

His Worship the Mayor
Councillors
CITY OF MARION



**NOTICE OF
GENERAL COUNCIL MEETING**

Notice is hereby given pursuant to the provisions under Section 83 of the Local Government Act 1999 that a General Council meeting will be held

Tuesday 10 November 2015

Commencing at 7.00 p.m.

In the Council Chamber

Council Administration Centre

245 Sturt Road, Sturt

A copy of the Agenda for this meeting is attached in accordance with Section 83 of the Act.

Meetings of the Council are open to the public and interested members of this community are welcome to attend. Access to the Council Chamber is via the main entrance to the Administration building on Sturt Road, Sturt.

A handwritten signature in dark ink, appearing to read "Adrian Skull", with a horizontal line extending to the right.

Adrian Skull
CHIEF EXECUTIVE OFFICER

5 November 2015

**CITY OF MARION
GENERAL COUNCIL AGENDA
FOR MEETING TO BE HELD ON
TUESDAY 10 NOVEMBER 2015
COMMENCING AT 7.00PM**



1. OPEN MEETING

2. KAURNA ACKNOWLEDGEMENT

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

3. DISCLOSURE

All persons in attendance are advised that the audio of this General Council meeting will be recorded and will be made available on the City of Marion website.

4. ELECTED MEMBER'S DECLARATION OF INTEREST (if any)

5. CONFIRMATION OF MINUTES

Confirmation of the Minutes for the General Council meeting held on
27 October 20155

6. ADJOURNED ITEMS

Code of Conduct Procedure for investigating complaints
GC101115R0128

7. YOUTH ADVISORY COMMITTEE (YAC) UPDATE

Nil

8. DEPUTATIONS

Nil

9. PETITIONS

Nil

10. COMMITTEE RECOMMENDATIONS

Nil

11. PRESENTATIONS

Nil

CORPORATE REPORTS FOR DECISION

Main South Road / Darlington Area Development Plan Amendment by the Minister
GC101115R0236

Planning, Development & Infrastructure Bill 2015
GC101115R0342

Dog By-law Amendment
GC101115R0449

Annual Review of Delegations
GC101115R0566

Appointment of Date, Time and Place of Council Meetings
GC101115R06328

Code of Practice Procedures at Meetings 2015
GC101115R07331

Elections Review
GC101115R08358

Section 270 – Telecommunication Tower Kellett Reserve
GC101115R09381

Section 270 – Reserve Street Reserve Dog Park
GC101115R10384

12. CORPORATE REPORTS FOR INFORMATION/NOTING

Nil

MATTERS RAISED BY MEMBERS

13. Questions with Notice

14. Motions with Notice

Legal Fees
GC101115M01388

Oaklands Estate Reserve Toilet Block
GC101115M02389

15. Questions without Notice

16. Motions without Notice

17. CONFIDENTIAL ITEMS

Former Hallett Cove Library and Youth Services Building

GC101115F01.....392

Code of Conduct

GC101115F02..... (to be distributed separately)

Code of Conduct

GC101115F03..... (to be distributed separately)

19. LATE ITEMS

20. MEETING CLOSURE

Council shall conclude on or before 10.00pm unless there is a specific motion adopted at the meeting to continue beyond that time.

**MINUTES OF THE GENERAL COUNCIL MEETING
HELD AT ADMINISTRATION CENTRE
245 STURT ROAD, STURT
ON TUESDAY 27 OCTOBER 2015**



PRESENT

His Worship the Mayor Kris Hanna

Councillors

Coastal Ward

Ian Crossland
Tim Gard

Mullawirra Ward

Jerome Appleby
Jason Veliskou

Southern Hills

Janet Byram
Nick Westwood

Warracowie Ward

Bruce Hull
Nathan Prior

Warriparinga Ward

Raelene Telfer

Woodlands Ward

Nick Kerry
Tim Pfeiffer

In Attendance

Ms Kathy Jarrett
Mr Vincent Mifsud
Ms Fiona Harvey
Ms Abby Dickson
Ms Kate McKenzie
Ms Victoria Moritz

Acting CEO
Director
Acting Director
Acting Director
Manager Governance
Governance Officer

COMMENCEMENT

The meeting commenced at 7.00pm.

KAURNA ACKNOWLEDGEMENT

We acknowledge the Kurna people, the traditional custodians of this land and pay our respects to their elders past and present.

DISCLOSURE

All persons in attendance are advised that the audio of this General Council meeting will be recorded and will be made available on the City of Marion website.

MEMBERS DECLARATION OF INTEREST

The Chair asked if any Member wished to disclose an interest in relation to any item being considered at the meeting and the following declaration was made:

- Councillor Pfeiffer declared a conflict of interest in the item *SA Water Acquisition GC271015R11*.
- Councillor Prior declared a conflict of interest in the item *Former Hallett Cove Library and Youth Services Building GC271015F01*.

7.03pm Order of Agenda Items

Moved Councillor Telfer, Seconded Councillor Pfeiffer that:

Council make the following adjustments to the agenda to allow for deputations and reports to be considered consecutively.

- Amend the agenda to hear the deputation from Elizabeth Hunt (Annie Doolans Cottage) before all other deputations and reports.
- Adjourn the poker machines report (GC271015R01) until after the conclusion of the 4 deputations relating to this matter.
- Amend the agenda to hear the deputation from Michelle Dyer regarding Reserve St Dog Park followed by the Report (GC271015R12) on this matter.
- Adjourn the Oakland's crossing report (GC271015R02) to be considered directly before reports listed under "Committee Recommendation"s"

Carried Unanimously

DEPUTATIONS

7.04pm Deputation: Ms Elizabeth Hunt – Annie Doolan's Cottage Ref No: GC271015D01

Ms Elizabeth Hunt gave a five minute deputation to Council in relation to Annie Doolan's Cottage.

7.10pm Deputation: Mr Bruce Wright – Treasurer and General Manager, Marion RSL – Council Owned Properties – Lessee Organisations Operating Poker Machines Ref No: GC271015D02

Mr Bruce Wright from the Marion RSL gave a five minute deputation to Council in relation to organisations operating Poker Machines.

**7.16pm Deputation: Mr Daryl Grey – Club Marion – Council Owned Properties – Lessee
Organisations Operating Poker Machines
Ref No: GC271015D03**

Mr Daryl Grey from Club Marion gave a five minute deputation to Council in relation to organisations operating Poker Machines.

**7.22pm Deputation: Senator Nick Xenophon – Poker Machines
Ref No: GC271015D04**

Senator Nick Xenophon, Independent Senator for South Australia gave a five minute deputation to Council in relation to Poker Machines.

**7.30pm Deputation: Reverend Peter McDonald
Ref No: GC271015D05**

Reverend Peter McDonald from Uniting Communities gave a five minute deputation to Council in relation to damage that Poker Machines has on the community.

**7.35pm *Adjourned Item* - Poker Machines in Council Owned Facilities
Report Reference: GC271015R01**

Moved Councillor Hull, Seconded Councillor that:

1. Council call for a report to be presented to the February 2016 General Council Meeting to consider a policy position that all City of Marion Community Facilities are Poker Machine free.
2. This report include potential options and strategies for clubs that are currently operating with poker machines to assist in this transition.

The motion lapsed for want of a seconder

**7.37pm Deputation: Ms Michelle Dyer
Ref No: GC271015D06**

Ms Michelle Dyer gave a five minute deputation to Council in relation to the Reserve Street Reserve Dog Park and the impact it will have on herself and the neighbouring community.

**7.42pm Reserve Street Reserve Dog Park (Fenced)
Report Reference: GC271015R12**

Moved Councillor Byram, Seconded Councillor Crossland that Council:

1. Endorse (Option 3) Reserve Street Reserve Dog Park Concept Plan.
2. Declare the area within the Concept Plan (Option 3) as a designated dog exercise area – dog park (fenced) under By Law No. 4 – Dogs
3. Allocate funding as a recurrent operating budget in the LTFP to cover the annual operating costs for the ongoing maintenance of the Dog Park as per Attachment 4.
4. Endorse the development of (Option 3) Reserve Street Reserve Dog Park for Detailed Design and Construction.

Carried

The Mayor sought and was granted leave of the meeting to include a description of option 3 in the minutes as follows:

Option 3 - \$226,419 development of a larger dog park to be delivered in full at one time with the additional funding of \$126,419 required to be sourced from identified savings, resulting from the 2014/15 financial year.

CONFIRMATION OF MINUTES

General Council meeting held on 13 October 2015

Moved Councillor, Seconded Councillor that the minutes of the General Council meeting held on 13 October 2015 be taken as read and confirmed.

Carried Unanimously

COMMUNICATION - HIS WORSHIP THE MAYOR

Report on Mayoral Activities for September and October 2015

Date	Event	Comment
18 September 2015	Marion VIEW Club Meeting	Attended and provided speech
21 September 2015	Reception to thank Volunteers & Supporters of Foodbank of South Australia	Attended
22 September 2015	Meeting with Jason O'Halloran & Jess	Attended

	Trinchini – Real Estate Industry	
23 September 2015	Meeting with Ms Ann Beacham from TAFE SA re Improving Access to Education	Attended
23 September 2015	Meeting with Mayor Spear – City of Mitcham	Attended
23 September 2015	Meeting with Edwardstown Football Club	Attended
24 September 2015	Coast FM Radio Segment	Attended and Participated
27 September 2015	Marion Bowling Club	Attended
27 September 2015	Church Quiet Day & Lunch	Attended
29 September 2015	Meeting with Joshua Brett – Hope Church	Attended
1 October 2015	Sunrise Interview	Attended
1 October 2015	Carer Support Celebration – Glandore Centre	Attended
8 October 2015	Cove Football Club AGM	Attended
10 October 2015	Oaklands Skate Park Opening	Attended and Officially Opened
10 October 2015	Meeting with Kurna People – LKCC	Attended
10 October 2015	Sturt Soccer Presentation Night	Attended
12 October 2015	Brighton Meals on Wheels Annual General Meeting	Attended
13 October 2015	Meeting with Edwardstown Football Club	Attended
14 October 2015	Meeting with O'Halloran Hill TAFE Developers	Attended
17 October 2015	Citizenship Ceremonies (morning and afternoon ceremony)	Attended
19 October 2015	Meeting with Mayor Spear and Mr Pears (City of Mitcham)	Attended
20 October 2015	Norfolk Estate Retirement Village – Speaking Engagement	Attended and provided speech
21 October 2015	Oasis Centre at Flinders	Attended
In addition the Mayor has met with residents and also with the CEO and Council staff regarding various issues.		

Moved Councillor Pfeiffer, Seconded Councillor Westwood that the report by the Mayor be received.

Carried Unanimously

COMMUNICATION – DEPUTY MAYOR

Nil

COMMUNICATION – ELECTED MEMBERS

Councillor Raelene Telfer

Date	Event	Comment
24 Sept 2015	Marion Historic Village Project Group	Liaison - apology
24 Sept 2015	Darlington Community Consultative	Attended and raised tree issues
28 Sept 2015	Sports Comm	Four Sports projects have been discussed
29 Sept 2015	Volunteer and Recreation Coordinators	Volunteers training and referral to community groups
6 Oct 2015	Marion Display Group	Advertising and profile issues
6 Oct 2015	Warriparinga Ward Briefing	Local projects
7 Oct 2015	Junction Stakeholders	Management of 608 houses in Mitchell Park
8 Oct 2015	Development Assessment Commission	Submission on DPTI tree removal
10 Oct 2015	Oaklands Skate Park	Opening to Council
11 Oct 2015	Marion RSL	Committee meeting
12 Oct 2015	Cover Books – Hallett Cove CC	Book clubs information day
12 Oct 2015	Ride to Work Day	Arranged and packed bags
13 Oct 2015	Junction Community Development	Officer Sarah Harding looked at community
13 Oct 2015	Audit Committee	Annual financials examined
14 Oct 2015	Ride to Work	Organised the 2 feed zones and questionnaires
16 Oct 2015	Multicultural Fair	Active Elders
17 Oct 2015	Citizenship Ceremonies 1 & 2	Met new citizens
20 Oct 2015	Marion traffic management	Consultation processes
26 Oct 2015	Sports Comm	Sports priority upgrades

Moved Councillor Pfeiffer, Seconded Councillor Westwood that the Elected Member Communication Reports be received.

