

15<sup>th</sup> February, 2018

**MAYOR  
COUNCILLORS  
CITY OF MOUNT GAMBIER**

1. **NOTICE** is given that a meeting of the Council of the City of Mount Gambier will be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier **on Tuesday, 20 February 2018 at 6.00 p.m.**
2. **NOTICE** is given that the Standing Committees (Committee Room and Level 1 Conference Room) and Council Development Assessment Panel (Level 1 Conference Room) will meet at the Civic Centre, 10 Watson Terrace, Mount Gambier on the days and dates as follows:

|                                      |                                 |
|--------------------------------------|---------------------------------|
| Strategic Standing Committee         | <b>Tuesday, 13 March 2018 *</b> |
| Operational Standing Committee       | <b>Tuesday, 13 March 2018</b>   |
| Council Development Assessment Panel | <b>Thursday, 15 March 2018</b>  |

\* *Note change of day due to Monday 12<sup>th</sup> March 2018 being a public holiday.*

An agenda for the meeting is enclosed.



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

**AGENDA INDEX**

|            |  |          |
|------------|--|----------|
| <b>1.</b>  | <b>APOLOGY(IES).....</b>   | <b>1</b> |
| <b>2.</b>  | <b>LEAVE OF ABSENCE .....</b>  | <b>1</b> |
| <b>3.</b>  | <b>CONFIRMATION OF COUNCIL MINUTES .....</b>   | <b>1</b> |
| <b>4.</b>  | <b>MAYORAL REPORT - Ref. AF11/881.....</b>   | <b>2</b> |
| <b>5.</b>  | <b>REPORTS FROM COUNCILLORS - Ref. AF11/882.....</b>   | <b>2</b> |
| <b>6.</b>  | <b>QUESTIONS.....</b>  | <b>2</b> |
|            | 6.1. With Notice .....   | 2        |
|            | 6.2. Without Notice .....  | 2        |
| <b>7.</b>  | <b>PETITIONS.....</b>  | <b>2</b> |
| <b>8.</b>  | <b>DEPUTATIONS .....</b>   | <b>2</b> |
| <b>9.</b>  | <b>NOTICE OF MOTION TO RESCIND .....</b>   | <b>2</b> |
| <b>10.</b> | <b>ELECTED MEMBERS WORKSHOPS (INFORMAL GATHERINGS) - Ref. AF15/83.....</b>                         | <b>2</b> |
| <b>11.</b> | <b>ELECTED MEMBER TRAINING AND DEVELOPMENT - Ref. AF11/903 .....</b>                               | <b>3</b> |
| <b>12.</b> | <b>COUNCIL ACTION ITEMS - Ref. AF17/225, AF17/228 .....</b>  | <b>3</b> |
| <b>13.</b> | <b>COMMITTEE MINUTES AND RECOMMENDATIONS.....</b>  | <b>4</b> |
|            | 13.1. Minutes of Strategic Standing Committee - 12 February 2018.....                              | 4        |
|            | 13.2. Governance Review of Confidentiality Orders .....  | 4        |
|            | 13.3. Review of Current By-Laws .....  | 6        |
|            | 13.4. Policy Review - F500 - Footways and Council Land - Removal of Objects .....                  | 6        |
|            | 13.5. Policy Review - F505 - Footways and Council Land - Sale of Commodities.....                  | 7        |
|            | 13.6. Policy Review - F510 - Footways and Council Land - Fundraising and Promotion.....            | 7        |
|            | 13.7. Policy Review - A515 - Animal Control - Dogs.....  | 7        |
|            | 13.8. Policy Review - A520 - Animal Control .....  | 8        |
|            | 13.9. Policy Review - F135 - Flammable Undergrowth .....   | 8        |
|            | 13.10. Policy Review – D160 - Planning – Development Act Inspection and Copying of Documents ..... | 8        |
|            | 13.11. Quarter Two Budget Review for Financial Year ending 30 <sup>th</sup> June 2018 .....        | 9        |
|            | 13.12. Youth Engagement Strategy.....  | 9        |
|            | 13.13. Culture and Heritage Plan .....   | 10       |
|            | 13.14. Minutes of Operational Standing Committee - 13 February 2018.....                           | 11       |



|  |           |
|--|-----------|
| 13.15. Minutes of Community Engagement and Social Inclusion Sub-Committee - 18 January 2018.....                             | 18<br>11  |
| 13.16. Community Engagement and Social Inclusion Sub-Committee - Ref. AF17/432 .....   | 11        |
| 13.17. Minutes of Heritage Sub-Committee - 31 January 2018 .....   | 11        |
| 13.18. Letter of Appreciation - Local Heritage Restoration Grant - Ref. AF11/196.....  | 12        |
| 13.19. Heritage Advisor Report - November 2017 - Report No. AR18/1022 .....  | 12        |
| 13.20. Governance - Heritage Committee - Further Development of Work Plan - Ref. AF17/294.....                               | 12        |
| 13.21. Kitchen Caddy Roll Out Stage 2 - Report No. AR17/43697 .....  | 13        |
| 13.22. ReUse Market Update - Report No. AR18/1706 .....  | 13        |
| 13.23. Plastics Recycling - Mount Gambier - Report No. AR18/1778 .....   | 13        |
| 13.24. Works in Progress - City Infrastructure - Report No. AR18/3158 .....  | 14        |
| 13.25. Request to review parking on Railway Terrace - Report No. AR17/48336 .....  | 14        |
| 13.26. Schedule of Fees and Charges - 2018/2019 - Report No. AR18/611.....   | 14        |
| 13.27. Supplementary Local Roads Funding and Roads to Recovery Funding updates to Roads Program - Report No. AR18/2076 ..... | 15        |
| 13.28. Long Term Infrastructure and Asset Management Program - Report No. AR18/4490 .....                                    | 16        |
| 13.29. Strategic Projects - Report No. AR18/3745 .....   | 16        |
| 13.30. Annual Delegations Review - Report No. AR18/3996.....   | 16        |
| 13.31. Sponsored Events - Contributions To Economic Development And Community Wellbeing - Report No. AR18/3821.....          | 17        |
| 13.32. 2018 Local Government Election - Council Voters Roll - Report No. AR18/3371.....                                      | 17        |
| 13.33. One Library System - Novation Agreement - Report No. AR18/3471.....   | 17        |
| 13.34. Boarding House - 73 Gray Street Mount Gambier - Discretionary Rate Rebate - Report No. AR18/3419 .....                | 17        |
| 13.35. Mobile Unit - Community Engagement, Tourism & Events – Ref. AF17/237.....   | 18        |
| 13.36. Minutes of Development Assessment Panel - 18 January 2018 .....   | 18        |
| 13.37. Minutes of Chief Executive Officer Performance Review Committee - 5 February 2018 .....                               | 18        |
| <b>14. COUNCIL REPORTS .....</b>   | <b>18</b> |
| 14.1. Attendance at 2018 Council Next Practice Showcase and LGA Ordinary General Meeting - Report No. AR18/5577.....         | 19        |
| 14.2. Annual Delegations Review - Report No. AR18/5656.....  | 21        |
| 14.3. Fringe Festival 2018 - Temporary Road Closures - Report No. AR18/5274.....   | 32        |
| 14.4. Out of the Dark - Aboriginal Rock Art Collection - Report No. AR18/5908 .....  | 35        |
| <b>15. MOTION(S) - With Notice .....</b>   | <b>34</b> |
| <b>16. MOTION(S) - Without Notice .....</b>  | <b>34</b> |



|   |           |
|---|-----------|
| <b>17. CONFIDENTIAL ITEMS .....</b>   | <b>36</b> |
| 17.1. Consideration for Exclusion of the Public.....  | 36        |
| 17.2. PERSONNEL – Chief Executive Officer Performance Review – Discussion regarding<br>Chief Executive Officer’s KPI’s for 2018 – Ref. PERS ..... | 37        |
| 17.3. CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL.....   | 37        |
| <b>18. REPORT ATTACHMENTS.....</b>  | <b>38</b> |



## **AGENDA OF ORDINARY COUNCIL MEETING**

Meeting to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier  
on Tuesday, 20 February 2018 at 6.00 p.m.

**PRESENT**

Mayor Andrew Lee  
Cr Christian Greco  
Cr Mark Lovett  
Cr Josh Lynagh  
Cr Sonya Meziniec  
Cr Des Mutton  
Cr Steven Perryman  
Cr Hanna Persello  
Cr Penny Richardson  
Cr Ian Von Stanke

**COUNCIL OFFICERS**

|   |   |                        |
|---|---|------------------------|
| Chief Executive Officer                   | - | Mr M McShane           |
| General Manager Community Wellbeing       | - | Ms B Cernovskis        |
| General Manager Council Business Services | - | Mrs P Lee              |
| General Manager City Growth               | - | Dr J Nagy              |
| General Manager City Infrastructure       | - | Mr N Serle             |
| Manager Governance and Property           | - | Mr M McCarthy          |
| Manager Business and Strategic Planning   | - | Mrs T Tzioutziouklaris |
| Media and Communications Coordinator      | - | Ms S McLean            |
| Administrative Officer Executive Support  | - | Mrs M Telford          |

**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.**

### **1. APOLOGY(IES)**

Apology received from Cr Frank Morello.

That the apology from Cr Morello be received.

Moved:

Seconded:

### **2. LEAVE OF ABSENCE**

Nil

### **3. CONFIRMATION OF COUNCIL MINUTES**

Ordinary Meeting held on 16 January 2018.

That the minutes of the Ordinary Council meeting held on 16 January 2018 be confirmed as an accurate record of the proceedings of that meeting.

Moved:

Seconded:



**4. MAYORAL REPORT - Ref. AF11/881**

That the Mayoral report made on 20 February 2018 be received.

Moved:

Seconded:

**5. REPORTS FROM COUNCILLORS - Ref. AF11/882**

Member

Cr Richardson

Mount Gambier & Districts Health Advisory Council

.....

.....

That the reports made by Councillors on 20 February 2018 be received.

Moved:

Seconded:

**6. QUESTIONS**

**6.1. With Notice**

Nil submitted.

**6.2. Without Notice**

**7. PETITIONS**

Nil

**8. DEPUTATIONS**

Nil

**9. NOTICE OF MOTION TO RESCIND**

Nil

**10. ELECTED MEMBERS WORKSHOPS (INFORMAL GATHERINGS) - Ref. AF15/83**

|            |  |
|------------|--|
| 23/01/2018 | Stand Like Stone Foundation/Planning Reforms/By-Law Review |
| 06/02/2018 | 2018/2019 Budget   |

Records of proceedings are attached.

That the Record of Proceedings for the Stand Like Stone Foundation/Planning Reforms/By-Law Review and the 2018/2019 Budget Workshops held 23 January 2018 and 6 February 2017 be received and the contents noted.

Moved:

Seconded:



**11. ELECTED MEMBER TRAINING AND DEVELOPMENT - Ref. AF11/903**

Nil submitted.

**12. COUNCIL ACTION ITEMS - Ref. AF17/225, AF17/228**

Items referred to the Council Meeting held 16 January 2018.

That the Action Items referred to the Council Meeting held 16 January 2018 be received.

Moved:

Seconded:







- x. Council 21/02/2017 – Operational Services Committee – 14/02/2017 - Item 13 - DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304
  - xiii. Council 18/04/2017 – Corporate Services Committee – 10/04/2017 - Item 11 - SALE OF LAND FOR NON PAYMENT OF RATES - Notice of Intention to Sell Land for Non-Payment of Council Rates - Ref. AF17/71
  - xiv. Council 18/04/2017 - Item 1 - CEO REPORT ON CONFIDENTIAL MATTERS - Ref. AF11/1894
- (c) That the following confidential orders having been reviewed by Council be released immediately following the Council meeting on 20 February 2017:
- viii. Council 15/03/2016 – Operational Services Committee – 08/03/2016 - Item 6 - DEVELOPMENT CONTROL - Regulating - District Centre Zone Development Plan Amendment - City of Mount Gambier Development Plan - Ref. AF16/69
  - ix. Council 21/02/2017 – Operational Services Committee – 14/02/2017 - Item 19 - OPERATIONAL SERVICES REPORT NO. 3/2017 - Legal Action - 211 Wehl Street North, Mount Gambier - Mr K Pearson (Amberich Pty Ltd) - Ref. AF12/113
  - xi. Council 21/02/2017 – Operational Services Committee – 14/02/2017 - Item 16 - DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304
  - xii. Council 18/04/2017 – Corporate Services Committee – 10/04/2017 - Item 8 - SALE OF LAND FOR NON PAYMENT OF RATES - Notice of Intention to Sell Land for Non-Payment of Council Rates - Ref. AF17/69

Moved:

Seconded:



### 13.3. Review of Current By-Laws

- (a) That Strategic Standing Committee Report No. AR18/3190 titled '*Review of Current By-Laws*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That the following proposed replacement By-Laws as attached/tabled at the Strategic Standing Committee meeting held on 12 February 2018 be endorsed for the purpose of undertaking public consultation and consultation with necessary referral agencies:
- By-Law No.1 – Permits & Penalties
  - By-Law No.2 – Local Government Land
  - By-Law No.3 – Roads
  - By-Law No.4 – Moveable Signs
  - By-Law No.5 – Dogs.
- (c) That the repeal of the last remaining provisions of the Local Government Act 1934 having removed the legal basis for Council's Taxi By-Law and Taxi Licensing scheme, that:
- Council's Taxi Licensing scheme will cease after 31 December 2018, and
  - The Council administration liaise with current licensed Taxi Operators and the Department of Planning, Transport and Infrastructure for the transition of Taxi Operators to an unlicensed regime as operates across the rest of the State of South Australia.
- (d) A further report be presented for Council to consider resource implications for enforcement and a community engagement process for the potential introduction of a Cats By-Law.
- (e) A further report be presented for Council to consider any submissions received from the public consultation and/or the outcomes of referral processes and any proposed changes.

Moved:

Seconded:

### 13.4. Policy Review - F500 - Footways and Council Land - Removal of Objects

- (a) That Strategic Standing Committee Report No. AR18/3538 titled '*Policy Review - F500 - Footways and Council Land - Removal of Objects*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council Policy '*F500 - Footways and Council Land - Removal of Objects*' as attached to Strategic Standing Committee Report No. AR18/3538 be adopted.

Moved:

Seconded:



**13.5. Policy Review - F505 - Footways and Council Land - Sale of Commodities**

- (a) That Strategic Standing Committee Report No. AR18/3550 titled '*Policy Review - F505 - Footways and Council Land - Sale of Commodities*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council Policy '*F505 - Footways and Council Land - Sale of Commodities*' as attached to Strategic Standing Committee Report No. AR18/3550 be adopted.

Moved:

Seconded:

**13.6. Policy Review - F510 - Footways and Council Land - Fundraising and Promotion**

- (a) That Strategic Standing Committee Report No. AR18/3577 titled '*Policy Review - F510 - Footways and Council Land - Fundraising and Promotion*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council Policy '*F510 - Footways and Council Land - Fundraising and Promotion*' as attached to Strategic Standing Committee Report No. AR18/3577 be adopted.

Moved:

Seconded:

**13.7. Policy Review - A515 - Animal Control - Dogs**

- (a) That Strategic Standing Committee Report No. AR18/3220 titled '*A515 - Animal Control - Dogs*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council Policy '*A515 - Animal Control - Dogs*' as attached to Strategic Standing Committee Report No. AR18/3220 be adopted.

Moved:

Seconded:



**13.8. Policy Review - A520 - Animal Control**

- (a) That Strategic Standing Committee Report No. AR18/3250 titled '*A520 - Animal Control*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council Policy '*A520 - Animal Control*' as attached to Strategic Standing Committee Report No. AR18/3250 be adopted.

Moved:

Seconded:

**13.9. Policy Review - F135 - Flammable Undergrowth**

- (a) That Strategic Standing Committee Report No. AR18/3265 titled '*F135 - Flammable Undergrowth*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council Policy '*F135 - Flammable Undergrowth*' as attached to Strategic Standing Committee Report No. AR18/3265 be adopted.

Moved:

Seconded:

**13.10. Policy Review – D160 - Planning – Development Act Inspection and Copying of Documents**

- (a) Strategic Standing Committee Report No. AR18/4783 titled 'Policy Review – D160 - Planning – Development Act Inspection and copying of documents ' be received.
- (b) Updated Council Policy 'D160 - Planning – Development Act Inspection and copying of documents ' be adopted as attached to Council Report No. AR18/4783.

Moved:

Seconded:



### 13.11. Quarter Two Budget Review for Financial Year ending 30<sup>th</sup> June 2018

- (a) That Strategic Standing Committee Report No. AR18/4412 titled '*Quarter Two Budget Review for Financial Year Ending 30 June 2018*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council adopts the Quarter Two Budget Review (BR2) for the financial year 1 July 2017 to 30 June 2018 as detailed in Attachment 1 of the report titled '*Quarter Two Budget Review for the Financial Year Ending 30 June 2018*' which reflects a \$1,046,000 forecasted deficit.

This represents a reduction of \$1,369,000 from the Original Budget of \$323,000 surplus and a reduction of \$578,000 from Quarter One Budget Review (BR1).

- (c) That Council notes for Quarter Two Budget Review:
- The major contributing factor is the reduction of \$1,152,000 in grants, including the SA Government Grants Commission's 50% forward payment received in late June 2017 of \$1,327,882 (i.e. received and account for in the 2016/2017 financial year rather than in the 2017/2018 financial year). \$960,000 of this adjustment was already included in Quarter One Budget Review.
  - Had the SA Government Grants Commission's 50% payment been received in the 2017/2018 financial year instead, Quarter Two Budget Review would result in an estimated operating surplus of \$282,000.

Moved:

Seconded:

### 13.12. Youth Engagement Strategy

- (a) That Strategic Standing Committee Report No. AR18/4767 titled '*Youth Engagement Strategy*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council acknowledge the depth of youth engagement, volume of input and willing participation throughout the engagement activities.
- (c) That the Youth Engagement Strategy be referred to a Council workshop on Tuesday, 27 February 2018.

Moved:

Seconded:



### 13.13. Culture and Heritage Plan

- (a) That Strategic Standing Committee Report No. AR18/4774 titled '*Culture and Heritage Plan*' as presented to the Strategic Standing Committee on 12 February 2018 be noted.
- (b) That Council acknowledge the extensive community input, feedback, active contribution and involvement throughout the engagement activities undertaken.
- (c) That the Culture and Heritage Plan be referred to a Council workshop on Tuesday, 27 February 2018.

Moved:

Seconded:



**13.14. Minutes of Operational Standing Committee - 13 February 2018**

That the minutes of the Operational Standing Committee meeting held 13 February 2018 be noted.

Moved: Seconded

**13.15. Minutes of Community Engagement and Social Inclusion Sub-Committee - 18 January 2018**

That the minutes of the Community Engagement and Social Inclusion Sub-Committee meeting held 18 January 2018 be noted.

Moved: Seconded:

**13.16. Community Engagement and Social Inclusion Sub-Committee - Ref. AF17/432**

(a) That the Community Engagement and Social Inclusion Sub-Committee 2018 Work Plan be as follows:

|  |  |
|--|--|
| <b>Key Focus Area</b>  |  |
| Reconciliation Action Plan   |  |
| Suicide Prevention   |  |
| Vulnerable Families  |  |
| <ul style="list-style-type: none"> <li>• Child Removal</li> <li>• Support and Education for Parents</li> <li>• Foster Parents</li> </ul> |  |
| <b>Deputations</b>   |  |
| February, 2018   | Adam Box – DECD  |
| March, 2018  | Julie Baum – Principal Grant High School                       |
| April, 2018  | Representatives from Pangula Mannamurna, ac.care and Centacare |
| May, 2018  | Families SA Representative                                     |
| June, 2018   | Mount Gambier Prison   |

Moved: Seconded:

**13.17. Minutes of Heritage Sub-Committee - 31 January 2018**

That the minutes of the Heritage Sub-Committee meeting held 31 January 2018 be noted.

Moved: Seconded:



**13.18. Letter of Appreciation - Local Heritage Restoration Grant - Ref. AF11/196**

The following advice from Catherine Rymill has been received for the information of the Heritage Sub-Committee:

*Thank you for advising me about the grant I have received. I would be grateful if you can extend my thanks to Mr McShane and the Heritage Sub-Committee for considering my application favourably. With kind regards Catherine.*

The advice from Catherine Rymill be received.

Moved:

Seconded:

**13.19. Heritage Advisor Report - November 2017 - Report No. AR18/1022**

(a) That Heritage Sub-Committee Report No. AR18/1022 titled '*Heritage Advisory Report - November 2017*' as presented to the Heritage Sub-Committee on 31 January 2018 be noted.

Moved:

Seconded:

**13.20. Governance - Heritage Committee - Further Development of Work Plan - Ref. AF17/294**

(a) The attached Work Plan includes work to date. The Committee continue with the development of a work plan to include the following items:

- Extend historic bollards
- Identify and promote Boandik sites of cultural significance
- Establish a Pioneer Walk: (e.g. buy a brick)
- Writing history classes
- Establish long term heritage action plan
- Street names signage historical list (update digitalising and make available online)
- Preserve Moorak Station (Tenison Woods)
- Migrant History

(b) The revised Work Plan is attached to the Minutes.

Moved:

Seconded:





**13.21. Kitchen Caddy Roll Out Stage 2 - Report No. AR17/43697**

- (a) That Environmental Sustainability Sub-Committee Report No. AR17/43697 titled '*Kitchen Caddy Roll Out Stage 2*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That Council roll out the kitchen caddy system to all remaining 2018-2019 greenwaste subscribers at an approximate cost of \$53,000.
- (c) In the 2018/2019 financial year Council purchase replacement compostable bags at an approximate cost of \$27,000. Residents should be entitled to one 'free' roll of compostable bags per financial year. The annual greenwaste fee should be increased to \$86.30 (pro rata) to cover this cost. Additional rolls of replacement bags should be made available to residents for purchase at a cost of \$6 per roll. This replacement compostable bag system should be undertaken on an ongoing annual basis.
- (d) Council subscribe to the Compost Revolution program for the 2018/2019 financial year at an approximate cost of \$3,790.

Moved:

Seconded:

**13.22. ReUse Market Update - Report No. AR18/1706**

- (a) That Environmental Sustainability Sub-Committee Report No. AR18/1706 titled '*ReUse Market Update - February 2018*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) Council endorse the ReUse Market Project Plan AR17/36980.

Moved:

Seconded:

**13.23. Plastics Recycling - Mount Gambier - Report No. AR18/1778**

- (a) That Environmental Sustainability Sub-Committee Report No. AR18/1778 titled '*Plastics Recycling - Mount Gambier*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That Council endeavor to purchase items with high levels of recycled content as a matter of priority.

Moved:

Seconded:



**13.24. Works in Progress - City Infrastructure - Report No. AR18/3158**

- (a) That Operational Standing Committee Report No. AR18/3158 titled '*Works in Progress - City Infrastructure*' as presented to the Operational Standing Committee on 13 February 2018 be noted.

