3	The power pursuant to Section 237(6) of the Act to dispose of the vehicle in such manner as the Delegate thinks fit if:
120.3.1	the vehicle is offered for sale but not sold; or
120.3.2	the Delegate reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle or the costs incidental to removing or holding the vehicle, or those costs combined.
120.4	The duty pursuant to Section 237(7) of the Act, where the vehicle is sold, to apply the proceeds of sale as follows:
120.4.1	firstly, in payment of the costs of and incidental to the sale;
120.4.2	secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vehicle and of the notice served, posted or published under Section 237 of the Act;
120.4.3	thirdly, in payment of the balance to the owner of the vehicle.
120.5	The duty pursuant to Section 237(8) of the Act to make reasonable inquiry to find the owner of the vehicle following sale and, if after that reasonable inquiry, the owner cannot be found, the duty to pay the balance of the proceeds of sale to the Council.
120.6	The duty pursuant to Section 237(9) of the Act to take reasonable steps to return property found in the vehicle, and where the property cannot be returned, the duty to deal with the property as unclaimed goods under the Unclaimed Goods Act 1987 as if the Council were the bailee of those goods.
<b>121. Time Limits for Dealing with Certain Applications</b>	
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

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<p>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><b>122. Registrar-General to Issue Certificate of Title</b></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> <p>122.2.2.1 Deliberately left blank</p> <p>122.2.2.2 any surveys of the land and other materials that the Registrar-General may reasonably require; and</p> <p>122.2.2.3 a fee fixed by the Registrar-General.</p>
<p><b>123. Liability for Injury, Damage or Loss Caused by Certain Trees</b></p>
<p>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).</p>
<p><b>124. Council May Require Bond or Other Security in Certain Circumstances</b></p>
<p>124.1 Subject to Section 245A of the Act, if,</p> <p>124.1.1 a person has approval to carry out development under the Development Act 1993; and</p> <p>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,</p> <p>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.</p>
<p>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.</p>
<p><b>125. Power to Make By-Laws</b></p>
<p>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.</p>

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<b>126. Passing By-Laws</b>	
126.1	If it is proposed that the Council make a by-law, then at least 21 days before the Council resolves to make the by-law, the duty pursuant to Section 249(1) of the Act to:
126.1.1	make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for public inspection, without charge and during ordinary office hours, at the principal office of the Council, and so far as is reasonable practicable on the Internet; and
126.1.2	by notice in a newspaper circulating in the area of the Council:
126.1.2.1	inform the public of the availability of the proposed by-law; and
126.1.2.2	set out the terms of the by-law, or describe in general terms the by-law's nature and effect.
126.2	Before the Council makes a by-law, the duty pursuant to Section 249(4) of the Act to obtain a certificate, in the prescribed form, signed by a legal practitioner certifying that, in the opinion of the legal practitioner:
126.2.1	the Council has power to make the by-law by virtue of a statutory power specified in the certificate; and
126.2.2	the by-law is not in conflict with the Act.
126.3	The duty pursuant to Section 249(5) of the Act to publish a by-law in the <i>Gazette</i> .
126.4	The duty pursuant to Section 249(7) of the Act to publish a notice of the making of a by-law under Section 249 of the Act in a newspaper circulating in the area of the Council.
<b>127. Model By-Laws</b>	
127.1	The duty pursuant to Section 250(5) of the Act to publish the resolution adopting a model by-law or alteration made under Section 250 of the Act in the <i>Gazette</i> .
127.2	The duty pursuant to Section 250(7) of the Act to publish a notice of the adoption of a model by-law or alteration made under Section 250 of the Act in a newspaper circulating in the area of the Council.
<b>128. Register of By-Laws and Certified Copies</b>	
128.1	The duty pursuant to Section 252(1) and (2) to cause a separate register to be kept of all by-laws made or adopted by the Council; such register to include a copy of any code, standard or other document referred to or incorporated in a by-law.
128.2	The duty pursuant to Section 252(3) and (4) of the Act to make available the register of by-laws for inspection or purchase an extract from the register (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.
128.4	The duty pursuant to Section 252(5) of the Act to make available, on payment of a fee fixed by the Council, a certified copy of a by-law of the Council in force at the particular time.
<b>129. Power to Make Orders</b>	
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.



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<b>130. Procedures to be Followed</b>	
130.1	The duty pursuant to Section 255(1) of the Act before taking action to make an order under Part 2 of Chapter 12 (but subject to this Section), to give the person to whom it is proposed that the order be directed a notice in writing:
130.1.1	stating the proposed action, including the terms of the proposed order and the period within which compliance with the order will be required; and
130.1.2	stating the reasons for the proposed action; and
130.1.3	inviting the person to show, within a specified time (being a reasonable period), why the proposed action should not be taken (by making representations to the Delegate).
130.2	If a notice of intention to make an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(2) of the Act to take reasonable steps to serve a copy of the notice on the owner.
130.3	The power pursuant to Section 255(3) of the Act after considering representations made within the time specified under Section 255(1) of the Act:
130.3.1	to make an order in accordance with the terms of the original proposal; or
130.3.2	to make an order with modifications from the terms of the original proposal; or
130.3.3	to determine not to proceed with an order.
130.4	The power pursuant to Section 255(5) of the Act to:
130.4.1	include two or more orders in the same instrument;
130.4.2	direct two or more persons to do something specified in the order jointly.
130.5	The duty pursuant to Section 255(6) of the Act to ensure that the order:
130.5.1	subject to Section 255 of the Act, specifies a reasonable period within which compliance with the order is required; and
130.5.2	states the reasons for the order.
130.6	The duty pursuant to Section 255(7) of the Act to serve an order in accordance with Part 2 of Chapter 14 of the Act on the person to whom it is addressed.
130.7	If an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(8) of the Act to take reasonable steps to serve a copy of the order on the owner.
130.8	The power pursuant to Section 255(11) of the Act at the request or with the agreement of the person to whom an order is directed, to vary the order on the Delegate's own initiative, or to revoke an order if satisfied that it is appropriate to do so.
130.9	If the Delegate, in the circumstances of a particular case, considers:
130.9.1	that an activity constitutes, or is likely to constitute, a threat to life or an immediate threat to public health or public safety; or
130.9.2	that an emergency situation otherwise exists,
	the Delegate has the power pursuant to Section 255(12) of the Act to:
130.9.3	Proceed immediately to make an order under this Section without giving notice under Section 255(1); and
130.9.4	require immediate compliance with an order despite Section 255(6)(a).



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<b>131. Rights of Review</b>	
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.
<b>132. Action on Non-Compliance</b>	
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: <ul style="list-style-type: none"> <li>132.4.1 the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and</li> <li>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.</li> </ul>
<b>133. Councils to Develop Policies</b>	
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: <ul style="list-style-type: none"> <li>132.2.1 prepare a draft of a Policy; and</li> <li>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).</li> </ul>
133.3	The duty pursuant to Section 259(3) of the Act to consider any submission made on a proposed policy in response to an invitation under Section 259(2) of the Act.
133.4	The power pursuant to Section 259(4) of the Act to amend a policy at any time.
133.5	The duty pursuant to Section 259(5) of the Act before adopting an amendment to a policy, to take the steps specified in Section 259(2) and (3) (as if the amendment were a new policy), unless the Council or the Delegate determines the amendment is only of minor significance.
133.6	The duty pursuant to Sections 259(6) and (7) of the Act to make a policy available for inspection (without charge) and purchase (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.
133.7	The duty pursuant to Section 259(8) of the Act in considering whether to make an order under Part 2

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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.	
<b>134. Appointment of Authorised Persons</b>	
134.1	The power, pursuant to Section 260(1) of the Act by instrument in writing, to appoint a person (other than a member of the Council) to be an authorised person.
134.2	The power pursuant to Section 260(2) of the Act to make an appointment of an authorised person subject to such conditions or limitations as the Delegate determines and specified in the instrument of appointment.
134.3	The power and duty pursuant to Section 260(3) of the Act to issue to an authorised person an identity card:
134.3.1	containing a photograph of the authorised person; and
134.3.2	identifying any conditions or limitations imposed under Section 260(2) of the Act.
134.4	The power pursuant to Section 260(5) of the Act to at any time revoke an appointment under Section 260 of the Act, or to vary or revoke a condition or limitation, or impose a further condition or limitation on the appointment.
<b>135. Procedures for Review of Decisions and Requests for Services</b>	
135.00	The power and duty pursuant to Section 270(a1) of the Act and in accordance with Sections 270(a2) and (4a) of the Act, to develop and maintain policies, practices and procedures for dealing with:
135.00.1	any reasonable request for the provision of a service by the Council or for the improvement of a service provided by the Council; and
135.00.2	complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council.
135.0	The power and duty pursuant to Section 270(a2) of the Act to ensure the policies, practices and procedures required under Section 270(a1) of the Act, are directed towards:
135.0.1	dealing with the relevant requests or complaints in a timely, effective and fair way; and
135.0.2	using information gained from the Council's community to improve its services and operations.
135.1	Without limiting Sections 270(a1) and (a2) of the Act, the power and duty pursuant to Section 270(1) of the Act and in accordance with Sections 270(2) and (4a) of the Act, to establish procedures for the review of decisions of:
135.1.1	the Council;
135.1.2	employees of the Council;
135.1.3	other persons acting on behalf of the Council,

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135.2	<p>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):</p> <p>135.2.1 the manner in which an application for review may be made;</p> <p>135.2.2 the assignment of a suitable person to reconsider a decision under review;</p> <p>135.2.3 the matters that must be referred to the Council itself for consideration or further consideration;</p> <p>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;</p> <p>135.2.4 the notification of the progress and outcome of an application for review;</p> <p>135.2.5 the timeframes within which notifications will be made and procedures on a review will be completed.</p>
135.3	<p>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:</p> <p>135.3.1 the application was made by an employee of the Council and relates to an issue concerning his or her employment; or</p> <p>135.3.2 it appears that the application is frivolous or vexatious; or</p> <p>135.3.3 the applicant does not have a sufficient interest in the matter.</p>
135.4	<p>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.</p>
135.5	<p>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.</p>
135.6	<p>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:</p> <p>135.6.1 the number of applications for review made under Section 270; and</p> <p>135.6.2 the kinds of matters to which the applications relate; and</p> <p>135.6.3 the outcome of applications under this Section; and</p> <p>135.6.4 such other matters as may be prescribed by the Regulations.</p>
135.7	<p>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.</p>
<b>136. Mediation, Conciliation and Neutral Evaluation</b>	
136.1	<p>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.</p>
136.2	<p>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.</p>

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<b>136A. Provision of Information to Minister</b>	
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: <ul style="list-style-type: none"> <li>136AA.2.1 the information was given to the Council in confidence; or</li> <li>136AA.2.2 is held on a confidential basis under Chapter 6 Part 4.</li> </ul>
<b>136B. Minister May Refer Investigation of Council to Ombudsman</b>	
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.
<b>136C. Action on a Report</b>	
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.
<b>136D. Deliberately left blank</b>	
136D.1	Deliberately left blank
136D.2	Deliberately left blank
<b>136E. Action on a Report</b>	
136E.1	The power pursuant to Section 275(2) of the Act to make submissions to the Minister.
<b>137. Special Jurisdiction</b>	
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: <ul style="list-style-type: none"> <li>137.1.1 proceedings to try the title of a member to an office;</li> <li>137.1.2 proceedings to try the right of a person to be admitted or restored to an office;</li> <li>137.1.3 proceedings to compel restoration or admission;</li> <li>137.1.4 proceedings to compel the Council to proceed to an election, poll or appointment;</li> <li>137.1.5 proceedings to try the validity of a rate or service charge;</li> <li>137.1.6 proceedings to try the validity of a by-law;</li> <li>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.</li> </ul>
<b>138. Service of Documents by Councils etc</b>	
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.
<b>139. Service of Documents on Councils</b>	
139.1	The power pursuant to Section 280(1)(c) and (d) of the Act to determine the means available for

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service of documents on the Council and the power to accept or authorise a person to accept documents on Council's behalf.	
<b>140. Recovery of Amounts from Lessees or Licensees</b>	
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.
<b>141. Ability of Occupiers to Carry out Works</b>	
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.
<b>142. Power to Enter and Occupy Land in Connection with an Activity</b>	
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: <ul style="list-style-type: none"> <li>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</li> <li>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</li> <li>142.2.3 within 6 months of ceasing to occupy the land: <ul style="list-style-type: none"> <li>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</li> <li>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;</li> </ul> </li> </ul>
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.
<b>143. Reclamation of Land</b>	
143.1	Where the Council raises, fills in, improves, drains, levels or reclaims land in the area of the Council, the power pursuant to Section 296(1) of the Act to recover the whole or a proportion of the cost of the work from the owners of adjacent or adjoining rateable land improved by the performance of the work in proportion to additional value the work has added to the land.
143.2	The power pursuant to Section 296 (2) of the Act to appoint a valuer to determine the additional value added to the land by Council's activities, under Section 296(1) of the Act.
143.3	The duty pursuant to Section 296(3) of the Act to give notice of a valuation to the relevant owner under this Section of the Act.
143.4	The duty pursuant to Section 296(5) of the Act to conduct an objection or review in the same manner as an objection to or appeal against a valuation under Division 6 of Part 1, Chapter 10 of the Act.

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<b>144. Property in Rubbish</b>
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.
<b>145. Power of Council to Act in Emergency</b>
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.
<b>146. Deliberately left blank</b>
<b>147. Costs of Advertisements</b>
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.
<b>148. Whistleblowing</b>
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.
<b>148A Use of Facilities</b>
148A.1 The power pursuant to Clause 13 of Schedule 1A of the Act to arrange with the Authority for the Authority to make use of the services of the staff, equipment or facilities of the Council.
<b>149. Deliberately left blank</b>
<b>150. Deliberately left blank</b>
<b>151. Deliberately left blank</b>
<b>151A Preparation of Stormwater Management Plans by Councils</b>
151A.1 The power pursuant to Clause 17(1) of Schedule 1A of the Act to prepare a stormwater management plan which: <ul style="list-style-type: none"> <li>(a) complies with the guidelines issued by the Authority; and</li> <li>(b) is prepared in consultation with the relevant regional NRM board or boards; and</li> <li>(c) is prepared in accordance with any other procedures or requirements prescribed by the Regulations.</li> </ul>
<b>151B Authority May Issue Order</b>
151B.1 The power pursuant to Clause 20(5) of Schedule 1A of the Act, before the Authority takes any action under Clause 20(4) of Schedule 1A of the Act, to make submissions to the Authority in relation to the matter.
151B.2 The power pursuant to Clause 20(6) of Schedule 1A of the Act, if costs and expenses are to be recovered from the Council as a debt, to enter into an agreement with the Authority for the debt to be repaid over a period of time, subject to the payment by the Council of interest on the debt (and the power to agree the rate with the Authority).

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<b>152. Deliberately left blank</b>
<b>153. Deliberately left blank</b>
<b>154. Special Powers in Relation to Land</b>
<p>154.1 The power pursuant to Clause 24(1) of Schedule 1A of the Act and in accordance with Clause 24(2) of Schedule 1A of the Act, for the purpose of taking action consistent with the provisions of an approved stormwater management plan or a condition imposed on approval of a stormwater management plan or action required by an order under Clause 20 of Schedule 1 of the Act, to:</p> <ul style="list-style-type: none"> <li>(a) enter and occupy any land; and</li> <li>(b) construct, maintain or remove any infrastructure; and</li> <li>(c) excavate any land; and</li> <li>(d) inspect, examine or survey any land and for that purpose: <ul style="list-style-type: none"> <li>(i) fix posts, stakes or other markers on the land; and</li> <li>(ii) dig trenches or sink test holes in the land to determine the nature of the top soil and underlying strata; and</li> <li>(iii) remove samples for analysis.</li> </ul> </li> <li>(e) alter water table levels, stop or reduce the flow of water in a watercourse, divert water flowing in a watercourse to another watercourse or to a lake or control the flow of water in any other manner; and</li> <li>(f) hold any water in a watercourse or lake or by any other means; and</li> <li>(g) divert water to an underground aquifer, dispose of water to a lake, underground aquifer or the sea, or deal with water in any other manner; and</li> <li>(h) deepen, widen or change the course of a watercourse, deepen or widen a lake or take action to remove any obstruction to the flow of water; and</li> <li>(i) undertake any other form of work (including work undertaken for the purposes of stormwater management or flood mitigation); and</li> <li>(j) undertake any testing, monitoring or evaluation; and</li> <li>(k) undertake any other activity of a prescribed kind.</li> </ul>
<p>154.2 The power pursuant to Clauses 24(2)(b) and 25 of Schedule 1A of the Act to acquire an easement or other appropriate interest over the relevant land by agreement with the owner or in accordance with the Land Acquisition Act 1969 and any other applicable laws.</p>
<b>155. Entry and Occupation of Land Other Than Council Land</b>
<p>155.1 The power pursuant to Clause 25(2) of Schedule 1A of the Act, subject to Clause 25(3) of Schedule 1A of the Act, to give reasonable notice of an intention to enter, or to enter and occupy, land in accordance with Clause 24 of Schedule 1A of the Act to the occupier of the land.</p>
<p>155.2 The power pursuant to Clause 25(3)(b) of Schedule 1A of the Act to, in an emergency, give such notice (if any) as the delegate considers is reasonable in the circumstances.</p>
<b>156. Vesting of Infrastructure, etc</b>
<p>156.1 The power pursuant to Clause 26(3) of Schedule 1A of the Act to, before the Minister publishes a notice vesting the care, control and management of infrastructure or land in the Council under Clauses 26(1) or (2) of Schedule 1A of the Act make submissions to the Minister in relation to the proposed notice.</p>



INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999

**SCHEDULE OF CONDITIONS**

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

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





## 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**

<b>1. Direction as to installation etc of traffic control devices</b>
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.
<b>2. Action to deal with false devices or hazards to traffic</b>
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.