Carried Unanimously

COMMUNICATION – CEO AND EXECUTIVE REPORTS

Report on CEO and Executive Activities for September and October 2015

Date	Activity	Attended by	Comments
7 October	G6 Indicators meeting at Charles Sturt	Kathy Jarrett	
10 October	Oaklands Recreation Plaza Opening	Kathy Jarrett Vincent Mifsud Abby Dickson	
15 October	Junction Australia – Mitchell Park	Vincent Mifsud	
16 October	Local Government Financing Authority	Vincent Mifsud	
17 October	Citizenship Ceremony	Kathy Jarrett	
20 October	G6 Indicators meeting at Charles Sturt	Kathy Jarrett	
20 October	Californian Delegation – tour of Oaklands Wetland Site	Kathy Jarrett	
21 October	Metropolitan Local Government Group	Kathy Jarrett	
22 October	Australian Workers Union	Kathy Jarrett	

Moved Councillor Pfeiffer, Seconded Councillor Westwood that the report by the CEO and Executive be received.

Carried Unanimously

ADJOURNED ITEMS

7.50pm Oaklands Crossing

Report Reference: GC271015R02

Councillor Telfer withdrew the original motion before the meeting.

Moved Councillor Prior, Seconded Councillor Hull that Council:

1. Undertakes a campaign in support of the construction of the Oaklands Crossing grade separation.
2. Allocates up to \$46,780 from identified savings, resulting from the 2014/15 financial year to fund the running of a Council-led campaign (as attached as Option (4)) to build a grade separation at Oaklands Crossing.
3. Reviews and reassesses the campaign in June 2016 and provides Council with additional strategies if appropriate.

4. Reserves the right to increase intensity on the campaign should the elected members deem it of benefit.

Carried

The Mayor sought and was granted leave of the meeting to distribute further information on Option 4 and include the description of Option 4 in the minutes as follows:

Community awareness	
Hire of billboard for two months, including initial design	\$14,550
Advertising – Quarter page adverts The Saturday Advertiser, Guardian Messenger, Adelaide Now	\$13,800
Printing and distribution of 4000 project outline flyers to local residents, Council venues, businesses and facilities	\$2180
Printing of 4000 „call to action“ flyers for ongoing distribution at community and Council events	\$520
Printing and distribution of 3000 postcards	\$3000
Radio adverts – package of 40 slots mixing breakfast and drive time	\$8730
total	\$41,780

City of Marion communication channels	Cost
City Limits – articles including project overview, interviews with residents businesses and stakeholders and Council’s views	No additional cost
Website dedicated to the campaign – project details, updates, links to other websites, response to news	\$2000
Facebook page dedicated to the campaign – regular updates, announcements, community feedback	No additional cost
Twitter account dedicated to the campaign – ongoing promotion, links to the campaign website	No additional cost
What’s Happening Messenger column – articles	No additional cost
Printed and electronic newsletters , including Economic Development, libraries, neighbourhood centres, Community Care, and E-talk	No additional cost
Outdoor banners, badges, car bumper stickers	\$3000
Total	\$5000

YOUTH ADVISORY COMMITTEE (YAC) UPDATE

Nil

PETITIONS

Nil

COMMITTEE RECOMMENDATIONS

8.08pm Strategic Directions Committee Confirmation of Minutes of Meeting held on 6 October 2015 Report Reference: GC271015R03

Moved Councillor Veliskou, Seconded Councillor Westwood that Council:

1. Receive and note the minutes of the Strategic Directions Committee meeting of 6 October 2015 (Appendix 1 to report reference GC271015R03).

8.10pm Councillor Crossland left the meeting
8.11pm Councillor Prior left the meeting
8.12pm Councillor Crossland re-entered the meeting
8.13pm Councillor Prior re-entered the meeting
8.13pm Councillor Kerry left the meeting

Carried Unanimously

8.14pm Audit Committee Confirmation of Minutes of Meeting held on 13 October 2015 Report Reference: GC271015R04

Moved Councillor Pfeiffer, Seconded Councillor Telfer that Council:

1. Receive and note the minutes of the Audit Committee meeting of 13 October 2015 2015 (Appendix 1).
2. Note that separate reports will be brought to Council for consideration of any recommendations from the Audit Committee.

Carried Unanimously

WORKSHOP / PRESENTATION ITEMS

Nil

CORPORATE REPORTS FOR DECISION

Mr Greg Connor – Independent Member of the Audit Committee addressed Council and was available for questions relating to the following four financial reports.

8.16pm Audit Committee Annual Report to Council 2014/15 Report Reference: GC271015R05

Moved Councillor Pfeiffer, Seconded Councillor Veliskou that Council:

1. Note the Audit Committee's Annual Report to Council for 2014/15 provided at Appendix 1 to report reference GC271015R05

8.18pm Councillor Kerry re-entered the meeting
8.27pm Councillor Appleby left the meeting
8.29pm Councillor Appleby re-entered the meeting

Carried Unanimously

8.45pm Annual Financial Statements for the year ended 30 June 2015 Report Reference: GC271015R06

Moved Councillor Pfeiffer, Seconded Councillor Westwood that Council:

1. Adopts the audited Annual Financial Statements for the year ended 30 June 2015 (Appendix 2).
2. Receive the Southern Region Waste Resource Authority (SRWRA) 2014/15 audited Financial Statements (Appendix 5).
3. Receive the Council Solutions Regional Authority 2014/15 audited Annual Financial Statements (Appendix 6).

Carried Unanimously

8.51pm Investment Performance 2014/15 Report Reference: GC271015R07

Moved Councillor Pfeiffer, Seconded Councillor Crossland that Council:

1. Note the Investment Performance Report 2014/15.

Carried Unanimously

8.56pm Annual Corporate Performance Report- 2014-15
Report Reference: GC271015R08

Moved Councillor Telfer, Seconded Councillor Pfeiffer that Council:

1. Note the 2014-15 Annual Corporate Performance Report as provided in Appendix 1.

9.07pm Councillor Pfeiffer left the meeting

9.10pm Councillor Pfeiffer re-entered the meeting

Carried Unanimously

9.10pm Annual Report 2014/15
Report Reference: GC271015R09

Moved Councillor Byram, Seconded Councillor Telfer that:

1. Council adopts the City of Marion Annual Report for the 2014/15 financial year as contained with Appendix 1 to this report subject to the following amendments:
 - a. Identified on page 309 of the agenda under Senior Executive Salary Packages to read: *Salary packages for the four senior executives, including superannuation and the use of a motor vehicle, ranged from \$197500 to \$308,828.*
2. The City of Marion Financial Statements 2014/15 being considered in report GC271015R06 be included within the published version of the City of Marion Annual Report 2014/15
3. The Southern Regional Waste Resources Authority Financial Statements being considered in report GC271015R06 be included within the published version of City of Marion Annual Report 2014/15.
4. The Council Solutions Regional Authority Financial Statements being considered in report GC271015R06 be included within the published version of City of Marion Annual Report 2014/15.
5. Administration distributes copies of the City of Marion Annual Report 2014/15 in accordance with legislative requirements.
6. Administration distributes copies of the City of Marion Annual Report 2014/15 to key stakeholders
7. A summary of the Annual Report 2014/15 will be distributed to households, businesses and stakeholders via City Limits.

Carried Unanimously

9.16pm Landlords Approval to replace the Flooring, Active Elders Hall, 27a Charles Street, Ascot Park, Certificate of Title Volume 5884 Folio 998, Report Reference: GC271015R10

Moved Councillor Kerry, Seconded Councillor Pfeiffer that Council:

1. Grant landlord's consent to replace the Flooring, Active Elders Hall, 27a Charles Street, Ascot Park, Certificate of Title Volume 5884 Folio 998.
2. Council delegate to the Team Leader Land and Property approval to authorise any works required to facilitate the flooring upgrade works.
3. Council require the Active Elders Association Inc to be responsible for all costs associated with the works, future maintenance, improvements and fit out in accordance with the lease agreement.

Carried Unanimously

Councillor Pfeiffer declared a conflict of interest in the following item due to his employment and left the meeting.

9.17pm Councillor Pfeiffer left the meeting.

**9.18pm SA Water Acquisition
Report Reference: GC271015R11**

Moved Councillor Crossland, Seconded Councillor Byram that Council:

1. Note that subject to SA Water's project approval, agreement shall be given for an agreed and unopposed compulsory acquisition of Community Land at Reliance Road and Capella Drive Hallett Cove being portions of the land in Certificates of Title Volume 4165 Folio 544 Volume 5159 Folio 689 and Volume 5982 Folio 906
2. Note that Council retains its right to object to the acquisition or a component of the acquisition pursuant to the provisions of the Land Acquisition Act 1969 in the event that Council's requirements and objectives will not be met as a result of the acquisition.
3. Authorises the Chief Executive Officer to negotiate the terms and conditions of a Right of Entry or similar agreement to enable SA Water to commence works on the sites prior to completion of the compulsory acquisition process
4. Council pursuant to Section 37(b) of the Local Government Act 1999 authorises the Chief Executive Officer to enter into and sign all documentation necessary to facilitate the acquisition and the right of entry or similar agreement with SA Water
5. Require the agreement to include the requirement for SA Water to undertake landscaping and adequate graffiti management controls at no cost to Council.

Carried Unanimously

9.30pm Councillor Pfeiffer re-entered the meeting.

9.31pm Elected Member Code of Conduct Procedure for Investigating Complaints
Report Reference: GC271015R13

Moved Councillor Westwood, Seconded Councillor Kerry that this item be adjourned until the General Council Meeting on 10 November 2015.

Carried Unanimously

9.32pm Code of Practice, Procedures at Meetings 2015
Report Reference: GC271015R14

Moved Councillor Telfer, Seconded Councillor Hull that Council:

1. adopts the amended „Code of Practice – Procedures at Council Meetings 2015“ provided at Appendix 1 to this report, subject to the inclusion of identified changes.
 - P392 point 14.3 to be amended to list adjourned items directly before the Corporate Reports and read *Business adjourned from a previous meeting must be dealt with directly before the Corporate Reports at a subsequent meeting.*

Amendment:

Moved Councillor Velsikou, Seconded Councillor Gard that Council:

1. adopts the amended „Code of Practice – Procedures at Council Meetings 2015“ provided at Appendix 1 to this report, subject to the inclusion of identified changes.
 - P392 of the Agenda Point 14.3 amend to list adjourned items directly before the Corporate Reports so that it reads: *Business adjourned from a previous meeting must be dealt with directly before the Corporate Reports at a subsequent meeting.*
 - Include the option for Elected Members to provide a verbal or written Communication Report during the General Council Meeting of the second meeting of the month.

That the amendment become the motion was **Carried**
The motion was put and a two thirds majority was not achieved
The Motion was **Lost**

City of Marion Christmas Trading Hours 2015
Ref No: GC271015R15

Moved Councillor Telfer, Seconded Councillor Prior that Council:

1. endorse the closure of the City of Marion’s principal office, being the Administration building, at 245 Sturt Road, Sturt on:
 - Thursday 24th December 2015 at 1 pm and
 - Thursday 31st December 2015 at 3 pm.

Carried Unanimously

CORPORATE REPORTS FOR INFORMATION / NOTING

Finance Report – September 2015 Report Reference: GC271015R16

Moved Councillor Telfer, Seconded Councillor Crossland that Council:

1. Receive the report “Finance Report – September 2015”.

Carried Unanimously

MATTERS RAISED BY MEMBERS

Questions with Notice

Provision for Major Disaster or Impact Ref No: GC271015Q01

QUESTION:

Could management advise the particular responsibilities of the City of Marion in respect of provisions for any form of major disaster or impact in the City of Marion?

In doing so, could advice be given as to how State and Municipal provisions interrelate and where any responsibilities begin and end?

Further, is there a need to perform any planning for such events with or for major ratepayers such as Westfield?

COMMENTS: (Sherie Walczak, Risk Unit Manager)

All emergency management arrangements in South Australia are governed by the *Emergency Management Act 2004* (the Act).

The State Emergency Management Committee (SEMC) is a strategic planning committee that reports to the Emergency Management Council on matters that relate to the preparedness of the State. See Appendix 1 which outlines the South Australian Emergency Management Committee Structure.

The State Emergency Management Plan (SEMP) is prepared under section 9(1)(b) of the Act to manage all emergencies. The SEMP outlines responsibilities, authorities and the mechanisms to prevent, or if they occur manage and recover from, incidents and disasters within South Australia. It relies on strong cooperative, coordinated and consultative relationships among State Government agencies and Local Government together with other services to ensure that an efficient and coordinated response can be made to any incident or disaster. It does not assume a particular incident or event and is based on the All Hazards principles as endorsed by the Emergency management Council and Emergency management Australia.