Moved:

Seconded:

**13.25. Request to review parking on Railway Terrace - Report No. AR17/48336**

- (a) That Council Report No. AR17/48336 titled '*Request to review parking on Railway Terrace*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That the Traffic Impact Statement attached to the Council agenda be endorsed by Council.
- (c) That the City of Mount Gambier pursuant to Ministerial delegation resolves the following:

Prohibited Area 2 HOUR PARKING  
3.2.118

RAILWAY TERRACE (northern side) - from 50.0 metres west of the intersection with Gray Street to 173.0 metres west of the said intersection, to apply from 8:00 a.m. to 5:00 p.m. Monday to Friday, 8:00 a.m. to 12:00 p.m. Saturday

Prohibited Area 2 HOUR PARKING  
3.2.119

RAILWAY TERRACE (southern side) - from 67.8 metres west of the intersection with Gray Street to 168.3 west of the said intersection, to apply from 8.00 a.m. to 5.00 p.m. Monday to Friday and 8.00 a.m. to 12.00 p.m. Saturday

to be effective from the time of installation of appropriate signage.

Moved:

Seconded:

**13.26. Schedule of Fees and Charges - 2018/2019 - Report No. AR18/611**

- (a) That Operational Standing Committee Report No. AR18/611 titled '*Schedule of Fees and Charges - 2018/2019*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That Council adopt all recommended of fees and charges identified in the "Schedule of Fees and Charges - 2018/2019" as presented in Operational Standing Committee Report AR18/611 noting that:



- (i) Other than those fees and charges that are identified as having specific commencement or review dates, all fees and charges in the "Schedule of Fees and Charges - 2018/2019" will come into effect on 1 July 2018.
- (ii) Council may see fit to amend any fee or charge as circumstances arise or change.

Moved:

Seconded:

**13.27. Supplementary Local Roads Funding and Roads to Recovery Funding updates to Roads Program - Report No. AR18/2076**

- (a) That Operational Standing Committee Report No. AR18/2076 titled '*Supplementary Local Roads Funding and Roads to Recovery Funding updates to Roads Program*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That Council:
  - Bring forward the reconstruction of Elizabeth Street (Commercial Street to Jane Street) to the 2017/2018 works program and use 50% of the current funding available from Caldwell Street reconstruction, in order to expend the funds received from the Special Local Roads Funding (SLRF), and
  - That any additional funding required to match the \$140,000 Special Local Roads Funding (SLRF) be acquired from any surplus within the current 2017/2018 works program.
- (c) That Council make the following adjustments to the Roads to Recovery Program (R2R) in order to expend all funds available for this program by the end of 2018/2019 financial year;
  - 2017/2018 R2R Program to now include Railway Terrace (Bay Road to Elizabeth Street) reconstruction - \$207,308 to the original program of works.
  - 2018/2019 R2R Program to comprise the following road reconstruction projects:
    - Robin Street (Brolga Street to Finch Street) - \$66,000
    - Helen Street (Elizabeth Street to Gray Street) - part funded by R2R - \$104,658
    - Laurie Street (Shepherdson Road to Millard Street) - \$50,000

Moved:

Seconded:



**13.28. Long Term Infrastructure and Asset Management Program - Report No. AR18/4490**

- (a) That Operational Standing Committee Report No. AR18/4490 titled '*Long Term Infrastructure and Asset Management Program*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That all projects listed in Attachments 1-6 inclusive for 2018/2019 be incorporated into the 2018/2019 Draft Budget.
- (c) That the additional allocation of \$78,000 for installation of a playground at Carnoustie Court / Pinehurst Drive reserve (Attamura Heights) and construction of a footpath on Ferrers Street (west side) between Gwendoline Street and Heriot Street be referred to the next budget workshop in March 2018.

Moved:

Seconded:

**13.29. Strategic Projects - Report No. AR18/3745**

- (a) That Operational Standing Committee Report No. AR18/3745 titled '*Strategic Projects*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That Strategic Project reports be presented to the Operational Standing Committee every two months.

Moved:

Seconded:

**13.30. Annual Delegations Review - Report No. AR18/3996**

- (a) That Operational Standing Committee Report No. AR18/3996 titled '*Annual Delegations Review*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That the verbal report provided by the Manager Governance & Property to the Operational Standing Committee meeting held on 13 February 2018 be noted and the updated LGA Delegation templates as tabled be presented together with updated recommendations to the Council meeting to be held on 20 February 2018.

Moved:

Seconded:



**13.31. Sponsored Events - Contributions To Economic Development And Community Wellbeing - Report No. AR18/3821**

- (a) That Operational Standing Committee Report No. AR18/3821 titled '*Sponsored Events - Contributions to Economic Development and Community Wellbeing*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That the contributions of Events and support staff be acknowledged.

Moved:

Seconded:

**13.32. 2018 Local Government Election - Council Voters Roll - Report No. AR18/3371**

- (a) That Operational Standing Committee Report No. AR18/3371 titled '*2018 Local Government Election - Council Voters Roll*' as presented to the Operational Standing Committee on 13 February 2018 be noted.

Moved:

Seconded:

**13.33. One Library System - Novation Agreement - Report No. AR18/3471**

- (a) That Operational Standing Committee Report No. AR18/3471 titled '*One Library Management System - Novation*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That the CEO and Mayor be authorised to execute a Novation Agreement for the One Library Management System from Local Government Corporate Services to the Libraries Board of SA and to affix the Common Seal to any necessary documentation.

Moved:

Seconded:

**13.34. Boarding House - 73 Gray Street Mount Gambier - Discretionary Rate Rebate - Report No. AR18/3419**

- (a) That Operational Standing Committee Report No. AR18/3419 titled '*Boarding House - 73 Gray Street Mount Gambier Discretionary Rate Rebate*' as presented to the Operational Standing Committee on 13 February 2018 be noted.
- (b) That Council agree to a discretionary rate rebate for Assessment Number 9753 commencing from 1 July 2018 of 50% over a 2 year period.

Moved:

Seconded:



**13.35. Mobile Unit - Community Engagement, Tourism & Events – Ref. AF17/237**

- (a) Council endorse a Working Party to research, design and seek prices for a mobile tourism information service vehicle.
- (b) Budget for this item is up to \$150,000.
- (c) The Working Party to provide recommendations back to Council for consideration.
- (d) Council nominate Cr Richardson, Cr Perryman and Mrs Lisa Braes to the Working Party.
- (e) Mrs Biddie Shearing, Tourism Development Officer, LCLGA and a nominee of Tourism Mount Gambier be invited to join the Working Party.
- (f) This Working Party may be disbanded by resolution of Council once the Working Party recommendations have been considered by Council.

Moved:

Seconded:

**13.36. Minutes of Development Assessment Panel - 18 January 2018**

That the minutes of the Council Development Assessment Panel meeting held 18 January 2018 be noted.

Moved:

Seconded:

**13.37. Minutes of Chief Executive Officer Performance Review Committee - 5 February 2018**

Minutes of the Chief Executive Officer Performance Review Committee - 5 February 2018 be noted.

Moved:

Seconded:

**14. COUNCIL REPORTS**

Council Reports commence on the following page.



**14.1. Attendance at 2018 Council Next Practice Showcase and LGA Ordinary General Meeting - Report No. AR18/5577**

|                                 |   |
|---------------------------------|---|
| <b>COMMITTEE</b>                | Council   |
| <b>MEETING DATE:</b>            | 20 February 2018  |
| <b>REPORT NO.</b>               | AR18/5577   |
| <b>RM8 REFERENCE</b>            | AF11/903  |
| <b>AUTHOR</b>                   | Mark McShane  |
| <b>SUMMARY</b>                  | Council representation at 2018 Council Next Practice Showcase and LGA Ordinary General Meeting. |
| <b>COMMUNITY PLAN REFERENCE</b> | Goal 3: Our Diverse Economy   |

**REPORT RECOMMENDATION**

- (a) That Council Report No. AR18/5577 titled '*Attendance at 2018 Council Next Practice Showcase and LGA Ordinary General Meeting*' as presented to the Council on 20 February 2018 be noted.
- (b) That the Mayor be appointed as the delegate to represent Council at the 2018 Council Next Practice Showcase and LGA Ordinary General Meeting to be held in Adelaide on Thursday 12 April 2018 and Friday 13 April 2018 at the Adelaide Town Hall.
- (c) Cr Persello be appointed proxy delegate to represent Council should the Mayor not be able to attend.
- (d) The Local Government Association be advised Council does not wish to submit any notice of motions.
- (e) Other Councillors who may wish to attend the 2018 Council Next Practice Showcase and LGA Ordinary General Meeting should express their interest to CEO and Mayoral Executive Support by Friday 9 March 2018.

Moved:

Seconded:



## **Background**

Council represents the community at the Council Next Practice Showcase (previously known as Best Practice Showcase) and Ordinary General Meeting each year. The Program is yet to be finalized however details of the Showcase will be available for Members to access from the LGA website shortly.

## **Discussion**

The Mayor and Chief Executive Officer attend as Council representatives, with the Mayor appointed as voting delegate.

The Deputy Mayor is appointed proxy delegate should the Mayor not be able to attend.

An invitation is extended to other Councillors who may wish to attend as an opportunity for further professional development.

## **Conclusion**

Council supports representation at the 2018 Council Next Practice Showcase and LGA Ordinary General Meeting.



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

13 February 2018  
LD





**14.2. Annual Delegations Review - Report No. AR18/5656**

|                                 |   |
|---------------------------------|---|
| <b>COMMITTEE</b>                | Council   |
| <b>MEETING DATE:</b>            | 20 February 2018  |
| <b>REPORT NO.</b>               | AR18/5656   |
| <b>RM8 REFERENCE</b>            | AF15/495  |
| <b>AUTHOR</b>                   | Michael McCarthy  |
| <b>SUMMARY</b>                  | Annual Review of Delegations in accordance with requirements of Local Government Act 1999 |
| <b>COMMUNITY PLAN REFERENCE</b> | Goal 3: Our Diverse Economy   |

**REPORT RECOMMENDATION**

- (a) That Council Report No. AR18/3996 titled '*Annual Delegations Review*' as presented to the Operational Standing Committee on 20 February 2018 be noted.
- (b) That having reviewed the Local Government Association delegation templates 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
      - 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 (*Repealed*)
      - 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 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014
- 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. Electronic Conveyancing National Law (SA) Act 2013
- 1.1.27. Strata Titles Act 1988
- 1.1.28. Heavy Vehicle National Law (South Australia) Act 2013
- 1.1.29. Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014
- 1.1.30. Local Nuisance and Litter Control Act 2016 and Local Nuisance and Litter Control Regulations 2017
- 1.1.31. Water Industry Act 2012 and Water Industry Regulations 2012
- 1.1.32. Planning, Development and Infrastructure Act 2016
- 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 - 35 (each of which is individually identified as indicated below) are hereby delegated this Tuesday, 20<sup>th</sup> February, 2018 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.
  - 2.1.1. Community Titles Act 1996 (Appendix 1)
  - 2.1.2. Dog and 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. Land & Business (Sale & Conveyancing) Act 1994 (Appendix 11)
  - 2.1.11. Liquor Licensing Act 1997 (Appendix 12)
  - 2.1.12. Local Government Act 1999 (Appendix 14)
  - 2.1.13. Natural Resources Management Act 2004, Natural Resources Management (General) Regulations 2005 and Natural Resources Management (Transitional Provisions - Levies) Regulations 2005 (Appendix 16)
  - 2.1.14. Public Assemblies Act 1972 (Appendix 17)
  - 2.1.15. Roads (Opening and Closing) Act 1991 (Appendix 18)
  - 2.1.16. Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 2014 (Appendix 20/20A/20B)
  - 2.1.17. Unclaimed Goods Act 1987 (Appendix 25)
  - 2.1.18. 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)
  - 2.1.19. Safe Drinking Water Act 2011 (**Appendix 27) – Attachment 3**
  - 2.1.20. Real Property Act 1886 (Appendix 28) and Electronic Conveyancing National Law (SA) Act 2013 (Appendix 28A)
  - 2.1.21. Strata Titles Act 1988 (Appendix 29)
  - 2.1.22. Work Health & Safety Act 2012 (Appendix 30)
  - 2.1.23. Burial and Cremation Act 2013 and Burial and Cremation Regulations 2014 (Appendix 32)
  - 2.1.24. Local Nuisance and Litter Control Act 2016 Local Nuisance and Litter Control Regulations 2017 (Appendix 33)
  - 2.1.25. Water Industry Act 2012 and Water Industry Regulations 2012 (Appendix 34)
  - 2.1.26. Planning, Development and Infrastructure Act 2016 (Appendix 35)
- 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 – Attachment 1**) are hereby delegated this 20<sup>th</sup> February, 2018 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the 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 1 – Council Assessment Panel Delegations) are hereby delegated this 20<sup>th</sup> February, 2018 to the Council 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 – Attachment 2**) are hereby delegated this 20<sup>th</sup> February, 2018 to the person occupying the office of Chief Executive Officer ('the head of the enforcement agency' for the purposes of the Food Act 2001), subject to the conditions or limitations indicated 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 20<sup>th</sup> February, 2018 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the 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  
Nick Serle  
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:



Nick Serle  
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 20<sup>th</sup> of February 2018 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 sub-delegation 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:

Nick Serle  
Daryl Morgan

6.5. An authorisation or sub-delegation made to any Council Officer under this clause 6 shall expire immediately upon:

- The termination or other cessation of the officers employment with Council;
- Such authorisation or sub-delegation being revoked by resolution of Council;
- The revocation or replacement of the statute under which the authorisation or sub-delegation is made making the authorisation or sub-delegation redundant.

## **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 Instruments of Delegation (Appendix 7A & 7B) are hereby delegated this 20<sup>th</sup> of February 2018 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.

**9. Delegations under the Heavy Vehicle National Law (South Australia) Act 2013**

9.1. In exercise of the powers contained in Section 44 of the Local Government Act 1999 and Section 22B of the Heavy Vehicle National Law (South Australia) Act 2013 (as relevant) the powers and functions under the Heavy Vehicle National Law (South Australia) Act 2013 contained in Instrument of Delegation (Appendix 31) are hereby delegated this 20<sup>th</sup> day of February 2018 to the person occupying the office of Chief Executive Officer, subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the Instrument of Delegation under the Heavy Vehicle National Law (South Australia) Act 2013.

9.2. 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 Instrument of Delegation under the Heavy Vehicle National Law (South Australia) Act 2013.

9.3. 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.

9.4. 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.



**10. Delegation of Powers under Council's By-Law No. 1 Permits and Penalties**

- 10.1. The Council hereby delegates this 20<sup>th</sup> February 2018 to the Chief Executive Officer and any person acting in that position, the following powers under the Council's By-law No. 1 - Permits and Penalties 2010 to:
- 10.1.1. to grant or refuse an application for permission to undertake an activity or engage in conduct regulated by a Council By-law or to otherwise grant permission under any Council By-law;
  - 10.1.2. to attach any conditions that the delegate sees fit to a grant of permission issued under a By-law and to vary or revoke such conditions or impose new conditions by notice in writing to the person(s) to whom permission was granted;
  - 10.1.3. to revoke or suspend a grant of permission that has been issued under a Council By-law by notice in writing to the person(s) to whom permission was granted; and
  - 10.1.4. to commence proceedings to prosecute an offence under a Council By-law.
- 10.2. Such powers may be further delegated by the Chief Executive Officer to other officers and Authorised Officers of the Council as the Chief Executive Officer considers fit.
- 10.3. For the purposes of these delegations all powers to the Chief Executive Officer extend to any person appointed to act in the position of Chief Executive Officer.

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.

Moved:

Seconded:





## Background

Delegations are the way in which the Council enables other people/bodies (usually council officers) to undertake the many functions required in the day to day administration of Council.

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:

- 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.

## Discussion

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 21<sup>st</sup> February 2017.

Council's delegations use the Local Government Association (LGA) 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:

- *Development Act 1993 and Development Act Regulations 2008*
- *Dog and Cat Management Act 1995*
- *Freedom of Information Act 1991*
- *Heavy Vehicle National Law (SA) Act 2013*
- *Local Government Act 1999*
- *Local Nuisance and Litter Control Act 2016 and Local Nuisance and Litter Control Regulations 2017*
- *Planning, Development and Infrastructure Act 2016*
- *Work Health and Safety Act 2012*
- *Road Traffic Act 1961 (SA), Road Traffic (Misc) Regulations 2014 and Road Traffic (Road Rules – Ancillary and Misc Provisions) Regulations 2014.*

Delegations arising from changes with the abovementioned Acts have been addressed throughout 2017 by interim delegation update reports and resolutions. Accordingly, no new or updated appendices associated with the abovementioned Acts are attached to this report for consideration or endorsement.

By Circular dated 8<sup>th</sup> February 2018 the LGA issued updated delegation templates for the following Acts:

- *Development Act 1993 and Development Regulations 2008*
- *Food Act 2001*
- *Safe Drinking Water Act 2012*

The LGA template resolutions have also been updated to reflect recent changes to the Heavy Vehicle National Law (South Australia) Act 2013 that alter the manner in which delegations are made, now being under both the Local Government Act 1999 and Heavy Vehicle National Law (South Australia) Act 2013.



Updated appendices associated with these three Acts and updated recommendations to make delegations are included with this report.

This report and recommended resolutions meet the legislative requirement for delegations to be reviewed by Council at least once in every financial year.

Further interim delegation update reports will be presented to Council if/as the need arises prior to the next full delegation review which will be scheduled to coincide with the commencement of the new Council term from November 2018.

## Conclusion

The review and remaking of delegations are now recommended for adoption and proposed resolutions have been prepared for this purpose.

Upon the remaking of Council's delegations all sub-delegations will be remade by the Chief Executive Officer and Council's Delegations Register will be updated accordingly.

## Attachments

[Attachment 1 \(AR13/35025\[v5\]\)](#) [Appendix 21 Instrument of Delegation under the Development Act 1993 and Development Regulations 2008](#)

[Attachment 2 \(AR14/4513\[v2\]\)](#) [Appendix 22 Instrument of Delegation under the Food Act 2001](#)

[Attachment 3 \(AR14/4941\[v2\]\)](#) [Appendix 27 Instrument of Delegation under the Safe Drinking Water Act 2012](#)



**Michael McCARTHY**  
MANAGER GOVERNANCE & PROPERTY



**Pamela LEE**  
GENERAL MANAGER COUNCIL BUSINESS SERVICES

13 February 2018  
MMcC



**14.3. Fringe Festival 2018 - Temporary Road Closures - Report No. AR18/5274**

|                                 |   |
|---------------------------------|---|
| <b>COMMITTEE</b>                | Council   |
| <b>MEETING DATE:</b>            | 20 February 2018  |
| <b>REPORT NO.</b>               | AR18/5274   |
| <b>RM8 REFERENCE</b>            | AF17/411; AF11/1850   |
| <b>AUTHOR</b>                   | Nick Serle  |
| <b>SUMMARY</b>                  | This report is to request approval for temporary road closures as part of the Fringe Festival 2018. |
| <b>COMMUNITY PLAN REFERENCE</b> | Goal 1: Our People  |
|                                 | Goal 2: Our Location  |
|                                 | Goal 3: Our Diverse Economy   |
|                                 | Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage                                  |

**REPORT RECOMMENDATION**

- (a) That Council Report No. AR18/5274 titled '*Fringe Festival 2018 - Temporary Road Closures*' as presented to the Council on 20 February 2018 be noted.
- (b) That the Mayor be requested to authorise the following temporary road closures, pursuant to the powers contained in Section 59 of the Summary Offences Act 1953, to occur on Friday, 23 March 2018, Saturday, 24 March 2018 and Sunday, 25 March 2018:

| Location  | From                           | To                                     |
|---|--------------------------------|--|
| Commercial Street East, between Bay Road and Ferrers Street | 3:00pm, Friday, 23 March 2018  | 12:00 midnight, Friday 23 March 2018   |
| Watson Terrace (east west end) off Bay Road                 | 7:00am, Saturday 24 March 2018 | 12:00 midnight, Saturday 24 March 2018 |
| Watson Terrace (north south end) off Commercial Street East | 3:00pm, Friday, 23 March 2018  | 7:00pm, Sunday 25 March 2018           |

Moved:

Seconded:



## Background

Council, at its meeting held on 20/11/2017 resolved:

- “(a) That Operational Standing Committee Report No. AR17/45777 titled ‘2018 Mount Gambier Fringe Festival’ as presented to the Operational Standing Committee on 14 November 2017 be noted.*
- “(b) That Council approve to progress a 2018 Mount Gambier Fringe event with the funding secured by Country Arts SA via Arts SA.*
- “(c) That Council representatives be involved in the planning and delivery of the event to support the cultural development of local artists.”*

## Discussion

The Fringe Festival event is scheduled to be held in the Cave Garden precinct on Friday, 23 March 2018, Saturday, 24 March 2018 and Sunday, 25 March 2018.

To assist in the success of this events the following road closures are requested:

| <b>Location</b>   | <b>From</b>                          | <b>To</b>                                    |
|---|--------------------------------------|--|
| Commercial Street East, between Bay Road and Ferrers Street       | 3:00pm,<br>Friday, 23 March 2018     | 12:00 midnight,<br>Friday 23 March 2018      |
| Watson Terrace<br>(east west end) off Bay Road                    | 7:00am,<br>Saturday 24 March<br>2018 | 12:00 midnight,<br>Saturday 24 March<br>2018 |
| Watson Terrace<br>(north south end) off Commercial Street<br>East | 3:00pm,<br>Friday, 23 March 2018     | 7:00pm,<br>Sunday 25 March<br>2018           |

An order to close the above roads can be made by the Mayor, under Section 59 of the Summary Offences Act 1953, to facilitate this request.

## Conclusion

That the Mayor be requested to authorise the temporary road closures.