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<b>3. Notice of Removal of Vehicle and Disposal of Vehicle if Unclaimed</b>	
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	<p>The duty pursuant to Section 40P(5) of the Act to apply the proceeds of the sale of a vehicle as follows:</p> <p>3.3.1 firstly, in payment of the costs of and incidental to the sale;</p> <p>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</p> <p>3.3.3 thirdly, in payment of the balance to the owner of the vehicle.</p>
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.
<b>3A. Council May Determine That Ticket for Parking be Obtained Without Fee</b>	
3A.1	The power pursuant to Section 86 of the Act, if the Council has installed, or determined that it will install, permissive parking signs to apply to a length of road or area, to (in addition to any other action the Council may be empowered to take by or under the Act):



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<p>3A.1.1 determine that a ticket must be obtained for parking in the length of road or the area through the operation of parking ticket-vending machines installed or to be installed in or near the length of road or area without payment of a fee; or</p> <p>3A.1.2 vary or revoke a determination made under Section 86 of the Act.</p>
<b>4. Compensation Orders for Damage to Road Infrastructure</b>
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.
<b>4A. Assessment of Compensation</b>
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.
<b>4B. Service of Certificates</b>
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.



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<b>5. Exemptions</b>
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| <p>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.</p> |
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<b><u>DELEGATIONS UNDER THE ROAD TRAFFIC (MISCELLANEOUS) REGULATIONS 2014</u></b>	
<b>6. Event Management Plan</b>	
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.



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<b><u>DELEGATIONS UNDER THE ROAD TRAFFIC (ROAD RULES – ANCILLARY AND MISCELLANEOUS PROVISIONS) REGULATIONS 2014</u></b>	
<b>7. Permit Zones</b>	
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.
<b>8. Parking and Parking Ticket-Vending Machines or Parking Meters</b>	
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.



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**SCHEDULE OF CONDITIONS**

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

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



## APPENDIX [ 28 ]

### **INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886**

#### **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**

<b>1. Lands granted prior to the day on which this Act comes into operation may be brought into operation under this Act</b>
The power pursuant to Section 27 of the Real Property Act 1886 ( <b>the Act</b> ) and in accordance with Sections 27, 28 and 29 of the Act to, as to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts (whether such land shall constitute the entire or only part of the land included in any land grant), to apply to the Registrar-General in the form of Schedule 2 to the Act, or in a form to the like effect, to bring the said land under the provisions of the Act where:
the Council claims to be the person in whom the fee simple is vested either at law or in equity;
the Council has power to appoint or dispose of the fee simple, at law or in equity and the application is made for the purpose of carrying such power into effect.
The power pursuant to Section 27(a) of the Act, where the Council claims or appears to be beneficially entitled to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts, whether such land shall constitute the entire or only part of the land included in any land grant, to consent to an application to bring the said land under the provisions of the Act.
The power pursuant to Section 27(c) of the Act, where the Council claims or appears to be beneficially entitled in reversion or remainder to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts, whether such land shall constitute the entire or only part of the land included in any land grant, to consent to an application to bring the said land under the provisions of the Act.





<b>2. Undivided shares and mortgaged land may not be brought under Act except upon conditions</b>
The power pursuant to Section 28 of the Act to join in the application with a view to bringing the entirety under the provisions of the Act, where,
the Council appears to be entitled to an undivided share of the land; or
the Council is the mortgagee of the land.
<b>3. Caveat against bringing land under Act</b>
The power pursuant to and in accordance with Section 39 of the Act, where the Council has or claims an estate or interest in any land sought to be brought under the provisions of the Act, to, within the time by the Registrar-General or under any order of the Court for that purpose limited, lodge a caveat in the Lands Titles Registration Office, in the form of Schedule 3 to the Act, forbidding the bringing of such land under the provisions of the Act.
<b>4. Applicant may withdraw his application</b>
The power pursuant to Section 41 of the Act, to:
withdraw the Council's application at any time prior to the issuing of the certificate;
request in writing signed by the Delegate the return to the Council or the person notified in the application as having a lien thereon of all documents of title deposited in support of the application.
<b>5. Proceedings under Caveat</b>
The power pursuant to Section 44 of the Act, whenever a caveat shall have been lodged in the Lands Titles Registration Office forbidding land to be brought under the provisions of the Act, to bring like proceedings as provided for in the Act for the removal of caveats, in the case of land already under the provisions of the Act, for removal of the caveat, and for the recovery of costs and damages from the caveator, in case the caveat shall have been lodged by the caveator wrongfully and without reasonable cause.
<b>6. Deliberately left blank</b>
<b>6A. Priority of instruments</b>
6A.1 The power pursuant to Section 56(5) of the Act and in accordance with Section 56(6) of the Act to apply to the Registrar-General, in the appropriate form, to vary the order of priority between 2 or more registered mortgages or encumbrances.
6A.2 The power pursuant to Section 56(6)(a) of the Act to consent to an application under Section 56(5) of the Act where the Council is the holder of a mortgage or



**INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886  
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encumbrance that is to have its order of priority varied.	
6A.3	The power pursuant to Section 56(6)(b) of the Act, if a registered mortgage or encumbrance is, by virtue of the proposed variation of order of priority, to be postponed to a mortgage or encumbrance over which it has had priority, to consent where the Council is the holder of the mortgage or encumbrance that is to be postponed.
<b>7.</b>	<b>Certificates in lieu of surrendered certificates</b>
The power pursuant to Section 78 of the Act where the Council is a registered proprietor holding land under 1 or more certificates, to apply to the Registrar-General for the issue of one certificate for the whole of such land, or several certificates each comprising portion of such land.	
<b>8.</b>	<b>Deliberately left blank</b>
<b>9.</b>	<b>Application for Certificate based on possession</b>
The power pursuant to Section 80A of the Act and in accordance with Section 80B of the Act, where the Council would have obtained a title by possession to any land which is subject to the Act if that land had not been subject to the Act, to apply to the Registrar-General for the issue to the Council of a certificate of title to that land.	
<b>10.</b>	<b>Caveats</b>
The power pursuant to and in accordance with Section 80F of the Act, where the Council claims an estate or interest in land to which an application under Part 7A relates, to lodge a caveat with the Registrar-General forbidding the granting of the application.	
<b>Variation and Extinguishment of Easements</b>	
The power pursuant to Section 90B(1) of the Act, and subject to Section 90B of the Act, where the Council is the proprietor of the dominant or servient land, to make application (in a form approved by the Registrar-General) to:	
vary the position of, or extend or reduce the extent of, an easement over servient land; or	
vary an easement by extending the appurtenance of the easement to other land owned by the proprietor of the dominant land; or	
extinguish an easement.	
The power pursuant to Section 90B(2) of the Act, where the Council is the proprietor of the dominant land or servient land, or has, or claims to have, an estate or interest in the dominant or servient land, to give written consent to the Registrar-General acting under Section 90B(1) of the Act.	



<b>Easement subject to existing mortgage etc</b>
The power pursuant to Section 90F of the Act, where an easement is created over servient land and the dominant land or any part of it is subject to a mortgage or encumbrance held by the Council, to consent to the easement also being subject to the mortgage or encumbrance and endorse the Council's consent on the instrument granting the easement.
<b>Person now holding under lease or agreement may surrender</b>
The power pursuant to Section 92 of the Act, where the Council holds Crown lands under a lease or agreement for sale granted or made by or on behalf of the Crown, to, subject to the approval of the Minister of Lands, surrender the lease or agreement for a Crown lease of the land remaining subject to such lease or agreement, upon all the same terms as shall have been applicable to such land prior to the surrender but so that every person having any estate or interest in the surrendered land shall concur in the surrender.
The power pursuant to Section 92 of the Act where a person holding any Crown lands under a lease or agreement for sale granted or made by or on behalf of the Crown and the lease or agreement for a Crown lease of the land remaining subject to such lease or agreement is to be surrendered, to as a person having an estate or interest in the surrendered land, concur in the surrender.
<b>Execution and registration of Crown Lease</b>
The power pursuant to Section 93(1) of the Act, where the Council is party to a Crown lease, to execute two copies of the lease, one of which must be lodged in the Lands Titles Registration Office for inclusion or recording in the Register of Crown Leases and the other of which must be delivered to the lessee.
The power pursuant to Section 93(3a) of the Act to transfer, mortgage and deal with a Crown lease registered under Section 93(3) of the Act as if it were a lease registered in the Register Book (provided that an entry in respect of a lease that would ordinarily be made in the Register Book must instead be made in the Register of Crown Leases).
<b>Transfers</b>
The power pursuant to and in accordance with Section 96 of the Act, where the Council is the transferor or transferee of land intended to be transferred or a right of way or other easement intended to be created or transferred, to execute a transfer in the appropriate form to be lodged for registration in the Lands Titles Registration Office.
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<b>Creation of easements by reservation</b>
The power pursuant to Section 96AA of the Act, to create an easement on the transfer under the Act of an estate of freehold or the granting of an estate of leasehold under



**INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886  
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the Act by reservation of the easement to the transferor or lessor in the instrument of transfer or the lease.
<b>Deliberately left blank</b>
<b>Deliberately left blank</b>
<b>Sale under Writ of fieri facias or Decree, Warrant or Order of Court</b>
The power pursuant to Section 105 of the Act in relation to a writ or warrant of execution against land, or of a decree or order (other than an order for sale for non-payment of rates) affecting land issued out of or made by the Court, or any Court of insolvency or other Court of competent jurisdiction, to sign a statement to accompany such a writ, warrant, decree or order where the Council is a party interested, specifying the land sought to be affected.
<b>Issue of certificate where land is vested by operation of law</b>
The power pursuant to Section 115A of the Act, in relation to an estate or interest in land that has become vested in the Council, to make an application to the Registrar-General, to:
in the case of land under the provisions of the Act – register the Council as the proprietor of that estate or interest in the land; or
in the case of land not under the provisions of the Act – bring the land under the provisions of the Act and register the Council as the proprietor of that estate or interest in the land.
<b>Lands, now leased</b>
The power pursuant to Section 116 of the Act, when any land is intended to be leased for a life or lives, or for any term of years exceeding one year, to execute a lease in the appropriate form, in accordance with Section 117 of the Act.
<b>Leases not to bind non-consenting mortgagees or encumbrancees</b>
The power pursuant to Section 118 of the Act, to consent in writing to a lease of mortgaged or encumbered land prior to the lease being registered where the Council is the mortgagee or encumbrancee of the land.
<b>Standard terms and conditions of lease</b>
The power pursuant to Section 119A(1) of the Act to deposit with the Registrar-General for filing in the Lands Titles Registration Office a document containing terms and conditions for incorporation as standard terms and conditions in leases under Section 119A of the Act.
<b>Lease may be surrendered by separate instrument</b>
The power pursuant to Section 120 of the Act to surrender a registered lease by instrument in the appropriate form, executed by the lessee and lessor.



### **Registrar-General may record surrender**

The power pursuant to Section 121 of the Act, where the lessee has given written notice to the Council as lessor or the Council's agent of his or her intention to give up possession of land comprised in a registered lease, to make application to the Registrar-General in the appropriate form and producing such evidence as the Registrar-General may require that the lessee has abandoned occupation of the land comprised in the lease, to make a record in the Register Book.

### **Surrender where lease subject to mortgage or under lease**

The power pursuant to Section 123 of the Act, where the Council holds a mortgage or encumbrance over a lease or over land, to provide written consent to the surrender of the lease.

### **Registrar-General to note particulars of re-entry in Register Book**

The power pursuant to Section 126 of the Act, where the Council is the lessor of land, to provide proof to the Registrar-General of the Council's re-entry of the land.

### **Mortgage of land**

The power pursuant to Section 128(1) of the Act if land is to be charged or made security in favour of a person to execute a mortgage.

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The power pursuant to Section 128(2) of the Act to lodge a mortgage for registration in the Lands Titles Registration Office in the appropriate form.

The power pursuant to Section 128(4) of the Act where the Council is a mortgagee in relation to a mortgage lodged for registration in the Lands Titles Registration Office to provide certification under Section 273(1) of the Act.

### **28A Encumbrance of land**

The power pursuant to Section 128B(1) of the Act if land is to be charged with or made security for the payment of an annuity, rent charge or sum of money in favour of a person, to execute an encumbrance in the appropriate form.

### **Standard terms and conditions of Mortgage or Encumbrance**

The power pursuant to Section 129A(1) of the Act to deposit for filing in the Lands Titles Registration Office a document containing terms and conditions for incorporation as standard terms and conditions in mortgages or encumbrances under Section 129A of the Act.

### **Nature of Mortgage and Encumbrance and procedure in case of default**

The power pursuant to Section 132 of the Act, where the Council holds a mortgage or



encumbrance and default is made in the payment of the principal sum, interest, annuity, or rent charge, or any part thereof thereby secured, or in the observance of any covenant therein expressed or implied and such default be continued for the space of one month, or for such other period of time as may therein for that purpose be expressly limited, to give to the mortgagor or encumbrancer notice in writing to pay the money then due or owing on such mortgage or encumbrance, or to observe the covenants therein expressed or implied, as the case may be and that sale will be effected if such default be continued, and to leave such notice on the mortgaged or encumbered land, or at the usual or last known place of abode in South Australia of the mortgagor or encumbrancer.

#### **Power of sale**

The power pursuant to and in accordance with Section 133 of the Act, if such default continues for the further space of one month from the date of such notice or for such period as may in such instrument be for that purpose limited, to sell the land so mortgaged or encumbered, or any part thereof and all the estate and interest therein of the mortgagor or encumbrancer and either altogether or in lots, by public auction or by private contract or by both such modes of sale, and subject to such conditions as the Delegate may think fit, and to buy in and resell the same and to make and execute all such instruments as shall be necessary for carrying the sale thereof into effect.

#### **Power of Mortgagee to enter, take possession, distrain, let or bring action for recovery of land**

The power pursuant to Section 137 of the Act, where the Council is a mortgagee or encumbrancee and there is a default in payment of the principal sum, interest, annuity, or rent charge secured by that mortgage or encumbrance, to:

enter into possession of the mortgaged or encumbered land and receive the rents and profits thereof; or

distrain upon the occupier or tenant of the land; or

from time to time let the said land for any term not exceeding one year; or

bring an action for recovery of the land either before or after entering into the receipt of the rent and profits or making any distress.

#### **Power of Mortgagee to distrain on tenant or occupier for arrears not exceeding the amount of rent due**

The power pursuant to and in accordance with Section 138 of the Act, where the Council is a mortgagee or encumbrancee and the principal sum, interest, annuity, or rent charge has been in arrears for 21 days and a further 7 days have elapsed from the date of application for the payment thereof to the occupier or tenant, to enter upon the mortgaged or encumbered land and distrain upon the goods and chattels of the occupier or tenant for such arrears to an amount not exceeding the rent then due from such occupier or tenant to the Council, and to dispose of the goods and chattels so distrained upon in like manner as landlords may do in ordinary distresses for rent, and out of the proceeds to retain the moneys distrained for, and all costs and expenses occasioned by such distress and sale.