Zone (Local Government) Arrangements

The SEMP establishes a regional structure of eleven Emergency Management zones based on Local Government boundaries. Each zone will have a Zone Emergency Management Committee (ZEMC) responsible for planning and implementing zone-level actions in support of the SEMP. The zone will undertake emergency risk assessments and develop a Zone Emergency Management Plan (ZEMP) and other plans as required. The role of a ZEMC includes:

- Working within the Zone Emergency Risk Management Framework to identify, analyse and evaluate emergency risks that could impact the Zone;
- Identifying and evaluating treatment options and developing a Zone Emergency Management Plan (ZEMP) to address residual risk;
- Providing assurance that arrangements are in place to prevent and/or mitigate, prepare for, respond to and recover from emergencies,

A ZEMC does not have an „operational“ role during emergencies. When an emergency occurs, the SAPOL Local Service Area Commander / Zone EM Coordinator may, following consultation with the Control Agency, activate the Zone Emergency Centre (ZEC) to support the actions of the Control Agency. Some ZEMC members, as part of their broader day-to-day role, may attend the ZEC during its operations.

The City of Marion participates in the Southern Adelaide ZEMC together with the cities of Mitcham, Onkaparinga and Holdfast Bay. The City of Marion hosts the Southern Adelaide ZEMC and Ann Gibbons, Manager Environmental Sustainability, is the Committee Chair. Council representatives are provided from risk management teams; Marion’s representative is Sherie Walczak, Unit Manager Risk.

Other members include representatives of South Australian Fire and Emergency Services Commission (SAFECOM), State Emergency Service (SES), South Australian Police (SAPOL), and the Department for Communities and Social Inclusion (DCSI) State Recovery Office.

City of Marion Arrangements

Each Council has a legislative obligation under Section 7(d) of the *Local Government Act 1999* to “take measures to protect its area from natural and other hazards and mitigate the effect of such hazards”. Therefore, the City of Marion has a responsibility to work with all levels of government and our local community to:

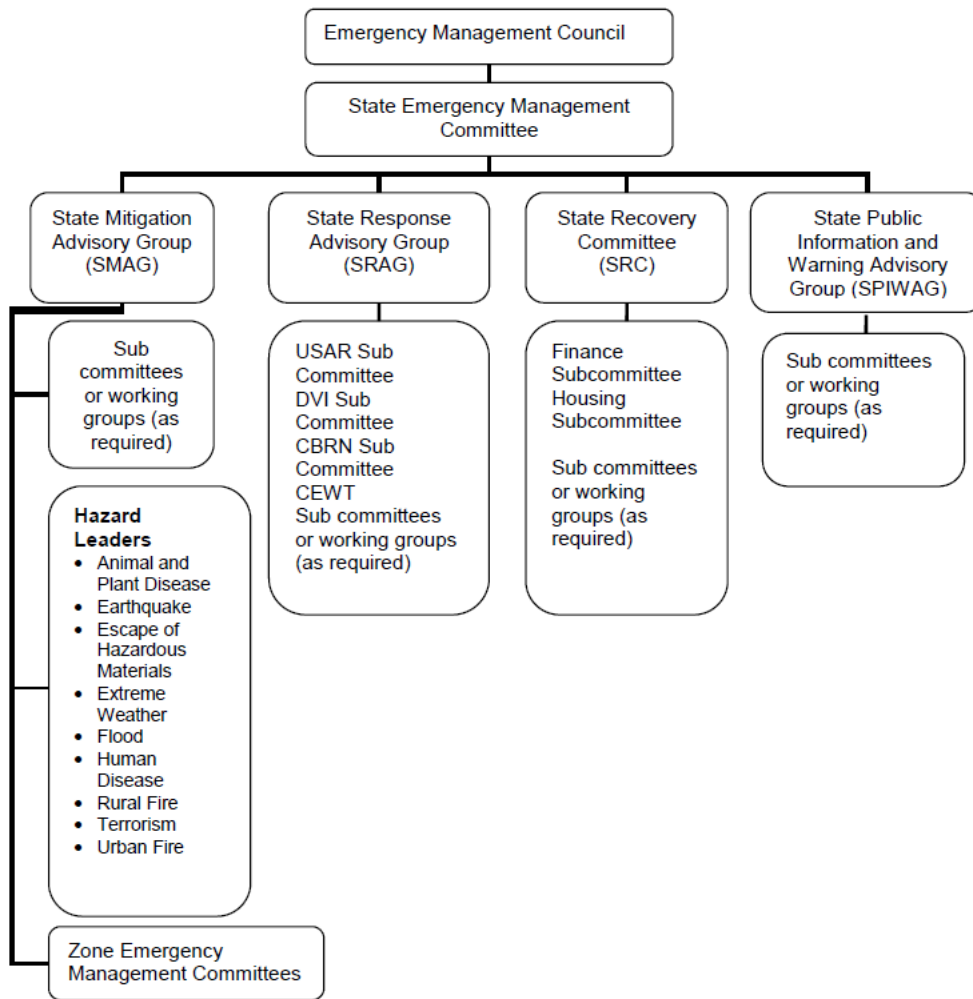
- Prepare – anticipated threats via Hazard Registers and Emergency Management Plans
- Prevent – limit the effects by the implementation of controls to anticipated threats
- Respond – provision of facilities, plant & human resources as requested by the incident controller
- Recover – restoration of essential community services following a disaster

Part of the emergency response planning process includes the identification of critical infrastructure to support the continued provision of essential services to businesses, governments and the community within an emergency response.

Representatives of Westfield Marion were involved in some of the hazard assessment workshops or emergency management planning activities coordinated by the Southern Adelaide ZEMC. The role of such planning and identification of organisations to be involved in that planning is a matter for the Southern Adelaide ZEMC and Hazard Leaders.

Appendix 1

Figure 1: S.A. Emergency Management Committee Structure



Encouragement of Aged Care Facility Investment
Ref No: GC271015Q02

QUESTION:

1. Is there any strategy being pursued for the encouragement of aged care facility investment within the City of Marion, particularly in areas of the city where there are clear shortfalls in such facilities?

COMMENTS:

Margi Whitfield, Manager Community Participation
Steve Hooper, Manager Development Services:

There are 24 aged care facilities available to City of Marion residents, 8 of which are within Marion council boundaries, with the remainder in adjacent areas. These facilities provide 2,165 high care beds. The majority of these facilities are within the central and northern Marion council area, with 6 facilities available for southern residents of the City of Marion. While aged care facilities are fewer in the southern areas of Council and there may be opportunities for future development of such facilities, evidence is suggesting adequate provision at this time.

The City of Marion, as a current provider of the Commonwealth Home Support Program (CHSP), is also working with residents to foster independence and to remain living in their own homes for as long as they wish to. The support provided to eligible residents through the CHSP assists in reducing pressure on aged care facilities and allows those who wish to remain in their own homes to do so for as long as possible.

Over the past 10 years, more than 30 aged care/retirement living development applications have been approved by Council. These have included expansions to existing aged care facilities such as Eldercare at Glengowrie and Southern Cross Care at Oaklands Park together with new aged care facilities/retirement living facilities such as Anglicare at Trott Park and Albion Mews at Dover Gardens.

It is acknowledged that there is more aged care/retirement living housing in the northern part of the Council area. To accommodate additional aged care facilities in the south, vacant land to the immediate east of the Hallett Cove Shopping Centre has been identified as appropriate for aged care housing in the Marion Development Plan. However this land remains vacant at the time of writing. Additional opportunities could be created with the potential rezoning of the Adelaide Development Company (ADC) land at the southern extremity of the Council, although this land is not in close proximity to services, shops and other facilities. In this respect, whilst ADC has provided Council with a concept layout for the rezoning of the ADC land, illustrating a mix of dwelling styles, they have not expressly contemplated aged care housing to the best of our knowledge.

Oaklands Crossing in Emergencies
Ref No: GC271015Q03

QUESTION: Councillor Gard

Could management determine, through enquiry with each sector of Emergency Services, to what extent the Oaklands crossing traffic jams increase the risk to lives and properties in the area, and in doing so determine the size of the area and population affected?

COMMENTS: Councillor Gard

We are planning a public campaign to lobby for the grade separation at Oaklands crossing. For some time now I have held that emergency services, and the imposition on them in relation to this crossing, is one of the key points of leverage to achieve action.

There are vast populations, covering an equally vast area, that are at greater risk than is necessary due to this very point.

Examples of affected properties include:

- Westfield Marion and local precinct – aside from the very high and regular need for ES attendance for day to day emergencies, this property and its occupants are in a most exposed situation in the event of any disaster, in which multiple services and back up would be required. Such a situation would no doubt involve train stoppage but even the delay in this process would have potentially catastrophic effects. \
- CoM properties
- many schools and child minding centres
- aged care properties, such as Alwyndor, Oaklands etc.

The central issue is that there are no alternative routes enabling a line crossing that do not add considerable delay to the execution of these services. For example, the closest emergency hospital facilities to Flinders are at Ashford and the nearest crossing between Oaklands and Flinders is the grade separated one on Marion Road.

Not only are there 'log jams' on Diagonal and Morphett Roads themselves, that may take anything up to 20 minutes to clear, but the access and egress to and from minor thoroughfares connected to those major roads is greatly lessened for long periods of time.

COMMENTS: Sherie Walczak, Unit Manager Risk

Consultation will need to occur with each sector of emergency services and the Zone Emergency Management Committee to determine a profile of the area and population with regards to the impact of the current Oaklands Crossing on the provision of emergency services.

It is proposed that this work be included within the comprehensive research (as proposed in the Oaklands Crossing Report) to understand who currently uses the crossing and the level of risk associated with the traffic congestion.

Moved Councillor Veliskou, Seconded Councillor Pfeiffer that the meeting be extended for 30 minutes until 10.20pm.

9.46pm meeting extended.

Motions with Notice

9.47pm Development Proposal Notice Ref No: GC271015M01

Moved Councillor Hull, Seconded Councillor Prior that:

1. Subject to the approval of the applicant (via an amended development application form) Council affixes a Development Proposal Notice outside (on the subject property) of all Category 2 or 3 development application sites for the period of prescribed public notification, being A3 in size and laminated as per the attached example from the City of Sydney (appendix 1).
2. Any notice for Category 2 developments clarify that valid representations can only be received from those property owners and occupiers notified in writing of the proposal development, and that for other owners and occupiers, the notice is a courtesy notification only.

Lost

Edwardstown Honour Board Ref No: GC271015M02

Moved Councillor Pfeiffer, Seconded Councillor Kerry that:

1. The Mayor writes to the Commanding Officer of the Warradale Barracks to:
 - Thank and acknowledge the Warradale Barracks for their custodianship of the Edwardstown Honour Board.
 - Express an interest in one day housing the Edwardstown Honour Board at a custom designed and prominent location at Edwardstown Oval, conditional on the agreement of the Commanding Officer of the Warradale Barracks and the development of an appropriate facility at Edwardstown Oval.
2. The Mayor writes to Ms Jennifer Vincent, thanking her for her extensive voluntary research work, which led to the locating of the Edwardstown Honour Board.

Carried Unanimously

Electric Vehicles Ref No: GC271015M03

Moved Councillor Westwood, Seconded Councillor Gard that Council:

1. Provide in principle support for the use of electric vehicles in all possible modes of transport, which will contribute to a more liveable city and state.
2. Provide limited staff support, for the review of local electric vehicle technology and the possibility of local electric vehicle manufacture within or near the City of Marion, with a view to generating jobs for our residents.

Carried

Moved Councillor Veliskou, Seconded Councillor Byram that the meeting be extended until all Motions with Notice on the agenda have been dealt with.

Carried

10.10pm meeting extended.

**Capella Drive Reserve
Ref No: GC271015M04**

Moved Councillor Crossland, Seconded Councillor Byram that:

1. Notes the opportunity to increase soccer facilities in the south through changing sports clubs leasing arrangements.
2. In order to pursue the opportunity to increase soccer facilities Council is to:
 - 2.1 Undertake preliminary investigation works, including a soil test, a review of electrical services and a concept design for the potential installation of sports floodlights at Capella Reserve.
 - 2.2 Endorse the funding of the investigations works (as per recommendation 2.1). Funding of \$5,000, to be sourced from the identified savings resulting from the 2014/15 financial year.
3. Formalise the offer from Sheidow Park Cricket Club to end their lease agreement at Capella Reserve. Funding of \$3,000, to be sourced from the identified savings resulting from the 2014/15 financial year, will be provided towards a top soil treatment at their alternative oval.
4. Subject to the outcomes of recommendations 2 and 3 above, enter into negotiations with the Cove Soccer club to change their current lease from use of Capella Reserve from 6 months to 12 months to play soccer.
5. Grant landlords approval for the installation of floodlights at Capella Reserve subject to a successful Development Application and community consultation process.
6. Assist Cove Soccer club through the development application process.
7. That a report will be brought to Council in January 2016 which outlines the outcomes of all investigative works, the cost of the floodlights, community consultation and development approval.