## Attachments

Nil





**Nick SERLE**  
GENERAL MANAGER CITY INFRASTRUCTURE



**Barbara CERNOVSKIS**  
GENERAL MANAGER COMMUNITY WELLBEING

13 February 2018  
SW



**14.4. Out of the Dark - Aboriginal Rock Art Collection - Report No. AR18/5908**

|                                 |   |
|---------------------------------|---|
| <b>COMMITTEE</b>                | Council   |
| <b>MEETING DATE:</b>            | 20 February 2018  |
| <b>REPORT NO.</b>               | AR18/5908   |
| <b>RM8 REFERENCE</b>            | AF11/1595   |
| <b>AUTHOR</b>                   | Mark McShane  |
| <b>SUMMARY</b>                  | This report provides an update of the ownership transfer of the “Out of the Dark” Aboriginal Rock Art Collection. |
| <b>COMMUNITY PLAN REFERENCE</b> | Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage  |

|  |
|--|
| <b>REPORT RECOMMENDATION</b>   |
| <p>(a) That Council Report No. AR18/5908 titled ‘<i>Out of the Dark - Aboriginal Rock Art Collection</i>’ as presented to the Council on 20 February 2018 be noted.</p> <p>(b) That Council staff proceed to relocated, record and safely store the collection</p> <p>(c) That Mr Kelvin Smibert be formally thanked for his transfer of ownership of the collection</p> |

Moved:

Seconded:



## Background

At the meeting on 21 November 2017 Council resolved:

Cr Richardson moved:

- (a) The report from Cr Richardson be received;
- (b) That the City of Mount Gambier makes a formal offer to Mr Kelvin Smibert to receive ownership of the Out of the Dark fibreglass castings of ancient Aboriginal cave art and associated material including interpretive display signage and that Council be kept informed of outcomes;
- (c) That the CEO arranges secure and appropriate storage on Council property for the fibreglass castings and other material as necessary;
- (d) That the fibreglass castings and other material be photographed and recorded in Council's Records Management System.
- (e) That Council's RAP Advisory Group be informed of this action along with Aboriginal corporations based in Mount Gambier.
- (f) That should this offer be accepted Council writes to Mr Kelvin Smibert acknowledging the transfer of ownership of Out of the Dark and thanking him on behalf of the community.
- (g) That Council maintains ownership of the material acknowledging the possible future display in an appropriate location / setting and facility that is sympathetic to the nature of the collection.

Seconded Cr Persello

Carried

## Discussion

Since the resolution Council Officers (Chief Executive Officer and General Manager Community Wellbeing) have had ongoing contact with Kelvin Smibert in relation to the matter. A formal agreement was developed and provided to Mr Smibert on the 6<sup>th</sup> February, 2018 and a returned signed copy provided back to Council on the 14<sup>th</sup> February, 2018. A copy of the agreement is attached (Attachment 1).

## Conclusion

Council staff will now proceed to act on the remainder of the resolution relating to the relocation, recording and storage of the collection.

## Attachments

[Attachment 1 \(AR18/5941\): Transfer of Assets - Out of the Dark – Aboriginal Rock Art Collection](#)



**Mark McSHANE**  
CHIEF EXECUTIVE OFFICER

15 February 2018





**15. MOTION(S) - With Notice**

Nil Submitted.

**16. MOTION(S) - Without Notice**



**17. CONFIDENTIAL ITEMS**

**17.1. Consideration for Exclusion of the Public**

The following item be received, discussed and considered in confidence by excluding the public pursuant to Section 90 (2) of the Local Government Act 1999, and an order be made that the public (with the exception of Council Members Mayor A Lee, Councillors - C Greco, M Lovett, J Lynagh, S Mezinac, D Mutton, S Perryman, H Persello, P Richardson and I Von Stanke and Council Officers - M McShane, B Cernovskis, P Lee, J Nagy, N Serle, M McCarthy, S McLean and M Telford now present) be excluded from the meeting in order for the item to be considered in confidence as the Council is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act as follows:

- S.90(3)(a) – information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

The Council is satisfied that the information to be received, discussed or considered in relation to this item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the Chief Executive Officer in that details person to the Chief Executive Officer will be disclosed.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances as the matter is personal to the Chief Executive Officer.

| ITEM NO. | SUBJECT MATTER  | S90 (3) GROUNDS |
|----------|---|-----------------|
| 17.2.    | <u>CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW</u> – Discussion regarding Chief Executive Officer’s KPI’s for 2018 – Ref. PERS | (a)             |

Moved:

Seconded:

Meeting closed at                      pm.



**18. REPORT ATTACHMENTS**

Report attachments commence on the next page.



**DESIGNATED INFORMAL GATHERING  
STAND LIKE STONE FOUNDATION / PLANNING REFORMS / BY-LAW REVIEW  
5:30pm TUESDAY 23<sup>RD</sup> JANUARY 2018**

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RECORD OF PROCEEDINGS  
5:30pm Tuesday 23<sup>rd</sup> January 2018  
Committee Room, Level 4, Civic Centre  
10 Watson Terrace, Mount Gambier

**GUESTS:-**

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Georgia McKay – Chief Executive Officer, Stand Like Stone Foundation  
Bill DeGaris – Chairperson, Stand Like Stone Foundation

**MEMBERS PRESENT:-**

Mayor Andrew Lee (left at 7:00 pm)  
Cr Mezinec  
Cr Persello  
Cr Richardson  
Cr Lynagh  
Cr Von Stanke (left at 7:00 pm)  
Cr Morello  
Cr Perryman (arrived at 6:03 pm)

**STAFF PRESENT:-**

Chief Executive Officer  
General Manager Council Business Services  
General Manager City Infrastructure  
Manager Business and Strategic Planning  
Manager Governance and Property

**MEMBERS APOLOGIES:-**

Nil

**LEAVE OF ABSENCE:-**

**DISCUSSION:**

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Discussions regarding the Stand Like Stone Presentation from Georgia McKay and Bill DeGaris, Planning Reforms and By-Law Review.

Discussion closed at 7:30 p.m.

**DESIGNATED INFORMAL GATHERING  
2018/2019 BUDGET  
5:30pm TUESDAY 6<sup>TH</sup> FEBRUARY 2018**

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RECORD OF PROCEEDINGS  
5:30pm Tuesday 6<sup>th</sup> February, 2018  
Committee Room, Level 4, Civic Centre  
10 Watson Terrace, Mount Gambier

**MEMBERS PRESENT:-**

Mayor Andrew Lee  
Cr Richardson  
Cr Mezinec  
Cr Persello

**STAFF PRESENT:-**

Chief Executive Officer  
General Manager Community Wellbeing  
General Manager City Infrastructure  
General Manager City Growth  
General Manager Council Business Services

**MEMBERS APOLOGIES:-**

Cr Greco  
Cr Morello  
Cr Von Stanke  
Cr Lynagh

**LEAVE OF ABSENCE:-**

**DISCUSSION:**

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Discussions regarding the 2018/2019 Budget.

Discussion closed at 7:00 p.m.

**Council Action Items**

| <b>Report Title</b>  | <b>Report Number</b> | <b>Author</b>                          | <b>Item</b> | <b>Action</b>  | <b>Status</b> |
|--|----------------------|--|-------------|--|---------------|
| Junior Sports Assistance Fund - Minutes of Meeting                                 | N/A                  | Melissa Telford                        | 13.01       | That the minutes of the Junior Sports Assistance Fund Committee meeting held 13 December 2017 be noted.  | No Action     |
| Junior Sports Assistance Fund - Correspondence Received                            | AR17/48883           | Melissa Telford                        | 13.02       | (a) That Junior Sports Assistance Fund Committee Report No. AR17/48883 titled 'Correspondence Received' dated 4 December 2017 as presented to the Junior Sports Assistance Fund Committee on 13 December 2017 be noted.  | No Action     |
| Junior Sports Assistance Fund - Statement of Revenue and Expenses                  | AR17/48902           | Melissa Telford                        | 13.03       | (a) That Junior Sports Assistance Fund Committee Report No. AR17/48902 titled 'Statement of Revenue and Expenses - 1/6/2017 to 30/11/2017' dated 4 December 2017 as presented to the Junior Sports Assistance Fund Committee on 13 December 2017 be noted.<br>(b) The financial statement of the Fund as at 31st October 2017 be received noting a cash balance of \$77,725.   | No Action     |
| Junior Sports Assistance Fund - Applications for Financial Assistance and Payments | AR17/48948           | Melissa Telford                        | 13.04       | (a) That Junior Sports Assistance Fund Committee Report No. AR17/48948 titled 'Applications for Financial Assistance for Juniors from 1/6/2017 to 30/11/2017' dated 4 December 2017 as presented to the Junior Sports Assistance Fund Committee on 13 December 2017 be noted.  | No Action     |
| Junior Sports Assistance Fund - Coaching Clinic Applications                       | AR17/49361           | Melissa Telford                        | 13.05       | (a) That Junior Sports Assistance Fund Committee Report No. AR17/49361 titled 'Coaching Clinic Applications - Annual Call' dated 5 December 2017 as presented to the Junior Sports Assistance Fund Committee on 13 December 2017 be noted.<br>(b) The following application(s)/funding be made available to the Member Organisation named below to assist in the conduct of specialised coaching clinics in accordance with the guidelines for such Clinics and funded by the Mount Gambier and District Bendigo Community Bank:<br>(i) Blue Lake Y Swim Club Inc. and Mount Gambier Swimming Club - \$1,600<br><br>(ii) Mount Gambier Golf Club - \$2,000<br><br>(iii) Basketball Mount Gambier - \$1,400<br><br>(c) Mount Gambier Golf Club to commence High Performance Sport Program by the end of February, 2018 and if the program does not proceed, the \$2,000 allocated is to be returned in total and readvertised to member organisation.<br>(d) The successful Member Organisations to be reminded of their obligations to the Bank as detailed in the report. | Completed     |
| Audit Committee Minutes  | N/A                  | Ashlee Lavia                           | 13.06       | That the minutes of the Audit Committee meeting held 15 December 2017 be noted.  | No Action     |
| Policy Review - B300 - Budget Reporting and Amendment Policy                       | AR17/48217           | Kahli Rolton,<br>Jeroen<br>Zwijnenburg | 13.07       | (a) That Audit Committee Report No. AR17/48217 titled 'Policy Review – B300 – Budget Framework Policy' as presented to the Audit Committee on 15 December 2017 be noted.<br><br>(b) That Council adopts the updated Council Policy 'B300 – Budget Framework Policy' as attached to Audit Committee Report No. AR17/48217.  | Completed     |

**Council Action Items**

| <b>Report Title</b>  | <b>Report Number</b> | <b>Author</b>                          | <b>Item</b> | <b>Action</b>  | <b>Status</b> |
|--|----------------------|--|-------------|--|---------------|
| Policy Review - T150 - Treasury Management (draft policy AR17/47934) | AR17/47943           | Kahli Rolton,<br>Jeroen<br>Zwijnenburg | 13.08       | (a) That Audit Committee Report No. AR17/47943 titled 'Policy Review – T150 Finance – Treasury Management' as presented to the Audit Committee on 15 December 2017 be noted.<br><br>(b) That Council adopts the updated Council Policy 'T150 Finance – Treasury Management' be adopted as attached to Audit Committee Report No. AR17/47943.   | Completed     |
| Audit Committee - Update on Control Track                            | AR17/48838           | Kahli Rolton                           | 13.09       | (a) That Audit Committee Report No. AR17/048838 titled 'Control Track Implementation Update' as presented to the Audit Committee on 15 December 2017 be noted.   | No Action     |
| Audit Committee - Review of Terms of Reference                       | AR17/49265           | Kahli Rolton,<br>Jeroen<br>Zwijnenburg | 13.10       | (a) That Audit Committee Report No. AR17/49265 titled 'Audit Committee Report – Terms of Reference Review' as presented to the Audit Committee on 15 December 2017 be noted.<br><br>(b) That Council adopts the updated Audit Committee Terms of Reference as reviewed and amended by the Audit Committee and provided as Attachment 1 to the report AR17/49265 titled 'Audit Committee - Terms of Reference Review' and re-presented to Council on 16 January 2018.   | Completed     |
| Audit Committee - Annual Work Program Review                         | AR17/49264           | Kahli Rolton,<br>Jeroen<br>Zwijnenburg | 13.11       | (a) That Audit Committee Report No. AR17/49264 titled 'Audit Committee Work Program Review' as presented to the Audit Committee on 15 December 2017 be noted.<br><br>(b) That Council adopts the updated Audit Committee Annual Work Program as reviewed and amended by the Audit Committee in Attachment 1 to the report AR17/49264 titled 'Audit Committee – Annual Work Program Review' and re-presented to Council on 16 January 2018.   | Completed     |
| CEO Performance Review - Minutes of Meeting 18 December 2017         | N/A                  | Mark McShane                           | 13.12       | That the minutes of Chief Executive Officer Performance Review Committee meeting held 18 December 2017 be noted.   | No Action     |
| Minutes of Heritage Sub-Committee - 20 December 2017                 | N/A                  | Judy Nagy                              | 13.13       | That the minutes of the Heritage Sub-Committee meeting held 20 December 2017 be noted.   | Completed     |
| Heritage - Further Development of Work Plan                          | N/A                  | Judy Nagy                              | 13.14       | Continue with the development of a work plan to include the following items;<br><br><ul style="list-style-type: none"> <li>• Extend historic bollards</li> <li>• Identify and promote Boandik sites of cultural significance</li> <li>• Establish a Pioneer Walk: (e.g. buy a brick)</li> <li>• Writing history classes</li> <li>• Establish long term heritage action plan</li> <li>• Street names signage historical list (update digitalising and make available online)</li> <li>• Preserve Moorak Station (Tenison Woods)</li> <li>• Migrant History</li> </ul> | Completed     |

**Council Action Items**

| <b>Report Title</b>                                   | <b>Report Number</b> | <b>Author</b>          | <b>Item</b> | <b>Action</b>  | <b>Status</b> |
|---|----------------------|------------------------|-------------|--|---------------|
| Heritage - Rook Walk Celebration                      | N/A                  | Judy Nagy              | 13.15       | (a) That the verbal report from General Manager Community Wellbeing regarding inclusion of Rook Walk in 2018 Community Wellbeing programming be noted.<br><br>(b) Ascertain from Council if Rook Walk requires any significant maintenance to be addressed before November 2018 celebrations.<br><br>(c) The proposed structure of events and associated budget for the Rook Walk 100 Year Celebration be discussed and developed at the next meeting. | In Progress   |
| Heritage - New Member Nominations for Appointment     | N/A                  | Judy Nagy              | 13.16       | That David Burt and Alexandra Nicholson be nominated for appointment to the Heritage Sub-Committee.  | Completed     |
| Minutes - Council Assessment Panel - 21 December 2017 | N/A                  | Nick Serle             | 13.17       | That the minutes of the Council Assessment Panel meeting held 21 December 2017 be noted.   | Completed     |
| Community Plan - Quarterly KPI Report - December 2017 | AR17/51587           | Tracy Tzioutziouklaris | 14.01       | (a) Strategic Standing Committee Report No. AR17/51587 titled 'Community Plan Summary KPI Report - September' as presented to the Council on 16 January 2018 be noted.<br><br>(b) The December 2017 Quarterly Summary KPI report be received and endorsed by Council.  | Completed     |
| Works In Progress - City Infrastructure               | AR18/164             | Daryl Morgan           | 14.02       | (a) That Operational Standing Committee Report No. AR18/164 titled 'Works in Progress - City Infrastructure' as presented to the Council on 16 January 2018 be noted.  | No Action     |
| Policy Review - L230 Planning - Licensed Premises     | AR17/51369           | Tracy Tzioutziouklaris | 14.03       | (a) Strategic Standing Committee Report No. AR17/51369 titled 'Policy Review - L230 Planning - Licensed Premises' be received.<br><br>(b) Updated Council Policy 'L230 - Planning - Licensed Premises' be adopted as attached to Council Report No. AR17/51369.<br><br>(c) That the adopted Council Policy 'L230 - Planning - Licensed Premises' be updated on Council's website.  | Completed     |
| Review of Valuation and Rating System                 | AR17/46556           | Jo Scheidl             | 14.04       | (a) That Council Report No. AR17/46556 titled 'Review of Valuation and Rating System 2018/2019' as presented to the Council on 16 January 2018 be noted.<br><br>(b) That the rating assumptions and directions referred to in this Report be used to prepare Council's draft Annual Business Plan and draft Budget for 2018/2019 for Council's future consideration.   | Completed     |




**Council Action Items**

| <b>Report Title</b>   | <b>Report Number</b> | <b>Author</b>                  | <b>Item</b> | <b>Action</b>   | <b>Status</b> |
|---|----------------------|--------------------------------|-------------|---|---------------|
| Change of Road Name Lakes Park Drive to Valley Court                        | AR17/50601           | Jess Porter                    | 14.05       | <p>(a) That Council Report No. AR17/50601 titled 'Change of Road Name – Lakes Park Drive to Valley Court' as presented to the Council on 16 January 2018 be noted.</p> <p>(b) That Council resolve to change the name of the road from Lakes Park Drive to Valley Court; and</p> <p>(c) Council staff proceed to implement the road name change pursuant to Section 219 of the Local Government Act 1999 (i.e. Gazette notice; notification to Registrar-General, Surveyor-General and the Valuer-General; notice in The Border Watch).</p>                           | In Progress   |
| Planning Reforms - Regional Planning Alliance/Joint Planning Board          | AR18/35              | Tracy Tzioutziouklaris         | 14.06       | <p>(a) Council Report No. AR18/35 titled 'Planning, Development and Infrastructure Act 2016 – Regional Planning Alliance Project – Joint Planning Board' as presented to Council on 16 January 2018 be noted.</p> <p>(b) This matter be referred to the Informal Meeting of Elected Members scheduled for Tuesday 23 January 2018 for further information and discussion.</p>   | In Progress   |
| Strengthening Local Government Paper  | AR18/35              | Michael McCarthy               | 14.07       | <p>(a) That Council Report No. AR18/794 titled 'Strengthening Local Government Discussion Paper' as presented to the Council on 16 January 2018 be noted.</p> <p>(b) That the response to the Local Government Association Discussion Paper 'Strengthening Local Government: Options for SA Councils' as tabled at the Council meeting on 16 January 2018 be endorsed for submission to the Local Government Association.</p>   | Completed     |
| Industrial Relations - Australian Services Union (ASU) Work Place Agreement | AR17/50547           | Barbara Cernovskis, Pamela Lee | 14.08       | <p>(a) That Council Report No. AR17/50547 titled 'Industrial Relations - Australian Services Union (ASU)/ Association of Professional Engineers, Scientists, Managers Australia (APESMA) Work Place Agreement' as presented to the Council on 16 January 2018 be noted.</p> <p>(b) That Council endorse the City of Mount Gambier ASU Agreement Number 10/2018.</p> <p>(c) The Chief Executive Officer be authorised to make any non-material changes to the Agreement and thereafter gain certification in the South Australian Industrial Relations Commission.</p> | In Progress   |

**Council Action Items**

| <b>Report Title</b>                         | <b>Report Number</b> | <b>Author</b> | <b>Item</b> | <b>Action</b>   | <b>Status</b> |
|---|----------------------|---------------|-------------|---|---------------|
| National Disability Insurance Scheme (NDIS) | N/A                  | Mark McShane  | 16.01       | (a) That the City of Mount Gambier writes to the Federal Minister for Social Services and the Federal Minister for Human Services and ask them to take immediate action to ensure that already vulnerable people are able to have their NDIS Access Request form completed by their General Practitioners under the same Medicare benefit as the completion of Centrelink required forms.<br><br>(b) That a copy of the letter is sent to Mr Tony Pasin, Member for Barker, all LCLGA Councils and the LGA. | Completed     |
| CEO Performance Review - AME Recruitment    | N/A                  | Mark McShane  | 18.00       | Refer In Confidence Register  | No Action     |
| CEO Performance Review and KPI's            | N/A                  | Mark McShane  | 19.00       | Refer In Confidence Register  | No Action     |

|   |  |                         |                 |
|---|--|-------------------------|-----------------|
|  | <b>APPENDIX [ 21 ]</b><br><br><b><u>INSTRUMENT OF DELEGATION UNDER THE DEVELOPMENT ACT 1993, DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT ACT 2006 AND DEVELOPMENT REGULATIONS 2008</u></b> | <b>TRIM Doc Ref:</b>    | AR13/35025 [V5] |
|   |  | <b>Delegation Made:</b> | 20/02/2018      |

### **NOTES**

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

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

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

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

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

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

|         |  |
|---------|--|
| 5.3     | Subject to Sections 25(4) and 25(5) of the Act the power pursuant to Section 25(3) of the Act to prepare a proposal, to be called a 'Development Plan Amendment' (or DPA) that complies with the following requirements:   |
| 5.3.1   | the DPA must be based on the outcome of investigations initiated by the Council or the Delegate in accordance with the terms of the Statement of Intent and such other investigations (if any) as the Council or the Delegate thinks fit;  |
| 5.3.2   | the DPA must include an assessment of the extent to which the proposed amendment:  |
| 5.3.2.1 | accords with the Planning Strategy; and  |
| 5.3.2.2 | accords with the Statement of Intent; and  |
| 5.3.2.3 | accords with other parts of the Development Plan; and  |
| 5.3.2.4 | complements the policies in the Development Plans for adjoining areas; and   |
| 5.3.2.5 | satisfies the matters prescribed in the Regulations;   |
| 5.3.3   | the DPA must include:  |
| 5.3.3.1 | an explanation of the intent of the proposed amendments, the relationship between that intent and the policy of the Statement of Intent, and a summary of the major policy changes (if any) that are proposed; and   |
| 5.3.3.2 | a summary of the conclusions drawn from the investigations and assessments referred to above; and  |
| 5.3.3.3 | a draft of the amendment, or a draft of the relevant section of the Development Plan as amended (with the amendments shown in a distinctive manner);   |
| 5.3.4   | the DPA must include an assessment of the extent to which the proposed amendment accords with relevant infrastructure planning (with respect to both physical and social infrastructure) identified by the Council through strategic planning or other processes undertaken by the Council under the Act or the Local Government Act 1999 or identified by a Minister, or any other relevant government agency, in accordance with any scheme set out in the |

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

|       |  |
|-------|--|
|       | Regulations, in connection with the preparation of the DPA under the Act;  |
| 5.3.5 | the DPA must include any other matter prescribed by the Regulations.   |
| 5.4   | The power pursuant to Section 25(3)(a) of the Act to initiate investigations in accordance with the terms of the Statement of Intent and such other investigations as the Delegate thinks fit.   |
| 5.5   | The duty, pursuant to Section 25(4) of the Act to prepare a DPA only after the Delegate has considered the advice of a person with prescribed qualifications.  |
| 5.6   | The power pursuant to Section 25(5) of the Act to not, except as authorised by the Minister, propose an amendment to a part of a Development Plan that has been declared by the Minister by notice in the Gazette as being part of a set of standard policy modules for the purposes of the Act.                           |
| 5.7   | The duty pursuant to Section 25(6) of the Act to deal with a DPA in accordance with process A, B or C as described by the Act, depending on an agreement reached between the Council or the Delegate and the Minister as part of the Statement of Intent or at some later time if so determined or agreed by the Minister. |
| 5.8   | The power pursuant to Section 25(6) of the Act to reach an agreement with the Minister as part of the Statement of Intent or at some later time if so determined or agreed by the Minister.  |
| 5.9   | <u>Process A</u>   |
| 5.9.1 | The duty pursuant to Section 25(7)(a) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent, for comment within the period prescribed by the Regulations.   |
| 5.9.2 | The power pursuant to Section 25(7)(b) of the Act, if a response is not received within the period that applies under Section 25(7)(a) of the Act, to assume that the particular Department, agency or other body does not desire to provide any comment.  |
| 5.9.3 | The power pursuant to Section 25(7)(c) of the Act to consult with the Minister.  |