<b>Application to Mortgagee to Registrar-General for foreclosure</b>
The power pursuant to Section 140(1) of the Act, and in accordance with Section 140(2) of the Act, when default has been made for six months in the payment of the principal or interest secured by any mortgage held by the Council, to make application, in writing, to the Registrar-General for an order for foreclosure.
<b>Provision for case where Mortgagee or Encumbrancee refuses to join in proceedings on default</b>
The power pursuant to Section 142A(1) of the Act, where the Council and one or more other persons are registered as mortgagees or encumbrances under the same mortgage or encumbrance, and default has been made in payment of any money due under the mortgage or encumbrance or in the performance of any covenant in the said mortgage or encumbrance expressed or implied as entitles the mortgagees or encumbrances to exercise any of their rights or remedies under the Act or under the mortgage or encumbrance, and any such mortgagee or encumbrance fails or refuses to join in giving any notice, making any application or doing any other act or thing for the purpose of enforcing any of the said rights or remedies, to apply to the Court by originating summons to:
appoint the Council or any other person to exercise on behalf of the mortgagees or encumbrances such of the said rights or remedies as the Court thinks proper;
give any directions as to the mode of exercising the said rights or remedies and as to any other matters incidental thereto.
<b>Discharge of Mortgages and Encumbrances</b>
The power pursuant to and in accordance with Section 143(1) of the Act to wholly or partially discharge, by instrument in the appropriate form and executed by the Delegate, a mortgage or encumbrance held by the Council.
<b>Partial discharge of Mortgage or Encumbrance on Grant of Easement</b>
The power pursuant to Section 144 of the Act, where an easement is granted over land that is subject to a mortgage or an encumbrance and the Council is the mortgagee or encumbrancee, to endorse the Council's consent to the easement on the instrument granting the easement.
<b>Deliberately left blank</b>
<b>Transfer of Mortgage Lease and Encumbrance</b>
The power pursuant to Section 150 of the Act to transfer a registered mortgage, lease or encumbrance by execution of a transfer in the appropriate form.
<b>Renewal or extension of Mortgage etc</b>
The power pursuant to Section 153(1) of the Act and in accordance with Sections 153(1) and (2) of the Act to renew or extend a mortgage, encumbrance or lease by





registration of an instrument in the appropriate form.	
<b>40AA Requirements for renewal or extension of mortgage</b>	
The power pursuant to Section 153A(1) of the Act, in relation to an instrument lodged for registration in the Lands Titles Registration Office renewing or extending a mortgage, to provide certification required under Section 273(1) of the Act.	
<b>40A Person who intends to lodge instrument may lodge priority notice</b>	
40A.1	The power pursuant to Section 154A(1) of the Act to, where the Council intends to lodge an instrument, on payment of the prescribed fee, lodge in the Lands Titles Registration Office a notice (a <b>priority notice</b> ), in accordance with Sections 154A(2), (3), (4) and (9) of the Act, for the purpose of giving priority to 1 or more instruments relevant to the same conveyancing transaction.
40A.2	The power pursuant to Section 154A(6) of the Act to, if a priority notice is lodged in the Lands Titles Registration Office in relation to land, lodge a further priority notice in relation to the same land.
<b>40B Effect of priority notice</b>	
40B.1	The power pursuant to Section 154B(2)(b) of the Act to, where a priority notice lodged by the Council is in force in relation to land, provide written consent to the Registrar-General to register, record or give effect to an instrument in relation to the land.
40B.2	The power pursuant to Section 154B(2)(v) of the Act, where a priority notice is in force in relation to land, to make an application under the Act where the Council is a person to whom land has been transmitted for registration as proprietor of the land.
40B.3	The power pursuant to Section 154B(2)(va) of the Act, where a priority notice is in force in relation to land, to make an application under the Act where the Council is a surviving joint proprietor to have the death of a joint proprietor recorded in the Register Book.
<b>40C Withdrawal of priority notice</b>	
40C.1	The power pursuant to Section 154E of the Act to withdraw a priority notice lodged by the Council by lodging in the Lands Titles Registration Office a notice of withdrawal in the appropriate form.
<b>40D Cancellation of priority notice by Registrar-General</b>	
40D.1	The power pursuant to Section 154F(1) of the Act where the Council is a person with an interest in land to which a priority notice is in force, to make application to the Registrar-General to cancel the notice on the basis that the priority notice purports to protect the priority of an instrument that is unlikely to be registered or recorded within 90 days of the day on which the notice was lodged.





40D.2	The power pursuant to Section 154F(2) of the Act, where the Registrar-General gives written notice to the Council as the person who lodged a priority notice, of an application under Section 154F(1) to cancel the priority notice, to provide written submissions in response to the application within a specified period.
<b>40E Cessation of priority notice</b>	
40E.1	The power pursuant to Section 154G(6) of the Act, where the Council has lodged a priority notice, to make application to the Registrar-General to extend the duration of the notice for 30 days.
<b>Disclaimers</b>	
The power pursuant to Section 169(1) of the Act, where the Council is registered as proprietor of an estate or interest in land, to advise the Registrar-General in writing that the registration occurred without the Council's consent.	
The power pursuant to Section 169(2a) of the Act to lodge with the Registrar-General a notice of objection to the registration of the instrument of disclaimer.	
The power pursuant to Section 169(6) of the Act, where the Council is a disclaimant who has received a notice under Section 169(4)(b) of the Act, to apply to the Court for an order that the Registrar-General take such action as is necessary to give effect to the disclaimer.	
<b>Bankruptcy or assignment of lessee</b>	
The power pursuant to Section 173(a) of the Act where the registered proprietor of a lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make, a statutory assignment, and if the lease is not mortgaged or encumbered under the Act, to apply to the Registrar-General in writing as the lessor being a lessor in possession of a statement signed by the Official Receiver or by the trustee under bankruptcy or the assignment, certifying his or her refusal to accept the lease, to make a record in the Register Book of the refusal.	
The power pursuant to Section 173(b) of the Act and in accordance with Section 173(c) of the Act, where the Council is the mortgagee or encumbrancee of a lease and the registered proprietor of the lease has heretofore or shall hereafter become bankrupt or has heretofore made or shall hereafter make, a statutory assignment to:	
apply to the Registrar-General in writing, accompanied by a statement in writing, signed by the Official Receiver or the trustee under such bankruptcy or assignment certifying his refusal to accept such lease to enter in the Register Book a note of such refusal.	
apply to the Registrar-General with proof that the Official Receiver has neglected or refused to certify such refusal or to become registered as proprietor of such lease within one month after being thereunto required by notice in writing given to him by the Council to enter in the	



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Register Book a note of such refusal or neglect.
The power pursuant to Section 173(c) of the Act, where the Council is the mortgagee or encumbrance of a lease and the registered proprietor of the lease has heretofore made or shall hereafter make, a statutory assignment to give fourteen days' notice in writing of the Council's intended application to every subsequent mortgagee or encumbrancee of the lease, or obtain their written consent.
The power pursuant to Section 173(c) of the Act where the Council is a subsequent mortgagee or encumbrancee of a lease and the registered proprietor of the lease has heretofore or shall hereafter become bankrupt or has heretofore made or shall hereafter make a statutory assignment, to consent in writing to an application to the Registrar-General by a mortgagee or encumbrance to enter in the Register Book a note of the refusal or neglect of the Official Receiver or trustee under bankruptcy or assignment to accept such lease.
The power pursuant to Section 173(d) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make, a statutory assignment to:
require the Official Receiver or the trustee under the bankruptcy or assignment by notice in writing to become registered as the proprietor of the lease;
require the mortgagees or encumbrancees (if any) of the lease by notice in writing to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained.
The power pursuant to Section 173(d) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make a statutory assignment, and the Official Receiver or the trustee under the bankruptcy or assignment certifies his refusal to accept the lease, or shall neglect or refuse to become registered as proprietor of the lease, within, one month after having been thereunto required by notice in writing given to him by the Council, and the mortgagees or encumbrancees (if any) of the lease shall neglect or refuse to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained within the period of two months after having been thereunto required by notice in writing given to them by the Council, to apply to the Registrar-General in writing to enter in the Register Book a note of such neglect or refusal.
<b>Application to be made in such case</b>
The power pursuant to Section 176 of the Act where the Council is an executor before dealing with such estate or interest, make application in writing to the Registrar-General to be registered as the proprietor.
<b>Proceedings when executor etc refuse to transfer</b>
The power pursuant to Section 181 of the Act, whenever an executor, or administrator,



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or the Public Trustee, is registered as proprietor of any land, and refuses, or, after tender of a transfer, unnecessarily delays to transfer such land to the Council where the Council claims to be entitled to the land, to, apply to the Court for an order that the executor, administrator, or Public Trustee shall transfer the said land to the Council.
<b>Registration of survivor of joint proprietors, and of remainder-man entitled to estate in possession</b>
The power pursuant to Section 188 of the Act, upon the death of any person registered together with any other person as joint proprietor of any estate or interest in land, or when the life estate in respect of which any certificate has been issued has determined, and the Council has become vested in possession, or the Council has become entitled to the land for an estate in fee-simple in possession, to apply to the Registrar-General to make an entry thereof in the Register Book, that the Council is the registered proprietor of the estate or interest to which the Council is entitled.
<b>Caveats</b>
The power pursuant to and in accordance with Section 191 of the Act, where the Council is the settlor of land, beneficiary claiming under a will or settlement, or claiming to be interested at law or in equity whether under an agreement, or under an unregistered instrument or otherwise howsoever in any land to, lodge a caveat in the Lands Titles Registration Office.
The power pursuant to Section 191(d) of the Act, where the Council is the registered proprietor or other person claiming estate or interest in the land, to, by summons, call on any caveator, including the Registrar-General, to attend before the Court to show cause why the caveat should not be removed.
The power pursuant to and in accordance with Section 191(e) of the Act except when the caveat is lodged by a settlor, or by a beneficiary under a will or settlement, to make application in writing to the Registrar-General to remove the caveat.
The power pursuant to Section 191(fa) of the Act, where the Council is a caveator, to bring an action in the Court to establish the validity of the claim on which the caveat is based.
The power pursuant to Section 191(g) of the Act to apply to the court to extend the period of 21 days until an action under Section 191(fa) is determined or for any other period.
The power pursuant to Section 191(h) of the Act, to, by notice in writing to the Registrar-General, withdraw the Council's caveat at any time.
The power pursuant to Section 191(k) of the Act to seek the permission of the Court to lodge a further caveat relating to the same matter.
<b>Ejectment</b>
The power pursuant to Section 192 of the Act, and in accordance with Section 193 of the Act, where the Council is:



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the registered proprietor of a freehold estate in possession;
the registered mortgagee or encumbrancee where the person in possession of land is a mortgagor or encumbrancer in default or a person claiming under such mortgagor or encumbrancer;
the lessor with power to re-enter where rent is in arrears for three months; or
the lessor where a legal notice to quit has been given or the lease has become forfeited or the term of the lease has expired,
to cause any person in possession of that land to be summoned to appear before the Court to show cause why the person summoned should not give up possession to the Council.
<b>Persons claiming may, before taking proceedings, apply to the Registrar-General for compensation</b>
The power pursuant to and in accordance with Section 210 of the Act, where the Council is sustaining loss or damage in any case in which the Council shall be entitled to institute proceedings to recover compensation against the Registrar-General as nominal defendant, to, before commencing such proceedings, make application in writing to the Registrar-General, for compensation, supported by affidavit or declaration.
<b>48A Reviews</b>
48A.1 The power pursuant to Section 221(1) of the Act, if the Delegate, is dissatisfied with a decision of the Registrar-General in relation to an application by the Council:
48A.1.1 to have an instrument registered or recorded; or
48A.1.2 to have a foreclosure order issued; or
48A.1.3 to have the Registrar-General do or perform an act or duty under the Act,
to seek a review of the decision by the Tribunal.
48A.1A The power pursuant to Section 221(1a) of the Act, if the Delegate is dissatisfied with a decision of the Registrar-General to cancel the registration of a mortgage under Section 147 of the Act, to seek a review of the decision by the Tribunal.
48A.2 The power pursuant to Section 221(2) of the Act, if the Registrar-General decides under Section 154A(12) of the Act that the Council is a vexatious lodger of priority notices, to seek a review of the decision by the Tribunal.
48A.3 The power pursuant to Section 221(3) of the Act, if the Registrar-General rejects a priority notice lodged by the Council where the Council is a person in relation to whom a determination has been made under Section 154A(12) of



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	the Act, to seek a review by the Tribunal of the decision to reject the notice.
48A.4	The power pursuant to Section 221(4) of the Act, if the Registrar-General refuses an application by the Council under Section 154F of the Act for the cancellation of a priority notice, to seek a review by the Tribunal of the decision to refuse to cancel the notice.
48A.5	The power pursuant to Section 221(5) of the Act, if the Registrar-General cancels a priority notice under Section 154F of the Act and the Council is affected by the cancellation to seek a review by the Tribunal of the decision to cancel the notice.
48A.6	The power pursuant to Section 221(9) of the Act, if the reasons of the Registrar-General are not given in writing at the time the Council receives notice of the decision, to within 21 days of receiving notice of the decision, require the Registrar-General to state the reasons in writing.
48A.7	The power pursuant to Section 221(10) of the Act, to make an application to the Tribunal for any 1 or more of the following orders:
48A.7.1	an order prohibiting a person from lodging a priority notice in the Lands Titles Registration Office;
48A.7.2	an interim order extending the duration of a priority notice until the determination of the application or until a date specified by the Tribunal or until further order;
48A.7.3	an interim order preventing the Registrar-General from registering or recording a specified instrument until the determination of the application.
<b>Applications for amendment</b>	
The power pursuant to and in accordance with Section 223A(1) of the Act, and subject to Section 223A(3) of the Act, where the Council is the registered proprietor of land, to apply to have the certificate amended if:	
the boundaries, area, or position of the land described in the certificate differ from the boundaries, area or position of the land actually and bona fide occupied by it as being the land included in the certificate; or	
the description of the land in the certificate is erroneous or imperfect on the face of it.	
The power pursuant to Section 223A(2) of the Act, and subject to Section 223A(3) of the Act, where the Council is the registered proprietor of land, to apply to have the certificate of any other registered proprietor amended if any of the land described in the Council's certificate, and actually and bona fide occupied by the Council as being the land included in the certificate, is, by reason of any error in survey or in any misdescription, included in the certificate of the other registered proprietor.	



<b>Caveats</b>
The power pursuant to Section 223D(1) of the Act and in accordance with Section 223D(2) of the Act, where the Council claims any estate or interest in any land in respect of which an application under Part 19A of the Act is made, to at any time before the application is granted lodge a caveat in the Lands Titles Registration Office forbidding the granting of the application.
<b>Rectification by consent</b>
The power pursuant to Section 223J of the Act to consent to the Registrar-General making any correction or amendment to any certificate of title for the purpose of reconciling the boundaries shown in the certificate with the boundaries of the land occupied.
<b>Application for Division of Land</b>
The power pursuant to Section 223LD of the Act and in accordance with Section 223LD(2), (3) and (11) of the Act, where the Council is the registered proprietor of land, to make application for the division of land to the Registrar-General.
The power pursuant to Section 223LD(8) of the Act and subject to Section 223LD(9) of the Act to consent to the withdrawal or amendment of a plan of division or the application to which it relates.
The power pursuant to and subject to Section 223LD(9) of the Act to amend the application or the plan to which it relates in order to comply with the Act or with a requirement of the Registrar-General under the Act.
<b>Application may deal with statutory encumbrances</b>
The power pursuant to Section 223LDA of the Act to:
specify in an application under Part 19AB of the Act or the plan of division that variation or termination of a statutory encumbrance is to be registered or noted; and
sign a certificate on behalf of the Council as the holder of the statutory encumbrance certifying that the requirements of the Act under which the encumbrance was entered into, or is in force, as to the variation or termination of the statutory encumbrance (if any) have been complied with.
<b>Consent to plans of division</b>
The power pursuant to Section 223LH(1) of the Act:
where the deposit of a plan of division in the Lands Titles Registration Office will affect the estate or interest of the Council, in the land - to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan;



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where the Council has or claims an estate or interest in the land to be divided - to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan;
where the land to be divided is subject to a statutory encumbrance held by the Council – to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan.
The power pursuant to Section 223LH(2) of the Act, where the deposit of a plan of division will operate to vest an estate or interest in land in the Council, to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan.
<b>Amalgamation</b>
The power pursuant to Section 223LJ(1) of the Act and in accordance with Section 223LJ(2) and (3) of the Act, where the Council is the registered proprietor of two or more contiguous allotments, to apply to the Registrar-General for amalgamation of those allotments into a single allotment.
The power pursuant to Section 223LJ(3) of the Act to consent to an amalgamation of allotments under Division 2 Part 19AB of the Act, where it appears from the Register Book that the Council has an interest as mortgagee or encumbrance of the land or any part of the land to be amalgamated or where such consent is required either in the opinion of the Registrar-General or by regulation.



## SCHEDULE OF CONDITIONS

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

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
28	The delegation of the power contained in Section 128 of the Act is subject to Section 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation.





## APPENDIX [ 28A ]

### **INSTRUMENT OF DELEGATION UNDER THE ELECTRONIC CONVEYANCING NATIONAL LAW (SOUTH AUSTRALIA) ACT 2013**

#### **NOTES**

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

#### **POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

<b>1. Client Authorisation</b>
1.1 The power pursuant to Section 10(1) of the Electronic Conveyancing National Law (South Australia) Act 2013 ( <b>the Act</b> ) to:
1.1.1 complete a client authorisation:
1.1.1.1 that is in the form required by the participation rules; and
1.1.1.2 by which the Delegate authorises a subscriber to do one or more things on the Council's behalf in connection with a conveyancing transaction so that the transaction, or part of the transaction, can be completed electronically.



## APPENDIX [ 33 ]

### **INSTRUMENT OF DELEGATION UNDER THE LOCAL NUISANCE AND LITTER CONTROL ACT 2016**

#### **NOTES**

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

#### **POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

1.	<b>Authorised Officers</b>
1.1	The power pursuant to Section 12(3) of the Local Nuisance and Litter Control Act 2016 ( <b>the Act</b> ), to appoint:
1.1.1	specified officers or employees of the Council; or
1.1.2	a specified class of officers or employees of the Council,
	to be authorised officers for the purposes of the Act.
1.2	The power pursuant to Section 12(4) of the Act to make an appointment subject to conditions specified in the instrument of appointment.
1.3	The power pursuant to Section 12(6) of the Act to, at any time, revoke an appointment, or vary or revoke a condition specified in the instrument of an appointment or impose a further such condition.
2.	<b>Identity Cards</b>
2.1	The duty pursuant to Section 13(2) of the Act where the Minister has not designated a card issued by the Council to an authorised officer appointed by the Council as an identity card for the purposes of the Act, to issue an authorised officer appointed under the Act, with an identity card in a form approved by the Minister:
2.1.1	containing the person's name and a recent photograph of the person; and
2.1.2	stating that the person is an authorised officer for the purposes of the Act; and
2.1.3	specifying the name of the Council.
2.2	The duty pursuant to Section 13(3) of the Act to issue an identity card as soon as is reasonably practicable after the appointment is made.