10.28pm Councillor Telfer left the meeting.

Carried

10.28pm Councillor Prior left the meeting.
10.30pm Councillor Prior re-entered.
10.30pm Councillor Appleby left.
10.31pm Councillor Telfer re-entered the meeting.
10.32pm Councillor Appleby re-entered.

10.31pm Cove Soccer Irrigation System
Ref No: GC271015M05

Moved Councillor Crossland, Seconded Councillor Byram that:

1. Council, in accordance with their landlord obligations, replace the Cove Soccer pitch irrigation system (at Cove Sports Complex) and complete the necessary ground works to provide a safe and level playing surface before the 8th January 2016.

Carried

The Mayor sought and was granted leave of the meeting to record in the minutes the Administration's response to questions asked by Members regarding the five years taken to address the irrigation at Cove Soccer. In response, it was advised that given the infrastructure is considered within the asset management matrix as operational, the works should have been programmed before now. Furthermore, it was unknown as to why this matter had not been previously identified, thereby necessitating it being raised as a Motion with Notice by Members.

10.46pm Poker Machines
Ref No: GC271015M06

Moved Councillor Veliskou, Seconded Councillor Westwood that:

1. Council recognises the negative impacts that gambling has on the general community and subsequently does not support any increase in the number of council owned venues with pokie machines.
2. Council encourages, supports and consults with its lessees in seeking alternative sources of revenue to poker machines.
3. Whilst preferring to minimise the use of poker machines in our community, Council will not compel any of its lessees to remove their current, licensed, poker machines.
4. A report will be provided to Council by the end of February 2016 regarding options for possible voluntary reduction of these poker machines.
5. That the report includes through broad consultation, options available to minimise the harm caused by poker machines and problem gambling in our community.

Amendment:

Moved Councillor Appleby, Seconded Councillor Kerry that:

1. Council recognises the negative impacts that gambling has on the general community and subsequently does not support any increase in the number of council owned venues with poker machines.
2. Whilst preferring to minimise the use of poker machines in our community, Council will not compel any of its lessees to remove their current, licensed, poker machines.

That the amendment become the motion was **Lost**
The debate resumed on the original motion

Amendment:

Moved Councillor Crossland, that:

1. A report will be provided to Council by the end of February 2016 regarding options for possible voluntary reduction of these poker machines and the impact they cause.

The Mayor did not accept the amendment as it was in direct opposition to the item *Poker Machines in Council Owned Facilities (Report Reference: GC271015M06)*.

The debate resumed on the original Motion
Carried

Councillor Hull called for a division:

Those for: Councillors Pfeiffer, Kerry, Telfer, Westwood, Byram, Veliskou, Gard and Crossland

Those against: Councillors Prior, Hull and Appleby

Carried

Questions without Notice

Various Questions were asked and either answered or taken on notice.

Moved Councillor Veliksou, Seconded Councillor Westwood that the meeting be extended until the following item has been considered and dealt with.

Carried

11.07pm meeting extended.

Motions without Notice

11.07pm LGA Annual General Meeting – Appointment of Voting Delegate
Reference: GC271015M07

Moved Councillor Veliskou, Seconded Councillor Crossland that:

1. Council appoints Councillor Byram as the nominated voting delegate for the LGA Annual General Meeting to be held on Friday 30 October 2015 at the Adelaide Oval.'

Carried

CONFIDENTIAL ITEMS

**Hallett Cove Library and Youth Services Building
Reference No: GC271015F01**

This item was not considered

CLOSURE - Meeting Declared Closed at 11.10pm.

CONFIRMED THIS 10 NOVEMBER 2015

.....
CHAIRPERSON

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

ADJOURNED ITEM

Originating Officer: Kate McKenzie, Manager Governance
Director: Kathy Jarrett
Subject: Code of Conduct Procedure for Investigating Complaints
Report Reference: GC101115R01

This item was adjourned at the 27 October 2015 General Council meeting.

Appendix 1 contains the report motion as presented on 27 October 2015.

In accordance with the *Local Government (Procedures at Meetings) Regulations*, the debate on an adjourned item will resume and continue at the point it was adjourned. There was no discussion on the item and the motion is yet to be moved or seconded.

The current motion is as follows:

Elected Member Code of Conduct Procedure for Investigating Complaints
Report Reference: GC271015R13

Moved Councillor, Seconded Councillor that Council:

1. Adopt the Elected Member Code of Conduct Procedure as attached in Appendix 1 to this Report.

**CITY OF MARION
GENERAL COUNCIL MEETING
27 October 2015**

Originating Officer: Kate McKenzie, Manager Governance

Director: Kathy Jarrett

Subject: Elected Member Code of Conduct Procedure for Investigating Complaints

Report Reference: GC271015R13

REPORT OBJECTIVES:

For Council to consider and if appropriate, adopt the Elected Member Code of Conduct Procedure for the investigation of Elected Member Code of Conduct Complaints.

EXECUTIVE SUMMARY:

A code of conduct is a set of guidelines that outline an acceptable standard of behaviour and conduct. The mandatory Code of Conduct for Council Members was gazetted on the 29 August 2013 for all Elected Members within South Australia to provide transparency and consistency across the sector. This Code intends that Councils to establish their own procedure for investigating alleged matters under Part 2 of the Code (behavioural matters).

The immediate past Council adopted a Code of Conduct Procedures for Investigating Complaints (**Appendix 1**). This has varied to suit the needs of the current Council and is presented for consideration and adoption.

RECOMMENDATIONS (1)**DUE DATES****That Council:**

1. **Adopt the Elected Member Code of Conduct Procedure as attached in Appendix 1 to this Report.**

October 2015

BACKGROUND

In September 2013, a Mandatory Code of Conduct for Elected Members was introduced for all local government authorities within South Australia. The Code is separated into three parts being:

Part 1 – Principles

Part 2 – Behavioural

Part 3 – Misconduct

The Code intends that Council's will adopt a process for handling of complaints received under Part 2 (Behavioural). Section 2.19 states:

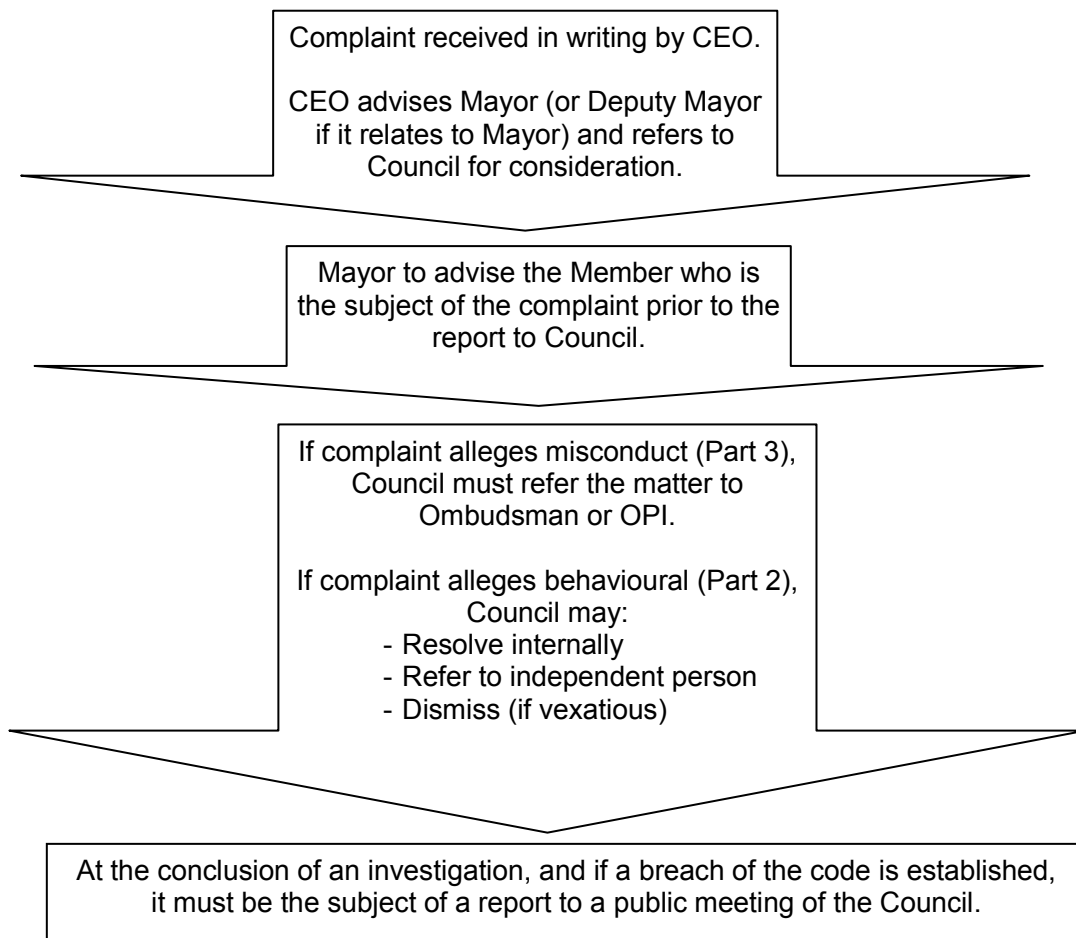
“A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.”

The Elected Member Code of Conduct Procedure is attached as **Appendix 1**.

PROCESS

The proposed procedure would only apply to those matters determined to be alleged behavioural breaches of the Code under part 2. Any matter determined to be misconduct, criminal or corrupt under part 3, would be referred to the Ombudsman or Office of Public Integrity (OPI).

The flow chart below provides an overview of the proposed procedure:



ANALYSIS

The proposed procedure provides that the CEO receive complaints (in writing), advise the Mayor (or Deputy Mayor in matters relating to the Mayor) and refer the matter to Council as a confidential report.

The Council, would determine if the complaint was a behavioural complaint under Part 2 of the Code or misconduct/criminal complaint under part 3 of the Code. If the Council is unsure of the type of alleged breach, they may seek legal advice to clarify the process.

If the alleged breach is determined to be an allegation under part 3, the matter must be referred to the Ombudsman and/or OPI as required under section 2.15 of the Code.

If the alleged breach is to be investigated under part 2 of the Code, the Council would then determine how the investigation will occur in one of the following ways:

1. Seek to resolve the matter internally

The Council may determine to resolve internally if the matter is considered to be minor in nature. The Council may request the Mayor to hold a meeting with the complainant and the Elected Member and may seek mediation or conciliation to resolve the matter. The Mayor must apply principles of natural justice and procedural fairness. If resolved satisfactorily, the matter will be closed and no further action undertaken. The Mayor must confirm in writing to both parties and report the outcomes of the meeting to a public meeting of the Council. Where a matter cannot be resolved, the matter should be referred back to Council for further consideration.

This option provides a timely and cost effective method to resolve matters of a minor nature.

2. Referral to independent person of Council's choice

Council can appoint an independent person of their choice. This appointment could be established through a transparent process such as a tender or via a selection process.

This option provides Elected Members with some input regarding who would be investigating matters of an alleged part 2 Code of Conduct.

3. Dismiss the allegation.

The Council may choose to dismiss a matter if it is frivolous, vexatious, misconceived or lacking in substance. The Council must provide reasoning for undertaking this action.

CONCLUSION:

The Code of Conduct for Council Members provides Council with the opportunity to establish its own procedure for investigating behavioural complaints. By establishing and adopting a procedure, this provides transparency for Elected Members, Staff and the Community regarding how alleged breaches of part 2 of the Code will be managed.