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

|        |  |
|--------|--|
| 5.9.4  | The duty pursuant to Section 25(7)(c)(i) of the Act to comply with the requirement of the Minister to make an alteration to the DPA.   |
| 5.9.5  | Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act, the duty pursuant to Section 25(7)(d) of the Act to release the DPA for public consultation in accordance with the Regulations), over a period of at least 8 weeks.   |
| 5.10   | <u>Process B</u>   |
| 5.10.1 | The duty pursuant to Section 25(8)(a) of the Act, if required by the Minister, to first refer the DPA to the Minister for consideration.   |
| 5.10.2 | The power, pursuant to Section 25(8)(a) of the Act, to consult with the Minister.  |
| 5.10.3 | The duty pursuant to Section 25(8)(a)(i) of the Act to comply with a requirement of the Minister to make an alteration to the DPA.   |
| 5.10.4 | Subject to complying with Section 25(8)(a) of the Act, (if relevant) the duty and power pursuant to Section 25(8)(b)(i) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent for comment within a period of 8 weeks, and, if a response is not received within this period, to assume that the particular Department, agency or body does not desire to provide any comment. |
| 5.10.5 | Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act the duty pursuant to Section 25(8)(b)(ii) of the Act to release the DPA for public consultation in accordance with the Regulations over a period that is at least concurrent with the period that applies under Section 25(8)(b)(i) of the Act.  |
| 5.11   | <u>Process C</u>   |
| 5.11.1 | The duty and power pursuant to Section 25(9)(a) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent for comment within a period of 4 weeks, and, if a response is not received within this period, to assume that the particular Department, agency or body does not desire to provide any comment.   |
| 5.11.2 | Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act,   |

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

|          |   |
|----------|---|
|          | the duty pursuant to Section 25(9)(b) of the Act to release the DPA for public consultation in accordance with the Regulations, over a period that is at least concurrent with the period that applies under Section 25(9)(a) of the Act.   |
| 5.11.3   | The duty pursuant to Section 25(9)(c) of the Act, at the time that the DPA is released for public consultation, to give:  |
| 5.11.3.1 | an owner or occupier of any land that is directly subject to the operation of the proposed amendment; and   |
| 5.11.3.2 | an owner or occupier of each piece of adjacent land to land that is directly subject to the operation of the proposed amendment,<br><br>a written notice in accordance with the Regulations.  |
| 5.12     | The duty pursuant to Section 25(10) of the Act to not release a DPA for public consultation unless or until the Chief Executive Officer of the Council has, on behalf of the Council, issued a certificate in the prescribed form relating to the extent to which the proposed amendment: |
| 5.12.1   | accords with the Planning Strategy; and   |
| 5.12.2   | accords with the Statement of Intent; and   |
| 5.12.3   | accords with other parts of the Development Plan; and   |
| 5.12.4   | complements the policies in the Development Plans for adjoining areas; and  |
| 5.12.5   | satisfies the matters prescribed in the Regulations.  |
| 5.13     | In addition to any requirement prescribed by the Regulations, the duty pursuant to Section 25(11) of the Act for the purposes of undertaking the public consultation, to:   |
| 5.13.1   | allow interested persons to make representations in writing in relation to the matter over the period that applies for the purposes of the public consultation; and   |
| 5.13.2   | subject to Section 25(11)(b) of the Act and in accordance with the Regulations, hold within the area of the Council at least 1 meeting where members of the public may attend and make representations in relation to the matter,   |



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

|        |   |
|--------|---|
| 5.13.3 | appoint a committee (which may, but need not, include members of the Council) to consider any representations made under Sections 25(11)(a) or 25(11)(b) of the Act and to provide advice in relation to those representations.   |
| 5.14   | If a proposed amendment designates a place as a place of local heritage value, the duty pursuant to Section 25(12) of the Act, at or before the time when the DPA is released for public consultation, to give each owner of land constituting a place proposed as a place of local heritage value a written notice:  |
| 5.14.1 | informing the owner of the proposed amendment, and  |
| 5.14.2 | inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.   |
| 5.15   | If a proposed amendment declares a tree to be a significant tree or a stand of trees to be significant trees, the duty pursuant to Section 25(12a) of the Act, at or before the time when the DPA is released for public consultation, to give each owner of land where the tree or trees are located a written notice:   |
| 5.15.1 | informing the owner of the proposed amendment; and  |
| 5.15.2 | inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.   |
| 5.16   | The duty pursuant to Section 25(13)(a) of the Act, after complying with the requirements of Sections 25(1)-(12a) of the Act, to, in accordance with the Regulations prepare a report on the matters raised during the consultation period, on the reasons for any failure to comply with any time set for any step under Sections 25(1)-(12a) of the Act, and on any recommended alterations to the proposed amendment. |
| 5.17   | The power pursuant to Section 25(13)(b) of the Act, if the Delegate thinks fit, by notice in writing to the Minister, to decline to proceed any further with an amendment.  |
| 5.18   | The duty to send to the Minister:   |
| 5.18.1 | a copy of a report under Section 25(13)(a); and   |
| 5.18.2 | a certificate from the Chief Executive Officer;   |

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

|           |  |
|-----------|--|
|           | pursuant to and in accordance with Section 25(14) of the Act and the Regulations.  |
| 5.19      | The power pursuant to Sections 25(15)(d) and 25(15)(f) of the Act to consult with the Minister.  |
| 5.20      | The power pursuant to and in accordance with Section 25(21) of the Act to consult with, and make submissions to the Minister.  |
| 5.21      | The power pursuant to Section 25(23) of the Act to consult with the Minister.  |
| <b>6.</b> | <b>Amendments by the Minister</b>  |
| 6.1       | The power pursuant to Section 26(5)(d)(i) of the Act, in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 8 weeks.                             |
| 6.2       | The power pursuant to Section 26(5a)(a) of the Act in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 8 weeks.                                |
| 6.3       | The power pursuant to Section 26(5b)(a) of the Act in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 4 weeks.                                |
| 6.4       | The power pursuant to Section 26(12) of the Act, to make comment to the Minister within a period determined by the Minister in relation to a proposal to act under Section 26(11) of the Act.                          |
| 6.5       | The power pursuant to, Section 26(12) of the Act to, by notice in writing, object to the Minister's proposed action.   |
| <b>7.</b> | <b>Parliamentary Scrutiny</b>  |
| 7.1       | The power pursuant to Section 27(6) of the Act to consult with the Minister.   |
| <b>8.</b> | <b>Strategic Directions Reports</b>  |
| 8.1       | The duty pursuant to Section 30(1) of the Act, to, from time to time, in accordance with the requirements of Section 30 of the Act, prepare a report under Section 30 of the Act (a Strategic Directions Report) that: |

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

|         |   |
|---------|---|
| 8.1.1   | addresses the strategic planning issues within the area of the Council, with particular reference to:   |
| 8.1.1.1 | the Planning Strategy; and  |
| 8.1.1.2 | any other policy or document prescribed by the regulations; and   |
| 8.1.2   | addresses appropriate amendments to any Development Plan that applies within the area of the Council; and   |
| 8.1.3   | sets out the Council's priorities for:  |
| 8.1.3.1 | achieving orderly and efficient development through the implementation of planning policies; and  |
| 8.1.3.2 | the integration of transport and land-use planning within its area; and   |
| 8.1.3.3 | implementing any relevant targets set out in the Planning Strategy; and   |
| 8.1.3.4 | implementing affordable housing policies set out in the Planning Strategy within its area; and  |
| 8.1.3.5 | infrastructure planning (with respect to both physical and social infrastructure), taking into account any advice provided by a Minister, or any other relevant government agency, in accordance with a scheme set out in the regulations, and any of the Council's proposals with respect to infrastructure; and |
| 8.1.3.6 | other projects or initiatives considered to be relevant by the Council; and   |
| 8.1.4   | contains such other material as may be:   |
| 8.1.4.1 | prescribed by the regulations; or   |
| 8.1.4.2 | required by the Minister.   |
| 8.2     | The duty pursuant to Section 30(2) of the Act to prepare and complete a report under Section 30 of the Act:   |

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

|         |   |
|---------|---|
| 8.2.1   | within 12 months after an alteration is made to the Planning Strategy, or within such longer period as the Minister may allow, if:  |
| 8.2.1.1 | the Minister declares, by notice in the Gazette, that the alteration is considered to be a significant alteration that should trigger a review of Development Plans, or specified Development Plans, under Section 30 of the Act in relation to issues specified by the Minister; and   |
| 8.2.1.2 | the Development Plan that applies in relation to the Council's area (or a part of its area) falls within the ambit of the declaration; and  |
| 8.2.2   | in any event, within 5 years after the completion of the last report under Section 30 of the Act.   |
| 8.3     | The duty, pursuant to Section 30(3) of the Act, in connection with the preparation of a report under Section 30 of the Act, to:   |
| 8.3.1   | by public advertisement, invite interested persons to make written submissions to the Council within 2 months of the date of the advertisement or such longer period as may be allowed by the advertisement; and  |
| 8.3.2   | consult with any prescribed authority or body in the manner specified by the regulations.   |
| 8.4     | The duty, pursuant to Section 30(4) of the Act, in connection with the operation of Section 30(3) of the Act, to prepare and make available the documentation prescribed by the regulations.  |
| 8.5     | The duty pursuant to Section 30(5) of the Act to give a person who makes a written response to an invitation under Section 30(3)(a) of the Act an opportunity to appear personally or by representative before the Council or a Council Committee and to be heard on those submissions. |
| 8.6     | The duty pursuant to Section 30(6) of the Act, in preparing a report under Section 30 of the Act, to:   |
| 8.6.1   | reach agreement with the Minister on a Statement of Intent with respect to any proposed amendments to a Development Plan that applies within the area of the Council; and   |

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

|           |   |
|-----------|---|
| 8.6.2     | if relevant, prepare a DPA that is suitable for consideration under Section 25(3) of the Act.   |
| 8.7       | The duty pursuant to Section 30(7) of the Act to furnish a report under Section 30 of the Act to the Minister.  |
| 8.8       | The duty pursuant to Section 30(8) of the Act to, then, in accordance with any reasonable request of the Minister, enter into an agreement with the Minister on the steps that the Council will take as a result of the matters contained in the report (and the report will not be taken to have been completed unless or until such an agreement is reached with the Minister).   |
| 8.9       | The power pursuant to Section 30(9) of the Act to request the Minister to exempt the Council:   |
| 8.9.1     | from a requirement to prepare a particular report under Section 30 of the Act; or   |
| 8.9.2     | from a particular requirement with respect to a report under Section 30 of the Act.   |
| 8.10      | The duty pursuant to Section 30(12) of the Act to make copies of a report prepared under Section 30 of the Act available for inspection (without charge) by the public at the principal office of the Council.  |
| 8.11      | The duty pursuant to Section 30(13) of the Act, if a report proposes amendments to a Development Plan that applies within the area of the Council, to ensure that it releases a DPA for public consultation under Section 25 within the period prescribed by the regulations.   |
| 8.12      | The power pursuant to Section 30(14) of the Act, to request in accordance with the regulations a Minister identified by the regulations for the purposes of this provision to furnish to the Council within the prescribed period a statement of the nature and extent of any infrastructure that, according to the Minister's assessment, should be taken into account in connection with the preparation of a report under Section 30 of the Act. |
| 8.13      | The power pursuant to Section 30(15) of the Act to act jointly with two or more councils under Section 30 of the Act and to act on behalf of, and with the agreement of, the other council or councils in undertaking any process or procedure under Section 30 of the Act.   |
| <b>9.</b> | <b>Copies of Plans to be Made Available to the Public</b>   |

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

|            |   |
|------------|---|
| 9.1        | The duty pursuant to Section 31(3) of the Act to make copies of a Development Plan published under Section 31(1) of the Act that applies in relation to the area of the Council available for inspection (without charge) and purchase by the public at an office of the Council. |
| <b>10.</b> | <b>Matters Against Which Development Must be Assessed</b>   |
| 10.1       | The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters (insofar as they are relevant to that development):   |
| 10.1.1     | the provisions of the appropriate Development Plan;   |
| 10.1.2     | the provisions of the Building Rules;   |
| 10.1.3     | in relation to a proposed division of land (otherwise than under the Community Titles Act 1996 or the Strata Titles Act 1988) on the satisfaction of the conditions specified in Section 33(1)(c) of the Act;   |
| 10.1.4     | in relation to a division of land under the Community Titles Act 1996 or the Strata Titles Act 1988 on the satisfaction of the conditions specified in Section 33(1)(d) of the Act;   |
| 10.1.5     | the requirement that any encroachment of a building over, under, across or on a public place has been dealt with in a satisfactory manner; and  |
| 10.1.6     | such other matters as may be prescribed.  |
| 10.2       | The power pursuant to Section 33(3) of the Act, when granting a development plan consent, to reserve a decision on a specified matter until further assessment of the development under the Act.  |
| 10.3       | If:   |
| 10.3.1     | a development only requires an assessment under paragraph (b) of Section 33(1) of the Act; and  |
| 10.3.2     | the Council:  |

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

|  |   |
|--|---|
| 10.3.2.1   | is the relevant authority; and  |
| 10.3.2.2   | is to make the assessment under that paragraph; and   |
| 10.3.3   | the Council determines to grant consent under that paragraph,   |
|  | the duty, pursuant to Section 33(4b) of the Act as the relevant authority, to issue the relevant development approval with the consent.   |
| <b>11. Determination of Relevant Authority</b>                                 |   |
| 11.1   | The power pursuant to Section 34(1)(b)(iii) of the Act to request the Minister to declare the Development Assessment Commission to be the relevant authority for a proposed development.  |
| 11.2   | The power pursuant to Section 34(1a) of the Act, where the Minister has made a declaration under Section 34(1)(b)(vi) of the Act, to provide the Development Assessment Commission with a report, relating to the application for development authorisation, within the time prescribed by the Regulations.   |
| 11.3   | The power pursuant to Section 34(8a) of the Act to, in conjunction with the Councils for the areas in relation to which a regional development assessment panel has been constituted, remove a member from the panel for a failure to comply with the requirements of Section 34(6a) or (7) of the Act or a breach of, or failure to comply with, a code of conduct under Section 21A of the Act. |
| 11.4   | The power in accordance with Section 34(21) of the Act to withdraw from a regional development assessment panel   |
| 11.5   | The duty pursuant to Section 34(27)(a) of the Act to establish a policy relating to the basis upon which the Council will make the various delegations required by Section 34(23) of the Act.   |
| 11.6   | The duty pursuant to Section 34(27)(b) of the Act to ensure that a copy of the policy established by the Council under Section 34(27)(a) of the Act is available for inspection at the principal office of the council during ordinary office hours and for inspection on the internet.   |
| <b>12. Special Provisions Relating to Assessment Against Development Plans</b> |   |

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

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



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

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

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

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

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

|            |   |
|------------|---|
| 16.2       | The power pursuant to Section 37A(2)(b) of the Act to receive the Commissioner's written determination under Section 37A(2)(a) of the Act.  |
| 16.3       | The duty pursuant to Section 37A(5) of the Act if the Commissioner determines that the proposed development involves the creation of fortifications to:   |
| 16.3.1     | if the proposed development consists only of the creation of fortifications – refuse the application; or  |
| 16.3.2     | in any other case – impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications.  |
| 16.4       | The duty pursuant to Section 37A(6) of the Act, if the Delegate acting on the basis of a determination of the Commissioner under subsection 37A(2) refuses an application or imposes conditions in respect of a development authorisation, to notify the applicant that the application was refused, or the conditions imposed, on the basis of a determination of the Commissioner under Section 37A of the Act. |
| <b>17.</b> | <b>Public Notice and Consultation</b>   |
| 17.1       | The duty, pursuant to Section 38(3) of the Act, where a person applies for a consent in respect of the Development Plan for a Category 1 development, to not on the Delegate's own initiative seek the views of the owners or occupiers of adjacent or other land in relation to the granting or refusal of development plan consent.   |
| 17.2       | Where a person applies for a consent in respect of the Development Plan for a Category 2A development, -  |
| 17.2.1     | the duty pursuant to Section 38(3a)(a) of the Act to:   |
| 17.2.1.1   | subject to any exclusion or qualification prescribed by the Regulations – give an owner or occupier of each piece of adjoining land; and  |
| 17.2.1.2   | give any other person of a prescribed class,  |
|            | notice of the application; and  |
| 17.2.2     | the duty pursuant to Section 38(3a)(b) of the Act, to:  |

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

|          |   |
|----------|---|
| 17.2.2.1 | give consideration to any representations in writing made in accordance with the Regulations by a person who is entitled to be given notice under paragraph (a) of Section 38(3a) of the Act; and   |
| 17.2.2.2 | forward to the applicant a copy of any representations that the relevant authority must consider under subparagraph (i) of Section 38(3a)(b) of the Act and allow the applicant an opportunity to respond in writing, to those representations within the period prescribed by the Regulations; and   |
| 17.2.3   | if a representation is received under paragraph (b) of Section 38(3a) of the Act within the prescribed number of days, the power pursuant to Section 38(3a)(c) of the Act to, in the Delegate's absolute discretion, allow the person who made the representation to appear personally or by representative before it to be heard in support of the representation. |
| 17.3     | The duty pursuant to Section 38(4) of the Act to give notice of a proposal for a Category 2 development.  |
| 17.4     | The duty pursuant to Section 38(5) of the Act to give notice of a proposal for a Category 3 development.  |
| 17.5     | The duty pursuant to Section 38(8) of the Act to forward to an applicant a copy of any representation made regarding the proposed development, and to allow the applicant to respond in writing to those representations.   |
| 17.6     | The power pursuant to Section 38(10)(a) of the Act, in respect of a Category 2 development, to determine whether to allow a person who made a representation to appear personally or by representative before the Delegate.   |
| 17.7     | The duty pursuant to Section 38(10)(b) of the Act, in respect of a Category 3 development, to allow a person who made a representation and who as part of that representation indicated an interest in appearing before the Delegate, a reasonable opportunity to appear personally or by representative to be heard in support of the representation.              |
| 17.8     | The duty pursuant to Section 38(11) of the Act to allow an applicant to appear personally or by representative before the Delegate or the Council in order to respond to any relevant matter.   |
| 17.9     | The duty pursuant to Section 38(12) of the Act, where representations have  |

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

|            |  |
|------------|--|
|            | been made under Section 38 of the Act, to give notice of the decision on the application to each person who made a representation and in respect of a Category 3 development of the person's appeal rights under the Act, and give notice to the Court.  |
| 17.10      | The power, pursuant to subsection 38(17) of the Act, where a relevant authority is acting under Section 38 of the Act in relation to a Category 2A or Category 2 development, to not take into account under Section 38 of the Act a representation made by a person who is not entitled to be given notice of the relevant application under Section 38 of the Act. |
| 17.11      | The power, pursuant to subsection 38(18) of the Act, to not take into account under Section 38 of the Act, a representation that is not made in accordance with any requirement prescribed by the Regulations for the purposes of Section 38.  |
| <b>18.</b> | <b>Application and Provision of Information</b>  |
| 18.1       | The power pursuant to Section 39(2) of the Act to request an applicant to:   |
| 18.1.1     | provide such additional documents or information to enable assessment of the application;  |
| 18.1.2     | remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;   |
| 18.1.3     | consult with an authority or body prescribed by the Regulations;   |
| 18.1.4     | (where required by the Regulations) prepare a statement of effect in relation to non-complying development; and  |
| 18.1.5     | comply with any other requirement prescribed by the Regulations.   |
| 18.2       | If:  |
| 18.2.1     | a development is of a kind that is complying development; and  |
| 18.2.2     | the development falls within a class of development prescribed by the Regulations for the purpose of Section 39(2a)(b) of the Act; and   |
| 18.2.3     | the applicant has complied with the requirements of Section 39(1)(a), (c) and (d),   |

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

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

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

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

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

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



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

|  |   |
|--|---|
| to any decision under Division 1 of Part 4 of the Act. |   |
| 21.2   | The duty, pursuant to Section 42(4) of the Act, in accordance with Section 42(5) of the Act and subject to Sections 42(6) and (8) of the Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the Delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land). |
| 21.3   | The power, pursuant to Section 42(6) of the Act, on the application of the applicant, to determine that a payment of an amount calculated in accordance with the Regulations be made into the relevant fund in lieu of planting one or more replacement trees under Section 42(4) of the Act.   |
| 21.4   | The power, pursuant to Section 42(8)(b) of the Act, after taking into account any criteria prescribed by the Regulations and if the Minister concurs, to determine that it is appropriate to grant an exemption under Section 42 of the Act in a particular case.   |
| <b>22.</b>   | <b>Cancellation by a Relevant Authority</b>   |
| 22.1   | The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.  |
| <b>23.</b>   | <b>Investigation of Development Assessment Performance</b>  |
| 23.1   | The power pursuant to Section 45A(2) of the Act to explain the Council's actions and to make submissions (including, if relevant, an indication of undertakings that the Council is willing to give in order to take remedial action) to the Minister within a period (being at least 28 days) specified by the Minister.   |
| 23.2   | The duty pursuant to Section 45A(14) of the Act to comply with a direction under Section 45A(11) or (13) of the Act.  |
| 23.3   | The power pursuant to Section 45A(12) of the Act to make submissions to the Minister on the report on which the action under Section 45A(11) of the Act is based within a period (being at least 28 days) specified by the Minister.  |
| <b>24.</b>   | <b>Crown Development and Public Infrastructure</b>  |

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

|            |  |
|------------|--|
| 24.1       | The power pursuant to Section 49(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.  |
| 24.2       | The power pursuant to Section 49(5) of the Act to report to the Development Assessment Commission on any matters contained in a notice from the Development Assessment Commission under Section 49(4a) of the Act.   |
| 24.3       | The power pursuant to Section 49(9) of the Act to withdraw opposition to a State agency proposed development.  |
| <b>25.</b> | <b>Electricity Infrastructure Development</b>  |
| 25.1       | The power pursuant to Section 49A(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.   |
| 25.2       | The power pursuant to Section 49A(5) of the Act, where notice of a proposal to undertake development for the purposes of the provision of electricity infrastructure has been given to the Council pursuant to Section 49A(4a) of the Act, to report to the Development Assessment Commission on any matters contained in the said notice. |
| 25.3       | The power pursuant to Section 49A(9) of the Act, in circumstances where the Council's report to the Development Assessment Commission under Section 49A(5) of the Act expressed opposition to the proposed development, to withdraw that opposition.   |
| <b>26.</b> | <b>Open Space Contribution System</b>  |
| 26.1       | The power pursuant to Section 50(1) of the Act, with respect to an application for the division of land into more than 20 allotments where one or more allotments is less than one hectare in area, to require:  |
| 26.1.1     | that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or  |
| 26.1.2     | that the applicant make the contribution prescribed by the regulations in accordance with the requirements of by Section 50 of the Act; or   |
| 26.1.3     | that the land be vested in the Council and that the applicant make a contribution determined in accordance with Section 50(7) of the   |