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<b>3.</b>	<b>Limit of Area of Authorised Officers Appointed by Councils</b>
3.1	The power pursuant to Section 15(a) of the Act to agree in writing to an authorised officer appointed by another council exercising powers under the Act in the Council's area.
<b>4.</b>	<b>Provisions Relating to Seizure</b>
4.1	The duty pursuant to Section 16(1)(a) of the Act if a substance, material or thing has been seized under Division 3 of the Act, to hold the substance, material or thing seized pending proceedings for an offence against the Act.
4.2	The power pursuant to Section 16(1)(a) of the Act, on application, authorise the release of the substance, material or thing seized to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the delegate thinks fit.
4.3	The power pursuant to Section 16(1)(e) of the Act if a person is, under section 16 of the Act, entitled to recover any substance, material or thing, to request the person do so.
4.4	The power pursuant to Section 16(1)(f) of the Act to direct that any substance, material or thing forfeited under Section 16 of the Act be disposed of.
<b>5.</b>	<b>Exemptions from Application of Section 18</b>
5.1	The power pursuant to Section 19(1) of the Act to declare by notice in writing in accordance with Section 19 of the Act that a person is exempt from the application of Section 18 of the Act in respect of a specified activity to be carried on in the Council's area.
5.2	The power pursuant to Section 19(2) of the Act to require an application for a declaration under Section 19 of the Act made to the Council to be accompanied by any other information in connection with the application that the delegate may require.
5.3	The duty pursuant to Section 19(3) of the Act to not make a declaration under Section 19 of the Act unless the delegate is satisfied that:
5.3.1	there are exceptional circumstances that justify the making of the declaration; and
5.3.2	the applicant's nuisance management plan adequately sets out the measures that the person will take to prevent, minimise or address any anticipated adverse effects from the specified activity on the amenity value of the area concerned.
5.4	The power pursuant to Section 19(4) of the Act to make a declaration unconditional or subject to conditions, including (but not limited to) conditions relating to:
5.4.1	the permitted times or periods of time for carrying on the activity; or



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5.4.2	the manner of carrying on the activity.
5.5	The power pursuant to Section 19(5) of the Act to, by further notice in writing, vary or revoke a declaration under Section 19 of the Act.
5.6	The:
5.6.1	power pursuant to Section 19(7) of the Act to determine the website for publishing a declaration made under Section 19 of the Act and any variations of the declaration; and
5.6.2	duty pursuant to Section 19(7) of the Act to publish a declaration made under Section 19 of the Act and any variations of the declaration, on a website determined by the Council or the delegate.
<b>6.</b>	<b>Disposing of Litter</b>
6.1	The power pursuant to Section 22(3)(a)(i) of the Act to provide a bin or other receptacle in the Council's area for the disposal of litter.
6.2	The power pursuant to Section 22(3)(a)(ii) of the Act to approve or authorise the manner of the disposal of litter in the Council's area.
<b>7.</b>	<b>Liability of Vehicle Owners</b>
7.1	The duty pursuant to Section 26(3) of the Act, to accompany an expiation notice or expiation reminder notice given under the Expiation of Offences Act 1996 to the owner of a vehicle for an alleged offence against Section 26 of the Act involving the vehicle with a notice inviting the owner, if he or she was not the alleged principal offender, to provide the Council or officer specified in the notice, within the period specified in the notice, with a statutory declaration:
7.1.1	setting out the name and address of the person who the owner believes to have been the alleged principal offender; or
7.1.2	if he or she had transferred ownership of the vehicle to another prior to the time of the alleged principal offence and has complied with the Motor Vehicles Act 1959 or the Harbors and Navigation Act 1993 (as the case may require) in respect of the transfer – setting out details of the transfer (including the name and address of the transferee).
7.2	The power pursuant to Section 26(4) of the Act, to bring a prosecution for an offence against Section 26 of the Act against one of the owners or against some or all of the owners jointly as co-defendants.
7.3	The duty pursuant to Section 26(5) of the Act, before proceedings are commenced against the owner of a vehicle for an offence against Section 26 of the Act to send the owner a notice:
7.3.1	setting out particulars of the alleged principal offence; and
7.3.2	inviting the owner, if he or she was not the alleged principal offender or the



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	owner of the vehicle at the time of the alleged principal offence, to provide the Council, within 21 days of the date of the notice, with a statutory declaration setting out any matters referred to in subsection 3(a)( and (b).
7.4	The duty pursuant to Section 26(9) of the Act, if:
7.4.1	an expiation notice is given to a person named as the alleged principal offender in a statutory declaration under Section 26, or
7.4.2	proceedings are commenced against such a person,
	to accompany the notice or summons, as the case may be, with a notice setting out particulars of the statutory declaration that named the person as the alleged principal offender.
7.5	The duty pursuant to Section 26(10) of the Act to not include in the particulars of the statutory declaration provided to the alleged principal offender the address of the person who provided the statutory declaration.
<b>8.</b>	<b>Notification of EPA of Serious or Material Environmental Harm</b>
8.1	The duty pursuant to Section 29 of the Act, if the delegate has reason to believe that an offence committed under Sections 18 or 22 of the Act has, or may have, resulted in material environmental harm, or serious environmental harm, within the meaning of the Environment Protection Act 1993, to, as soon as practicable, notify the Environment Protection Authority of that belief.
<b>9.</b>	<b>Nuisance and Litter Abatement Notices</b>
9.1	The power pursuant to Section 30(1)(a) of the Act to issue a nuisance abatement notice for or in connection with securing compliance with Part 4 Division 1 of the Act.
9.2	The power pursuant to Section 30(1)(b) of the Act to issue a litter abatement notice for or in connection with securing compliance with Part 4 Division 2 of the Act.
9.3	The:
9.3.1	duty pursuant to Section 30(2) of the Act in relation to a notice under Section 30 of the Act to ensure it:
9.3.1.1	is in the form of a written notice served on the person to whom it is issued; and
9.3.1.2	specifies the person to whom it is issued (by name or by a description sufficient to identify the person); and
9.3.1.3	specifies the purpose for which it is issued; and
9.3.2	power pursuant to Section 30(2) of the Act, in relation to a notice under Section 30 of the Act, to:
9.3.2.1	direct two or more persons to do something specified in the notice



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	jointly; and
9.3.2.2	impose a requirement that the person do one or more of the following:
(a)	discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice;
(b)	not carry on a specified activity except at specified times or subject to specified conditions;
(c)	take specified samples or conduct specified tests, examinations, monitoring or analyses at specified times or intervals or for a specified period or until further notice;
(d)	furnish to the Council specified results or reports within a specified period;
(e)	clean up litter that the Council or delegate considers to have been caused by a contravention of this Act;
(f)	make good any damage to property that the Council or delegate considers to have been caused by a contravention of this Act;
(g)	prepare, in accordance with specified requirements and to the satisfaction of the Council or delegate, a plan of action for the purposes of securing compliance with any requirement of the Act or preventing any future contravention of the Act;
(h)	take such other specified action in a specified way, and within a specified period or at specified times or in specified circumstances; and
(i)	in the case of a litter abatement notice, impose a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the Council or delegate, a plan of action for the purposes of:
	A. preventing the escape of litter from business premises; or
	B. keeping a specified area (not exceeding 100 metres) around business premises free from litter; and
(j)	impose any other requirement prescribed by regulation; and
(k)	ensure it states that the person may, within 14 days, appeal against the notice to the Environment Resources and



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Development Court.	
9.4	The power pursuant to Section 30(3) of the Act to issue a notice under Section 30 of the Act jointly with one or more other councils to prevent the person contravening a provision of the Act in those council areas.
9.5	The power pursuant to Section 30(4) of the Act to issue a notice under Section 30 of the Act that relates to an activity or conditions on premises to:
9.5.1	the owner or occupier of the premises; or
9.5.2	a person who has the management or control of the premises; or
9.5.3	a person who is the trustee of a person referred to in paragraph (a) or (b) or Section 30(4) of the Act, or is managing the affairs of such a person on some other basis.
9.6	The duty pursuant to Section 30(6) of the Act, if an emergency notice issued orally, to advise forthwith the person to whom the notice is issued of the person's right to appeal against the notice to the Environment, Resources and Development court.
9.7	The power pursuant to Section 30(8) of the Act, to, by written notice served on a person to whom a notice under section 30 of the Act has been issued by the Council, vary or revoke the notice.
<b>10. Action on Non-compliance with Notice</b>	
10.1	The power pursuant to Section 31 of the Act, if the requirements of a nuisance abatement notice or litter abatement notice issued by Council are not complied with, to take any action required by the notice.
10.2	The power pursuant to Section 31(2) of the Act to authorise a person to take action under section 31(1) of the Act on behalf of the Council.
10.3	The duty pursuant to Section 30(3) of the Act, if the delegate authorises a person to take action under section 31(2) of the Act to issue the person with an instrument of authority.
10.4	The power pursuant to Section 31(5) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 31 of the Act as a debt from the person who failed to comply with the requirements of the notice.
10.5	The power pursuant to Section 31(6) of the Act, if an amount is recoverable from a person under Section 31 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, and, if the amount is not paid by the person within that period, the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid.
<b>11. Civil Remedies</b>	
11.1	The power pursuant to Sections 33(1) and (6) of the Act to apply to the Environment,



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Resources and Development court for one or more of the following orders:	
11.1.1	if a person has engaged, is engaging or is proposing to engage in conduct in contravention of the Act – an order restraining the person from engaging in the conduct and, if the court considers it appropriate to do so, requiring the person to take any specified action;
11.1.2	if a person has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by the Act – an order requiring the person to take that action;
11.1.3	if a person has caused damage to property by a contravention of the Act – an order requiring the person to take specified action to make good the damage and, if appropriate, to take specified action to prevent or mitigate further damage;
11.1.4	if the Council has incurred costs or expenses in taking action to prevent or mitigate damage caused by a contravention of the Act, or to make good resulting damage – an order against the person who committed the contravention for payment of the reasonable costs and expenses incurred in taking that action;
11.1.5	if the Council has suffered injury or loss or damage to property as a result of a contravention of the Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, loss or damage – an order against the person who committed the contravention for payment of compensation for the injury, loss or damage, or for payment of the reasonable costs and expenses incurred in taking that action;
11.1.6	if the court considers it appropriate to do so, an order against a person who has contravened the Act for payment to the Council.
11.2	The power pursuant to Section 33(6) of the Act to make an application under Section 33 of the Act.
11.3	The power pursuant to Section 33(8) of the Act to serve a copy of the application on the Minister within three days after filing the application with the court.
11.4	The power pursuant to Section 33(9) of the Act to apply to the court for the Council to be joined as a party to the proceedings.
11.5	The power pursuant to Section 33(10) of the Act to make an application under Section 33 of the Act in a representative capacity (provided the consent of all persons on whose behalf the application is made is obtained).
11.6	The power pursuant to Section 33(11) of the Act to make an application without notice to any person.
11.7	The power pursuant to Section 33(14) of the Act to apply for an interim order without notice to any person.
11.8	The power pursuant to Section 33(19) of the Act to apply to the court to vary or





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revoke an order previously made under Section 33 of the Act.	
<b>12. Minister or Council May Recover Civil Penalty in Respect of Contravention</b>	
12.1	The power pursuant to Section 34(1) of the Act, subject to Section 34 of the Act, if the delegate is satisfied that a person has committed an offence by contravening a provision of the Act, to, as an alternative to criminal proceedings, recover, by negotiation or by application to the Environment, Resources and Development court an amount as a civil penalty in respect of the contravention.
12.2	The duty pursuant to Section 34(2) of the Act to not recover an amount under Section 34 of the Act, in respect of a contravention if the relevant offence requires proof of intention or some other state of mind, and to, in respect of any other contravention, determine whether to initiate proceedings for an offence or take action under Section 34 of the Act, having regard to the seriousness of the contravention, the previous record of the offender and any other relevant factors.
12.3	The duty pursuant to Section 34(3) of the Act to not make an application to the court under Section 34 of the Act to recover an amount from a person as a civil penalty in respect of a contravention:
12.3.1	unless the Council or the delegate has served on the person a notice in the prescribed form advising the person that the person may, by written notice to the Council, elect to be prosecuted for the contravention and the person has been allowed not less than 21 days after service of the notice to make such an election; or
12.3.2	if the person serves written notice on the Council, before the making of such an application, that the person elects to be prosecuted for the contravention.
12.4	The power pursuant to Section 34(4) of the Act to recover by negotiation as a civil penalty in respect of a contravention a maximum amount being the sum of the amount specified by the Act as the criminal penalty in relation to that contravention and the amount of any economic benefit acquired by the person, or accrued or accruing to the person, as a result of the contravention.
12.5	The power pursuant to Section 34(5) of the Act to apply to the Environment, Resources and Development court for an order the person pay to the Council an amount as a civil penalty (but not exceeding the sum of the amount specified by the Act as the criminal penalty in relation to that contravention and the amount of any economic benefit acquired by the person, or accrued or accruing to the person, as a result of the contravention).
12.6	The power pursuant to Section 34(8) of the Act, if conduct of a person constitutes a contravention of two or more provisions of the Act, to recover an amount from the person under Section 34 of the Act in relation to the contravention of one or more of those provisions (provided that the person is not liable to pay more than one amount as a civil penalty in respect of the same conduct).
12.7	The power pursuant to Section 34(13) of the Act to apply to the Attorney-General for authorisation to commence proceedings for an order under Section 34 of the Act



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more than three years and within 10 years after the date of the alleged contravention.	
<b>13. Statutory Declaration</b>	
13.1	The power pursuant to Section 40 of the Act if a person is required by or under the Act to provide information to the Council, to require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been so verified.
<b>14. Orders in Respect of Contraventions</b>	
14.1	The power pursuant to Section 45(1) of the Act, if, in proceedings under the Act, the court finds that the defendant contravened the Act and the contravention has resulted in injury to the Council or loss or damage to property, to apply to the court, in addition to any penalty it may impose, one or more of the following:
14.1.1	an order the person to take specified action to make good any damage and, if appropriate, to take specified action to prevent or mitigate further damage;
14.1.2	an order the person to take specified action to publicise the contravention and its consequences and any other orders made against the person;
14.1.3	an order the person pay to the Council if the Council has incurred costs or expenses in taking action to prevent or mitigate or make good any damage (including, in the case of litter, taking action to remove or clean up, and lawfully dispose of the litter);
the reasonable costs and expenses so incurred, or compensation for the injury, loss or damage so suffered, as the case may be, in such a manner as is determined by the Court.	
14.2	The power pursuant to Section 45(2) of the Act if a person is found by a court to have contravened the Act, to apply to the court, for, in addition to any penalty it may impose, an order the person to pay to the Council an amount not exceeding the court's estimation of the amount of the economic benefit acquired by the person, or accrued or accruing to the person, as a result of the contravention.
14.3	The power pursuant to Section 45(5) of the Act to apply to the court for an order under Section 45 of the Act, fixing a period for compliance and imposing any other requirements the court considers necessary or expedient for enforcement of the order.
<b>15. Recovery of Administrative and Technical Costs Associated with Contraventions</b>	
15.1	The power pursuant to Section 48(1) of the Act, if a person has contravened this Act and the Council:
15.1.1	has taken action to:
15.1.1.1	investigate the contravention; or



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	15.1.1.2 issue a nuisance abatement notice or litter abatement notice in respect of the contravention; or
	15.1.1.3 ensure that the person has complied with requirements imposed in relation to the contravention by a nuisance abatement notice or litter abatement notice or by an order of a court under the Act; or
15.1.2	has, in taking such action, incurred costs and expenses in taking samples or in conducting tests, examinations, monitoring or analyses,
	to, by notice in writing served on the person, require the person to pay to the Council the reasonable costs and expenses incurred by the Council in taking such action.
15.2	The power pursuant to Section 48(2) of the Act to specify in the notice the period within which an amount payable to the Council in accordance with a notice under Section 48 of the Act must be paid.
15.3	The power pursuant to Section 48(3) of the Act, on application by a person who has been served a notice under Section 48 of the Act to, by notice in writing:
15.3.1	extend the time for payment of an amount payable in accordance with the notice; or
15.3.2	waive payment of such an amount or reduce the amount payable.
15.4	The power pursuant to Section 48(6) of the Act, if an amount payable to the Council is not paid in accordance with Section 48 of the Act to recover the amount as a debt.
<b>16.</b>	<b>Assessment of Reasonable Costs and Expenses</b>
16.1	The duty pursuant to Section 49 of the Act, to for the purposes of the Act, assess the reasonable costs and expenses that have been or would be incurred by the Council or some other person or body in taking any action by reference to the reasonable costs and expenses that would have been or would be incurred in having the action taken by independent contractors engaged for that purpose.
<b>17.</b>	<b>Evidentiary Provisions</b>
17.1	The power pursuant to Section 50(4) of the Act to execute a certificate certifying as to the matter relating to:
17.1.1	the appointment or non-appointment of a person as an authorised officer under the Act; or
17.1.2	a delegation or authority under the Act; or
17.1.3	a notice, requirement or direction of the Council or an authorised officer under the Act; or
17.1.4	the receipt or non-receipt by the Council or an authorised officer of a notification, report or information given or required to be given or furnished