Appendix 1

Elected Member Code of Conduct Procedure For Investigating Complaints



1. POLICY

- 1.1 The Code of Conduct for Council Members is set by regulation and applies to all Elected Members across local government in South Australia. Depending on the nature of an alleged breach of the Code, a matter may be subject to a Council investigation or an investigation by the Ombudsman or Office of Public Integrity (OPI). This procedure applies when the Council receives a complaint against an Elected Member under the Code of Conduct for Council Members as gazetted on 29 August 2013. A copy of the Code is available on the City of Marion's website www.marion.sa.gov.au

2. ALLEGED BREACH

- 2.1 Breaches of the Code of Conduct may relate to behaviour (in Part 2 of the Code) or misconduct (in Part 3 of the Code). Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code of Conduct for Elected Members but are referred to in the Appendix of the Code of Conduct.
- 2.2 Where an alleged breach occurs the complainant should report the allegation, in writing to the Chief Executive Officer. The allegation should:
 - 2.2.1 Be specific
 - 2.2.2 Provide as much supporting evidence as possible to assist an investigation
 - 2.2.3 Provide the name of the Elected Member who has allegedly breach the Code.
- 2.3 Complainants can, at any time, take the alternative option of lodging the complaint with the Ombudsman or Office of Public Integrity (OPI), which will direct the complaint in accordance with the ICAC Act.
- 2.4 On receipt of a complaint, the CEO will be responsible for advising the Mayor and referring the complaint to Council.
- 2.5 When no allegations have been substantiated, Council will consider the matter in confidence.
- 2.6 The Council will consider the matter, in conjunction with legal advice if required, and determine whether the complaint relates to:
 - 2.6.1 Behavioural which falls under Part 2 of the Code
 - 2.6.2 Misconduct which triggers action under Part 3 of the Code, or
 - 2.6.3 Criminal or Corrupt behaviour.
- 2.7 Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately.

- 2.8 Prior to the complaint being referred to Council, the Mayor will advise the Elected Member who is the subject of the complaint and its substance. If the complaint is about the Mayor, the Deputy Mayor will undertake this function.

3. ALLEGED BREACH UNDER PART 2

When considering how to investigate a complaint, Council may consider the following options:

3.1 Internal Response

- 3.1.1 Only matters which are determined to be of a minor nature will be dealt with internally and only with the agreement of the parties. Council may request that the Mayor facilitate a meeting with the complainant and the Elected Member and may seek mediation and conciliation between the parties in an attempt to resolve the matter to the satisfaction of all parties. This may be appropriate, for example, where the complainant is also an Elected Member.
- 3.1.2 The Mayor must ensure that the principles of natural justice and procedural fairness are observed.
- 3.1.3 Where the matter is resolved by the Mayor to the satisfaction of all the parties the matter will be closed and no further action will be taken. The Mayor will send written confirmation to all the parties confirming that the matter has been resolved and provide report the outcome to a public meeting of the Council.
- 3.1.4 Where the matter cannot be resolved in this manner, it will be referred back to Council for further consideration.

3.2 Referral to independent person of Council's choice

- 3.2.1 A complaint may be referred by Council to an independent person for investigation.
- 3.2.2 Complaints to an independent person will specify:
- The grounds of the complaint
 - Set out the circumstances of the complaint
 - Be accompanied by any other material that is available to support the complaint.

3.3 Dismiss the allegation.

- 3.3.1 The Council may choose to dismiss a matter if it is frivolous, vexatious, misconceived or lacking in substance. The Council must provide reasoning for undertaking this action.

4. REPORTING TO COUNCIL

- 4.1 At the conclusion of an investigation, if a breach of part 2 of the Code is found, the breach must be the subject of a report to a public meeting of the Council. The Council may, by resolution, take any of the following actions:
 - 4.1.1 Take no action
 - 4.1.2 Pass a censure motion in respect of the Elected Member
 - 4.1.3 Request a public apology, whether written or verbal
 - 4.1.4 Request the Elected Member to attend training on the specific topic found to have been breached
 - 4.1.5 Resolve to move or suspend the Elected Member from a position within the Council (not including the Members Elected position on Council)
 - 4.1.6 Request the member to repay monies to the Council.

5. APPEALS

- 5.1 The Council will not enter into any process of appeal in relation to Part 2 of the Code. If an Elected Member is aggrieved by the process and or outcome, they may refer the matter to the Ombudsman for review.

6. PART 3 – MANDATORY CODE (MISCONDUCT)

- 6.1 Any person may report an alleged breach of Part 3 of the Code to the Council, the Ombudsman or Office of Public Integrity. Alleged breaches of this Part made to Council or to the Office of Public Integrity may be referred to the Ombudsman for investigation.
- 6.2 Under the Code of Conduct, an Elected Member who is of the opinion that a breach of Part 3 of the Code has occurred, or is currently occurring, must report the breach to the Mayor of the Council or Chief Executive Officer, the Ombudsman of the Office of Public Integrity.
- 6.3 A failure to report an alleged or suspected breach of Part 3 of the Code is in itself a breach under Part 2 of the Code.
- 6.4 A failure of an Elected Member to co-operate with the Council's process for handling alleged breaches of Part 2 of the Code may be referred for investigation under Part 3.
- 6.5 A failure of an Elected Member to comply with a finding of an investigation under this procedure may be referred for investigation under Part 3 of the Code.
- 6.6 Repeated or sustained breaches of Part 2 of the Code by the same Elected Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 6.7 A report from the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council. The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

7. CRIMINAL MATTERS – APPENDIX TO THE CODE OF CONDUCT

- 7.1 The matters within the Appendix to the Code of Conduct are matters for which a criminal penalty applies. These matters must be reported to the Office of Public Integrity. In addition, allegations of a breach of any of the offence provisions in the *Local Government Act 1999* must be reported to the Office of Public Integrity.
- 7.2 In compliance with the *Independent Commissioner against Corruption Act 2012*, referral of such complaints to the Office of Public Integrity will remain confidential.

8. FURTHER INFORMATION

Adopted by Council:	10 November 2015
Next Review:	November 2019 (within 12 months of general election)
Version:	1.1
Previous Version:	Adopted 24 June 2014
Owner:	Manager Governance
Applicable Legislation:	Local Government Act 1999 (sections 59-63) Local Government (General) Variation Regulations 2013 Independent Commissioner against Corruption Act 2012
Related Documents:	Code of Conduct for Council Members Directions of Guidelines issued by ICAC
Related Policies:	Elected Caretaker Policy

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officers: Steve Hooper, Manager Development Services

Directors: Kathy Jarrett

Subject: Main South Road / Darlington Area Development Plan
Amendment by the Minister

Report Reference: GC101115R02

INTRODUCTION

The Minister for Planning has proposed a Development Plan Amendment (DPA) to support the delivery of zoning improvements to enable integrated land use and transport outcomes from the \$620 million government investment in the Darlington Upgrade Project.

A verbal briefing was provided by staff to the Strategic Directions Committee (SDC) on the proposed DPA at its meeting on 6 October 2015.

The SDC recommended that Council write to Minister Rau to acknowledge his correspondence dated 16 September 2015 and requesting a briefing from relevant DPTI staff at the earliest opportunity. (Refer Appendix II)

RECOMMENDATIONS (1)

DUE DATES

That Council:

Endorse the correspondence generally supporting the proposed policy intentions and seeking a briefing from DPTI as contained in Appendix II to be signed by Mayor Hanna.

10 Nov 2015

DISCUSSION

The DPA affects three Council areas, namely the Cities of Marion, Mitcham and Onkaparinga.

The DPA will provide a planning policy framework in the area shown on the map in Appendix 1 that facilitates and unlocks targeted uplift, enabling the maximum range of land use opportunities to be considered, and which will consider issues such as:

- Updating the outdated institutional zone applying to Flinders University and Flinders Medical Centre/Private Hospital. (Mitcham Council)
- Reviewing the policy applying to the Sturt Triangle including responding to the Kaurna Nation proposal for Warriparinga.
- Providing for increased density around Tonsley and C lovelly Park Stations and a t St Mary's. (Pt Mitcham Council)
- Amending existing policies for the residential area at Tonsley.
- As a result of Darlington Upgrade Project configuration, consider:
 - Potential new retail zones to compensate for the demolition of existing local retailing.
 - Policy amendments to address the isolation of some pockets of residential land.
 - Policy amendments required for new properties having a frontage to an arterial road.
- Other strategic opportunities that may be identified by the three Councils.

It is proposed that the DPA will not determine the ultimate configuration of transport infrastructure, rather it will set a planning framework conducive with the locality and the infrastructure to enable the connection of people and place. The goal is to accommodate, and give zoning expression to the land use benefits of the project.

Further information regarding the details of the proposal will be provided as they become available.

During the verbal briefing on the DPA at the SDC Meeting on 6 October 2015 it was suggested that the interchange car park owned by DPTI could be used as an alternative energy link for the installation of solar panels to provide energy opportunities from the car park site.

Although this issue may fall outside the scope of the DPA, this point has been added to Council's letter to the Minister, to ensure this matter is brought to the Minister's attention for his consideration. (Refer Appendix II)

NEXT STEPS

It is anticipated that the next steps in the DPA will include consultation led by the State Government, with various stakeholders including each of the affected Councils.

At some stage in the future, Council may wish to consider a collaborative workshop with the State Government and the Cities of Mitcham and Onkaparinga and/or a briefing from the State Government with respect to its intentions for the area. However, it is likely to be too early for meaningful discussions to be held at the current point in time.

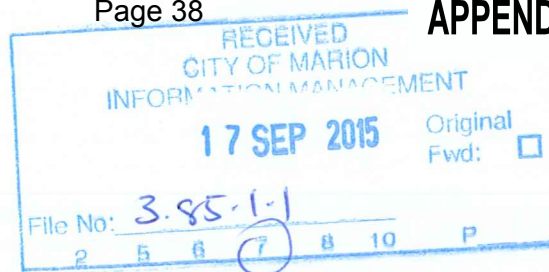
Appendix I: Correspondence from Minister Rau

Appendix II: Draft Submission to Minister Rau

Report Reference: GC101115R

Blueprint file number: 3.71.7.10 (1)

The Hon John Rau MP

Government
of South Australia

9757049

16 September 2015

Mayor Kris Hanna
City of Marion
PO Box 21
OAKLANDS PARK SA 5046

Deputy Premier
Attorney-General
Minister for Justice Reform
Minister for Planning
Minister for Housing and Urban
Development
Minister for Industrial Relations
Minister for Child Protection
Reform
45 Pirie Street
ADELAIDE SA 5000
GPO Box 464
ADELAIDE SA 5001
Tel 08 8207 1723
Fax 08 8207 1736

Dear Mayor *Kris*

Main South Road / Darlington Area Development Plan Amendment by the Minister

I am writing to advise that I have initiated investigations for the drafting of a Development Plan Amendment (DPA) that will affect the Marion (Council), Mitcham (Council) and Onkaparinga (Council) Development Plans.

The proposed DPA is to support the delivery of zoning improvements to enable integrated land use and transport outcomes from the \$620 million government investment in the Darlington Upgrade Project. The DPA will provide a planning policy framework that facilitates and unlocks targeted uplift, enabling the maximum range of land use opportunities to be considered, and which will consider issues such as:

- Updating the outdated institutional zone applying to Flinders University and Flinders Medical Centre/Private Hospital.
- Reviewing the policy applying to the Sturt Triangle including responding to the Kaurna Nation proposal for Warriparinga.
- Providing for increased density around Tonsley and Clovelly Park Stations and at St Mary's.
- Amending existing policies for the residential area at Tonsley.
- As a result of Darlington Upgrade Project configuration, consider:
 - Potential new retail zones to compensate for the demolition of existing local retailing.
 - Policy amendments to address the isolation of some pockets of residential land.
 - Policy amendments required for new properties having a frontage to an arterial road.
- Other strategic opportunities that may be identified by the three Councils.

The DPA will not determine the ultimate configuration of transport infrastructure, rather it will set a planning framework conducive with the locality and the infrastructure to enable the

connection of people and place. The goal is to accommodate, and give zoning expression to the land use benefits of the project.

The attached map indicates the general area of investigation for the DPA.

If you have any questions please contact Kylie Weymouth, Senior Planner of the Department of Planning, Transport and Infrastructure who has been appointed, together with Brenton Burman of AECOM, to manage the DPA. Kylie Weymouth can be contacted on direct telephone number 7109 7070 or by email at Kylie.Weymouth@sa.gov.au and Brenton Burman can be contacted on direct telephone number 7223 5412.