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

|            |   |
|------------|---|
|            | Act,<br>according to the determination and specification of the Council or Delegate.  |
| 26.2       | The power pursuant to Section 50(1) of the Act, when proposing to take any action that is at variance with the Council's Development Plan to seek the concurrence of the Development Assessment Commission.   |
| 26.3       | The power pursuant to Section 50(3) and 50(2)(d) of the Act to enter into an agreement on behalf of the Council with the Development Assessment Commission and the applicant under which certain land described by the relevant plan of division will be vested in the Council.   |
| 26.4       | The power pursuant to Section 50(3a) of the Act to concur on behalf of the Council to the vesting of land in the Council pursuant to a requirement of the Development Assessment Commission that an area of the site of the development be kept as open space or in some other form that allows for active or passive recreation under Section 50(3a)(a) of the Act.                                |
| 26.5       | The power pursuant to Section 50(10) of the Act to receive payment of monies from an applicant under Section 50(1) of the Act and the duty to immediately pay that money into a special fund established for the purposes of Section 50 and to apply that money for the purpose of acquiring or developing land as open space.  |
| 26.6       | The power pursuant to Section 50(11) of the Act to determine that the division of land is being undertaken in stages such that Section 50 of the Act does not apply to an application for development authorisation to the extent that an earlier application in respect of the same development has addressed the requirements of Section 50 of the Act in respect of the area of land as a whole. |
| <b>27.</b> | <b>Carparking Fund</b>  |
| 27.1       | The power pursuant to Section 50A(1) of the Act to establish a car parking fund.  |
| 27.2       | The duty pursuant to Section 50A(1) of the Act to publish a notice in the Gazette in accordance with Section 50A(2) of the Act where the approval of the Minister has been obtained.  |
| 27.3       | The power pursuant to Section 50A(5)(c) of the Act to determine that a proposal does not provide for sufficient spaces for the parking of cars at the site of a development.  |
| 27.4       | The power pursuant to Section 50A(5)(d) of the Act to agree with an   |

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

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|            |   |
|------------|---|
|            | applicant that a contribution calculated in accordance with a determination of the Council or the Delegate can be made by the applicant to a car parking fund in lieu of providing a certain number of spaces for the parking of cars at the site of a development. |
| 27.5       | The power pursuant to Section 50A(5) of the Act to make a determination for the purpose of calculating amounts to be paid into a carparking fund.   |
| 27.6       | The duty pursuant to and in accordance with Section 50A(6) of the Act to publish a determination for the purpose of calculating amounts to be paid into a carparking fund and any variations from time to time in the Gazette.                                      |
| 27.7       | The power pursuant to and in accordance with Section 50A(7) of the Act to invest any money in a carparking fund and to pay any resultant income into the fund.  |
| 27.8       | The power pursuant to and in accordance with Section 50A(8) of the Act to apply money standing to the credit of the car parking fund.   |
| <b>28.</b> | <b>Urban Trees Fund</b>   |
| 28.1       | The power, pursuant to Section 50B(1) of the Act, with the approval of the Minister, to establish an urban trees fund for an area designated by the Delegate (a designated area).   |
| 28.2       | The duty, pursuant to Section 50B(2) of the Act, to effect establishment of the fund by notice in the Gazette.  |
| 28.3       | The duty, pursuant to Section 50B(3) of the Act, to define a designated area by reference to an area established by the relevant Development Plan.  |
| 28.4       | The power, pursuant to Section 50B(5) of the Act, to invest any money in an urban trees fund that is not for the time being required for the purpose of the fund and the duty to pay any resultant income into the fund.  |
| 28.5       | The power, pursuant to Section 50B(6) of the Act, to apply money standing to the credit of an urban trees fund to:  |
| 28.5.1     | maintain or plant trees which are, or will (when fully grown) constitute, significant trees under the Act; or   |
| 28.5.2     | purchase land within the designated area in order to maintain or plant trees which are, or will (when fully grown) constitute,  |

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

|   |  |
|---|--|
| significant trees under the Act.                          |  |
| 28.6  | The duty, pursuant to Section 50B(7) of the Act, if the Council subsequently sells land purchased under Section 50B(6)(b) of the Act, to pay the proceeds of sale into an urban trees fund maintained by the Council under Section 50B of the Act subject to the following qualifications as prescribed by Sections 50B(7)(a) and (b) of the Act:  |
| 28.6.1  | if an urban trees fund is no longer maintained by the Council, the proceeds must be applied for a purpose or purpose consistent with Section 50B(6)(a) or (b) of the Act;  |
| 28.6.2  | if money from an urban trees fund only constituted a proportion of the purchase price of the land (the designated proportion), the money that is subject to these requirements is the designated proportion of the proceeds of sale.   |
| <b>29. Certificate in Respect of the Division of Land</b> |  |
| 29.1  | The duty pursuant to Section 51(2) of the Act to provide appropriate information to the Development Assessment Commission (upon request by the Development Assessment Commission) before it issues a certificate in respect of the division of land.   |
| <b>30. Saving Provisions</b>                              |  |
| 30.1  | The power pursuant to Section 52(4) of the Act to extend the limitation period referred to in Section 52(2) of the Act in order to avoid or reduce hardship.   |
| <b>31. Avoidance of Duplication of Procedures Etc</b>     |  |
| 31.1  | The power pursuant to Section 52A(2)(a) of the Act to accept a document under the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999 (and defined in Section 52A(9) of the Act, as a 'Commonwealth Act document') as an application, notice or other document for the purposes of the Act, if (subject to the provisions of Section 52A(7)) the document complies with the requirements of the Act.                     |
| 31.2  | The power pursuant to Section 52A(2)(b) of the Act where a document has been accepted for the purposes of the Act, to direct that a procedure taken under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 in relation to the said document will be taken to have fulfilled the requirements for a procedure in relation to the relevant document under the Act, if the requirements of the Act in relation to the |

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

|          |  |
|----------|--|
|          | procedure have been complied with under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.  |
| 31.3     | The power pursuant to Section 52A(2)(c) of the Act to adopt or accept the whole or part of a document (whether a plan, report, statement, assessment or other document of the same kind or not) used or to be used for the purposes of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 as the document required under the Act, if (subject to the provisions of Section 52A(7) of the Act) the document has been prepared in compliance with the Act, and complies with the requirements of the Act.  |
| 31.4     | The power pursuant to Section 52A(5) of the Act where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity or includes an activity for which a development authorisation is required under the Act to, when considering an application for a development authorisation or for the variation of a development authorisation, for the activity, use information and other material provided to the Commonwealth Minister under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 for the purposes of the Commonwealth Minister deciding to give approval to the controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. |
| 31.5     | Where a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 is an activity or part of an activity, or includes an activity, for which a development authorisation is required under the Act:  |
| 31.5.1   | in circumstances where:  |
| 31.5.1.1 | the Commonwealth Minister has given his or her approval to the controlled action; and  |
| 31.5.1.2 | the applicant for the development authorisation or the Commonwealth Minister has informed the relevant authority of that fact;   |
|          | the duty pursuant to Section 52A(6)(a) of the Act to consider whether the conditions (if any) to be attached to the development authorisation should be consistent with the conditions (if any) attached to the Commonwealth Minister's approval under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999; and   |

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

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

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

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



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

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

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

|             |  |
|-------------|--|
| 36.12       | The power pursuant to Section 56A(27) of the Act to make an application to the Minister to exempt the Council from the requirement to establish a council development assessment panel under Section 56A of the Act.   |
| 36.13       | The power pursuant to Section 56A(28) of the Act to consult with the Minister in relation to revoking an exemption under Section 56A(27) of the Act.   |
| <b>37.</b>  | <b>Building Rules Assessment Audits</b>  |
| 37.1        | The duty pursuant to Section 56B(2) to have its building assessment auditor audit the Council's activities in relation to the undertaking of assessments of proposed developments against the provisions of the Building Rules in accordance with the requirements of Section 56B. |
| 37.2        | The duty pursuant to Section 56B(5) to ensure that after the expiration of the periods prescribed in Section 56B(4) an audit under Section 56B is completed at least once in every prescribed period.  |
| 37.3        | The power pursuant to Section 56B(10) to respond to a report prepared by a building assessment auditor prepared in relation to the Council under Section 56B.  |
| 37.4        | The power pursuant to Section 56B(14) to make submissions to the Minister in relation to a matter concerning the possible exercise of the Minister's powers under Section 56B(12).   |
| 37.5        | The duty pursuant to Section 56B(16) to comply with a direction given to the Council under Sections 56B(12) or 56B(15).  |
| <b>37A.</b> | <b>Development Plan Assessment Audits</b>  |
| 37A.1       | The power and duty pursuant to Section 56C(2) of the Act to have the Council's activities in relation to Development Plan assessments audited by a development assessment auditor in accordance with the requirements of Section 56C of the Act.                                   |
| 37A.2       | The power pursuant to Section 56C(10) of the Act to provide a response to an auditor with a view to correcting any error or fact.  |
| 37A.3       | The power pursuant to Section 56C(14) of the Act to make submissions in relation to the matter to the Minister.  |
| 37A.4       | The power pursuant to Section 56C(15) of the Act to, if  |

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

|                                       |   |
|---------------------------------------|---|
| 37A.4.1                               | the Minister makes a recommendation to the Council under Section 56C(12)(a) of the Act; and   |
| 37A.4.2                               | the Minister subsequently considers that the Council has not, within a reasonable period, taken appropriate action in view of the recommendation,   |
|                                       | consult with the Minister.  |
| <b>38. Land Management Agreements</b> |   |
| 38.1                                  | The power pursuant to Sections 57(2) and 57(2a) of the Act to enter into an agreement relating to the development, management, preservation or conservation of land within the area of the Council with the owner of the land.  |
| 38.2                                  | The duty pursuant to and in accordance with Section 57(2c) of the Act and Regulation 98A of the Regulations to establish and keep a register available for public inspection (without charge).  |
| 38.3                                  | The duty pursuant to Section 57(2e) of the Act, in relation to the granting of development plan consent with respect to a Category 2A, Category 2 or Category 3 development, to note the existence of the agreement (or the proposal to enter the agreement), and the availability of copies of the agreement for public inspection on the notice of the relevant authority's decision. |
| 38.4                                  | The power pursuant to Section 57(3) of the Act to carry out on private land any work for which provision is made by agreement under Section 57 of the Act.  |
| 38.5                                  | The power pursuant to Section 57(5) of the Act, to apply to the Registrar-General to note the agreement against the relevant instrument of title or, in the case of land not under the provisions of the Real Property Act 1886, against the land.  |
| 38.6                                  | The power pursuant to Section 57(8) of the Act to apply to the Registrar-General where an agreement in relation to which a note has been made under Section 57 of the Act has been rescinded or amended, to enter a note of the rescission or amendment made against the instrument of title or against the land.   |
| 38.7                                  | The power pursuant to Section 57(11) of the Act to consent to the remission of rates payable to the Council provided for in an agreement  |

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

|  |  |
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| entered into by the Minister.                                    |  |
| <b>39. Land Management Agreements - Development Applications</b> |  |
| 39.1   | The power pursuant to and subject to Section 57A(1) of the Act to enter into an agreement under Section 57A of the Act with a person who is applying for a development authorisation under the Act.  |
| 39.2   | The duty pursuant to Section 57A(3) of the Act to have regard to:  |
| 39.2.1   | the provisions of the appropriate Development Plan.  |
| 39.2.2   | the principle that the entering into of an agreement under Section 57A by the Council should not be used as a substitute to proceeding with an amendment to a Development Plan under the Act.  |
| 39.3   | The duty pursuant to Section 57A(5) of the Act to register agreements entered into under Section 57A in accordance with the Regulations.   |
| 39.4   | The duty pursuant to Section 57A(6) of the Act to keep a register available for public inspection (without charge) in accordance with the Regulations.   |
| 39.5   | The power pursuant to Section 57A(7) of the Act to provide a person, on payment of the prescribed fee, a copy of an agreement registered under Section 57A(5) of the Act.  |
| 39.6   | The duty, pursuant to Section 57A(8) of the Act, where an agreement is entered into under Section 57A of the Act, in connection with an application for a development authorisation with respect to a Category 2A, Category 2 or Category 3 development, to include a note of the existence of the agreement on the notice of the relevant authority's decision under the Act. |
| 39.7   | The power pursuant to Section 57A(14) of the Act to apply to the Registrar-General to note the agreement against the relevant instrument of title, or in the case of land not under the provisions of the Real Property Act 1886, against the land.  |
| 39.8   | The power pursuant to Section 57A(16) of the Act to apply to the Registrar-General where an agreement under Section 57A has been rescinded or amended to enter a note of the rescission or amendment against the instrument of title, or against the land.   |
| 39.9   | The power pursuant to Section 57A (18) of the Act where an agreement under Section 57A does not have effect under Section 57A within the   |

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

|   |  |
|---|--|
|   | prescribed period, to, by notice given in accordance with the regulations, lapse the relevant development approval (and the agreement will then be rescinded by force of Section 57A(18) of the Act).  |
| <b>40. Notification During Building</b> |  |
| 40.1                                    | The power pursuant to Section 59(3) of the Act to direct that building work stop when a mandatory notification stage has been reached.   |
| <b>41. Classification of Buildings</b>  |  |
| 41.1                                    | The power pursuant to Section 66(2) of the Act to assign to any building a classification that conforms with the Regulations and the duty pursuant to Section 66(4) of the Act to give notice in writing to the owner of the building to which the classification has been assigned. |
| <b>42. Certificates of Occupancy</b>    |  |
| 42.1                                    | The duty pursuant to and in accordance with the requirements of Sections 67(2), (3), (4), (5) and (6) of the Act to give a certificate of occupancy.   |
| 42.2                                    | The power pursuant to Section 67(3)(a) of the Act to require information from an applicant for a certificate of occupancy.   |
| 42.3                                    | The duty pursuant to Section 67(10) of the Act to give written notice to an applicant of the refusal of the certificate of occupancy.  |
| 42.4                                    | The power pursuant to Section 67(13) of the Act to revoke a certificate of occupancy in prescribed circumstances.  |
| <b>43. Temporary Occupation</b>         |  |
| 43.1                                    | The power pursuant to Sections 68(1) and (2) of the Act to approve the occupation of a building on a temporary basis without a certificate of occupancy and subject to such conditions as the Delegate thinks fit to impose.   |
| 43.2                                    | The duty pursuant to and in accordance with Section 68(3) of the Act to give written notice to an applicant of the refusal of approval for temporary occupation of a building.   |
| <b>44. Emergency Orders</b>             |  |
| 44.1                                    | Where an owner of land fails to comply with the requirements of an   |

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

|  |  |
|--|--|
| emergency order issued under Section 69(1) of the Act: |  |
| 44.1.1   | the power pursuant to Section 69(4) of the Act to cause the required work to be carried out; and   |
| 44.1.2   | the power pursuant to and in accordance with Sections 69(5) and 69(6) of the Act to recover the reasonable costs and expense of that work from the owner as a debt.  |
| <b>44A Fire Safety</b>                                 |  |
| 44A.1  | The power pursuant to Sections 71(18) and (19) of the Act to establish and designate a body as an appropriate authority.   |
| 44A.2  | The power pursuant to Section 71(19)(a)(i) of the Act to appoint a person who holds prescribed qualifications in building surveying to the appropriate authority.  |
| 44A.3  | The power pursuant to Section 71(19)(a)(ii) of the Act to determine if a person is to be nominated to the appropriate authority by the Chief Officer of the South Australian Metropolitan Fire Service or the Chief Officer of the South Australian Country Fire Service (after taking into account the nature of the Council or Council's area(s)). |
| 44A.4  | The power pursuant to Section 71(19)(a)(iii) of the Act to appoint a person with expertise in the area of fire safety to the appropriate authority.  |
| 44A.5  | The power pursuant to Section 71(19)(a)(iv) of the Act to determine and select a person to be appointed to the appropriate authority.  |
| 44A.6  | The power pursuant to Section 71(19)(b) of the Act to determine the term of the office not exceeding three years of a member of the appropriate authority.   |
| 44A.7  | The power pursuant to Section 71(19)(d) of the Act to appoint deputy members to the appropriate authority.   |
| 44A.8  | The power pursuant to Section 71(19)(e) of the Act to determine the procedures of an appropriate authority.  |
| <b>45. Building Inspection Policies</b>                |  |
| 45.1   | The duty pursuant to and in accordance with Section 71A of the Act to prepare and from time to time alter a building inspection policy.  |

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

|  |
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| <b>46. Advertisements</b>  |
| 46.1 The power pursuant to and in accordance with Section 74(1) of the Act to:   |
| 46.1.1 form the opinion that an advertisement or advertising hoarding disfigures the natural beauty of a locality or otherwise detracts from the amenity of a locality or is contrary to a character desired for a locality under the relevant Development Plan; and                 |
| 46.1.2 serve notice in writing requiring the removal or obliteration of the advertisement or the removal of the advertising hoarding (or both).  |
| 46.2 The power pursuant to Section 74(3) of the Act where a person has failed to comply with a notice under Section 74(1) of the Act, to enter on land, carry out the terms of the notice and recover the costs of doing so as a debt from the person on whom the notice was served. |
| <b>47. Enforcement Notices</b>   |
| 47.1 The power pursuant to and in accordance with Section 84(2) of the Act to issue an enforcement notice where the Delegate has reason to believe on reasonable grounds that a person has breached the Act or a repealed Act.   |
| 47.2 The power pursuant to Section 84(3) of the Act to determine that a direction under Section 84(2) of the Act is urgently required and can be orally given by an authorised officer.  |
| 47.3 Where a person has failed to comply with a direction contained in a notice issued pursuant to Section 84(2)(b) of the Act:  |
| 47.3.1 the power pursuant to Section 84(6) of the Act to cause the necessary action to be undertaken; and  |
| 47.3.2 pursuant to and in accordance with Sections 84(7) and 84(8) of the Act to recover the costs of doing so as a debt from the person whose failure gave rise to the action.  |
| <b>48. Applications to Court</b>   |
| 48.1 The power pursuant to Section 85(1) of the Act to apply to the Court for an order to remedy or restrain a breach of the Act, or a repealed Act.   |

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

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



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

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

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

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

|   |   |
|---|---|
| 53A.2   | The power pursuant to Regulation 8A(1)(b) of the Regulations, for the purposes of Section 35(1b) of the Act, to:  |
| 53A.2.1   | form the opinion that a variation from <i>complying</i> development (including <i>complying</i> development as declared under Regulation 8A(1)(a) of the Regulations) is minor; and   |
| 53A.2.2   | determine that 2 or more minor variations, when taken together, constitute a 'minor variation from <i>complying</i> development'.   |
| <b>53B. Complying Building Work – Building Rules</b>            |   |
| 53B.1   | The power pursuant to Regulation 8B(1) of the Regulations, for the purposes of Section 36(1) of the Act to, subject to Regulation 8B(2) of the Regulations, assess building work as being in a form specified in Schedule 4 Part 2 (including a form specified or provided for in the <i>Building Code</i> referred to in Schedule 4 Part 2).     |
| <b>54. Infrastructure Planning</b>                              |   |
| 54.1  | The power pursuant to Regulation 9A(1) to, in preparing the DPA, to the extent (if any) required by the Statement of Intent, seek, in accordance with Regulation 9A(2), the advice of a Minister and any other government agency, specified by the Minister as part of the agreement on the Statement of Intent.                                  |
| <b>55. Consultation with Government Departments or Agencies</b> |   |
| 55.1  | The duty pursuant to Regulation 10A(1) of the Regulations if the Council is subject to a requirement under Section 25(7)(a) of the Act to ensure that a copy of any written report received from a Department or agency is furnished to the Minister for the purposes of considering the matter under Section 25(7)(b) of the Act.                |
| <b>56. Public Consultation – Section 25 &amp; 26</b>            |   |
| 56.1  | Subject to Regulations 11A(3) and 11A(6) of the Regulations, for the purposes of Sections 25 and 26 of the Act, the duty pursuant to Regulation 11A(1) of the Regulations to give public notice of a DPA by publication in the designated manner of a notice:   |
| 56.1.1  | advising the time and places at which the DPA is available for inspection (without charge) and purchase by the public; and  |
| 56.1.2  | inviting any interested person to make written submissions on the amendment to the council within the relevant period specified in the notice; and  |
| 56.1.3  | stating that the submissions will be available for inspection by any interested person at a place specified in the notice from the expiration of the period specified under Regulation 11A(1)(b) of the Regulations until the conclusion of any public meeting held for the purposes of Section 25(11)(b) or 26(5c)(b) of the Act (or, if no such |

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

|            |  |
|------------|--|
|            | meeting is to be held, until the decision is made not to hold the meeting); and  |
| 56.1.4     | providing information about when and where any public meeting is proposed to be held for the purposes of Sections 25(11)(b) or 26(5c)(b) of the Act (subject to a decision being made under the relevant section not to hold a meeting).   |
| 56.2       | If one or more written submissions are made in response to a notice published under Regulation 11A(1) of the Regulations, the duty pursuant to Regulation 11A(3) of the Regulations to make a copy of each submission available for inspection in accordance with the statement included under Regulation 11A(1)(c).   |
| 56.3       | For the purposes of Sections 25(9)(c) and 26(5b)(c) of the Act, the duty pursuant to Regulation 11A(4) of the Regulations to include in the written notice the same information as required for a notice under Regulation 11A(1) of the Regulations.   |
| 56.4       | The duty pursuant to Regulation 11A(5) of the Regulations, to ensure that a copy of any DPA released for public consultation under Section 25 of the Act is provided to the Minister within 2 business days after that release.  |
| <b>57.</b> | <b>Public Meeting</b>  |
| 57.1       | The duty pursuant to and in accordance with Regulation 12 of the Regulations to hold a public meeting if an amendment has been prepared by the Council or the Delegate.  |
| 57.2       | The power pursuant to Regulation 12(4) of the Regulations to adjourn a public meeting from time to time, and place to place if necessary or appropriate.   |
| <b>58.</b> | <b>Application to Relevant Authority</b>   |
| 58.1       | The power pursuant to Regulation 15(1)(c) of the Regulations to require an additional or lesser number of copies of plans, drawings, specifications and other documents and information relating to a proposed development than the number prescribed in Regulation 15(1)(c) of the Regulations.   |
| 58.2       | The duty pursuant to and in accordance with Regulation 15(4) of the Regulations, if an application is lodged with the Council but a regional development assessment panel is the relevant authority, to retain a copy of the application and other accompanying information and to forward the application on to the appropriate person acting on behalf of the regional development assessment panel.                               |
| 58.3       | The duty pursuant to and in accordance with Regulation 15(5) of the Regulations, when an application is lodged with the Council but the Development Assessment Commission is the relevant authority, to forward all but one copy of the application and the accompanying information, as well as a written acknowledgment that the appropriate fees have been paid, including details of each fee component paid, to the Development |