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to the Council or authorised officer under the Act.
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17.2	The power pursuant to Section 50(5) of the act to execute a certificate detailing the costs and expenses incurred by the Council and the purpose for which they were incurred.
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## SCHEDULE OF CONDITIONS

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

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



## APPENDIX [ 34 ]

### **INSTRUMENT OF DELEGATION UNDER THE WATER INDUSTRY ACT 2012 & REGULATIONS**

#### **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**

<b>1. Water Planning</b>
1.1 The power pursuant to Section 6(6) of the <i>Water Industry Act 2012 (the Act)</i> , in relation to a proposal:
1.1.1 to create the <i>State Water Demand and Supply Statement</i> ; or
1.1.2 to undertake a comprehensive review of the <i>State Water Demand and Supply Statement</i> ,
to make written representations on the proposal to the Minister.
<b>2. Application for Licence</b>
The power pursuant to Section 19(1) of the Act and in accordance with Sections 19(2), (3) and (4) of the Act, to apply to the Commission in a form approved by the Commission.
<b>3. Licence fees and returns</b>
3.1 The power pursuant to Section 24(2) of the Act, where the Council is the holder of a licence issued for a term of 2 years or more, to,:
3.1.1 in each year lodge with the Commission, before the date prescribed for that purpose, an annual return containing the information required by the Commission by condition of the licence or by written notice; and
3.1.2 in each year (other than a year in which the licence is due to expire) pay to the Commission, before the date prescribed for that purpose, the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.
<b>4. Variation of Licence</b>
4.1 The power pursuant to Section 28(2) of the Act to:



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4.1.1	make application to the Commission to vary the terms or conditions of the Council's licence;
4.1.2	agree to the variation of the terms or conditions of the Council's licence;
4.1.3	make representations to the Commission about the proposed variation.
<b>5.</b>	<b>Transfer of Licence</b>
5.1	The power pursuant to Section 29(1) of the Act, and in accordance with Sections 29(4), (5) and (6) of the Act, to transfer a licence with the Commission's agreement.
5.2	The power pursuant to Section 29(4) of the Act to consent to the transfer of a licence to the Council.
<b>6.</b>	<b>Surrender of Licence</b>
6.1	The power pursuant to Section 32(1) of the Act and in accordance with Section 32(2) of the Act to, by written notice given to the Commission, surrender the Council's licence.
6.2	The power pursuant to Section 32(3) of the Act to agree with the Commission that the required period of notice be shortened.
<b>7.</b>	<b>Suspension or cancellation of Licences</b>
The power pursuant to Section 33(3)(b) of the Act to make submissions to the Commission in relation to the Commission's proposed action under Section 33 of the Act.	
<b>8.</b>	<b>Standard terms and conditions for retail services</b>
8.1	The power pursuant to Section 36(1) of the Act and in accordance with Section 36(4) of the Act to, from time to time, fix standard terms and conditions governing the provision of services by the Council to customers of a designated class.
8.2	The power pursuant to Section 36(2) of the Act to publish in the Gazette a notice setting out any standard terms and conditions fixed by the Council.
8.3	The power pursuant to Section 36(3) of the Act, when the Council publishes a notice in the Gazette under Section 36(2) of the Act, to also publish a notice in a newspaper circulating generally in the State describing the general nature of the standard terms and conditions and advising where a person may read or obtain a copy of the standard terms and conditions.
8.4	The power pursuant to Section 36(5) of the Act, subject to the conditions of a licence, to modify or exclude a standard term or condition fixed under Section 36 of the Act by express agreement with a customer of the Council.
<b>9.</b>	<b>Customer hardship policies</b>
9.1	The power pursuant to Section 37(3) of the Act to:
9.1.1	adopt a customer hardship policy published by the Minister under Section 37 of the Act; or
9.1.2	with the written approval of the Commission, adopt such a policy with



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modifications.	
<b>10. Power to take over operations</b>	
10.1	The power pursuant to Section 38(2) of the Act, before a proclamation is made under Section 38 of the Act, to make written representations giving reasons why the proclamation should not be made.
<b>11. Appointment of operator</b>	
The power pursuant to Section 39(3) of the Act to facilitate the takeover of the relevant operations by the operator.	
<b>12. Appointment of water industry officer</b>	
12.1	The power pursuant to Section 41(1) of the Act, subject to conditions or limitations determined by the Minister, to appoint a person to be a water industry officer for the Council.
12.2	The power pursuant to Section 41(2) of the Act, to give directions to a water industry officer appointed by the Council.
<b>13. Conditions of appointment</b>	
13.1	The power pursuant to Section 42(1) of the Act to appoint a water industry officer for a stated term or for an indefinite term that continues while the officer holds a stated office or position.
13.2	The power pursuant to Section 42(2) of the Act to remove a water industry officer from office.
<b>14. Identity cards</b>	
The power pursuant to Section 43(1) of the Act and in accordance with Section 43(2) of the Act, to give each water industry officer for the Council an identity card.	
<b>15. Power to enter land to conduct investigations</b>	
15.1	The power pursuant to Section 44(1) of the Act and subject to Section 44(3) of the Act to, by agreement with the occupier of land or on the authorisation of the Minister, enter and remain on land to conduct investigations or carry out any other form of work to assess the suitability of the land for the construction or installation of water/sewerage infrastructure.
15.2	The power pursuant to Section 44(3) of the Act, if the Council enters land under the authorisation of the Minister, to:
15.2.1	give reasonable notice of the proposed entry on land under Section 44 of the Act to the occupier; and
15.2.2	minimise the impact of work carried out by the Council on activities of others on the land; and
15.2.3	comply with the conditions of the authorisation.
<b>16. Power to carry out work on land</b>	





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16.1	The power pursuant to Section 45(1) of the Act and in accordance with Sections 45(3), (11), (12), (13), (16), (17) and (20) of the Act:
16.1.1	to construct, install, improve or add to any water/sewerage infrastructure; or
16.1.2	to inspect, operate, maintain, test, repair, alter, remove or replace any water/sewerage infrastructure or equipment; or
16.1.3	to lay pipes and install, operate or inspect pumps and other equipment; or
16.1.4	to carry out other work in connection with the establishment or operation of any water/sewerage infrastructure or otherwise connected with any water service or sewerage service; or
16.1.5	to obtain or enlarge a supply of water; or
16.1.6	to protect, improve or restore the quality of water; or
16.1.7	to protect any infrastructure or equipment connected with any water service or sewerage service; or
16.1.8	to perform any other function brought within the ambit of Section 45 of the Act by the regulations.
16.2	The power pursuant to Section 45(3) of the Act, subject to Section 45 of the Act, if the Council seeks to enter public land under Section 45 of the Act, to:
16.2.1	give the authority responsible for the management of public land not less than 12 hours notice of the Council's intention to carry out work on the land; and
16.2.2	secure the authority's agreement to the carrying out of the work;
16.3	The power pursuant to Section 45(3)(b) of the Act, if an authorised entity seeks to enter public land under Section 45 of the Act and the Council is responsible for the management of the public land, to agree to the carrying out of the work.
16.4	The power pursuant to Section 45(5) of the Act to include in an agreement under Section 45(3) of the Act conditions the delegate considers appropriate in the public interest.
16.5	The power pursuant to Section 45(7) of the Act and subject to Section 45(8) of the Act if a dispute arises between the Council and the authority responsible for managing public land or an authorised entity and the Council about whether work should be permitted under Section 45 of the Act on the land or about the conditions on which work should be permitted on public land, to refer the dispute to the Minister.
16.6	The power pursuant to Section 45(9) of the Act, if a dispute is referred to the Minister under Section 45 of the Act, to make representations to the Minister on the questions at issue in the dispute.
16.7	The power pursuant to Section 45(11) of the Act and subject to Section 45(3) of the Act, if the Council seeks to enter land other than public land for the first time, to give prior written notice to the occupier of the land stating the reason and the date and



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	time of the proposed entry.
16.8	The power pursuant to Section 45(12) of the Act and subject to Section 45(13) of the Act, to give notice to the occupier of land in other circumstances prescribed by the regulations.
16.9	The power pursuant to Section 45(14) of the Act to use reasonable force to enter any land under Section 45 of the Act.
16.10	The power pursuant to Section 45(16) of the Act, at the reasonable request of an owner or occupier of land used for any purpose under Section 45 of the Act, to separate the land being used for the other part or parts of the land by a fence of reasonable construction and design (with such gates as may be necessary for the convenient use of any land) and, in the case of a dispute as to the fence to be constructed under Section 45 of the Act, to refer the matter to the Magistrates Court for resolution.
16.11	The power pursuant to Section 45(17) of the Act to make good any damage caused by the exercise of powers under Section 45 of the Act as soon as practicable (including so as to reinstate any road or other place) or pay reasonable compensation for the damage.
16.12	The power pursuant to Section 45(19) of the Act, in an emergency, to exercise a power under Section 45 of the Act at any time and without prior notice or agreement.
<b>17.</b>	<b>Acquisition of land</b>
	The power pursuant to Section 46(1) of the Act and in accordance with Section 46(2) of the Act, to acquire land in accordance with the <i>Land Acquisition Act 1969</i> .
<b>18.</b>	<b>Requirement to connect to infrastructure</b>
	<i>Section 48 applies to a water industry entity involved (or proposing to be involved) in the sale and supply of sewerage services for the removal of sewage (and the infrastructure to be used for the purposes of those services will be referred to as prescribed infrastructure under this section).</i>
18.1	The power pursuant to Section 45(2) of the Act to apply to the Minister for the approval of a scheme under Section 48 of the Act.
18.2	The power pursuant to Section 48(6) of the Act, if the Minister approves a scheme, to by notice that complies with any requirements prescribed by the regulations and served on any owner of land adjacent to land where the designated part of the prescribed infrastructure is situated, require the owner to connect drains, equipment or works to the prescribed infrastructure in order to provide for the discharge of sewage into the infrastructure.
18.3	The power pursuant to Section 48(9) of the Act, if the requirements of a notice under Section 48 of the Act are not complied with, to take any action required by the notice.
18.4	The power pursuant to Section 48(10) of the Act, to authorise a person to take action on behalf of the Council under Section 45(9) of the Act.
18.5	The power pursuant to Section 48(12) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 45(9) or (10) as a



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	debt from the person who failed to comply with the requirements of the notice.
18.6	The power pursuant to Section 48(13) of the Act to, from time to time, with the approval of the Minister, vary a scheme under Section 48 of the Act.
<b>19. Encroachments</b>	
19.1	The power pursuant to Section 49(1) of the Act to consent to a person:
19.1.1	constructing or placing a building, wall, fence or other structure on or over any water/sewerage infrastructure, or creating some other form of encroachment over any water/sewerage infrastructure (or any land directly associated with such infrastructure); or
19.1.2	creating any form of encroachment over any easement that exists for the purposes of any water service or sewerage service; or
19.1.3	obstructing, filling in, closing up or diverting any water/sewerage infrastructure; or
19.1.4	excavating or altering any land or structure supporting any water/sewerage infrastructure.
19.2	The power pursuant to Section 49(2) of the Act, if the delegate believes on reasonable grounds that a person has acted in contravention of Section 49(1) of the Act, to:
19.2.1	at any reasonable time, enter land and carry out an inspection of any place; and
19.2.2	as the delegate thinks fit (whether or not an inspection has taken place), by notice that complies with any requirements prescribed by the regulations and served on the person, require the person to take such action as may be specified in the notice to remedy any contravention of Section 49(1) of the Act.
19.3	The power pursuant to Section 49(3) of the Act if any entry under Section 49(2)(a) of the Act is refused or obstructed, to obtain a warrant under Part 10 of the Act to enter the land.
19.4	The power pursuant to Section 49(4) of the Act if the requirements of a notice under Section 49(2)(b) of the Act are not complied with, to take any action required by the notice.
19.5	The power pursuant to Section 49(6) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 49(4) or (5) as a debt from the person who failed to comply with the requirements of the notice.
19.6	The power pursuant to Section 49(7) of the Act to authorise a person to take action on the Council's behalf under Section 49 of the Act.
<b>20. Protection of infrastructure and equipment</b>	
20.1	The power pursuant to Section 50(2) of the Act, if the delegate believes on reasonable grounds that a person has acted in contravention of Section 50(1), to:



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20.1.1	at any reasonable time, enter any land and carry out an inspection of any place; and
20.1.2	as the delegate thinks fit (whether or not an inspection has taken place), after complying with any requirements prescribed by the regulations, disconnect, close, turn off or remove anything that has, in the opinion of the delegate been attached or used in connection with the contravention.
20.2	The power pursuant to Section 50(3) of the Act, if any entry under Section 50(2)(a) is refused or obstructed, to obtain a warrant under Part 10 of the Act to enter the land.
20.3	The power pursuant to Section 50(4) of the Act to authorise a person to take action on the Council's behalf under Section 50 of the Act.
20.4	The power pursuant to Section 50(7) of the Act, if the Council suffers loss as a result of a contravention of Section 50 of the Act, to recover compensation for the loss from a person guilty of the contravention:
20.4.1	on application to a court convicting the person of an offence against Section 50 of the Act; or
20.4.2	by action in a court of competent jurisdiction.
<b>21. Notice of work that may affect water/sewerage infrastructure</b>	
21.1	The power pursuant to Section 51(4) of the Act, if the Council suffers loss as a result of a contravention of Section 51 of the Act, to recover compensation for the loss from a person guilty of the contravention:
21.1.1	on application to a court convicting the person of an offence against Section 51 of the Act; or
21.1.2	by action in a court of competent jurisdiction.
<b>22. Duty to give notice before paving a road etc</b>	
22.1	The power pursuant to Section 52(1) of the Act, before the Council begins:
22.1.1	to first lay the pavement or hard surface in any road; or
22.1.2	to relay the pavement or hard surface in any road; or
22.1.3	to widen or extend the pavement or hard surface in any road; or
22.1.4	to alter the level of any road; or
22.1.5	to construct or alter any footpaths, gutters, kerbing or water tables in any road; or
22.1.6	to construct or alter any drainage work in any road,
in which there is any water/sewerage infrastructure, to give the relevant water industry entity at least 14 days notice of the proposed work (being a notice that includes details of the nature and thickness of the pavement or hard surface proposed to be made or laid in any such work, and of any other work that is	



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proposed to be undertaken).	
22.2	The power pursuant to Section 52(2) of the Act, to within 14 days after receiving a notice, advise the person who gave the notice of any new water/sewerage infrastructure proposed in the relevant road and of any interference that is expected to be caused to the existing water/sewerage infrastructure.
22.3	The power pursuant to Section 52(3) of the Act, if any work referred to Section 52(1) would involve any alteration to any water/sewerage infrastructure that is owned or operated by a water industry entity, to subject to Section 52(5) of the Act, pay to the entity:
22.3.1	unless Section 52(3)(b) applies – half of the actual cost of the alteration or any damage caused by the work;
22.3.2	in prescribed circumstances – an amount determined under the regulations.
22.4	The power pursuant to Section 52(6) of the Act, to under an agreement between the Council and a person otherwise required to give notice under Section 52 of the Act, waive the requirement to give such notice in relation to specified classes of work.
<b>23. Unlawful abstraction, removal or diversion of water or sewage</b>	
23.1	The power pursuant to Section 53(2) of the Act, to grant approval to a person to install or maintain a pipe capable of conveying water beyond the boundaries of a site occupied by that person where the Council supplies water to the site.
23.2	The power pursuant to Section 53(3) of the Act, if the Council suffers loss as a result of a contravention of Section 53, to recover compensation for the loss from a person guilty of the contravention:
23.2.1	on application to a court convicting the person of an offence against this Section; or
23.2.2	by action in a court of competent jurisdiction.
<b>24. Water meters</b>	
24.1	The power pursuant to Section 54(1) of the Act to, require a person who is supplied with water by the Council, to
24.1.1	allow a person authorised by the Council to enter land and fix a meter supplied by the Council;
24.1.2	ensure that a meter of a kind specified by the Council is fixed and used for purposes of measuring water supplied to the person.
24.2	The power pursuant to Section 54(1) of the Act, to authorise a person to enter land and fix a meter supplied by the Council.
24.3	The power pursuant to Section 54(3) of the Act, with the approval of the Commission or in prescribed circumstances, to include in a requirement under Section 54(1) of the Act a requirement that a person fix or use a meter supplied by the Council.
24.4	The power pursuant to Section 54(10) of the Act, if a person fails to comply with Section 54(9) of the Act, to serve written notice on the person requiring him or her to