Yours sincerely



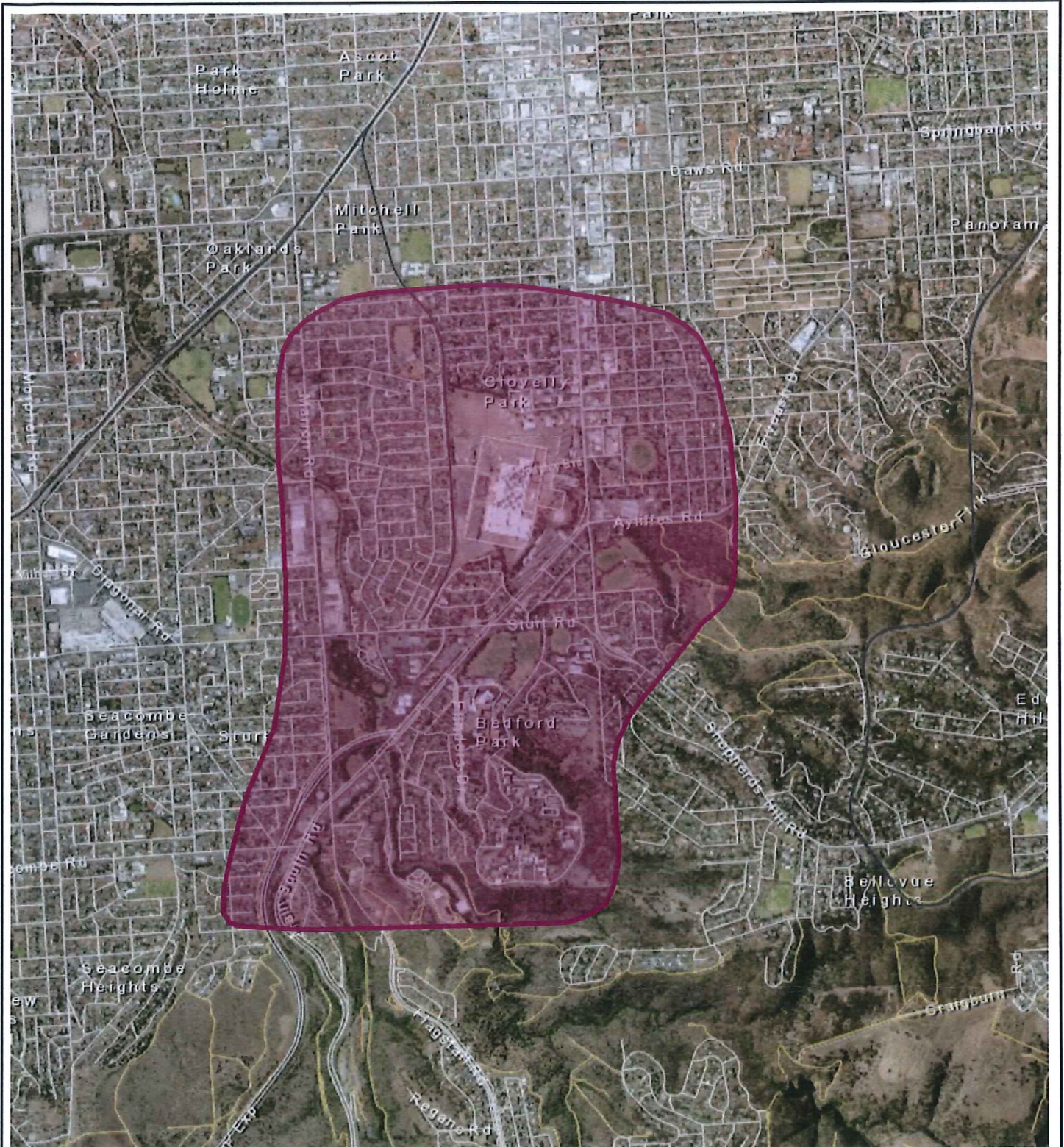
John Rau
Deputy Premier
Minister for Planning

Cc Mr Adrian Skull, Chief Executive Officer

* Investigations are pursuant to sections 24 and 26 of the *Development Act 1993*.

Attachment: Area of Investigations map

SCANNED



Darlington DPA Study Area

Source: LocationSA MapViewer

SCANNED

3.71.7.10

28 October 2015

Honourable John Rau MP
Minister for Planning
GPO Box 464
ADELAIDE SA 5001

Dear Minister Rau,

**MINISTERIAL DEVELOPMENT PLAN AMENDMENT – MAIN SOUTH ROAD/DARLINGTON
AREA DEVELOPMENT PLAN AMENDMENT.**

Thank you for notifying Council of your intentions to commence the above-mentioned Ministerial Development Plan Amendment (DPA).

Council welcomes the opportunity to work with the State Government on developing the policy framework associated with the DPA.

Generally, Council is supportive of the policy intentions identified within your correspondence, in particular, reviewing the out-dated policy framework applying to the Sturt Triangle. Whilst Council acknowledges that the triangle is a strategic site, Council would like to reinforce that any rezoning must not come at the expense of the protection of the open space, wetlands, indigenous heritage and native vegetation within the triangle.

Council requests a briefing from DPTI at the earliest opportunity on the DPA and seeks consideration of the boundaries of the DPA being refined/re-considered as deemed necessary in consultation with all affected Councils.

It is noted that the rezoning incorporates the Tonsley site. Aside from any zoning considerations within this area, Council would like to explore opportunities with the State Government for the established park and ride facility to be used as an alternative energy link with the installation of solar panels to provide energy opportunities.

Council looks forward to working collaboratively with the State Government with respect to this DPA and looks forward to hearing from you at the earliest opportunity.

Yours faithfully

Kris Hanna
Mayor
City of Marion

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Steve Hooper, Manager Development Services
David Melhuish, Senior Policy Planner

Corporate Manager: Steve Hooper, Manager Development Services

Director: Kathy Jarrett

Subject: Planning, Development and Infrastructure Bill 2015

Report Reference: GC101115R03

REPORT OBJECTIVES:

To seek Member's consideration and approval of a Council submission with respect to the Planning, Development and Infrastructure Bill 2015 (the Bill).

EXECUTIVE SUMMARY:

If passed by Parliament the Bill will set the framework and structure for South Australia's new planning system; replacing the Development Act, 1993.

Whilst there is much to be commended about some of the proposed reforms within the Bill there are a number of proposed reforms that are not clear and/or could be of concern to Council.

Council has the opportunity to provide feedback to inform Parliament's consideration of the Bill.

RECOMMENDATIONS (1)

DUE DATES

That Council:

- 1. Approves the submission on the Planning, Development and Infrastructure Bill 2015 and forwards the submission to the Minister for Planning, the Shadow Minister for Planning and other Members of Parliament as determined by Council.**

November 15

BACKGROUND

In February 2013 the State Government appointed an Expert Panel on Planning Reform to review the state planning legislation and system.

The Expert Panel published its final report; '*The Planning System We Want*' on 12 December 2014. In March 2015 the State Government published its response to the Expert Panel's report with a document titled '*Transforming our Planning System*'.

The City of Marion was consulted at various stages during the Expert Panels deliberations as part of its research into the review.

On 8 September 2015 the Planning, Development and Infrastructure Bill 2015 was introduced into Parliament. On 10 September 2015 the Minister for Planning wrote to the Mayor advising of this fact and the education sessions and resources available to users of the planning legislation to gain an understanding of the key features of the Bill. *A copy of the letter is attached as Appendix II.*

The Bill adopts many (if not most) of the recommendations of the Expert Panel.

It is understood that parliament may commence consideration of the Bill in October 2015 and debate on the Bill is likely to be ongoing throughout the later part of 2015 and into the early part of 2016.

ANALYSIS:

If passed by Parliament the Bill will set the framework and structure for South Australia's new planning system; replacing the Development Act, 1993.

The detail for the operation of the proposed framework will be set out in Regulations under the Bill and in a variety of statutory instruments (including a Planning and Design Code). These documents will be developed over a 3 - 5 year implementation program.

The legislation provides for statutory and administrative instruments to have significant operational effect. Aside from the Planning and Design Code which will provide the detail against which development assessments occur, there are statutory and administrative instruments which will have the effect of either including or precluding Council involvement in a range of matters provided for under the Bill.

Whilst there is much to be commended about some of the proposed reforms within the Bill (i.e. reduction in complexity, clearer development assessment pathways, quicker policy amendments) there are a number proposed reforms that are not clear and/or could be of concern to Council (i.e. insufficient implementation detail, reduction in the role of local government in the process and potential cost shifting).

An 'Issues Paper' identifying the key issues for Council in regard to the Bill was provided for consideration and discussion at the 3 November 2015 Elected Members Forum.

Council's submission, *attached as Appendix I*, highlights Council's comments in regard to aspects of the Bill.

Financial Implications

There may be financial implications in relation to enforcement, administration, (i.e. e-planning contributions) and infrastructure.

Resource (capacity) Impact

There may be resource implications in relation to enforcement, and administration (i.e. access to adjacent land).

Policy Implications

There are to be substantial changes to planning related policy and the process involved in amending policy. However, the actual nature and scale will not be known until the related regulations and statutory instruments (i.e. Planning and Design Code) are created.

CONCLUSION:

A submission, highlighting Council's comments in regards to aspects of the Bill is to be forwarded to the Minister for Planning, the Shadow Minister for Planning and other Members of Parliament as determined by Council for consideration during the debate of the Bill in Parliament.

Appendix I: Submission on the Bill

Appendix II: Letter from Minister for Planning regarding the Bill

3.85.1.7

11 November 2015

Honourable John Rau MP
Minister for Planning
GPO Box 464
ADELAIDE SA 5001

Dear Minister Rau,

CITY OF MARION SUBMISSION IN RESPONSE TO PLANNING DEVELOPMENT & INFRASTRUCTURE BILL 2015 ('the Bill')

I write on behalf of the City of Marion in support of a submission on the Planning, Development & Infrastructure Bill 2015.

Council recognises the need for reform and has provided 'in principle' support during the Expert Panel on Planning Reforms consultation stages and at other stages during the reform process.

Council recognises that 'the Bill' has captured many of the reform concepts outlined in the recommendations of the Expert Panel and supports a number of these suggestions within 'the Bill.' However, Council also has a number of concerns that we would like to bring to your urgent attention.

Our four key findings/concerns are provided below:

- **Insufficient detail to provide an informed submission.**

It is difficult to provide a detailed response when much of the finer detail that will inform 'the Bills' implementation has not yet been drafted, for example; Regulations, the Planning and Design Code, the Community Engagement Charter and other design standards and practice directions;

- **Reduction in role of Local Government in the planning process.**

'The Bill' appears to propose a reduction in the role of Councils in both development assessment and planning policy setting. We believe local government and the democratic representation it provides should be central to any new planning system;

- **Potential for cost-shifting to Local Government, in particular with respect to infrastructure provision.**

'The Bill' appears to contain many cost-shifting measures which will require council to fund the implementation of the new system, in particular, the e-planning system and essential infrastructure. These cost shifting mechanisms have the potential to compromise Council's ability to deliver services to its community.

- **Less community involvement in development assessment.**
- Council acknowledges that a new Community Engagement Charter may well provide for meaningful engagement at the policy setting stage. However, this appears to be coming at the expense of engagement at the development assessment stage. It is our observation that the broader community does not interact with the planning system until it directly affects them as either an applicant or representor with direct interest in a specific development application.

Notwithstanding the key issues highlighted above, Council would like to commend the State Government and lend Council's support to the State Government on the following initiatives within 'the Bill'.