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

|                        |   |
|------------------------|---|
| Assessment Commission. |   |
| 58.4                   | The power pursuant to Regulation 15(7)(b) of the Regulations to indicate, in such manner as may be determined by the Development Assessment Commission, that the Delegate wishes to receive written documentation instead of electronic access to the relevant documents and information via the Internet.  |
| 58.4A                  | The power and duty pursuant to Regulation 15(7b) of the Regulations, to within 2 business days of receipt of a copy of an application form under Regulation 15(7a) of the Regulations, furnish to the private certifier:  |
| 58.4A.1                | the Development Assessment number assigned to the development proposed under the application; and   |
| 58.4A.2                | if the private certifier, at the time of forwarding a copy of an application form under Regulation 15(7a) of the Regulations, requests advice on the matters set out in subparagraphs (i) and (ii), and if such advice is relevant:   |
| 58.4A.2.1              | advice about any site contamination that is believed to exist at the site where the development would be undertaken;  |
| 58.4A.2.2              | advice about the likely need for approval to alter a public road under section 221 of the Local Government Act 1999 in order to establish a new access point; and   |
| 58.4A.2.3              | advice about whether the relevant development plan specifies any requirements relating to finished floor levels (expressed by reference to AHD or ARI) in relation to the site where the development would be undertaken.   |
| 58.5                   | The power pursuant to Regulation 15(8) of the Regulations to extend the period prescribed in Regulation 15(8) for the lodging of an application for the appropriate development authorisation as required by Section 54(2)(c).  |
| 58.6                   | <i>DELIBERATELY LEFT BLANK</i>  |
| 58.7                   | The power pursuant to Regulation 15(11) of the Regulations, to modify the requirements of Schedule 5 in relation to a particular application, subject to the following qualifications:  |
| 58.7.1                 | in the case of an application that is lodged with the Council for assessment as <i>residential code</i> development – the requirements of Schedule 5 may not be modified in any way by the delegate assessing the application (whether so as to require more or less information), except on authority of the Minister under Section 39(1)(a) of the Act; |

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

|                                      |  |
|--------------------------------------|--|
| 58.7.2                               | in any other case, the delegate must not, when requiring plans, drawings, specifications and other documents in relation to the application, require the applicant to provide more information than that specified under Schedule 5 (subject to Section 39 of the Act).  |
| 58.8                                 | The power pursuant to Regulation 15(12) of the Regulations to, in exercising the discretion under Section 39(4)(b) of the Act, dispense with the requirements of Schedule 5 in relation to a particular application.   |
| <b>59. Nature of Development</b>     |  |
| 59.1                                 | The duty pursuant to Regulation 16(1) of the Regulations, where an application requires the assessment of a proposed development against the provisions of the Development Plan, to determine the nature of the development applied for.   |
| 59.2                                 | The power pursuant to Regulation 16(2) of the Regulations to form the opinion that a development is non-complying, and the duty if the Delegate is of the opinion that an application relates to a kind of development that is non-complying and the applicant has not identified the development as such, by notice in writing to inform the applicant of that fact.  |
| 59.3                                 | The power pursuant to Regulation 16(3) of the Regulations to, if an application in relation to a proposed development identifies the development as <i>residential code</i> development or designated development, form the opinion that the development is <i>residential code</i> development and the duty to, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact.  |
| 59.4                                 | The power pursuant to Regulation 16(4) of the Regulations to, if an application in relation to a proposed development identifies the development as <i>residential code</i> development or designated development, form the opinion that the development is not <i>residential code</i> development and the duty to, within 5 business days of receipt of the application, by notice in writing, inform the applicant of that fact and the reasons for the Delegate's opinion. |
| <b>60. Non-Complying Development</b> |  |
| 60.1                                 | The power pursuant to Regulation 17(3) of the Regulations, after receipt of an application which relates to a kind of development that is described as non-complying development to:   |
| 60.1.1                               | refuse the application pursuant to Section 39(4)(d) of the Act and notify the applicant accordingly; or  |
| 60.1.2                               | resolve to proceed with an assessment of the application.  |
| 60.2                                 | The duty pursuant to Regulation 17(4) of the Regulations, in situations where the Delegate has resolved to proceed with the assessment of an application for non-complying development, to require the applicant to provide a statement of effect.   |

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

|            |   |
|------------|---|
| 60.3       | The power pursuant to Regulation 17(6) of the Regulations to determine that a proposed development is of a minor nature for the purposes of exemption from the requirements to provide a statement of effect.   |
| <b>61.</b> | <b>Notification of Application for Tree-Damaging Activity to Owner of Land</b>  |
| 61.1       | Where the owner of land to which an application for a tree-damaging activity in relation to a regulated tree relates is not a party to the application, the duty pursuant to and in accordance with Regulation 18 of the Regulations:   |
| 61.1.1     | to give the owner of land notice of the application; and  |
| 61.1.2     | to give due consideration, in the assessment of the application, to any submission made by the owner within a reasonable time after the giving of notice of the application.  |
| <b>62.</b> | <b>Amended Applications</b>   |
| 62.1       | The power pursuant to Regulation 20(4) of the Regulations to form the opinion that variations to an application are not substantial and that repeating of the referral process under Part 5 of the Regulations, or the giving of notice under Part 6 of the Regulations is not required.                                    |
| 62.2       | The power pursuant to Regulation 20(5) of the Regulations, where a variation to an application changes the essential nature of a proposed development to (by agreement with the applicant) proceed with the variation on the basis that the application will be treated as a new application.                               |
| <b>63.</b> | <b>Withdrawing/Lapsing Application</b>  |
| 63.1       | The duty pursuant to Regulation 22(1) of the Regulations, where an applicant withdraws an application, to notify any agency to which an application was referred under Part 5 of the Regulations and any person who made a representation in relation to the application under Part 6 of the Regulations of the withdrawal. |
| 63.2       | Where at least two years have passed since the date on which an application for development authorisation under Part 4 of the Act was lodged with the Council the power, pursuant to Regulation 22(2) of the Regulations to lapse the said application.   |
| 63.3       | Before taking action to lapse a development application under Regulation 22(2) of the Regulations the duty, pursuant to and in accordance with Regulation 22(3) of the Regulations to:  |
| 63.3.1     | take reasonable steps to notify the applicant of the action under consideration; and  |
| 63.3.2     | allow the applicant a reasonable opportunity to make submissions to the Council or the Delegate about the proposed course of action, and the power to determine the manner and form of those  |

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

|              |   |
|--------------|---|
| submissions. |   |
| <b>64.</b>   | <b>Contravening Development</b>   |
| 64.1         | The power pursuant to Regulation 23(2) of the Regulations, by notice in writing to the applicant to decline to proceed with an application until proceedings under the Act have been concluded.   |
| <b>65.</b>   | <b>Referrals</b>  |
| 65.1         | The duty pursuant to Regulation 24(1) of the Regulations to refer an application of a prescribed kind together with a copy of any relevant information provided by the applicant to the relevant body prescribed by Schedule 8 of the Regulations and to not make a decision on the application until a response has been received from the referral body or the time period for receipt of a response has lapsed.                              |
| <b>66.</b>   | <b>Procedure Where Concurrence Required</b>   |
| 66.1         | The duty pursuant to Regulation 25 of the Regulations, if concurrence must be sought from another body prior to issuing a consent or approval to forward to the other body whose concurrence must be sought that information required by Regulation 25(b) of the Regulations.   |
| <b>67.</b>   | <b>Additional Information or Amended Plans</b>  |
| 67.1         | The duty pursuant to Regulation 27(1) of the Regulations, where an application has been referred to a prescribed body under Part 5 of the Regulations and additional information is received which is materially relevant to the referral, to repeat the referral process where the Delegate is of the opinion that the additional information or amendment is significant and the power to repeat the referral process in all other instances. |
| <b>68.</b>   | <b>Special Provisions – Referrals</b>   |
| 68.1         | The duty pursuant to and in accordance with Regulation 28(3) of the Regulations to refer an application for building rules consent to the relevant fire authority for comment and report where the Delegate considers that:   |
| 68.1.1       | a proposed alternative solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or  |
| 68.1.2       | the proposed development is at variance with a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or   |
| 68.1.3       | special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,   |
|              | and the duty pursuant to Regulation 28(5) of the Regulations to have regard to any report received from the fire authority under Regulation 28.   |

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

|            |  |
|------------|--|
| 68.2       | The power pursuant to Regulation 28(4) of the Regulations, when a report from a fire authority pursuant to Regulation 28(3) is not received by the Council within 20 business days, to presume that the fire authority does not desire to make a report.   |
| 68.3       | If, in respect of an application referred to a fire authority under Regulation 28, the fire authority:   |
| 68.3.1     | recommends against the granting of building rules consent; or  |
| 68.3.2     | concurs in the granting of consent on conditions specified in its report,  |
|            | but the Delegate:  |
| 68.3.3     | proposes to grant building rules consent despite a recommendation referred to in Regulation 28(5a)(a) of the Regulations; or   |
| 68.3.4     | does not propose to impose the conditions referred to in Regulation 28(5a)(b) of the Regulations, or proposes to impose the conditions in varied form, on the grant of consent,  |
|            | the duty pursuant to Regulation 28(5a) of the Regulations to:  |
| 68.3.5     | refer the application to the Building Rules Assessment Commission; and   |
| 68.3.6     | not grant consent unless the Building Rules Assessment Commission concurs in the granting of consent.  |
| 68.4       | The duty pursuant to Regulation 28(6) of the Regulations to provide to the Building Rules Assessment Commission a copy of any report received from a fire authority under Regulation 28(1) that relates to an application referred to the Building Rules Assessment Commission under the Act.  |
| 68.5       | The duty pursuant to Regulation 28(7) of the Regulations, where building work comprises or includes the construction or installation of a private bushfire shelter, not to grant a building rules consent unless the Building Rules Assessment Commission concurs in the granting of the consent.  |
| <b>69.</b> | <b>Land Division Applications</b>  |
| 69.1       | The duty pursuant to Regulation 29(1) of the Regulations, subject to the provisions in Regulation 29(2) of the Regulations, to withhold making a decision on an application which relates to a proposed development that involves the division of land until a report has been received from the Development Assessment Commission.                              |
| 69.2       | The power pursuant to Regulation 29(2) of the Regulations, when a report from the Development Assessment Commission pursuant to Regulation 29(1) of the Regulations is not received by the Council within eight weeks or within such longer period as the Development Assessment Commission may require by notice in writing to the Council, to presume that the |



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

|   |   |
|---|---|
| Development Assessment Commission does not desire to make a report. |   |
| <b>70.</b>  | <b>Underground Mains Area</b>   |
| 70.1  | The power pursuant to Regulation 30(1) of the Regulations to seek a report from the relevant electricity authority where the Delegate considers that an area should be declared an underground mains area.  |
| 70.2  | The power pursuant to Regulation 30(2) of the Regulations to declare an area as an underground mains area.  |
| 70.3  | The power pursuant to Regulation 30(4) of the Regulations, where a development includes the division of land within or partly within an underground mains area, to require, as a condition of the decision, that any electricity mains be placed underground. |
| <b>71.</b>  | <b>Preliminary Advice and Agreement - Section 37AA</b>  |
| 71.1  | The power pursuant to Regulation 31A(6)(b) of the Regulations to determine that an application no longer accords with an agreement indicated by the prescribed body.  |
| 71.2  | The power pursuant to Regulation 31A(6) of the Regulations if:  |
| 71.2.1  | a relevant authority permits an applicant to vary an application under Section 39(4) of the Act; and  |
| 71.2.2  | the relevant authority determines that the application no longer accords with the agreement indicated by the prescribed body, to refer the application (unless withdrawn) to the prescribed body:   |
| 71.2.3  | to obtain a variation to the agreement under Section 37AA of the Act; or  |
| 71.2.4  | to obtain a response from the prescribed body for the purposes of Section 37 of the Act.  |
| 71.3  | The power pursuant to Regulation 31A(7) of the Regulations if:  |
| 71.3.1  | an application is withdrawn by the Applicant; and   |
| 71.3.2  | the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,  |
|   | to notify the relevant prescribed body of the withdrawal of an application.   |
| 71.4  | The power pursuant to Regulation 31A(8) of the Regulations if:  |
| 71.4.1  | an application is lapsed by a relevant authority under Regulation 22 of the Regulations; and  |
| 71.4.2  | the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,  |
|   | to notify the relevant prescribed body of the lapsing of an   |

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

|  |   |
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|  | application.  |
| 71.5   | The power pursuant to Regulation 31A(9) of the Regulations if:  |
| 71.5.1   | an application seeks to rely on an agreement under Section 37AA of the Act in connection with the application; and  |
| 71.5.2   | a notice of decision is issued by the relevant authority under Regulation 42 of the Regulations,  |
|  | to send a copy of the notice to the prescribed body within 5 business days after the notice is given to the applicant under Regulation 42 of the Regulations.   |
| <b>71A. Public Notice Categories</b>                         |   |
| 71A.1  | The power pursuant to Regulation 32(2)(5) of the Regulations to determine that a form of development comprises 2 or more elements.  |
| <b>72. Public Inspection of Certain Applications</b>         |   |
| 72.1   | The duty pursuant to and in accordance with Regulation 34(1) of the Regulations, subject to Regulation 34(4) of the Regulations to ensure that copies of documents referred to in Regulation 34(1) concerning an application are reasonably available for inspection by the public (without charge).  |
| 72.2   | The duty pursuant to Regulation 34(2) of the Regulations, subject to Regulation 34(4) of the Regulations, where a request is made within the time period that applies under Regulation 34(1) of the Regulations and on payment of a fee fixed by Council to provide to a member of the public a copy of any document of information available for inspection under Regulation 34(1) of the Regulations. |
| 72.3   | The power pursuant to Regulation 34(3) of the Regulations to require that a person who has made a request under Regulation 34(2) of the Regulations verify his or her name, address and contact details in such manner as the Delegate thinks fit.  |
| 72.4   | The power pursuant to Regulation 34(4) of the Regulations to form the opinion that the present or future security of a building would be jeopardised if plans, drawings, specifications or other documents or information relating to the assessment of a proposed development against the Building Rules were to be made available for inspection.   |
| <b>73. Response by Applicant</b>                             |   |
| 73.1   | The power pursuant to Regulation 36 of the Regulations to extend the time within which an applicant may respond to any representation   |
| <b>74. Determination of Commission as Relevant Authority</b> |   |
| 74.1   | Where the Development Assessment Commission is the relevant authority under Section 34(1)(b) of the Act:  |

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

|  |  |
|--|--|
| 74.1.1   | in a case where the Minister has made a declaration under Section 34(1)(b)(iii) or 34(1)(b)(vi) of the Act, the duty pursuant to and in accordance with Regulation 38(2)(a)(i) of the Regulations to forward to the Development Assessment Commission any application received by the Council under the Act and the Regulations in relation to the matter together with accompanying documentation or information and, as appropriate, fees; and |
| 74.1.2   | in any case, the power pursuant to and in accordance with Regulation 38(2)(b) to provide a report on matters under Section 33(1) (as relevant).  |
| 74.2   | Where the Development Assessment Commission is the relevant authority under Section 34(1)(b)(iv) of the Act and the proposed development is to be undertaken within one kilometre of a boundary with the Council, the power, pursuant to Regulation 38(4) of the Regulations, to provide the Development Assessment Commission with comments on the proposed development.  |
| <b>75. Assessment in Respect of Building Rules Referred to the Council</b> |  |
| 75.1   | The duty pursuant to and in accordance with Regulation 39 of the Regulations, where the Council is the relevant authority pursuant to Section 34(2) of the Act, not to give any decision in respect of the assessment against the Building Rules until the Development Assessment Commission or the regional development assessment panel (as the case may be) has made its decision.  |
| <b>76. Notification of Decision to Applicant (Including Conditions)</b>    |  |
| 76.1   | The duty pursuant to and in accordance with Regulation 42 of the Regulations to give notice of a decision on an application under Division 1 of Part 4 of the Act including, but not limited to, the power to endorse approved plans and documentation under Regulation 42(4).   |
| <b>77. Notification of Decision to a Prescribed Body</b>                   |  |
| 77.1   | The duty pursuant to and in accordance with Regulation 43 of the Development Regulations, to send a copy of the notice of decision issued under Regulation 42 of the Regulations to any prescribed body to which the application had been referred.  |
| 77.2   | The duty pursuant to and in accordance with Regulation 43(3) of the Regulations to send a copy of a notice of a decision on an application, if or when a development authorisation is issued in relation to a proposed division of land, to the Development Assessment Commission.   |
| <b>78. Notification of Decision to Owner of Land</b>                       |  |
| 78.1   | The duty pursuant to and in accordance with Regulation 44 of the Regulations to send a copy of any notice issued under Regulation 42 of the  |

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

|  |  |
|--|--|
| Regulations to the owner of land to which a decision on the application relates where the owner is not a party to the application. |  |
| <b>79.</b>   | <b>Scheme Description – Community Titles</b>   |
| 79.1   | The duty pursuant to Regulation 45(2) of the Regulations to endorse a scheme description under Section 3 of the Community Titles Act 1996 in the following terms:  |
| 79.1.1   | All the consents or approvals required under the Development Act 1993 in relation to the division of the land (and a change in the use of the land (if any)) in accordance with the scheme description and the relevant plan of community division under the Community Titles Act 1996 have been granted.<br><p style="text-align: center;">OR</p> No consent or approval is required under the Development Act 1993 in relation to the division of land (or a change in the use of the land) in accordance with this scheme description.<br>This endorsement does not limit a relevant authority's right to refuse, or to place conditions on, development authorisation under the Development Act 1993 in relation to any other development envisaged by this scheme description.<br>Signed:<br>Dated: |
| 79.2   | The power pursuant to Regulation 45(2) of the Regulations to include in an endorsement of a scheme description under Section 3 of the Community Titles Act 1996, notes concerning conditions on any consent or approval, and notes concerning additional approvals that may be required in the future and to sign and date the endorsement.  |
| <b>80.</b>   | <b>Special Provisions Relating to Staged Consents</b>  |
| 80.1   | The duty pursuant to and in accordance with Regulation 46(1) of the Regulations, and in a case where the development is within the ambit of Schedule 1A, subject to, in accordance with Regulations 46(4) and (5) of the Regulations, any step that the Delegate, as the relevant authority considers it needs to take under Section 42 of the Act, to issue a Notice of Approval in the circumstances prescribed by Regulation 46 of the Regulations.   |
| <b>81.</b>   | <b>Endorsed Plans</b>  |
| 81.1   | The duty pursuant to Regulation 47 of the Regulations to return to a successful applicant, a copy of the plans, drawings, specifications and other documents and information lodged by the applicant duly endorsed with the building rules consent.  |
| <b>81A.</b>  | <b>Minor Variation of Development Authorisation</b>  |
| 81A.1  | The power pursuant to Regulation 47A(1) of the Regulations, if a person  |

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

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

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

|            |  |
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|            | drain.   |
| 87.2       | The duty pursuant to Regulation 55(2) of the Regulations to consider, and if appropriate approve, detailed construction plans and specifications signed by a professional engineer or licensed surveyor for all work referred to in Regulations 53 and 54 of the Regulations.  |
| 87.3       | The duty pursuant to Regulation 55(4) of the Regulations to consider, and if appropriate accept, that all connections for water supply and sewerage services to any allotment delineated on a plan of division have been laid under the surface of a proposed road before the roadway is sealed.   |
| <b>88.</b> | <b>General Land Division</b>   |
| 88.1       | The power pursuant to and in accordance with Regulation 58(1) of the Regulations to enter into a binding arrangement with an applicant for land division for the satisfaction of outstanding requirements.   |
| 88.2       | The power pursuant to and in accordance with Regulation 58(2) of the Regulations to advise the Development Assessment Commission that an applicant has entered into appropriate binding arrangements pursuant to Section 51(1) of the Act.   |
| <b>89.</b> | <b>Division of Land by Strata Title</b>  |
| 89.1       | The power pursuant to Regulation 59(1) of the Regulations to advise the Development Assessment Commission that an applicant has entered into a binding arrangement with the Council for the satisfaction of the requirements of Section 33(1)(d) of the Act and that the arrangement is supported by adequate security.  |
| <b>90.</b> | <b>General Provisions</b>  |
| 90.1       | The power pursuant to and in accordance with Regulation 60(1) of the Regulations to enter into a form of arrangement with an applicant to the satisfaction of the Development Assessment Commission for the purposes of Section 51(1) of the Act.  |
| 90.2       | The power pursuant to Regulation 60(7) of the Regulations, for the purposes of Section 51(4) of the Act, to request (in such a manner as may be determined by the Development Assessment Commission) that a copy of a certificate or plan (or certificates and plans) referred to in Regulation 60(4) of the Regulations be furnished to the Council by sending a written copy to the Council. |
| 90.3       | The power pursuant to Regulation 60(9) of the Regulations to consult with the Development Assessment Commission before it grants an extension of the period prescribed by Regulation 60(8) of the Regulations.   |

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

|   |   |
|---|---|
| <b>91. Declaration by The Minister - Section 46</b> |   |
| 91.1  | The duty pursuant to and in accordance with Regulation 61(2) of the Regulations, to transmit to the Minister any relevant documentation (including the application and any accompanying documentation or information lodged by the proponent with the Council under Division 1 of Part 4 of the Act) within 10 business days after the receipt of a copy of a notice required by Regulation 61(1) of the Regulations.                                 |
| 91.2  | At the same time that documents are transmitted to the Minister under Regulation 61(2) of the Regulations, the duty pursuant to Regulation 61(3) of the Regulations to also transmit to the Minister any fees that have been paid by the proponent under Schedule 6 (less any amount that the Minister determines should be retained by the Council).   |
| 91.3  | Where an application lodged with the Minister under Section 46 of the Act requires an assessment against the Building Rules and the assessment against the Building Rules is to be referred to the Council, the power pursuant to Regulation 61(5)(d) of the Regulations, to require from the applicant additional copies of the plans, drawings, specifications and other documents and information required by Regulation 61(4) of the Regulations. |
| <b>92. Referral of Assessment of Building Work</b>  |   |
| 92.1  | Where a development application which is subject to the operation of Section 48 of the Act is referred to the Council for assessment in respect of the Building Rules the duty pursuant to and in accordance with Regulation 64(2) of the Regulations, to ensure that the assessment is consistent with any development plan consent previously given under Section 48 of the Act.  |
| 92.2  | Where the Council acting under Regulation 64(1) of the Regulations determines that it is appropriate to give a certification with respect to the development complying with the Building Rules (and if the assessment of the Council is consistent with any development plan consent) the duty, pursuant to Regulation 64(3) of the Regulations to:   |
| 92.2.1  | provide the certification in the form set out in Schedule 12A; and  |
| 92.2.2  | to the extent that may be relevant and appropriate:   |
| 92.2.2.1  | issue a schedule of essential safety provisions under Division 4 of Part 12 of the Act; and   |
| 92.2.2.2  | assign a classification to the building under the Regulations; and  |
| 92.2.2.3  | ensure that the appropriate levy has been paid under the <i>Construction Industry Training Fund Act 1993</i> .  |
| 92.3  | Where the Council issues a certificate in the form set out in Schedule 12A of the Regulations as required by Regulation 64(3)(a) of the Regulations,  |