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	take such action as is specified in the notice to provide access to the meter or fitting.
24.5	The power pursuant to Section 54(11) of the Act, if a person on whom notice has been served under Section 54(10) of the Act fails to comply with the notice within 1 month to enter the land and take such action (including altering the position of the meter or fitting) as the delegate thinks fit to provide access to the meter or fitting.
24.6	The power pursuant to Section 54(11) of the Act, if a person on whom a notice has been served under Section 54(10) of the Act fails to comply with the notice within one month, to authorise a person to enter land and take such action (including altering the position of the meter or fitting) as the person thinks fit to provide access to the meter or fitting.
24.7	The power pursuant to Section 54(12) of the Act, if the Council suffers loss as a result of a contravention of Section 54 of the Act, to recover compensation for the loss from a person found guilty of the contravention:
24.7.1	on application to a court convicting the person of an offence against this section; or
24.7.2	by action in a court of competent jurisdiction.
24.8	The power pursuant to Section 54(13) of the Act, if the Council incurs costs as a result of taking action under Section 54(11), to recover those costs as a debt by action in a court of competent jurisdiction.
<b>25.</b>	<b>Discharge of unauthorised material into water infrastructure</b>
25.1	The power pursuant to Section 55(3) of the Act, if the Council suffers loss as a result of a contravention of Section 55, to recover compensation for the loss from a person found guilty of the contravention:
25.1.1	on application to a court convicting the person of an offence against this Section; or
25.1.2	by action in a court of competent jurisdiction.
<b>26.</b>	<b>Discharge of unauthorised material into sewerage infrastructure</b>
26.1	The power pursuant to Section 56(3) of the Act, to, in relation to any sewerage infrastructure operated by the Council:
26.1.1	on application by any person, authorise the person to discharge waste material referred to in the authorisation into the infrastructure; or
26.1.2	as part of a contract in relation to the provision of a sewerage service, authorised a person to discharge waste material referred to in the contract into the infrastructure.
26.2	The power pursuant to Section 56(4) of the Act, to grant an authorisation to a person to discharge any solid, liquid or gaseous material, or any other item or thing, prescribed by the regulations.
26.3	The power pursuant to Section 56(5) of the Act, to grant an authorisation to a person to cause, permit or allow any rainwater, stormwater or surface water to flow into, or



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	to otherwise enter, any sewerage infrastructure.
26.4	The power pursuant to Section 56(7) of the Act, to attach such conditions to an authorisation under Section 56 of the Act as the delegate thinks fit and vary or revoke the authorisation at any time.
26.5	The power pursuant to Section 56(9) of the Act, to recover the reasonable costs and expenses incurred by the Council in addressing any damage or loss caused as a result of, or in remedying circumstances caused by, a contravention of Section 56 as a debt from the person in contravention of Section 56 of the Act.
<b>27.</b>	<b>Work to be carried out by owner at requirement of water industry entity with respect to sewerage infrastructure</b>
27.1	The power pursuant to Section 57(1) of the Act, and in accordance with Section 57(2) of the Act, to, in order:
27.1.1	to provide for the proper treatment (including the deodorising) of waste material before it is discharged from land into a drain connected to any sewerage infrastructure; or
27.1.2	to prevent the discharge of rainwater, stormwater or surface water into any sewerage infrastructure or to prevent the discharge into any sewerage infrastructure of waste material that has been prescribed as water material that may not be discharged into any sewerage infrastructure or that is, in the opinion of the delegate, likely to damage or be detrimental to any sewerage infrastructure,
	by notice in writing served on the owner or occupier of the land, require the owner or occupier, within the time stated in the notice, to carry out work specified in the notice.
27.2	The power pursuant to Section 57(1) of the Act, to, by notice referred to in Section 57(1) of the Act require the person on whom it is served to:
27.2.1	install or construct in such locations as are specified in the notice;
27.2.2	connect to the infrastructure;
27.2.3	alter or replace;
27.2.4	maintain, repair or cleanse;
27.2.5	remove, block or disconnect,
	such drains, equipment or works as are specified in the notice in the manner specified in the notice or take other action specified in the notice.
27.3	The power pursuant to Section 57(3) of the Act, to vary or revoke a notice referred to in Section 57(1) of the Act by a subsequent notice in writing served on the owner or occupier of the land.
27.4	The power pursuant to Section 57(5) of the Act, if the requirements of a notice under Section 57 of the Act are not complied with, to take any action required by the notice.
27.5	The power pursuant to Section 57(6) of the Act, to authorise a person to take action





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under Section 52(5) of the Act on the Council's behalf.	
27.6	The power pursuant to Section 57(8) of the Act, to recover the reasonable costs and expenses incurred by the Council in taking action under Section 57(6) or (7) as a debt from the person who failed to comply with the requirements of the notice.
<b>28. Power to disconnect drains to restrict services</b>	
28.1	The power pursuant to Section 58(1) of the Act, if the Council has grounds to believe that material:
28.1.1	is being discharged from land into sewerage infrastructure in contravention of Division 1 Part 6 of the Act; or
28.1.2	has been discharged from land into sewerage infrastructure in contravention of Division 1 Part 6 of the Act and that it is likely that a similar contravention will occur in the future,
to, after complying with any requirement prescribed by the regulations, close off or disconnect from the sewerage infrastructure 1 or more drains on the land that are connected to the infrastructure or restrict the provision of any sewerage service to the land.	
28.2	The power pursuant to Section 58(2) of the Act, before reopening or reconnecting a drain closed off or disconnected under Section 58 of the Act, to require the owner or occupier of the relevant land to pay the prescribed fee.
<b>29. Power to restrict or discontinue water supply</b>	
29.1	The power pursuant to Section 59(1) of the Act, if the delegate believes on reasonable grounds:
29.1.1	
29.1.1.1	that the quantity of water available for supply by the Council is, or is likely to be, insufficient to meet the demands of the persons to whom it is required to supply water (either because of a reduction in the quantity of water available or an increase in demand); or
29.1.1.2	that the quantity or quality of water available for supply by the Council is, or is likely to be, below a standard set or adopted by the Council for the purposes of Section 59 of the Act, or prescribed by the regulations; or
29.1.1.3	that the capacity of any water infrastructure is, or is likely to be, insufficient to cope with existing or anticipated demand; and
29.1.2	that action under Section 59(1) of the Act is justified in the circumstances,
to, after complying with any requirements prescribed by the regulations, exercise 1 or more of the powers specified under Section 59(3) of the Act.	
29.2	The power pursuant to Section 59(1) and (3) of the Act and subject to Section 59(5) of the Act to:
29.2.1	lessen the supply of water through any infrastructure (to such extent and in





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	such manner as the delegate thinks fit);
29.2.2	prohibit the use of water in a specified purpose or purposes, or restrict or regulate the purposes for which water can be used;
29.2.3	prohibit the use of water in a specified manner or by specified means, or restrict or regulate the manner in which, or the means by which, water may be used;
29.2.4	prohibit specified uses of water during specified periods, or restrict or regulate the times at which water may be used;
29.2.5	for such time or times as the delegate thinks proper, discontinue the supply of water.
29.3	The power pursuant to Section 59(3) of the Act, to provide in a requirement under Section 59(3) of the Act that a specified activity involving the use of water cannot occur without the authority of a permit issued by the Council in accordance with the regulations.
29.4	The power pursuant to Section 59(4) of the Act, to:
29.4.1	impose a prohibition or notice under Section 59(3) of the Act by a notice published or served in accordance with any requirements prescribed by the regulations; and
29.4.2	vary or revoke a prohibition or notice under Section 59(3) of the Act in accordance with any requirements prescribed by the regulations.
<b>30.</b>	<b>Power to require the use of devices to reduce flow</b>
30.1	The power pursuant to Section 60(1) of the Act and in accordance with Section 60(2) of the Act, if the delegate believes on reasonable grounds that action under Section 60 is justified in the circumstances to supply water during periods of high demand, to serve notice under Section 60(3) of the Act on the owner or occupier of land that is connected to water infrastructure operated by the Council.
30.2	The power pursuant to Section 60(2) of the Act and subject to Section 60(3) of the Act, to, in the notice direct the owner or occupier:
30.2.1	to install (at his or her expense) a flow reducing device of the kind specified in the notice at the point specified in the notice (including at a point on the customer's side of any connection point) to enable the flow in the pipes on the land that are connected to the infrastructure to be reduced; and
30.2.2	to use the device to reduce flow in those pipes during the periods specified in the notice.
30.3	The power pursuant to Section 60(5) of the Act, if the requirements of a notice under Section 60 of the Act are not complied with, to install a flow reducing device to reduce the flow in the pipes on the relevant land notwithstanding that this reduction in flow will operate continuously instead of during the periods specified in the notice.
30.4	The power pursuant to Section 60(6) of the Act, to recover the reasonable costs and expenses incurred by the Council in taking action under Section 60(5) of the Act as a



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debt from the person who failed to comply with the requirements of the notice.	
<b>31. Disconnection in an emergency</b>	
The power pursuant to Section 64 of the Act, to, without incurring any liability, cut off the supply of water to any region, area, land or place if it is, in the delegate's opinion, necessary to do so to avert danger to any person or property.	
<b>32. Responsibilities of water industry entity</b>	
32.1	The power pursuant to Section 68(1) of the Act, to, where the Technical Regulator so requires of the Council:
32.1.1	prepare and periodically revise a safety, reliability, maintenance and technical management plan dealing with matters prescribed by regulation in accordance with any requirements specified by the Technical Regulator; and
32.1.2	obtain the approval of the Technical Regulator to the plan and any revision; and
32.1.3	comply with the plan as approved from time to time; and
32.1.4	audit from time to time the Council's compliance with the plans and report the results of those audits to the Technical Regulator.
<b>33. Responsibilities of Customers</b>	
The power pursuant to Section 69(3) of the Act, if a person fails to comply with Section 69(1) of the Act to, where the Council is providing the service, disconnect the supply of water to the place, or the collection of sewerage from the place, or restrict the supply of services to that place.	
<b>34. Enforcement notices</b>	
The power pursuant to Section 80(2)(h) of the Act to, within 14 days, apply for a review of the notice or institute an appeal against the notice under the provisions of the Act.	
<b>35. Warning notices and assurances</b>	
35.1	The power pursuant to Section 82(1)(b)(ii) of the Act and in accordance with Section 82(3) of the Act, to, in relation to a warning notice issued by the Commission to the Council give the Commission an assurance, in the terms specified in the notice, and within the period specified in the notice, that the Council will avoid a future contravention.
35.2	The power pursuant to Section 82(2)(b)(ii) of the Act, and in accordance with Section 82(3) of the Act, to, in relation to a warning notice issued by the Technical Regulator to the Council give the Technical Regulator an assurance, in the terms specified in the notice, and within the period specified in the notice, that the Council will avoid a future contravention.
<b>36. Injunctions</b>	
36.1	The power pursuant to Section 83(1) of the Act, to apply to the District Court for an injunction on the grounds that a person has engaged or proposes to engage in



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conduct that constitutes or would constitute a contravention of the Act.	
36.2	The power pursuant to Section 83(8) of the Act, to consent to a final injunction being granted without proof that proper grounds for the injunction exist.
<b>37. Review of decisions by Commission or Technical Regulator</b>	
37.1	The power pursuant to Section 84(1) of the Act and subject to and in accordance with Section 84 of the Act to make an application to:
37.1.1	the Commission for the issue or variation of the terms or conditions of a licence under Part 4 of the Act, or for agreement to the transfer of such a licence, for review of a decision of the Commission to refuse the application; or
37.1.2	the Commissioner for review of a decision of the Commission under Part 4 of the Act to suspend or cancel the Council's licence or to vary the terms or conditions of the Council's licence; or
37.1.3	the Technical Regulator where the Council has been given a direction under the Act by the Technical Regulator or an authorised officer for review of the decision to give the direction; or
37.1.4	the Technical Regulator where the Council is a person affected by the decision for review of a decision of an authorised officer or a water industry officer to disconnect or restrict a supply of water to a place, or the collection of sewage from a place, or to restrict the provision of a service.
<b>38. Appeals</b>	
38.1	The power pursuant to Section 85(1) of the Act and in accordance with Section 85(2) of the Act to appeal to the District Court:
38.1.1	in relation to a decision as confirmed, amended or substituted by the Commission or the Technical Regulator;
38.1.2	in relation to an enforcement notice issued under Part 8 Division 4 of the Act.
<b>Third Party Access Regime</b>	
<i>Sections 86A – 86ZR apply in relation to operators of water infrastructure or sewerage infrastructure, and infrastructure services, to the extent that it is declared by proclamation to apply.</i>	
<b>38A. Information brochure</b>	
38A.1	The power pursuant to Section 86F(1) of the Act to determine:
38A.1.1	the terms and conditions on which the Council is prepared to make the Council's regulated infrastructure available for use by others; and
38A.1.2	the procedures that the Council will apply in determining a proposal for access to any regulated infrastructure and infrastructure services; and
38A.1.3	the prices and costs associated with gaining access to (and using)



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regulated infrastructure and infrastructure services; and
38A.1.4 the standard access arrangement used by the Council.
<b>38B. Specific information to assist proponent to formulate proposal</b>
38B.1 The power pursuant to Section 86G(1)(c) of the Act, on the application of a person with a proper interest in making an access proposal to the Council, agree or refuse to provide access to regulated infrastructure and infrastructure services of a specified description and determine the general terms and conditions (including the likely price) on which the Council would be prepared to provide access.
38B.2 The power pursuant to Section 86G(2) of the Act to make a reasonable charge (to be determined after taking into account any provision made by the regulations for the purposes of Section 86G(2) of the Act for providing information under Section 86G(2) of the Act.
<b>38C. Access proposal</b>
38C.1 The power pursuant to Section 86I(3) of the Act to require a proponent to provide further information about the proponent's proposal that the delegate reasonably requires in order to assess and respond to the proposal.
38C.2 The power pursuant to Section 86I(4)(b) of the Act to, within 1 month after the relevant day determine, and give the proponent a preliminary indication about,
38C.2.1 whether the Council is prepared to provide access to the regulated infrastructure and infrastructure services and, if so, on what terms and conditions; and
38C.2.2 if some alteration of, or addition to, existing infrastructure would be necessary to provide for access, whether the Council would agree to the alteration or addition and, if so, on what terms.
38C.3 The power pursuant to Section 86I(6) of the Act to give notice of an access proposal to affected third parties by publishing a notice in a newspaper circulating generally in the State stating:
38C.3.1 the name of the proponent and an address at which the proponent may be contacted; and
38C.3.2 the name of the operator and an address at which the regulated operator may be contacted; and
38C.3.3 the general nature of the access proposal.
38C.4 The power pursuant to Section 86I(7) of the Act to recover the reasonable costs of giving notice under Section 86I of the Act, as a debt, from the proponent.
<b>38D. Duty to negotiate in good faith</b>
38D.1 The power pursuant to Section 86J(1) of the Act to negotiate in good faith with the proponent with a view to reaching agreement on whether the proponent's requirements as set out in the access proposal (or some agreed modification of the requirements) could reasonably be met, and, if so, the terms and conditions for the provision of access for the proponent.



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<b>38E. Existence of Dispute</b>
38E.1 The power pursuant to Section 86K(2) of the Act to refer a dispute to the regulator.
<b>38F. Power to refer dispute to arbitration</b>
38F.1 The power pursuant to Section 86N(3) of the Act to make submissions to the regulator about the selection of the arbitrator.
<b>38G. Confidentiality of information</b>
38G.1 The power pursuant to Section 86Z(2) of the Act to make representations to the arbitrator regarding access to, or disclosure of, information or documentary material.
<b>38H. Formal requirements related to awards</b>
38H.1 The power pursuant to Section 86ZD(1) of the Act to make representations to the arbitrator on the proposed award.
<b>38I. Consent awards</b>
38I.1 The power pursuant to Section 86ZE of the Act to consent to a proposed award.
<b>38J. Termination of variation of award</b>
38J.1 The power pursuant to Section 86ZG(1) of the Act to agree to terminate or vary an award.
38J.2 The power pursuant to Section 86ZG(3) of the Act, if a material change in circumstances occurs, to propose termination or variation of the award.
<b>38K. Appeal on question of law</b>
38K.1 The power pursuant to Section 86ZJ of the Act to appeal to the Supreme Court from an award, or a decision not to make an award, on a question of law.
<b>38L. Injunctive remedies</b>
38L.1 The power pursuant to Section 86ZK(5) of the Act to apply for an injunction under Section 38ZK of the Act.
38L.2 The power pursuant to Section 86ZK(6) of the Act to consent to an injunction.
38L.3 The power pursuant to Section 86ZK(8) of the Act to apply to the Court to discharge or vary an injunction.
<b>38M. Compensation</b>
38M.1 The power pursuant to Section 86ZL(1) of the Act, if a person contravenes an award, to apply to the Supreme Court for compensation for loss or damage suffered as a result of the contravention.
<b>38N. Confidential information</b>
38N.1 The power pursuant to Section 86ZM(7) of the Act to, in connection with the operation of Section 86ZM of the Act, develop and maintain a policy to ensure that confidential information obtained by the Council is not disclosed or used except as



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authorised by Section 86ZM of the Act.
<b>38O. Access by agreement</b>
38O.1 The power pursuant to Section 86ZN of the Act to enter into an access contract with another person on terms and conditions agreed between the parties.
<b>38P. Review of Part</b>
38P.1 The power pursuant to Section 86ZR(2) of the Act to make written submissions to the regulator on the matters under review.
<b>39. Water conservation measures</b>
The power pursuant to Section 92(5) of the Act, to consult with the Minister before a regulation is made under Section 92(2) of the Act.