- The establishment of a Community Engagement Charter that will adopt more contemporary and meaningful community engagement approaches than the current out-dated reliance on newspaper ads and public meetings which are held towards the end of the policy setting process;
- The emphasis on certainty and reduction in complexity within the proposed legislation, having regard to the complex and varied interpretations within the current legislative framework and having regard to archaic definitions within the current Regulations and Court authorities which have compromised the intent of current legislation and created absurd and untimely obstacles to development implementation;
- In-principle support for clearer pathways for the assessment of development applications, noting however, that much of the detail of this aspect of the legislation is not yet available for examination;
- In-principle support for quicker and less complex policy amendments, noting time delays and legislative hurdles within the current Development Plan Amendment process;
- In-principle support for On-line planning, but with reservations if the financial exposure to Council becomes un-manageable;
- Support for the incorporation and emphasis of design into the planning system;
- Support for Public Notices in front of a property the subject of a development application, though noting that as currently drafted, this initiative may be limited in its implementation;

Further to our key concerns as outlined on page one of our correspondence, Council would like to elaborate further with more specific concerns as follows:

- Council is very concerned with the proposed infrastructure scheme and the potential for council and ratepayers to be paying more than their fair share. There is a risk that councils will be required to contribute to infrastructure costs which are currently met by the State or private sector. Insufficient detail has been provided or attention given in

the legislation with respect to a capping of council contributions, cost and cash flow implications for councils and consultation with Councils prior to an infrastructure scheme being initiated;

- There is no prescribed role for individual councils or communities in the preparation of important strategic policy documents, such as State Policies, Regional Plans and the Planning and Design Code;
- The “one size fits all approach” sought by the Planning and Design Code will dilute the potential for local content with planning policy. It is important that the Code is able to cater for sufficient overlays and subzones where appropriate as there are many unique factors that should be incorporated into planning policy both generally and within the City of Marion;
- Lack of Elected Member representation on Development Assessment Panels. We believe that DAP’s benefit from local knowledge provided by Elected Members and the current balance of Elected and Independent Members provides the right balance for decision-making whilst minimising political influence;
- Council is very concerned with the proposal that requires local government to be involved in Third party access to land. Many applications incorporate retaining walls, fences and the like that require access onto adjoining land. We submit that such matters should be left to individual land owners to resolve between themselves. Council is not in the business of being a mediator in civil matters between neighbours and the resource implications are of concern to Council and will not improve development outcomes;
- Council is concerned with the potential scaling back of community consultation during the development assessment process, recognising our earlier comments that it is difficult to engage the community at the policy setting stage, no matter how sophisticated the level of engagement provided within the associated charter;
- The increase and emphasis on private certification is of concern as it is our experience that some private certifiers do not exercise the same discretion as Council staff and Panels, in particular with respect to current ‘minor’ departures from the Residential Code criteria.

Council would ask that the ‘Bill’ is amended to address the above-mentioned concerns. Council also requests that as further supporting legislation is drafted, in particular, the associated Regulations, Planning Code and Community Engagement Charter that Council is given an opportunity to provide input to the legislation, before it is brought into effect.

Yours faithfully

Kris Hanna
Mayor
City of Marion

The Hon John Rau MP



**Government
of South Australia**

9800860

10 September 2015

Mayor Kris Hanna
City of Marion
PO Box 21
OAKLANDS PARK SA 5046
council@marion.sa.gov.au

Deputy Premier
Attorney-General
Minister for Justice Reform
Minister for Planning
Minister for Housing and Urban
Development
Minister for Industrial Relations
Minister for Child Protection
Reform
45 Pirie Street
ADELAIDE SA 5000
GPO Box 464
ADELAIDE SA 5001
Tel 08 8207 1723
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Dear Mayor

Earlier this year, I wrote to the council mayors providing information about the Government's response to the recommendations of the Expert Panel on Planning Reform.

Since that time the Government has been preparing new planning legislation—the Planning, Development and Infrastructure Bill 2015—which I introduced into parliament on 9 September 2015.

Reforming our planning system is one of this Government's most important priorities. It is the key to delivering those priorities which are common to both state and local government: creating liveable communities, achieving environmental sustainability and securing jobs for future generations.

Over the coming months there will be a series of forums and workshops, organised by the government and other organisations, to familiarise professionals and users of the planning legislation, such as council staff, with the key features of the bill. A full schedule of events is available on my department's website at www.dpti.sa.gov.au/planning/planning_reform.

The website contains the bill, a comparison of the provisions of the old and new legislation, and a great deal of other useful material. Further information and answers to questions can be obtained by calling 1300 857 392.

I encourage councils to take full advantage of these education sessions and resources.

In the new year I will introduce a further bill dealing with various implementation issues. This will be similar to how the *Local Government Act 1999* was implemented. This approach will allow the Government to work with councils to put in place a suitable implementation plan.

I look forward to working with you on implementing the new planning legislation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Rau'.

John Rau
Deputy Premier
Minister for Planning

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Anna White, Team Leader Community Safety Inspectorate
Corporate Manager: Margi Whitfield, Manager Community Participation
Director: Abby Dickson, Acting Director
Subject: Dogs By-Law Amendment
Report Reference: GC101115R04

REPORT OBJECTIVES:

At the General Council meeting of Tuesday 28th of July 2015 Council passed the following resolution:

1. *Require Administration prepare a report on:*
 - a. *“Dog Exercise Areas”, where dogs may be exercised off leash; the report include recommendations on whether time restrictions are appropriate; And*
 - b. *Potential dog free spaces, where if at all, it might be appropriate to prohibit dogs.*
2. *Subject to the outcomes of the report provided in October commence the process to amend the Dog By-Law in order to nominate a list of reserves and public spaces that are considered appropriate for “Dog Exercise Areas”*

The purpose of this report is to provide Elected Members with a list of options for consideration which will expand the nominated dog on leash areas across the city.

EXECUTIVE SUMMARY:

Under the current By-law No.4 Dogs (Appendix 1), every reserve in the City of Marion is a ‘dog exercise area’ (dog off leash) apart from those areas which have been specifically declared ‘dog on leash areas’ that is:

- public roads, footpaths and public places, except parks unless specified by council By-laws
- on any park or reserve when organised sport is being played
- within 5 metres of children’s’ playground equipment
- in any wetland

‘Dog on leash areas’ require the dog to be secured by a strong leash not exceeding two metres in length which is either tethered securely to a fixed object capable of securing the dog, or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

The City of Marion currently does not have any areas set aside for the sole purpose of exercising dogs (dog parks).

There are a number of options available to Council for consideration, regarding the management of dogs:

1. Retain status quo
2. Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash)
3. Expansion of nominated dog on leash areas except during nominated times
4. Nominated dog exercise areas with all other areas designated as dog on leash

It is recommended that Option 2 “Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash)”. This is in keeping within the current By-law which is specifically drafted to accommodate this approach. This recommendation also takes into account the numerous parcels of undeveloped land which are appropriate for dog exercise.

An expansion of the current situation would be the most effective and efficient way of achieving the desired outcome of providing further balance between dogs and people in open space. It is believed that this model delivers on Council’s intention of providing choice and increased sense of safety for the community.

RECOMMENDATIONS (3)

DUE DATES

That:

- | | |
|--|--------------------|
| 1. Council endorses Option 2 “Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash).” | 10 Nov 2015 |
| 2. Council endorse the allocation of up to \$41,250 to fund the implementation of Option 2 and that these funds be sourced from identified savings resulting from the 2014/15 financial year. | 10 Nov 2015 |
| 3. A report will be brought back to Council with the results of the consultation undertaken prior to implementation. | April 2016 |

BACKGROUND

It is important that sufficient space is provided for dogs to be appropriately exercised within the City of Marion. Dogs that are well exercised will less likely engage in nuisance behaviours such as barking. There are approximately 13,000 dogs in our community and dogs need to be integrated safely into the wider community. With the increasing urban density and decrease in size of private outdoor space available to dogs, there will be an on-going need to provide options and dog friendly spaces and places for dogs to be appropriately socialised and exercised.

Under the current By-law No.4 Dogs, every reserve in the City of Marion is a ‘dog exercise area’ (dog off leash) apart from those areas under the By-law which have been specifically declared ‘dog on leash areas’ that is:

- public roads, footpaths and public places, except parks unless specified by council By-laws
- on any park or reserve when organised sport is being played
- within 5 metres of children’s’ playground equipment
- in any wetland

'Dog on leash areas' require the dog to be secured by a strong leash not exceeding two metres in length which is either tethered securely to a fixed object capable of securing the dog, or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

Several councils in the Adelaide Metropolitan area have adopted nominated dog on leash parks. Nominated areas provide choice for the community and a level of expectation about how a dog might be managed in that particular area. This is a viable option for the City of Marion but would mean a reduction in areas where dogs could be freely exercised.

There are approximately 247 reserves/parks that are dog exercise areas. Of those, 105 areas are classified as play space. The City of Marion must carefully consider and balance the needs of those community members who wish to have a choice about the presence of dogs and their activity in a particular area and those community members who require appropriate local space to exercise their dogs.

Most councils that have introduced restricted areas for dogs have dog parks for the specific purpose of exercising dogs. Currently the City of Marion does not have any dog parks but Council has (GC140611R08) endorsed 'that two additional dog parks be created within the City of Marion within the next five years (2012-2017)'. Council endorsed the development of detailed design and construction of the Reserve Street Reserve Dog Park at the 27 October 2015 General Council Meeting. This will be the first formal dog park in the City of Marion. At this stage, the second dog park remains unplanned and unfunded. A report will be brought back to Council regarding the establishment of a second dog park in the northern part of the city in 2016 detailing costs and potential locations.

DISCUSSION

There are 4 options available to Council for the management of dogs in parks:

1. Retain status quo
2. Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash)
3. Expansion of nominated dog on leash areas, except during nominated times
4. Nominated dog exercise areas with all other areas designated as dog on leash

Option 1, Retain status quo (Not Recommended)

The current approach of all areas being dog exercise provides a great deal of choice to dog owners wishing to exercise their dogs across the City of Marion and it is a By-law that the community are familiar with. Whilst this provides a number of areas for such activity, it is limiting for those members of the public who wish to visit a park or reserve where there is more control exercised over dogs.

If Council opts for the status quo further options can be explored in community consultation with the redevelopment of the Animal Management Plan which would commence in early 2017. The Dog and Cat Management Act 1995 (DCM Act) requires all Councils to produce a plan of management relating to dogs and cats within their area and must include provisions for parks where dogs may be exercised off-leash, parks where dogs must be under effective control and also may include provisions for parks where dogs are prohibited. As The City of Marion would already be conducting consultation with the community this would provide an opportunity to explore possible options and hear a wide range of views in the same forum.

Option 2, Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash) (Recommended)

An expansion of the current situation would be the most effective and efficient way of achieving the desired outcome of further balance between dogs and people in open space. It is believed that this model delivers on Council's intention of providing choice and increased sense of safety for the community.

To identify further dog on leash areas the following criteria has been applied:

- Type of open space
- Proximity to other facilities/amenities
- Environmental significance
- Conflict of activity
- Providing choice for the community
- Spread of dog exercise areas across the city

This has resulted in the identification of 98 potential open spaces which Council can designate as dog on leash areas. A list of these spaces are attached as Appendix 2. 149 open spaces would remain dog off leash and these are attached as Appendix 3.

A map is also included as Appendix 4 which shows the spread of dog exercise and dog off leash areas across the city.

An expansion of the current approach would deliver the following benefits:

- Increase dog control where there is a need e.g. Sturt Linear Bike Track, Coast to Vines Trail.
- Maintain community familiarity with the current By-law
- Maintain alignment with DCM Act
- Provide choice for the community
- Potentially reduce complaints related to dogs in parks

If endorsed, Council would list dog on leash areas in a resolution under the current By-law which is specifically drafted to accommodate this approach.

Option 3, Expansion of nominated dog on leash areas except during nominated times (Not Recommended)

An expansion of nominated dog on leash areas with the inclusion of timed areas, would provide additional exercise space however may prove confusing for members of the public as to how this works and when it is or isn't in operation. This option may be something council considers in the future once the community are familiar with the expansion of the dog on leash areas and the introduction of dog parks. In addition, if Council opted for timed areas for dogs, the current By-law does not expressly provide for this and therefore this would require a change in By-law. This is not recommended to council.

Option 4, Nominated dog exercise areas with all other areas dog on leash (Not Recommended)

Whilst technically this option would not be unlawful it is not in keeping with the intention of the DCM Act which requires councils to develop management plans that include provisions for parks where dogs are under effective control by means of physical restraint and parks where dogs can be exercised off leash. Any change to By-law must also be reviewed by the Dog and Cat Management Board and any outcomes of this review must be considered by Council. If viewed negatively by the Board, this could impact the State Government Legislative Review Committees' consideration of the policy implication and therefore the Council's ability to change the By-law.

Currently there are less proposed dog on leash areas as there are a number of parcels of land in the City of Marion that have no play space and are suitable dog exercise areas. Changing the By-law for this reason would not be an efficient way of effecting change as Council would then have to declare a large number of dog exercise areas. The best option is to stay in keeping with the DCM Act and list the dog on leash areas as Option 2 suggests.

Prohibition of Dogs

The prohibition of dogs is a separate matter through the By-law and Council can declare areas where dogs are prohibited by council resolution, without the requirement to change the By-law. Prohibiting dogs in certain areas is appropriate and the City of Marion currently has one area of Hazelmere Reserve to which this applies. This is a useful option and it is recommended that this type of prohibition be used for specific uses, for example sensitive wildlife areas such as breeding habitats for birds. Consultation with the Bio Diversity Officer has indicated that there is no current need for this.