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

|            |   |
|------------|---|
|            | the duty pursuant to Regulation 64(4) of the Regulations to furnish to the Minister a copy of the certificate together with a copy of any schedule of essential safety provisions.  |
| <b>93.</b> | <b>Notifications During Building Work</b>   |
| 93.1       | The power pursuant to Regulation 74(1)(b) to specify by notice in writing to the building owner, on or before development approval is granted in respect of the work, any stage of the building work, for the purposes of the notification requirements in Section 59(1) of the Act.  |
| 93.2       | The power pursuant to Regulation 74(1)(c) to specify by notice in writing to the building owner, on or before development approval is granted in respect of the work, any stage of the building work, for the purposes of the notification requirements in Section 59(1) of the Act.  |
| 93.3       | The duty pursuant to Regulation 74(4) of the Regulations to make a note on the relevant building file of any notice given in accordance with Regulation 74(3)(d) by a person by telephone.  |
| <b>94.</b> | <b>Essential Safety Provisions</b>  |
| 94.1       | The duty pursuant to Regulation 76(4) of the Regulations, on either the granting of a building rules consent or on application by the owner of a building, to issue a schedule in the form set out in Schedule 16 specifying the essential safety provisions for buildings and the standards and requirements for maintenance and testing in respect of those provisions. |
| 94.2       | The power pursuant to Regulation 76(10) of the Regulations to require compliance with Regulation 76(7) despite Regulation 76(9) of the Regulations if the essential safety provisions were installed under a modification of the Building Rules under Section 36(2) of the Act or the building has been the subject of a notice under Section 71 of the Act.              |
| <b>94A</b> | <b>Swimming Pool Safety</b>   |
| 94A.1      | The power pursuant to Regulation 76D(4a) of the Regulations to, for the purposes of Section 71AA(7) of the Act, subject to Regulation 76(D)(4b) of the Regulations, establish a swimming pool inspection policy.  |
| <b>95.</b> | <b>Building Rules: Bushfire Prone Areas</b>   |
| 95.1       | Where:  |
| 95.1.1     | application is made for building rules consent for building work in the nature of an alteration to a class 1, 2 or 3 building under the Building Code; and  |
| 95.1.2     | the building is in a bushfire prone area under Regulation 78(1) of the Regulations; and   |
| 95.1.3     | the total floor area of the building would, after the completion of the proposed building work, have increased by at least 50% when compared to the total floor area of the building as it existed 3 years  |



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

|            |   |
|------------|---|
|            | before the date of the application (or, in the case of a building constructed since that time, as it existed at the date of completion of original construction),   |
|            | the power, pursuant to Regulation 78(2) of the Regulations, to require, as a condition of consent, that the entire building be brought into conformity with the relevant requirements of the Building Rules for bushfire protection.  |
| <b>96.</b> | <b>Construction Industry Training Fund</b>  |
| 96.1       | The duty pursuant to Regulation 79(2) of the Regulations to withhold issuing a building rules consent until satisfied that the appropriate levy has been paid under the Construction Industry Training Fund Act 1993 or that no such levy is payable.   |
| 96.2       | The power pursuant to Regulation 79(4) of the Regulations to form an opinion whether the appropriate levy under the Construction Industry Training Fund Act 1993 has or has not been paid, or is or is not payable, and notify the applicant that a building rules consent cannot be issued until the Delegate is satisfied that the levy has been paid or is not payable.            |
| 96.3       | The power pursuant to and in accordance with Regulation 79(5)(b) of the Regulations to determine that the application has lapsed.   |
| <b>96A</b> | <b>Requirement to Up-grade Building in Certain Cases</b>  |
| 96A.1      | The power pursuant to Regulation 80(1a) of the Regulations, if an application for a building rules consent relates to building work in the nature of an alteration to a class 2 to class 9 building constructed before 1 January 2002, to form the opinion that the building is unsafe, structurally unsound or in an unhealthy condition, and to require, as a condition of consent: |
| 96A.1.1    | that building work that conforms with the requirements of the Building Rules be carried out to the extent reasonably necessary to ensure that the building is safe and conforms to proper structural and health standards; or   |
| 96A.1.2    | that the building work comply with <i>Minister's Specification SA: Upgrading health and safety in existing buildings</i> (to the extent reasonably applicable to the building and its condition).   |
| <b>97.</b> | <b>Classification of Buildings</b>  |
| 97.1       | The power pursuant to Regulation 82(3)(b)(i) of the Regulations to require such details, particulars, plans, drawings, specifications, certificates and other documents as may reasonably be required to determine a building's classification upon application by an owner of a building under Regulation 82(1) or (2) of the Regulations.   |
| 97.2       | The power pursuant to Regulation 82(4) of the Regulations and subject to Regulation 82(4a) of the Regulations, to assign the appropriate classification under the Building Code to a building upon being satisfied on the basis of the owner's application and accompanying documents that the  |

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

|            |   |
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|            | building, in respect of the classification applied for, possesses the attributes appropriate to its present or intended use.  |
| 97.2A      | The power pursuant to Regulation 82(4a) of the Regulations, if an application under Regulation 82 of the Regulations is made in respect of an existing class 2 to class 9 building, to require the applicant to satisfy the delegate that <i>Minister's Specification SA: Upgrading health and safety in existing buildings</i> has been complied with (to the extent reasonably applicable to the building and its present or intended use).   |
| 97.3       | The power pursuant to Regulation 82(5) of the Regulations, on assigning a classification to a building (or part of a building), to, if relevant, determine and specify in the notice to the owner under Section 66(4) of the Act –  |
| 97.3.1     | the maximum number of persons who may occupy the building (or part of the building); and  |
| 97.3.2     | If the building has more than one classification – the part or parts of the building to which each classification relates and the classification currently assigned to the other parts of the building.   |
| <b>98.</b> | <b>Certificates of Occupancy</b>  |
| 98.1       | The power pursuant to Regulation 83(2)(c) of the Regulations to require from an applicant for a certificate of occupancy reasonable evidence that conditions attached to a development approval have been satisfied.  |
| 98.2       | The power pursuant to Regulation 83(2)(d) of the Regulations where an application relates to the construction or alteration of part of a building and further building work is envisaged in respect of the remainder of the building, to require from an applicant for a certificate of occupancy reasonable evidence that in the case of a building of more than 1 storey, the requirements of Minister's Specification SA 83 have been complied with, or in any other case the building is suitable for occupation.                   |
| 98.3       | The power pursuant to Regulation 83(3) of the Regulations to dispense with the requirement to provide a Statement of Compliance under Regulation 83(2)(a) if the Delegate is satisfied that a person required to complete 1 or both parts of the Statement has refused or failed to complete that part and that the person seeking the issuing of the certificate of occupancy has taken reasonable steps to obtain the relevant certification(s) and it appears to the Delegate that the relevant building is suitable for occupation. |
| 98.4       | Where:  |
| 98.4.1     | a building is required by the Building Rules:   |
| 98.4.1.1   | to be equipped with a booster assembly for use by a fire authority; or  |
| 98.4.1.2   | to have installed a fire alarm that transmits a signal to a fire station; and   |
| 98.4.2     | facilities for fire detection, fire fighting or the control of smoke must   |

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

|             |  |
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|             | be installed in the building pursuant to an approval under the Act,  |
|             | the duty pursuant to Regulation 83(4) of the Regulations to not grant a certificate of occupancy unless or until a report has been sought from the fire authority as to whether those facilities have been installed and operate satisfactorily.                                 |
| 98.5        | The power pursuant to Regulation 83(5) of the Regulations, when a report from the fire authority pursuant to Regulation 83(4) is not received within 15 business days, to presume that the fire authority does not desire to make a report.                                      |
| 98.6        | The duty pursuant to Regulation 83(6) of the Regulations to have regard to any report received from a fire authority under Regulation 83(4) before issuing a certificate of occupancy.   |
| 98.7        | The power pursuant to Regulation 83(9) of the Regulations to revoke a certificate of occupancy.  |
| <b>99.</b>  | <b>Certificate of Independent Technical Expert in Certain Case</b>   |
| 99.1        | The power pursuant to Regulation 88(3) of the Regulations, in circumstances where Regulation 88 of the Regulations applies, to rely on the certificate of an independent technical expert.   |
| <b>100.</b> | <b>Fees</b>  |
| 100.1       | The power pursuant to Regulation 95(2) of the Regulations to require an applicant to provide such information as the Delegate may reasonably require to calculate any fee payable under Schedule 6 and the power to make any other determination for the purposes of Schedule 6. |
| 100.2       | The power pursuant to the provisions of Regulation 95(3) of the Regulations to calculate any fee on the basis of estimates made by the Delegate where the Delegate believes that any information provided by an applicant is incomplete or inaccurate.                           |
| 100.3       | The power pursuant to Regulation 95(4) of the Regulations to, at any time, and despite any earlier acceptance of an amount in respect of the fee, reassess a fee payable under the Regulations.  |
| 100.4       | The duty pursuant to Regulation 95(5) of the Regulations, on a reassessment under Regulation 95(4) of the Regulations:   |
| 100.4.1     | if it appears that an overpayment has occurred, to refund any amount due in accordance with the reassessment; and  |
| 100.4.2     | if it appears that an underpayment has occurred, to charge any further amount payable in accordance with the reassessment.   |
| <b>101.</b> | <b>Register Of Applications</b>  |
| 101.1       | The duty pursuant to Regulation 98 of the Regulations to keep available for public inspection a register of applications for consent, approval, or the   |

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

|             |  |
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|             | assignment of building classifications under the Act.  |
| 101.2       | The power pursuant to Regulation 98(3) to fix a fee and upon payment of that fee, make available to a member of the public a copy of any part of a register or document kept for the purposes of Regulation 98(1).                                     |
| <b>102.</b> | <b>Registration of Land Management Agreements</b>  |
| 102.1       | The duty pursuant to and in accordance with Regulation 99(2) of the Regulations to establish a register of agreements entered into by the Council under Section 57(2) of the Act.  |
| 102.2       | The power pursuant to Regulation 99(3) of the Regulations to determine what other information may be contained in the Register.  |
| <b>103.</b> | <b>Land Management Agreements - Development Applications</b>   |
| 103.1       | The duty pursuant to Regulation 100(2) of the Regulations to establish a register of agreements entered into by the Council under Section 57A of the Act.  |
| 103.2       | The duty pursuant to Regulation 100(3) of the Regulations to include in the register a copy of each agreement entered into by the Council under Section 57A of the Act and other information the Delegate considers appropriate.                       |
| 103.3       | The duty pursuant to Regulation 100(5) of the Regulations to keep the register at the principal office of the Council.   |
| 103.4       | The duty pursuant to Regulation 100(6) of the Regulations to keep the register available for public inspection during normal office hours for the office where the register is situated.   |
| 103.5       | The duty pursuant to Regulation 100(9) to give a copy of a notice under Regulation 100(8) to any owner of the land who is not a party to the agreement.  |
| <b>104.</b> | <b>Documents to be Preserved by a Council</b>  |
| 104.0       | The power and duty pursuant to Regulation 101(a1) of the Regulations to retain a copy of each document provided to the Council by a private certifier in relation to any application for a development plan consent assessed by the private certifier. |
| 104.1       | The duty pursuant to Regulation 101(1) of the Regulations to retain a copy of the documents listed in Regulation 101 of the Regulations in relation to any building work approved under the Act.   |
| 104.1A      | The power and duty pursuant to Regulation 101(1a) of the Regulations to preserve any document referred to in Regulation 101(a1) for a period of at least 10 years.   |
| 104.2       | The duty pursuant to Regulation 101(2) of the Regulations to preserve any document referred to in Regulation 101(1) of the Regulations until the   |

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

|   |  |
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|   | building to which the document relates is demolished or removed.   |
| 104.3   | The power pursuant to and in accordance with Regulation 101(3) of the Regulations to offer to give plans and specifications in the Council's possession to a building owner and if the building owner declines the offer, the power to destroy the documents.  |
| 104.4   | The power pursuant to and in accordance with Regulation 101(4) of the Regulations to make available for inspection at the offices of the Council during normal office hours any document retained by the Council under Regulation 101(a1) or (1) of the Regulations (without charge) and to fix a reasonable fee for a copy of any document retained by the Council under Regulation 101(a1) or (1) of the Regulations.  |
| 104.5   | The power pursuant to Regulation 101(5) of the Regulations to not make available of any plans, drawings specifications or other documents or information:  |
|   | 104.5.1 for inspection under Regulation 101(4)(a) if to do so would:   |
|   | 104.5.1.1 in the opinion of the Delegate, unreasonably jeopardise the present or future security of a building; or   |
|   | 104.5.1.2 constitute a breach of any other law; or   |
|   | 104.5.2 for copying under Regulation 101(4)(b) if to do so would:  |
|   | 104.5.2.1 in the opinion of the Delegate, unreasonably jeopardise the present or future security of a building; or   |
|   | 104.5.2.2 involve an infringement of copyright in matter contained in a document; or   |
|   | 104.5.2.3 constitute a breach of any other law.  |
| <b>104A Documents to be Provided by Private Certifier</b> |  |
| 104A.1  | The power pursuant to Regulation 102(2) of the Regulations to request a private certifier to produce to the Council within a reasonable period, a copy of any document that has been submitted to the private certifier for the purposes of an application for development plan consent (and that it is not already held by the Council under the Regulations) so that the Council can respond to a request from a member of the public for access to such document. |
| <b>105. Transfer of Development Potential</b>             |  |
| 105.1   | The duty pursuant to Regulation 104 of the Regulations, wherever the provisions of the Development Plan provide for the transfer of development potential, to maintain a register of development rights containing the information prescribed in Regulation 104(1) and to make the said register available for public inspection on payment of the appropriate fee.  |
| <b>106. System Indicators</b>                             |  |

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

|   |   |
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| 106.1   | The duty pursuant to Section 115(1)(a) of the Regulations to keep and collate the information specified in the system indicators document on a quarterly basis.   |
| 106.2   | The duty pursuant to Section 115(1)(b) of the Regulations to provide the information for each quarter to the Minister in a manner and form determined by the Minister, within 21 days after the end of the quarter.   |
| 106.3   | The power pursuant to Regulation 115(2) of the Regulations to apply to the Minister to exempt the Council from a requirement in the system indicators document.   |
| <b>107. Schedule 1A – Demolition</b>                        |   |
| 107.1   | The power, pursuant to Clause 12(3) of Schedule 1A of the Regulations, to make an application to the Minister for an area to be declared by the Minister to be a designated area.   |
| 107.2   | The power pursuant to Clause 12(9) of Schedule 1A of the Regulations, before the Minister takes action to vary or revoke a declaration under Clause 12(3) of Schedule 1A of the Regulations or a condition under Clause 12(7) of Schedule 1A of the Regulations, to in response to a notice in writing from the Minister, show, within the specified time, why the proposed course of action should not be taken. |
| <b>108. Schedule 4 – New Dwellings</b>                      |   |
| 108.1   | The power pursuant to Clause 2B(4)(b) of Schedule 4 of the Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land or in the vicinity of the land other than a previous use or activity for residential purposes.  |
| <b>109. Schedule 6 - Fees</b>                               |   |
| 109.1   | The power pursuant to Clause 1(7) of Schedule 6 to the Regulations to determine the amount of the fee to be charged to an applicant to cover the Council's reasonable costs in giving public notice of the application under Section 38(5) of the Act.  |
| <b>110. Schedule 8 – Development Near The Coast</b>         |   |
| 110.1   | The power pursuant to Item 1(b) of Clause 2 of Schedule 8 of the Regulations, where development is on coastal land, to form the opinion that the development is of a minor nature only, and comprises the alteration of an existing building or the construction of a building to facilitate the use of an existing building.   |
| <b>111. Schedule 8 - Development Adjacent To Main Roads</b> |   |
| 111.1   | The power pursuant to Item 3 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is likely to:  |
| 111.1.1   | alter an existing access; or  |

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

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| 111.1.2 change the nature of movement through an existing access; or  |
| 111.1.3 create a new access; or   |
| 111.1.4 encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972,  |
| in relation to an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road, or within 25 metres of a junction with an existing or proposed arterial road, primary road, primary arterial road or secondary arterial road (as delineated in the relevant Development Plan).  |
| <b>112. Schedule 8 - State Heritage Places</b>  |
| 112.1 The power pursuant to Item 5(1) of Clause 2 of Schedule 8 of the Regulations to form the opinion that a development materially affects the context within which a State Heritage place is situated  |
| <b>113. Schedule 8 – Mining – General</b>   |
| 113.1 The power pursuant to and in accordance with Item 7 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is of a minor nature only.  |
| <b>114. Schedule 8 - Activity of Environmental Significance</b>   |
| 114.1 The power pursuant to Item 10(b) of Clause 2 of Schedule 8 of the Regulations, where development involves, or is for the purposes of an activity specified in Schedule 21 of the Regulations (including, where an activity is only relevant when a threshold level of capacity is reached, development with the capacity or potential to operate above the threshold level, and an alteration or expansion of an existing development (or existing use) where the alteration or expansion will have the effect of producing a total capacity exceeding the relevant threshold level), other than development which comprises the alteration of, or addition to, an existing building, to form the opinion that the development does not change the use of the building, and is of a minor nature only, and does not have any adverse effect on the environment. |
| <b>115. Schedule 8 – Aquaculture Development</b>  |
| 115.1 The power pursuant to and in accordance with Item 15 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development involves a minor alteration to an existing or approved development.  |
| <b>116. Schedule 8 – Development Within the River Murray Floodplain Area</b>  |
| 116.1 The power pursuant to and in accordance with Item 19(b) of Clause 2 of Schedule 8 of the Regulations to form the opinion that development materially affects the context within which a State Heritage place is situated.   |
| <b>117. Schedule 8 – Development Within the River Murray Tributaries Area</b>   |

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

|   |  |
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| 117.1   | The power pursuant to and in accordance with Item 20(a) of Clause 2 of Schedule 8 of the Regulations to form the opinion that development materially affects the context within which a State Heritage place is situated.  |
| <b>118. Schedule 9 - Part One, Category One Development and Part Two Category Two Development</b> |  |
| 118.1   | The power pursuant to Clause 1 of Part 1 to Schedule 9 of the Regulations in circumstances where a development would be a complying development under the Regulations or the relevant Development Plan but for the fact that it fails to meet the conditions associated with the classification, to form the opinion that the failure to meet those conditions is of a minor nature only.  |
| 118.2   | The power pursuant to Clause 2(1)(g) of Part 1 to Schedule 9 of the Regulations to form the opinion that a development is of a kind which is of a minor nature only and will not unreasonably impact on the owners or occupiers of land in the locality of the site of the development.  |
| 118.3   | The power pursuant to the following designated sub-paragraphs of Clause 3 of Part 1 to Schedule 9 of the Regulations, where a development is classified as non complying under the relevant Development Plan, to form the opinion that:  |
| 118.3.1   | the alteration of, or addition to, a building is of a minor nature only, pursuant to sub-paragraph (a);  |
| 118.3.2   | the construction of a building to be used as ancillary to or in association with an existing building and which will facilitate the better enjoyment of the purpose for which the existing building is being used constitutes development of a minor nature only pursuant to sub-paragraph (b).  |
| 118.4   | The power pursuant to Clause 5 of Part 1 to Schedule 9 of the Regulations to form the opinion:   |
| 118.4.1   | that the division of land (including for the construction of a road or thoroughfare) is for a proposed use which is consistent with the objective of the zone or area under the Development Plan; and  |
| 118.4.2   | whether the division will change the nature or function of an existing road.   |
| 118.5   | The power pursuant to Clause 11 of Part 1 to Schedule 9 of the Regulations, in circumstances where development comprises a special event and the special event will not be held over more than 3 consecutive days, to form the opinion that an event of a similar or greater size or of a similar or greater impact on surrounding areas, has not been held on the same site (or substantially the same site) within 6 months immediately preceding the day or days on which the special event is proposed to occur. |



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

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| 118.6 Pursuant to Clause 17 of Part 1 of Schedule 9 to the Regulations for the purpose of determining whether a development should be considered to be of a minor nature only:  |
| 118.6.1 the duty to not take into account what is included within Schedule 3 of the Regulations; and  |
| 118.6.2 the power to take into account the size of the site of the development, the location of the development within that site, and the manner in which the development relates to the locality of the site; and                |
| 118.6.3 the power to conclude, if relevant, that the development is of a minor nature only despite the fact that it satisfies some, but not all, of the criteria set out in item 2(d) of Part 1 of Schedule 9 to the Regulations. |
| 118.7 The power pursuant to Clause 21 of Part 2 to Schedule 9 of the Regulations, except where development is classified as non complying development under the relevant Development Plan, to form the opinion:                   |
| 118.7.1 that in respect of a proposed division of land that the applicant's proposed use of the land, is for a purpose which is consistent with the zone or area under the Development Plan; and                                  |
| 118.7.2 whether the proposed division will change the nature or function of an existing road.   |
| 119. <i>DELIBERATELY LEFT BLANK</i>   |


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

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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  | Nil                      |
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|  | <b>APPENDIX [ 22 ]</b>   | <b>TRIM Doc Ref:</b>    | AR14/4513 [V2] |
|   | <b><u>INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001</u></b> | <b>Delegation Made:</b> | 20/02/2018     |

## **NOTES**

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

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

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| <b>1. Seizure</b>   |
| 1.1 The power pursuant to Section 42(2) of the Food Act 2001 (“the Act”) to approve the removal or interference with the thing to which a seizure order under Part 4 of the Act relates before an order is made under Section 42(3)(b) or the order is discharged under Section 42(3)(c) of the Act.  |
| 1.2 The power pursuant to Section 42(3)(a) of the Act to authorise –  |
| 1.2.1 upon application, the release of anything seized under Part 4 of the Act to the person from whom it was seized or to any person who had a right to possession of it at the time of its seizure, subject to such conditions as the Delegate thinks fit, including conditions as to the giving of security for satisfaction of an order under Section 42(3)(b)(i)(B) of the Act; or |
| 1.2.2 in the case of food or any other perishable thing, order that it be forfeited to the Council.   |
| 1.3 The duty pursuant to Section 42(3)(d) of the Act where any food or other perishable thing is seized under Part 4 of the Act in relation to an expiable offence and the offence is expiated –  |
| 1.3.1 if the food or other perishable thing has not already been forfeited by order of the Delegate under Section 42(3)(a)(ii) of the Act, to deal with it in accordance with any determination of the Minister; and  |
| 1.3.2 not make payment of any compensation in respect of the food or other perishable thing.  |
| 1.4 The power pursuant to Section 42(3)(e) of the Act to dispose of anything seized under Part 4 of the Act and forfeited under Section 42 of the Act, by sale, destruction or otherwise as the Delegate directs.   |

**INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001**

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| <b>2. Review of Decision to Refuse Certificate of Clearance</b>   |
| 2.1 The power pursuant to Section 51(1) of the Act where a person aggrieved by a decision to refuse to give a certificate of clearance under Part 5 of the Act makes application to the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> for a review of the decision, to respond to the review body on behalf of the Council.   |
| <b>3. Review of Order</b>   |
| 3.1 The duty pursuant to Section 52(2) of the Act where there were no grounds for the making of a prohibition order, to pay such compensation to the applicant for compensation as is just and reasonable.  |
| 3.2 The duty pursuant to Section 52(3) of the Act to send written notification of the determination as to the payment of compensation under Section 52 of the Act, to each applicant for the payment of such compensation.  |
| 3.3 The power pursuant to Section 52(4) of the Act where an applicant for the payment of compensation under Section 52 of the Act is dissatisfied with a determination under Section 52(3) of the Act, as to the refusal to pay compensation or the amount of compensation and has applied to the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> for a review of the determination, to respond to that review body on behalf of the Council. |
| <b>4. Auditing and Reporting</b>  |
| 4.1 The duty pursuant to Section 79(1) of the Act to determine:   |
| 4.1.1 the priority classification of individual food businesses for the purposes of the application of any requirements of the Regulations relating to food safety programs; and  |
| 4.1.2 the frequency of auditing of any food safety programs required to be prepared by the Regulations in relation to the food business   |
| In accordance with Section 79(2) of the Act.  |
| 4.2 The duty pursuant to Section 79(3) of the Act to provide written notification to the proprietor of a food business of -   |
| 4.2.1 the priority classification it has determined for the food business; and  |
| 4.2.2 the frequency of auditing of any food safety programs required to be prepared by the Regulations in relation to the food business; and  |
| 4.2.3 the date by which the food business must have implemented any food safety program required to be prepared by the Regulations in relation to the food business.  |

**INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001**

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| 4.3       | The power pursuant to Section 79(4) of the Act to change the priority classification of an individual food business if the Delegate believes that the classification is inappropriate for any reason, including as a result of changes made to the conduct of a food business.   |
| 4.4       | The duty pursuant to Section 79(5) of the Act to provide written notification to the proprietor of food business of any change in priority classification of the food business under Section 79(4) of the Act.   |
| <b>5.</b> | <b>Reporting Requirements</b>  |
| 5.1       | The duty pursuant to Section 81(1) of the Act to receive a report from a food safety auditor in relation to an order or assessment carried out by the food safety auditor for the purposes of this Act.  |
| 5.2       | The duty pursuant to Section 81(7) of the Act to provide a copy of a report in relation to an audit or assessment to the proprietor of the food business concerned.  |
| <b>6.</b> | <b>Notification of Food Businesses</b>   |
| 6.1       | The duty pursuant to Section 86(1) of the Act to receive written notice, in the approved form, from the proprietor of a food business of the information specified in the Food Safety Standards that the proprietor is required to notify to the Council before the business is conducted.   |
| 6.2       | The duty pursuant to Section 86(2) of the Act to receive written notice, in the approved form, from the proprietor of a food business that is being conducted when the notification requirements of the Food Safety Standards commence, of the information specified in the Food Safety Standard that is to be notified to the Council.  |
| 6.3       | The duty pursuant to Section 86(3) of the Act where a food business is transferred to another person or where there is a change in the name or address of a food business to receive written notice, in the approved form, from the proprietor of the food business (being, in the case where a food business is transferred to another person, the new proprietor) of the transfer or change (as the case may be) that would be required to be given to the Council if the notification were an initial notification under Section 86(1) or (2) of the Act. |
| <b>7.</b> | <b>Appointment of Authorised Officers</b>  |
| 7.1       | The power pursuant to Section 94(1) of the Act to appoint a person to be an authorised officer for the purposes of the Act, subject to the duty upon the Delegate to be satisfied that the person has appropriate qualifications or experience to exercise the functions of an authorised officer.   |
| 7.2       | The duty pursuant to Section 94(2) of the Act to prepare and maintain a list of authorised officers appointed for the purposes of Section 94(1) of the Act.  |

**INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001**

| 7.3            | The duty pursuant to Section 95(1) of the Act to provide each authorised officer with a certificate of authority as an authorised officer.  |
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| 7.4            | The power pursuant to Section 95(2) of the Act to limit the powers of an authorised officer through the certificate of authority which is provided pursuant to Section 95(1) of the Act.  |
| <b>8.</b>      | <b>Offences</b>   |
| 8.1            | The power pursuant to Section 29(2) of the Act where the Delegate forms the opinion that an offence has been committed under the Act to take proceedings by way of prosecution (or, at the discretion of the Delegate, by the issuing of an expiation notice or notices where the offence is expiable) in respect of the following offences – |
| <b>Section</b> | <b>Offence</b>  |
| Section 13(1)  | Handling food intended for sale in a manner that the person knows will render, or is likely to render, the food unsafe.   |
| Section 13(2)  | Handling food intended for sale in a manner that the person ought reasonably to know is likely to render the food unsafe.   |
| Section 14(1)  | Selling food that the person knows is unsafe.   |
| Section 14(2)  | Selling food that the person ought reasonably to know is unsafe   |
| Section 16(1)  | Handling food intended for sale in a manner that will render, or is likely to render, the food unsafe.  |
| Section 16(2)  | Selling food that is unsafe.  |
| Section 17(1)  | Handling food intended for sale in a manner that will render or is likely to render the food unsuitable.  |
| Section 17(2)  | Selling food that is unsuitable.  |
| Section 21(1)  | Failing to comply with any requirement imposed by a provision of the Foods Standards Code in relation to the conduct of a food business or to food intended for sale or food for sale.  |
| Section 21(2)  | Selling food that does not comply with any requirement of the Food Standards Code that relates to the food.   |
| Section 39     | Failure, without reasonable excuse, to comply with a requirement of an authorised officer.  |
| Section 40     | Providing information or producing any document that the person knows is false or misleading in a material particular.  |
| Section 41(1)  | Resisting, obstructing, or attempting to obstruct, without reasonable excuse, an authorised officer in the exercise of his/her functions  |

**INSTRUMENT OF DELEGATION UNDER THE FOOD ACT 2001**


|               |   |
|---------------|---|
|               | under the Act.  |
| Section 41(2) | Impersonating an authorised officer.  |
| Section 42(2) | Removing or interfering with a thing seized under Part 4 of the Food Act 2001 without the approval of the Council.  |
| Section 50    | Contravening or failing, without reasonable excuse, to comply with an improvement notice or a prohibition order.  |
| Section 86(1) | Failure to notify of a food business before the business is conducted.  |
| Section 86(2) | Failure to notify of a food business that is being conducted.   |
| Section 86(3) | Failure to notify of a food business that is transferred or which has changed its name or address.  |
| 8.2           | The power to elect to charge a person who is alleged to have committed an offence against Division 2, Part 2 of the Act, with a summary offence.  |
| 8.3           | The duty pursuant to Section 29(4) of the Act where a person who is alleged to have committed an offence against Division 2, Part 2 of the Act has been given an expiation notice in respect of the offence and does not expiate the offence, to bring proceedings for prosecution of the offence as a summary offence. |

**SCHEDULE OF CONDITIONS**

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

| Paragraph(s) in instrument to which conditions/limitations apply | Conditions / Limitations |
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|  | APPENDIX [ 27 ]   | TRIM Doc Ref:    | AR14/4941 [V2] |
|   | <b><u>INSTRUMENT OF DELEGATION UNDER THE SAFE DRINKING WATER ACT 2011</u></b> | Delegation Made: | 20/02/2018     |

**NOTES**

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

**POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT**

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| <b>5. Drinking water providers to be registered</b>  |
| (2) The power pursuant to Section 5(2)(a) and (b) of the Safe Drinking Water Act 2011 ( <b>the Act</b> ) and in accordance with Section 5(3) of the Act to make an application for registration under the Act to the Minister and in a manner and form determined by the Minister. |
| <b>8. Conditions of registration</b>   |
| (3) The power pursuant to Section 8(3) of the Act where the Council holds a registration, to make application to the Minister in a manner and form determined by the Minister, requesting the variation of a condition to which the registration is subject.                       |
| <b>9. Suspension of registration</b>   |
| (5) The power pursuant to Section 9(5) of the Act after the Council has received notice from the Minister, lodge with the Minister a written objection (setting out the grounds of objection).   |
| (6) The power pursuant to Section 9(5) of the Act to make submissions to the Minister in relation to the matter.   |
| (10) The power pursuant to Section 9(10) of the Act where the Council's registration has been suspended to make application to the Minister for the cancellation of the suspension.  |
| <b>10. Appeals</b>   |
| (1) The power pursuant to Section 10(1) of the Act and in accordance with Section 10(2) of the Act, to seek a review by the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> of:  |
| (a) a condition imposed by the Minister in relation to a registration under Part 2 of the Act;   |
| (b) a variation of a condition of registration made by the Minister on the Minister's own initiative; or   |
| (c) a decision of the Minister to refuse to grant an application to vary a condition of registration; or   |
| (d) a decision of the Minister to suspend a registration under Part 2 of the Act.  |

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| <b>12. Drinking water providers to prepare, implement and review risk management plans</b>  |
| (1) The power pursuant to Section 12(1) of the Act and in accordance with Section 13 of the Act, to:  |
| (a) prepare a risk management plan in relation to the supply of drinking water to the public; and   |
| (b) keep the plan under continuous review with a view to updating and improving it; and   |
| (c) revise any aspect of the plan that is found, on review, to need revision.   |
| (3) The power pursuant to Section 12(3) of the Act, if a standard risk management plan is in place under Section 12(2) of the Act and the Council falls within the specified class to which the standard risk management plan applies, to, subject to any requirement published by the Chief Executive in connection with the risk management plan and in a manner and form determined by the Chief Executive, adopt the standard risk management plan rather than preparing a separate plan under Section 12(1)(a) of the Act. |
| <b>14. Related matters</b>  |
| (2) The power pursuant to Section 14(2) of the Act, to furnish to the Minister in a manner and form determined by the Minister a copy of the Council's monitoring program and incident identification and notification protocol.  |
| (3) (b) The power pursuant to Section 14(3)(b) of the Act to consult with the Minister in relation to alterations to the program or protocol (or both) submitted for the purposes of Section 14 of the Act.   |
| (4) The power pursuant to Section 14(4) of the Act and in accordance with Section 14(5) of the Act, where the Council is required to make an alteration under Section 14(3) of the Act, to seek a review of the requirement by the Tribunal under Section 34 of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> .  |
| <b>34. Appointment of authorised officers</b>   |
| (1) The power pursuant to Section 34(1) of the Act, to appoint a person to be an authorised officer for the purposes of the Act, but only if the Delegate considers the person has appropriate qualifications or experience to exercise the functions of an authorised officer.   |
| (2) The power pursuant to Section 34(2) of the Act to prepare and maintain a list of authorised offices appointed by the Council.   |

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| <b>35. Certificates of authority</b>   |
| (1) The power pursuant to Section 35(1) of the Act to provide each authorised officer appointed by the Council with a certificate of authority as an authorised officer.   |
| (2) The power pursuant to Section 35(2) of the Act to limit the powers of an authorised officer by the authorised officer's certificate of authority.  |
| <b>37. Seizure orders</b>  |
| (3) (a) The power pursuant to Section 37(3)(a)(i) and (ii) of the Act to:  |
| (i) authorise the release of a thing seized to the person from whom it was seized or any person who had a right to possession of it at the time of its seizure subject to such conditions as the Delegate thinks fit, including conditions as to the giving of security for satisfaction of an order under Section 37(3)(b)(i)(B) of the Act; or |
| (ii) order that the thing seized be forfeited to the Council;  |
| (d) The power pursuant to Section 37(3)(d) of the Act if a thing seized is forfeited under Section 37 of the Act to dispose of it by sale, destruction or otherwise as the Delegate directs.   |
| <b>38. Notices</b>   |
| (1) The power pursuant to Section 38(1) of the Act and in accordance with Section 38(2) of the Act to issue a notice under Section 38 for the purpose of:  |
| (a) securing compliance with a requirement imposed by or under the Act; or   |
| (b) averting, eliminating or minimising a risk, or a perceived risk, to the public in relation to drinking water.  |
| (6) The power pursuant to Section 38(6) of the Act to, by written notice served on a person to whom a notice under Section 38 has been issued by the Council, vary or revoke the notice.   |
| <b>39. Action or non-compliance with a notice</b>  |
| (1) The power pursuant to Section 39(1) of the Act, if the requirements of a notice under Division 3 of the Act are not complied with, to take any action required by the notice.  |
| (2) The power pursuant to Section 39(2) of the Act to authorise another person to take action under Section 39(1) of the Act on the Council's behalf.  |
| (4) The power pursuant to Section 39(4) of the Act to recover the reasonable costs and expenses incurred by the Council in taking action under Section 39 of the Act from the person who failed to comply with the requirements of the notice as a debt in a court of competent jurisdiction.  |

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| <p>(5) The power pursuant to Section 39(5) of the Act, if an amount is recoverable from a person by the Council under Section 39 of the Act, to by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.</p>           |
| <p><b>40. Action in emergency situations</b></p>   |
| <p>(5) The power pursuant to Section 40(5) of the Act to recover the reasonable costs and expenses incurred by an authorised officer in taking action under Section 40 of the Act as a debt in a court of competent jurisdiction.</p>  |
| <p><b>41. Specific power to require information</b></p>  |
| <p>(1) The power pursuant to Section 41(1) of the Act, to by notice in writing under Section 41 of the Act require a person to furnish such information relating to the quality or supply of drinking water, or any other matter associated with the administration or operation of the Act, as the Delegate thinks fit.</p> |
| <p><b>42. Appeals</b></p>  |
| <p>(3) The power pursuant to Section 42(3) of the Act to apply for the Council to be a party to proceedings under Section 42 of the Act.</p>   |
| <p><b>52. Annual reports by enforcement agencies</b></p>   |
| <p>(1) The power pursuant to Section 52(1) of the Act to on or before 30 September in each year, furnish to the Minister a report on the activities of the Council under the Act during the financial year ending on the preceding 30 June.</p>  |

**SCHEDULE OF CONDITIONS**

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

| Section(s) in Act to which conditions/ limitations apply | Conditions / Limitations |
|--|--------------------------|
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14. 2. 2018

Norman Waterhouse

**DATE**

**PARTIES**

**Kelvin Smibert** of 1 Eustace Street, Mount Gambier SA 5290 (**Kelvin**)

**City of Mount Gambier** ABN 17 330 264 425 of 10 Watson Terrace, Mount Gambier SA 5290 (**Council**)

**BACKGROUND**

- A. Boandik people are the first nations and sovereign peoples of the Mount Gambier region in South Australia.
- B. Mount Gambier is the traditional lands of the Boandik people, with extensive cave systems with cave markings of the Boandik people dating back almost 40,000 years.
- C. Kelvin is an avid researcher of the Boandik cave markings and has created a number of painted fibreglass cave marking replicas.
- D. Kelvin has agreed to gift his collection of painted cave marking replicas to the Council, and the Council has accepted Kelvin's gift on the terms of this agreement.

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this agreement:

**Intellectual Property** means all intellectual property (registered or unregistered) in the Transferring Assets.

**Materials** means all other materials in respect of, or relating to, the Painted Cave Marking Replicas, including photographs and interpretive signage.

**Painted Cave Marking Replicas** means the painted fibreglass cave marking replicas made by Kelvin, which are specified in Annexure A.

**Transferring Assets** means:

- (a) the Painted Cave Marking Replicas;
- (b) the Intellectual Property; and
- (c) the Materials.

**1.2 Interpretation**

In this agreement, unless the context otherwise requires:

- 1.2.1 headings do not affect interpretation;

- 
- 1.2.2 a reference to a party includes its executors, administrators, successors and permitted assigns;
  - 1.2.3 a provision is not construed against a party only because that party drafted it;
  - 1.2.4 an unenforceable provision or part of a provision may be severed, and the remainder of this agreement continues in force, unless this would materially change the intended effect of this agreement;
  - 1.2.5 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions.

### 1.3 **Background**

The Background forms part of this agreement and is correct.

## 2. **TRANSFERRING ASSETS**

Kelvin warrants that he is the owner of:

- 2.1 the Painted Cave Marking Replicas;
- 2.2 the Intellectual Property; and
- 2.3 the Materials;

and fully indemnifies the Council against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party against the Council in respect of the Painted Cave Marking Replicas, the Intellectual Property and/or the Materials.

## 3. **TRANSFER OF TRANSFERRING ASSETS**

- 3.1 In consideration of the Council paying one dollar (\$1.00) (exclusive of GST) if demanded, Kelvin hereby transfers ownership of the Transferring Assets to the Council.
- 3.2 Kelvin will attend to all things necessary to facilitate the delivery of the Painted Cave Marking Replicas and the Materials to a location nominated by the Council.
- 3.3 Title to and risk in the Transferring Assets pass to the Council upon satisfaction of clause 3.2.

## 4. **COUNCIL RIGHTS AND OBLIGATIONS**

Upon transfer of the Transferring Assets to the Council, the Council:

- 4.1 will use its best endeavours to ensure that the Painted Cave Marking Replicas and the Materials are stored in a safe and secure location at all times;
- 4.2 will ensure that the Painted Cave Marking Replicas and the Materials are photographed and recorded in the Council's records management system;

- 4.3 will advise the Council's RAP Advisory Group as well as all Aboriginal corporations in Mount Gambier of the Council's ownership of the Transferring Assets; and
- 4.4 has full rights to deal with the Transferring Assets as it sees fit, including full rights to display, exhibit and/or ship the Painted Cave Marking Replicas and/or the Materials, at a location that is sympathetic to the nature of the items.

**5. MISCELLANEOUS**

- 5.1 This agreement constitutes the entire agreement between the parties about its subject matter and supersedes any prior understanding, agreement, condition, warranty, indemnity or representation about its subject matter.
- 5.2 This agreement is governed by the law in South Australia. The parties irrevocably submit to the exclusive jurisdiction of the courts in South Australia.
- 5.3 The Council will pay all costs of preparing this agreement and any document required by it.

**EXECUTED** as an agreement

**Signed by KELVIN SMIBERT** in the presence of:


  
.....  
Signature of witness


  
.....  
KELVIN SMIBERT

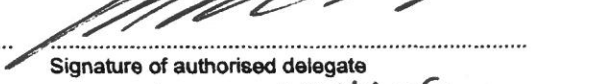
  
.....  
Name of witness (print)




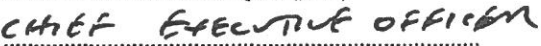
**Signed for CITY OF MOUNT GAMBIER**  
by its authorised delegate in the presence of:

  
.....  
Signature of witness

  
.....  
Name of witness (print)

  
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Signature of authorised delegate

  
.....  
Name of authorised delegate (print)

  
.....  
Position of authorised delegate



**RE: " Out Of the Dark" Exhibition of Cave art replicas from the Mount Gambier region.**

**Following is a listed Catalogue of items of above for the Mount Gambier City Council (Note: The caves mentioned were given Aboriginal names by Prof. R Bednarik and Geoff Aslin for convenience of reference)**

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**Item 1 a and b: The North wall of the Paroong Cave. This is in two parts.  
1A approx 4M x 2M ... 1B 3M x 2M Both shown in Photo**



**Item 2. Paroong Cave South wall. Approx 3.5 x 2 M**



Page 2.

Item 3. Snowflake Cave. Finger flutings approx 2M x 1500mm Presently in Main Corner  
2017



Item not numbered....'Gran-gran Cave.' Chert mining bench for quality tool material.  
This is of one of the oldest examples of organised mining in the world.



Page3

Item 4. 'Melangine Cave'. Ceiling of cave. This area has a careful 'Caesium' dated age of approx 36,000 years BP



Item 5. Melangine Cave... again ceiling item

Similar to the one above

Page4.

No Item 6.

Item 7....Moora Cave. 700mm x 500mm

This is a heavily eroded image from just outside the cave...(Where a rock fall exposed it to weather)

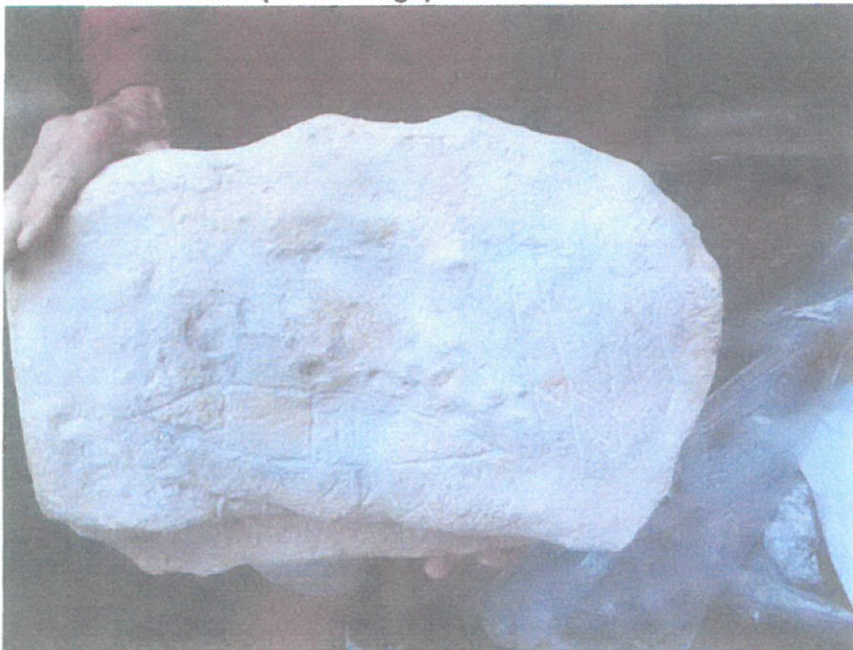


Item 8. Moora Cave. 'Vs' 600 x 500mm



Page 5:

Item 9. Moora Cave (Small image) 500 x 400mm



Item 10. Moora Cave Complex image. Dolomite colouring.



Item 11. Gran-Gran Cave. Ceiling finger flutes in "Mont Milch". Made by left hand.



This may have indicated ownership of mine for stone tools..  
The image is now destroyed by vandals

Item 12 .. Item from Paroong cave. North wall 500 x 500mm



Page 7.

Item 13. From 'Merat Cave'. The special interest for this piece is that it demonstrates the comparison between where finger marks have been overgrown by "Mont Milch" and where the original finger marks have been exposed by the covering material having 'evaporated'



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Other items:

BOX #1 (with screwed down lid) 1M x 700mm x 600mm Containing brochures, display data and adjunct pieces for Gran-Gran mining cave

BOX #2 (also lidded) 1.4M x 600mm x 1.2M Brochures etc. Printed data displays

One envelope A4 Containing item Labels for itemising each display

NOTE: Included is a full set of negatives for these 3D displays — So that, duplicates could be made in the future if care for detail and colour were made. <sup>(IN FIBREGLASS)</sup>