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**WATER INDUSTRY REGULATIONS 2012**

<b>40. Information as to amounts already paid for retail services etc</b>
40.1 The power pursuant to Regulation 11(1) of the <i>Water Industry Regulations 2012</i> (the Regulations) to, on application by a person who has paid an amount to the Council for the provision of retail services, provide the person with a statement of the amount paid.
40.2 The power pursuant to Regulation 11(2) of the Regulations to, on application by a consumer, provide the consumer with a statement of the quantity of water supplied by the Council to the consumer in a financial year.
40.3 The power pursuant to Regulation 11(3) of the Regulations to, on application by any other person, in connection with the provision of retail services, provide that person with information of the kind referred to in Regulation 11(1) or (2) of the Regulations.
<b>41. Certificate as to encumbrance</b>
41.1 The power pursuant to Regulation 12(1) of the Regulations to, on application by an interested person and payment of the fee prescribed in Schedule 1, provide the person with a statement as to the existence or non-existence of encumbrances in relation to the land to which the application relates that are prescribed encumbrances for the purposes of the <i>Land and Business (Sale and Conveyancing) Act 1994</i> and the regulations under that Act and that are in favour of the Council.
<b>42. Protection of infrastructure – planting of trees etc on public land</b>
42.1 The power pursuant to Regulation 13(9) of the Regulations to grant written approval for trees and shrubs (except those listed in Schedule 2 and Schedule 3) to be planted on public land owned by the Council or where the Council operates sewerage infrastructure that may be affected by the planting.
42.2 The power pursuant to Regulation 13(b) of the Regulations to grant written approval for trees and shrubs to be planted on a road closer than 1 metre to any water infrastructure where the Council owns or operates the infrastructure.
<b>43. Protection of infrastructure – action in relation to trees and shrubs</b>
43.1 The power pursuant to Regulation 14(1) of the Regulations, if:
43.1.1 a tree or shrub has been planted in contravention of Regulation 13; or
43.1.2 the delegate is of the opinion (based on reasonable grounds) that a tree or shrub on public land is causing, or is likely to cause, damage to water/sewerage infrastructure or a reduction in the efficiency of the operation of that infrastructure,
to, by written notice served on the Council or other person who owns or has the care, control or management of the land on which the tree or shrub is situated, direct that action specified in the notice (including the removal of the tree or shrub) be taken.



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43.2	The power pursuant to Regulation 14(2) of the Regulations to, if a person on whom a notice has been served fails to comply with the notice, enter the land and take the specified action.
43.3	The power pursuant to Regulation 14(3) of the Regulations to, recover its costs of taking the specified action as a debt from the person on whom the notice was served.
<b>44. Protection of infrastructure – damage caused by trees or shrubs</b>	
44.1	The power pursuant to Regulation 15 of the Regulations to, if a tree or shrub has been planted in contravention of Regulation 13 of the Regulations, recover the Council's costs of taking action under Regulation 14 as a debt from:
44.2	the owner for the time being of the land on which the tree or shrub is, or was, situated; or
44.3	in the case of land under the care, control or management of a Council – that Council.
<b>45. Access to sewerage infrastructure</b>	
The power pursuant to Regulation 16(2) of the Regulations to recover the Council's costs of repairing any damage caused to infrastructure owned or operated by the Council by a person using an inspection point under Regulation 16(1) of the Regulations as a debt due by that person to the Council.	
<b>46. Power to restrict or discontinue water supply</b>	
46.1	The power pursuant to Regulation 17(1) of the Regulations to, if the Council proposes to exercise a power under Section 59(3)(a) to (e) (inclusive) of the Act in relation to water that may be used for human consumption, to:
46.1.1	obtain the approval of the prescribed authority before acting; and
46.1.2	notify the public of the intention to exercise the power by publishing a notice (specifying in the notice relevant details of the power to be exercised):
46.1.2.1	if the Council proposes to exercise a power under Section 59(3)(b), (c) or (d) – in the Gazette; and
46.1.2.2	in all cases:
	a) on a website determined by the delegate and in accordance with Regulation 17(2) of the Regulations; and
	b) in a newspaper circulating generally throughout the area of the State in which the persons affected by the exercise of the power are situated; and
	c) in any other manner considered appropriate by the delegate for the purpose of notifying the persons affected by the exercise of the power.





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<b>47. Notices under Section 59 – Permits</b>
The power pursuant to Regulation 18(1) of the Regulations, for the purposes of Section 59(4) of the Act, if a specified use of water is prohibited except under the authority of a permit issued by a water industry entity, to issue such a permit to a person in accordance with Regulation 18 of the Regulations.
<b>48. Fittings etc to be flush with road surface</b>
<b>48.1 The power pursuant to Regulation 23(2)(a) of the Regulations to, if the surface height of a road, footpath or easement is altered and the Council has made the alteration, to give notice in writing to the water industry entity that owns, manages or uses the entry point, inspection point or other fitting of the alteration.</b>
<b>48.2 The power pursuant to Regulation 23(2)(b) of the Regulations, if the surface height of a road, footpath or easement is altered, to at the cost of the Council, other authority or person who made the alteration, alter the height of the entry point, inspection point or other fitting.</b>
<b>48.3 The power pursuant to Regulation 23(3) of the Regulations, to recover the Council's costs as a debt from the Council, other authority or person.</b>
<b>49. Pipes must not lie across allotment boundaries</b>
<b>49.1</b> The power pursuant to Regulation 34(1) of the Regulations, if, on the division of land, the boundary of adjoining allotments intersects the line on which a pipe connected to any water/sewerage infrastructure has been laid, to direct the owner or occupier of each allotment under Regulation 34 of the Regulations to disconnect the pipe from the water/sewerage infrastructure.
<b>49.2</b> The power pursuant to Regulation 34(4) of the Regulations, if a pipe connected to any water/sewerage infrastructure lies across the boundary between adjoining allotments (except allotments in the same site under the <i>Strata Titles Act 1988</i> or in the same community parcel under the <i>Community Titles Act 1996</i> ), to give written notice to the owner or occupier of each of the allotments directing that the pipe be disconnected from the water/sewerage infrastructure by a qualified person in the manner, at the point and within the time stated in the notice.
<b>49.3</b> The power pursuant to Regulation 34(7) of the Regulations, if a person to whom notice has been given fails to comply with the notice, to enter either allotment or any adjoining land and carry out the necessary work.
<b>50. Water meters – estimates</b>



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50.1	The power pursuant to Regulation 36 of the Regulations if:
50.1.1	the Council is unable for any reason to gain access to a meter or to read a meter for the purpose of measuring water supplied to the person by the Council; and
50.1.2	a code or rules made under the Essential Services Commission Act 2002 relating to the provision of retail services to customers does not apply to that supply of water,
50.1.3	to, in accordance with any requirements of the Commission, estimate the quantity of water supplied through the meter and take that quantity to be the quantity of water supplied for the purpose of any amount payable for the supply of the water.
51.	<b>Charge where land not connected or service to land reduced or discontinued</b>
51.1	The power pursuant to Regulation 38 of the Regulations to, for the purposes of Section 115(2)(c) of the Act, impose a charge in respect of land of a kind specified by the Minister by notice in the Gazette despite the fact that:
51.1.1	the land is not connected to infrastructure by which a retail service is provided by the Council; or
51.1.2	the provision of a retail service to the land by the Council has been reduced or discontinued.



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**SCHEDULE OF CONDITIONS**

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

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

**CORPORATE AND COMMUNITY SERVICES REPORT NO. 11/2017**

**SUBJECT: MOUNT GAMBIER COMMUNITY RSL - REQUEST FOR SUPPORT -  
SALUTING MONASH**

**REF: AF11/213**

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This report presents a request from the Mount Gambier Community RSL to support their efforts in the posthumous promotion of General Sir John Monash to Field Marshall. The initial RSL request was received late last year (while noting the date on the RSL letter) and is attached (Attachment 1). Further information on Saluting Monash is also attached being material from The Saluting Monash website and an article from the Financial Review (Attachment 2).

Following receipt of the letter, research on the issues and discussion between the Chief Executive Officer and Mayor Lee a written response was provided to the RSL on 14<sup>th</sup> December, 2016, copy attached (Attachment 3).

A further letter from the RSL undated but received on the 23<sup>rd</sup> January, 2017 acknowledges Council's initial response and again requesting the matter be considered by Council, copy attached (Attachment 4).

This matter is now placed before Council for their consideration and resolution.

**RECOMMENDATION**

- (a) Corporate and Community Services Report No. 11/2017 re Saluting Monash be received;
- (b) the matter be referred to Council.



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

30th January, 2016  
MJT

## SALUTING MONASH

## COUNCIL

ABN 51 470 772 335



ACKNOWLEDGING THE CONTRIBUTION OF GENERAL SIR JOHN MONASH GCMG KCB VD  
& POSTHUMOUSLY AWARDING THE RANK OF FIELD MARSHAL BY 11 NOVEMBER 2018

Patron: Professor Roland Perry OAM F Monash

Chair: The Honourable Tim Fischer AC

Deputy Chair: Dr Judy Landau

Chief Executive Officer: Lieutenant Colonel John Moore OAM RFD ED Ret'd

Treasurer: Major Frank Woodhams OAM ED Ret'd



Mr Mark McShane

Chief Executive Officer

Council City of Mount Gambier SA

Dear Mark,

The Reserve forces Day Council of Australia under the Chairmanship of Tim Fischer AC has in place a working party titled "Saluting Monash Council". The aim of the Council is to right what is considered by many to be a wrong. This wrong to be righted is the manner in which World War 1 General John Monash who is considered to be Australia's greatest military leader was treated at the time by the Australian prime Minister of the day and the British Military hierarchy.

***In 1968 British Field Marshall Viscount Montgomery of Alamein said it all and I quote;***

***"I would name Monash as the best General on the Western Front in Europe; he possessed real creative originality, and the war may have been over sooner, and certainly with fewer casualties, had Haig been relieved of his command and Monash appointed to command the British Armies in his place." (Unquote)***

**The Jerilderie Shire Council unanimous resolution, carried October 2015:**

**"As a salute to all members of the AIF and following on the outstanding contribution of Sir John Monash to State and Nation before, during, and after WW1 and reflecting on the fact that Sir John Monash received no Australian Awards or Honours post 11 November 1918, the Prime Minister by Government Gazette publication, the posthumous promotion of one step in rank of General Sir John Monash to the rank of Australian field Marshall, with effect 11 November 1930, one year after General Sir John Monash was eventually promoted to the rank of General, in accord with the Blamey precedent, where Blamey was placed on active service for one day to allow his Field Marshall promotion to proceed.**

Another indirect precedent was created in the United States when in 1976 George Washington was posthumously promoted from four star general to five star general of the armies, the equivalent of a field marshal when he had been dead for 176 years.

In 2014 The South Australian Congress of the RSL resolved unanimously to support the posthumous promotion of General Sir John Monash, one step in rank, to Field Marshal.

Here in Mount Gambier the Community RSL and the Royal South Australia Regiment have both endorsed and support whole heartily the Jerilderie motion.

As chairman of the Reserve Forces Council of South Australia I ask the City of Mount Gambier Council also to endorse the Jerilderie resolution and help right the wrong that was handed out John Monash, our greatest general.

May I approach the council soon along with Leigh Newton (Major Retd) who will speak to the Jerilderie resolution, informing councillors of the importance of this action?

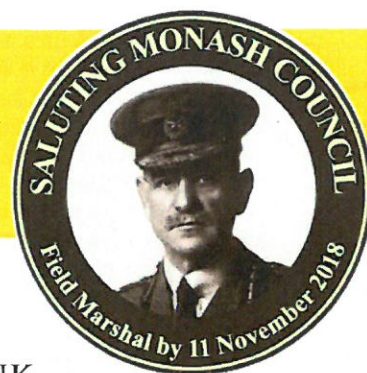
Mark, this decision will not change or rewrite WW1 history but it will right a wrong handed out at the time.

Bob Sandow

*Bob*  
*7/6/16*



# SALUTING MONASH COUNCIL



THE SALUTING MONASH COUNCIL'S OBJECTIVE  
IS TO ACHIEVE THE POSTHUMOUS PROMOTION OF  
GENERAL SIR JOHN MONASH GCMG KCB VD\* TO THE RANK  
OF FIELD MARSHAL BY 11 NOVEMBER, 2018.



## WHO WAS GENERAL SIR JOHN MONASH?

General Sir John Monash was an outstanding senior soldier of WWI. Monash had all the qualities of a fine military leader. He had a sharp innate intelligence, a keen analytical mind, and meticulous attention to detail. He was an outstanding student at Jerilderie Primary School and Scotch College, where he was equal dux at the age of 16 in 1881; and the University of Melbourne in Engineering and Law. He was also very interested in the Arts and was a fine musician. He rose rapidly through the ranks in the Citizen Militia (the equivalent of the Army Reserve of today) through sheer ability and commitment. He was audacious in battle and prepared to take considered risk. He showed great empathy for his troops which was unusual for a General in those days.

This garnered tremendous respect for him and no doubt contributed to the Australians' successes on the battlefield. Monash was clearly a creative thinker who was continually learning. He learnt a great deal from poor decision making by Commanders during the Gallipoli Campaign. He went on to apply the lessons he learned to the battlefields of the Western Front.

In 1916, alongside the Suez Canal, he ran a major ANZAC Day service in the field; and it is generally construed to be the first ANZAC Day service ever held in the field. New Zealand ran the first services a few hours earlier on 25 April 1916.

There could be no denying Monash's impressive achievements and, as a result, he was able to withstand continued anti-Semitism and sustained prejudice from superior commanders. It seems that the influential war correspondent Charles Bean and the journalist Keith Murdoch were both determined to have Monash removed from command at one stage. Monash was a Reservist, not a Duntroon or Sandhurst graduate. This did not enamour him to his professional soldier commanders. He was regarded as an outsider, untrustworthy and overly ambitious, all code words for being a Jew.

The Australian Prime Minister, William 'Billy' Hughes, was fearful of Monash's allure to the Australian Public and was probably jealous of all the attention he was getting, including from King George V. Monash was knighted on the battlefield by the King. Fortunately for all of us, Hughes was persuaded by Monash's many supporters, who had directly experienced his outstanding performance, which he should remain in command.

cont'd >

\*GCMG - Knight Grand Cross of the Most Distinguished Order of St Michael and St George  
KCB - Knight Commander of the Most Honourable Order of the Bath  
VD - Volunteers Decoration replaced by ED Efficiency Decoration then RFD Reserve Forces Decoration

Please help Saluting Monash Council's running costs.

All donations are gratefully accepted. Please make cheques out to: "Saluting Monash Council"

Mail to: Major Frank Woodhams, Treasurer, Saluting Monash Council, 3/800 Military Road, Mosman NSW 2088.







After WW1, Monash led the State Electricity Commission in Victoria for 10 years, spearheaded the development of the Shrine of Remembrance and became Honorary Vice Chancellor of the University of Melbourne; amongst many other community contributions. He stated openly that he wished to give back to the community. Yet, by all accounts, he remained humble and quietly spoken.

You don't have to make a lot of noise to be effective. His was the life of conviction, commitment and selfless service to Australia.

What more could we ask of a citizen? His life should be a lasting inspiration to all Australians. In the Great Depression he declined to lead a coup, saying the only hope for Australia is the ballot box and good education. Sir John Monash's magnificent statue, by Peter Corlett OAM, was unveiled at Monash University in 2015.

Monash said 'Adopt as your fundamental creed that you will equip yourself for life, not solely for your own benefit, but for the benefit of the whole community'. Building the nation in lifelong learning was his credo. Sir John Monash is an inspiration for all Australians. We should never take for granted the defence of our nation. Let us remember what Australian sailors, soldiers and airmen have sacrificed to allow Australia to grow in peace and prosperity as a vibrant multicultural democracy. Let us particularly remember those men and women who have paid the ultimate sacrifice in wars past. May they rest in peace for evermore.



General Sir John Monash and General JJT Hobbs passing the saluting base outside Buckingham Palace in London in 1918.



The statue of General Sir John Monash was erected in King's Domain, Melbourne in 1950.

## WHAT IS THE RANK OF FIELD MARSHAL?



The rank of Field Marshal is the highest military rank which can be bestowed by the Governments of Commonwealth countries on its senior soldiers. The origin of the rank of Field Marshal dates to the early Middle Ages, originally meaning the keeper of the king's horses (from old German Marh-scalc = "horse-servant") from the time of the early Frankish kings. Upon their promotions, Field Marshals were traditionally awarded a decorative baton, which they carried as a symbol of their high rank. They were often studded with jewels and inlaid with precious metals.

*The Badge of Rank*

## WHY WASN'T JOHN MONASH AWARDED THE RANK OF FIELD MARSHAL?

Clearly the jealousy of then Prime Minister, W M Hughes, is the main reason Monash was frozen at the rank of Lieutenant General from 11 November 1918 to 11 November 1929, along with the indifference of Prime Minister S M Bruce, who followed Hughes. It caused Albert Jacka VC MC (Bar) to convene a special ANZAC Day dinner in salute of General Sir John Monash at Melbourne Town Hall in 1924; arising from the fact Monash received NO Australian Government awards after World War 1. Throughout his military life the fact he was a Reservist, not a Duntroon or Sandhurst graduate; and that, at age 50 when he was at Gallipoli, was considered to be too old, were aspects held against Monash.



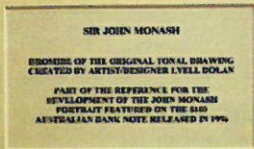
*A Field Marshal's Baton*



General Sir John Monash bust by Paul Montford.



## GENERAL SIR JOHN MONASH IS THE MAN ON AUSTRALIA'S \$100 NOTE



### HOW CAN YOU HELP MAKE IT HAPPEN ?

If you want to see this happen, you can do so with focus and strategy. All available elements should be activated, together with a sequencing that would make the 'Maestro General' himself proud. The proposal needs to be honed and stated repeatedly along simple lines that will cut through and head-off inevitable criticisms that it will open floodgates for posthumous promotions. The proposal and objective is really all about the following, and best stated with these words:

As a salute to all members of the AIF in World War I and as a salute to Australia's greatest general and an extraordinary citizen, steps be taken to provide for the posthumous promotion of General Sir John Monash one step in rank to the rank of field marshal, effective 11 November 1930, exactly one year after he eventually became a general, in accord with the Blamey precedent, where Blamey was placed on active service for one day to allow his field marshal promotion to proceed.

In turn this should be conveyed to local federal members of the House of Representatives and to senators on both sides. This can be done by letters, emails, delegations of small groups or simply by politely accosting every MP on every occasion encountered. Emails and letters should definitely not take the form of a circularised letter but be individually drafted and reflect your own angle and thoughts on the matter.

This action detailed above will not be enough in itself so an attempt should be made to concentrate the fire, so as to speak, to hit-up MPs and senators in particular months, notably early February at the start of the parliamentary sitting year, April as in the month of ANZAC, July as in the Month of the anniversary of the Battle of Hamel and November as in the month of Remembrance or Armistice Day.

A small group of say ten electors seeking a fifteen minute only appointment with their local federal MP will rarely be turned down, especially if the topic of Monash is clearly stated and the request asks specifically for fifteen minutes. MP's appreciate delegations that have focus as they are genuinely busy with much ground to cover.

Further, local RSL sub-branches or other community organisations can convene community conferences and forums and such like to discuss the issue of AIF recognition and the particular promotion proposal with regard to Monash. All this type of activity would be best done, not under the umbrella of any particular political party, but with a more broad-based approach.

## MAJOR SUPPORT RECEIVED SO FAR

**The Jerilderie Shire Council unanimous resolution, carried October 2015:**

Jerilderie Proposition: As a salute to all members of the AIF and following on the outstanding contribution of General Sir John Monash to State and Nation before, during and after WW 1 and reflecting the fact that Sir John Monash received no Australian Awards or Honours post 11 November 1918, the Prime Minister approve by Government Gazette publication, the posthumous promotion of one step in rank of General Sir John Monash to the rank of Australian Field Marshal, with effect 11 November 1930, one year after General Sir John Monash was eventually promoted to the rank of General, in accord with the Blamey precedent, where Blamey was placed on active service for one day to allow his Field Marshal promotion to proceed.

Another indirect precedent was created in the US when in 1796 George Washington was posthumously promoted from four star general to five star general of the armies, the equivalent of a field marshal when he had been dead 176 years.

### The Returned and Services League of Australia

In 2014 the South Australian Congress of the RSL resolved unanimously to support the posthumous promotion of General Sir John Monash, one step in rank, to Field Marshal.

**In 2016 the New South Wales State RSL Congress adopted the following motion from the South Western District Council:**

That the Returned and Services League of Australia (New South Wales Branch) recommend to RSL National, as a salute to Australia's greatest General and an extraordinary citizen, steps be taken for the posthumous promotion of General Sir John Monash one step in rank to the rank of Field Marshal, effective 11 November 1930, in accord with the Blamey precedent, where Blamey was placed on active service for one day to allow his Field Marshal promotion to proceed.

- **Supporting Argument 1.** Monash was considered by many the best General on the Western Front in Europe. He possessed real creative originality, and the war might well have been over sooner, and certainly with fewer casualties, had Haig been relieved of his command and Monash appointed to command the British armies in his place.
- **Supporting Argument 2.** In 2008, the late Rusty Priest, then President of NSW sub-branch of the RSL publicly supported the posthumous promotion of Monash, arguing further that had Monash been promoted earlier on the Western Front that many Allied soldiers' lives would have been saved.
- **Supporting Argument 3.** The consort of the Queen of Australia, Prince Phillip, Duke of Edinburgh, remains an Australian Field Marshal and will do so for the entirety of his life. The rank exists, there are people alive with the rank and in any event Charles, Prince of Wales and or his son, Prince William, in succeeding to the throne one day, will be made a Field Marshal.



*General Sir John Monash died in Melbourne on 8 October 1931 from a heart attack. He was given a state funeral with an estimated 300,000 mourners attending, the nation's largest funeral crowd at that time, coming to pay their respects. After a Jewish service, and a 17-gun salute, he was buried in Brighton General Cemetery.*

Please help Saluting Monash Council's running costs.

All donations are gratefully accepted. Please make cheques out to: "Saluting Monash Council"

Mail to: Major Frank Woodhams, Treasurer, Saluting Monash Council, 3/800 Military Road, Mosman NSW 2088.







"...EQUIP YOURSELF FOR  
LIFE, NOT SOLELY FOR  
YOUR OWN BENEFIT BUT  
FOR THE BENEFIT OF THE  
WHOLE COMMUNITY."

— General Sir John Monash —



General Sir John Monash was buried in Brighton General Cemetery. In a final sign of humility, despite his achievements, honours and titles, he instructed that his tombstone simply bear the words "John Monash".

## FURTHER READING

Recently released books: "Maestro John Monash: Australia's Greatest Citizen General" by Tim Fischer and "Monash: The Outsider Who Won a War" by Roland Perry.

This brochure is only a summary of the Saluting Monash Council's plans. A very good summary of Monash at war is shown in the DVD "The Forgotten ANZAC" now on YouTube®.

"Prominent among the heroes... has been the Western Front commander of the Australians... General Sir John Monash. As Mr Fischer and others are seeking, it would do well for the... Government to promote Monash posthumously (to Field Marshal) in recognition of his achievements and sheer humanity."

- The Australian Editorial 11 Nov 2008

## COMMEMORATIVE MEDALLIONS AVAILABLE

Descendants' and Supporters' Commemorative medallions are available for purchase at [www.salutingmonash.org.au](http://www.salutingmonash.org.au).

## FUND RAISING

This brochure is to help people understand the roles this great man played in Australia and WWI. It will be available for download from our new website ([www.salutingmonash.org.au](http://www.salutingmonash.org.au)) covering his many military and civilian successes and specifically sets out the case for his promotion.

There are costs in setting up Saluting Monash Council. Currently, personal funds are being used.

**We are seeking your financial support in contributing to what we regard as a very worthy cause. It is anticipated that the Field Marshal's baton and rank be presented on a date on or before 11 November 2018 at a Parade.**

The ideal place for the Parade will be at the Forecourt of the Shrine of Remembrance with the baton escorted to other capitals soon after. It will be a fitting tribute to his legacy and to the WWI soldiers. Once achieved, supporters of the campaign will be able to look back and say they were part of making Australia's WWI history.

## DONATE NOW

All donations are gratefully appreciated.

**Please make cheques out to: "Saluting Monash Council"**

**Mail to:**

**Major Frank Woodhams**

**Treasurer, Saluting Monash Council**

**3/800 Military Road**

**Mosman NSW 2088**

A Certificate of Recognition will be presented for all donations over \$1,000. This certificate will be signed by the Saluting Monash Council Chairman, The Hon Tim Fischer AC.



**SALUTING MONASH COUNCIL**

Formally established in July 2016

ABN 51 470 772 335

Patron	Professor Roland Perry OAM F Monash
Chair	The Hon Tim Fischer AC
Deputy Chair	Dr Judy Landau
Chief Executive Officer	LTCOL John Moore OAM RFD ED (Ret'd)
Treasurer	MAJ Frank Woodhams OAM ED (Ret'd)

Email: [salutingmonash@gmail.com](mailto:salutingmonash@gmail.com)

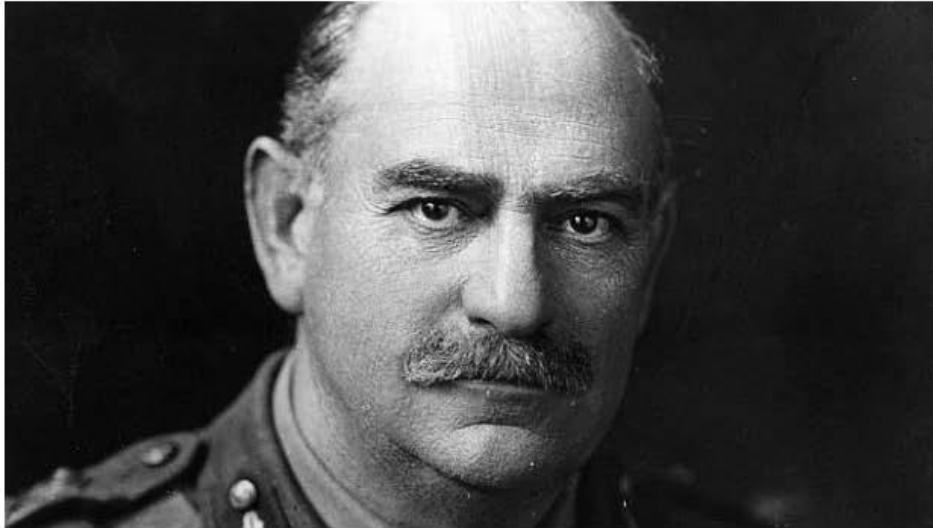
[www.salutingmonash.org.au](http://www.salutingmonash.org.au) • Phone 1300 11 2018

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### John Monash biography argues hero should be posthumously promoted



John Monash's elevation to rank of field marshal would acknowledge 'Monash was our greatest general to date', says biographer Tim Fischer. Photo: Getty Images



by **Tony Walker**

When Tim Fischer's biography-polemic – *Maestro John Monash: Australia's Greatest Citizen General* – is launched at Melbourne's Scotch College this coming Monday, he will stir a debate that has rippled for the better part of a century.

Should Monash, Australia's World War I commander, be elevated posthumously to the rank of field marshal?

A Vietnam veteran, former deputy prime minister and leader of the National Party, Fischer has no doubt Monash deserves this recognition.

He advances two main reasons: first, that Monash's elevation would be "a salute" to those who served in World War I, including the 61,000 who perished; and second, it would represent an acknowledgment "Monash was our greatest general to date".

This latter proposition is contentious not because Monash is undeserving of recognition: to the contrary. But because such a step – taken posthumously – would be unprecedented in Australia and would raise questions about other worthy candidates. If Monash, then why not Harry Chauvel, the commander of the Australian Light Horse in Palestine whose exploits matched those of Monash on the Western Front?

In August 1917, Chauvel, as commander of the Desert Mounted Corps, became the first Australian to attain the rank of lieutenant-general.

As the Anzac centenary approaches, what is incontrovertible is that Australia was blessed by the quality of its generals on both the Western and Eastern fronts.

In considering Fischer's argument for Monash, two strands might be addressed.

First, what weight should be given to Monash's leadership on the Western Front? And second, what judgments might be made about a denial of appropriate recognition of Monash's exploits by an ungrateful Australian government under then prime minister William Morris Hughes?

And allied with that question is whether a failure to elevate Monash to full general from the rank of lieutenant-general at war's end was due to an incipient anti-Semitism under which a citizen soldier laboured for much of his military career?

## **Master plan helped end war**

Monash was born of Prussian-Jewish parents in West Melbourne on June 27, 1865. He spent part of his childhood in Jerilderie, where his father operated a store after falling on hard times.

Fischer's quest for recognition for Monash rests partly, it seems, on their shared connections with the Riverina. Thus, the boy from Boree Creek (Fischer's hometown) argues the case for "John Monash of Jerilderie and Melbourne, Gallipoli and Hamel."

He might have added Amiens, a far more significant moment in the Great War than the battle of Hamel, in northern France, since it led to the end of the war enabled by Monash's master plan in which artillery, armour and infantry launched a co-ordinated and devastating assault on German positions.

This moment is regarded as the forerunner of flexible, modern military doctrine and the end of static trench warfare.

Monash's tactical brilliance had been tested a month earlier on July 4, 1918, in Hamel, in which American units served for the first time under Australian command.

Australian politicians never tire of mentioning Hamel as a means of reminding Americans of a thread that connects Australia with the US in war to the present day.

Hamel may be an important marker in Australian military history, but to the Americans it barely registers.

Fischer is joined in his campaign to elevate Monash by Josh Frydenberg, member for the Melbourne seat of Kooyong, and one of a handful of Jewish members of the Federal Parliament.

Frydenberg makes a plausible case that, if Monash had been promoted to full general in the field from lieutenant-general, he may well have been elevated to field marshal by King George V, as was the case with British generals Allenby, Plumer and Wilson, and Frenchman Ferdinand Foch.

Monash was a favourite of the king, who knighted him on August 12, 1918, just days after the battle of Amiens.

Fischer and Frydenberg are on firm ground when they complain that it took a decade for Monash to be made a full general in belated recognition of his exploits – by Labor prime minister James Scullin.

Among options for Frydenberg is to seek a resolution of the Australian Parliament calling for Monash's elevation, in the same way the US Congress conferred the equivalent rank of field marshal on George Washington as General of the Armies of the United States on America's bicentenary in 1976. The Fischer-Frydenberg campaign has the support of Roland Perry, author of the biography of Monash – *Monash: The Outsider Who Won a War*.

"In the context of the war and his impact on history, Monash needs that elevation for people to understand what he achieved," Perry says. "He's been grossly underplayed."

Prime Minister Tony Abbott is said to be equivocal not on whether Monash is deserving of recognition – he has announced that a visitors centre at Villers-Bretonneux will be named for John Monash – but whether such a step would be the best way to acknowledge his contribution.

Complicating efforts to elevate Monash is the precedent set by Robert Menzies, who elevated Thomas Blamey to field marshal on June 8, 1950.

No disrespect for Blamey, but there is no valid comparison between Blamey on the one hand and Monash and Chauvel on the other.

Some might observe that Australia has one too many field marshals.

*The Australian Financial Review*



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Reference: AF11/213 LD  
Enquiries to: Mr Mark McShane

14<sup>th</sup> December, 2016

Mr Bob Sandow  
President  
Mount Gambier Community RSL  
PO Box 80  
MOUNT GAMBIER SA 5290

Email: [info@mountgambierrsl.com.au](mailto:info@mountgambierrsl.com.au)

Dear Bob

Mayor Andrew Lee and I have considered your correspondence regarding Saluting Monash and your request for Council to support the Saluting Monash Council.

I have reviewed a range of information on the matter leading to a number of questions and a preliminary position.

1. The support of Jerilderie Council is noted and interestingly this Council is no longer in existence, being amalgamated with other Councils in 2016. I understand that Monash spent some of his early years in Jerilderie and hence the resolution by the former Council. There are over 600 Local Government authorities in Australia and I would like to know of other Councils that have either formally or informally supported the Saluting Monash Council.
2. Can you detail formal South Australian State Government and Federal Government support and recognition for Saluting Monash Council ?
3. Saluting Monash has support from National and Local RSL's and our view is that these organisations should and are driving the matter and are best equipped to do so rather than Local Government.

Summarising the above is that while I acknowledge the contribution of General John Monash and the RSL's view to posthumously promote him to a higher rank, I consider the matter is best dealt with by the RSL at both National and State level.

Please contact me should you wish for any clarity on the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mark McShane', written over a light blue horizontal line.

**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

cc: Mayor Andrew Lee



# Mount Gambier Community RSL

16 Sturt Street PO Box 80 Mount Gambier 5290 South Australia  
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 www.mountgambierrsl.com.au

Mr Mark McShane  
 Chief Executive Officer  
 City of Mount Gambier

Dear Mark,

I would now like to respond to your comments in regard to my letter of December last concerning a request for our council to support the Saluting Monash Council.

My initial reaction was one of disbelief that yourself and our elected Mayor could deny to me what I thought was my right. That is to approach the council on an issue considered to be important not only to me as a ratepayer but someone who I believe is civic minded.

My thoughts were for our community to get on the ground floor of this movement and to be seen to be proactive in righting a bad wrong.

I agree with you that the Jerilderie council who originally tabled the Monash resolution does no longer exist, yes he did spend his early schooling there until they worked out that he was too intelligent for them to educate. However their resolution has been adopted and it stands.

Our belief is that Prime Minister Malcolm will support the promotion of Monash providing that he has bi-partisan agreement (according to Patron Tim Fisher ). Member for Barker Tony Pasin will support the Jerilderie resolution when next in Parliament.

Your letter says that it is best addressed by the RSL. However the RSL state congress and our local RSL are only another voice to the fix, we are not the instigator of the posthumous promotion of Monash.

From a local point of view, my RSL, Royal South Australia Regiment Association, Member for Mount Gambier Troy Bell and the District Council of Grant all have sent letters of support to me as they believe our community sits nicely on the ground floor within this matter.

Thanking You... .

Bob Sandow president Mount Gambier Community Club