Consultation

Internal consultation has taken place with the Communications, Open Space, Strategy and Risk departments.

Should council endorse Option 3 or 4, community consultation is a legal requirement. This would include consultation with the Dog and Cat Management Board and three weeks of community consultation.

Should Council select Option 2, it is also recommended that consultation is undertaken in line with the City of Marion Community Consultation Policy. The management of dogs has high levels of public interest and any changes are best supported through community engagement. The benefit of this process is that it would provide an opportunity to identify potential community resistance and may highlight some issues during the implementation phase if there has been any missed opportunity to truly understand how the community prefer to interact with dogs on and off leash in parks and reserves.

Consultation would involve activities such as:

- General information on the City of Marion website
- Information brochures developed with key messages with links to Making Marion
- Online and paper based surveys
- Social media
- Articles in relevant publications

It is envisaged that consultation would take place in November and December 2015.

Legal / Legislative / Policy Implications

There are specific requirements under the Dog and Cat Management Act and the Local Government Act should Council choose to amend the By-law (Options 3 and 4). Dealing with dog management is in keeping with our legislative commitments under the Dog and Cat Management Act.

Financial Implications

There is no provision for the body of work required to implement change in the current budget. It is estimated that the cost of the work would be in the order of \$41,250 for a change through Council resolution or \$45,950 for an amendment to By-Law. Should Council wish to support the recommendation the funding required would be allocated from identified savings resulting from the 2014/15 financial year.

The approximate costing for change via Council resolution is:

Community engagement and consultation	\$10,000
Legal Fees	\$ 1,800
Signage	\$29,450
Total	\$41,250

OR

The approximate costing for an amendment to By-law is:

Community engagement and consultation	\$10,000
Legal Fees	\$ 6,500
Signage	\$29,450
Total	\$45,950

Resource (capacity) Impact

The implementation of the Dog By-law relies upon the current resources of the Community Safety Inspectorate Team. Any change to the By-law through resolution or amendment will have a resource impact both in the implementation and on-going monitoring and enforcement. However, the resource impact is achievable within existing resources. Council should note that after initial community education, monitoring of reserves and parks will remain consistent with current practices.

Social / Cultural Impact

Dog management activities complement work undertaken by the broader organisation to contribute to community safety and wellbeing.

CONCLUSION:

There are a number of viable options available in order to provide choice to the community with respect to dog on leash or exercise areas. Change can be implemented through a Council resolution or through a By-law amendment.

Should council choose to proceed to change, it is recommended that Option 2 (Expansion of nominated dog on leash areas with all other areas being designated as dog exercise (dog off leash) be implemented through council resolution. This option is in keeping within the current By-law which is specifically drafted to accommodate this approach and is the most effective and efficient way of implementing change whilst balancing the needs of the community. If Council should select this option, it is also recommended that the community is consulted on the proposed changes before council endorsement through resolution.

Appendix 1 - City of Marion Dog By-law

Appendix 2 – Proposed dog on leash areas

Appendix 3 – Map of proposed dog on and off leash areas



CITY OF MARION

*By-law made under the Local Government Act 1999
and the Dog and Cat Management Act 1995*

DOGS BY-LAW 2014

By-law No. 4 of 2014

For the management and control of dogs within the Council's area.

Part 1 – Preliminary

1. Short Title

This by-law may be cited as the *Dogs By-law 2014*.

2. Commencement

This by-law will come into operation four months after the day on which it is published in the *Gazette* in accordance with Section 249(5) of the *Local Government Act 1999*.

3. Definitions

In this by-law:

- 3.1 **approved kennel establishment** means a building, structure or area approved by the relevant authority, pursuant to the *Development Act 1993* for the keeping of dogs on a temporary or permanent basis;
- 3.2 **assistant dog** means a guide dog, hearing dog or disability dog as those terms are defined in the *Dog and Cat Management Act 1995*;
- 3.3 **children's playground** means any enclosed area in which there is equipment, apparatus or other installed devices for the purpose of children's play (or within 5 metres of such devices if there is no enclosed area);
- 3.4 **control**, in relation to a dog, includes the person having ownership, possession or charge of, or authority over, the dog;
- 3.5 **dog** has the same meaning as in the *Dog and Cat Management Act 1995*;
- 3.6 **dog management officer** means a person appointed pursuant to Section 27 of the *Dog and Cat Management Act 1995*;
- 3.7 **effective control** means a person exercising effective control of a dog either:
 - 3.7.1 by means of a physical restraint;

- 3.7.2 by command, the dog being in close proximity to the person, and the person being able to see the dog at all times;
- 3.8 **keep** includes the provision of food or shelter;
- 3.9 **local government land** has the same meaning as in the *Local Government Act 1999*;
- 3.10 **small property** means a property involving any self-contained dwelling where the property or part thereof (ie flat, home unit etc) contains a secured unobstructed yard area of less than 100 square metres;
- 3.11 **wetland area** includes any park, reserve, scrub, trail or other land adjacent to a wetland.

Part 2 – Dog Management and Control

4. Dog Free Areas

A person must not on any local government land to which this paragraph applies allow a dog in that person's control to be in, or remain in that place unless the dog is an assistant dog.

5. Dog on Leash Areas

A person must not allow a dog under that person's control to be or remain:

- 5.1 on local government land or public place to which the Council has resolved that this subparagraph applies;
- 5.2 on any park or reserve during times when organised sport is being played;
- 5.3 within 5 metres of children's playground equipment;
- 5.4 in any wetland area;

unless the dog is secured by a strong leash not exceeding 2 metres in length which is either tethered securely to a fixed object capable of securing the dog or held by a person capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

6. Dog Exercise Areas

- 6.1 A person may enter upon any part of local government land identified by the Council as a dog exercise area in accordance with paragraph 9 for the purpose of exercising a dog under his or her control.
- 6.2 Where a person enters upon such part of local government land for that purpose, he or she must ensure that the dog under his or her control remain under effective control while on that land.

7. Limit on Dog Numbers

- 7.1 The limit on the number of dogs kept:

- 7.1.1 in a small property shall be one dog;
 - 7.1.2 in premises other than a small property, where a dog can be effectively contained, the limit shall be two dogs;
 - 7.1.3 a dog must not be kept on any property where, in the opinion of a dog management officer, there is no secure or appropriate area where a dog may be effectively contained.
- 7.2 A person must not, without permission, keep any dog on any premises where the number of dogs on the premises exceeds the limit unless:
- 7.2.1 the premises is an approved kennel establishment; or
 - 7.2.2 the Council has exempted the premises from compliance with this sub-paragraph.

8. Dog Faeces

A person must not, on local government land or on any road or footpath, be in control of a dog, unless the person has, in his or her possession, a bag or other object for the purpose of picking up and lawfully disposing of any faeces that the dog may generate while in that place.

Part 3 – Miscellaneous

9. Application

- 9.1 Any of paragraphs 5.1 and 6.1 of this by-law shall apply only in such portion or portions of the area as the Council may by resolution direct from time to time in accordance with Section 246 of the *Local Government Act 1999* and as are denoted by signs erected by the Council and information provided to the public in a manner determined by the Council's Chief Executive Officer.
- 9.2 The limits prescribed in paragraph 7 of this by-law do not include any dog that is under three months of age.

10. Revocation

Council's *By-law No. 4 – Dogs*, published in the *Gazette* on 31 July 2008, is revoked on the day on which this by-law comes into operation.

The foregoing by-law was duly made and passed at a meeting of the Council of the Corporation of the City of Marion held on the 26 day of August 2014 by an absolute majority of the members for the time being constituting the Council, there being at least two thirds of the members present.



.....
Mr Mark Searle
Chief Executive Officer

Appendix 2

List of reserves/parks in the City of Marion	Dog Exercise Areas (dog off leash)	Proposed Dog on Leash Areas
Addison Road Reserve		√
Admella Ct Reserve	√	
Alawoona Avenue Reserve 1	√	
Alawoona Avenue Reserve 2	√	
Aldridge Avenue Reserve		√
Alia Drive Reserve		√
Alison Avenue Reserve	√	
Alpine Road Reserve	√	
Antonia Circuit Reserve	√	
Appleby Road Reserve	√	
Arachne Drive Reserve	√	
Arafura Court Reserve	√	
Aroona Road Reserve	√	
Audrey Street Reserve		√
Ballara Park Reserve		√
Bandon Terrace Reserve		√
Barton Drive Reserve		√
Bayley Circuit Reserve	√	
Beeches Road Reserve	√	
Ben Pethick Reserve		√
Berrima Road Reserve	√	
Bombay Street Reserve	√	
Brabham Straight		√
Branksome Terrace Reserve	√	
Breakout Creek Reserve Central	√	
Breakout Creek Reserve South	√	
Brenda Street Reserve		√
Bristol Street Reserve	√	
Brolga Place Reserve		√
Brooklyn Drive Reserve	√	
Byron Avenue Reserve		√
Cadell Street Reserve	√	
Capella Drive Reserve	√	
Capella Skate Park		√
Caswell Drive Reserve	√	
Central Avenue Reserve		√
Central Avenue Reserve 2	√	
Chambers Street Reserve		√
Chatsworth Court Reserve		√
Chestnut Court Reserve	√	

List of reserves/parks in the City of Marion	Dog Exercise Areas (dog off leash)	Proposed Dog on Leash Areas
Chifley Crescent Reserve	√	
Chittleborough Reserve No 1	√	
Chittleborough Reserve No 2	√	
Christopher Grove Reserve	√	
Clare Avenue Reserve		√
Clifftop Crescent Reserve	√	
Clifton Avenue Reserve		√
Clubhouse Road Hall		√
Coast to Vines Rail Trail		√
Cohen Court Reserve	√	
Columbia Crescent Reserve	√	
Coorabie Crescent Reserve	√	
Cormorant Drive Reserve 1	√	
Cormorant Drive Reserve 2	√	
Cosgrove Hall		√
Cowra Crescent Reserve 1	√	
Cowra Crescent Reserve 2	√	
Crown Street Reserve	√	
Crystal St Reserve	√	
Dana Court		√
Daws Road Reserve		√
Denham Avenue Reserve	√	
Diagonal Way Reserve		√
Doulton Drive Reserve	√	
Dumbarton Ave Reserve		√
Dwyer Road Reserve	√	
Edwardstown Memorial Oval	√	
Edwardstown Velodrome		√
Elizabeth Ryan Playground		√
Elura Avenue Reserve	√	
Enginehouse Court Reserve	√	
Esplanade Reserve Marino	√	
Eurelia Road Reserve/Elgata Reserve		√
Everest Avenue Reserve	√	
Eyre St Reserve		√
Fairford House Gardens		√
Fairford House Reserve		√
Fairhill Reserve	√	
First Ave Reserve		√
French Crescent Reserve	√	
Fryer Street Reserve	√	
George Street Reserve	√	

List of reserves/parks in the City of Marion	Dog Exercise Areas (dog off leash)	Proposed Dog on Leash Areas
Glade Crescent Reserve		√
Glandore Community Centre		√
Glandore Oval	√	
Grace Road Land	√	
Grand Central Avenue Reserve		√
Gretel Crescent Reserve	√	
Gully Road Reserve North	√	
Gully Road Reserve South	√	
Hallett Close Reserve	√	
Hamilton Court Reserve		√
Hamilton Park Reserve		√
Harbrow Grove Reserve	√	
Hawkesbury Avenue Reserve		√
Hazelmere Road Reserve	√	
Heron Way Reserve		√
Hessing Crescent Reserve	√	
Heysen Drive Reserve	√	
Holder Parade Reserve	√	
Hugh Johnstone Boulevard Reserve	√	
Hughes Court Reserve	√	
Hume Street Reserve	√	
Islington Drive Reserve	√	
Jacaranda Grove Reserve - Peppertree Reserve	√	
Jasmine Ave Reserve	√	
Joan Avenue Reserve		√
Kalmia Court Reserve	√	
Kappler Court Verge		√
Karkoo St Reserve		√
Kellett Reserve Land		√
Kellett Reserve Oval	√	
Kendall Reserve		√
Kensington Street Reserve	√	
Kent Avenue Reserve	√	
Kenton Avenue Reserve	√	
Klippel Ave Reserve	√	
Koomooloo Crescent Reserve		√
Kurnabinna Tce Reserve	√	
Lander Road Reserve	√	
Lapwing Street Reserve	√	
Linear Park Reserve	√	
Louise Avenue Playground		√
Lucrecia Way Reserve	√	

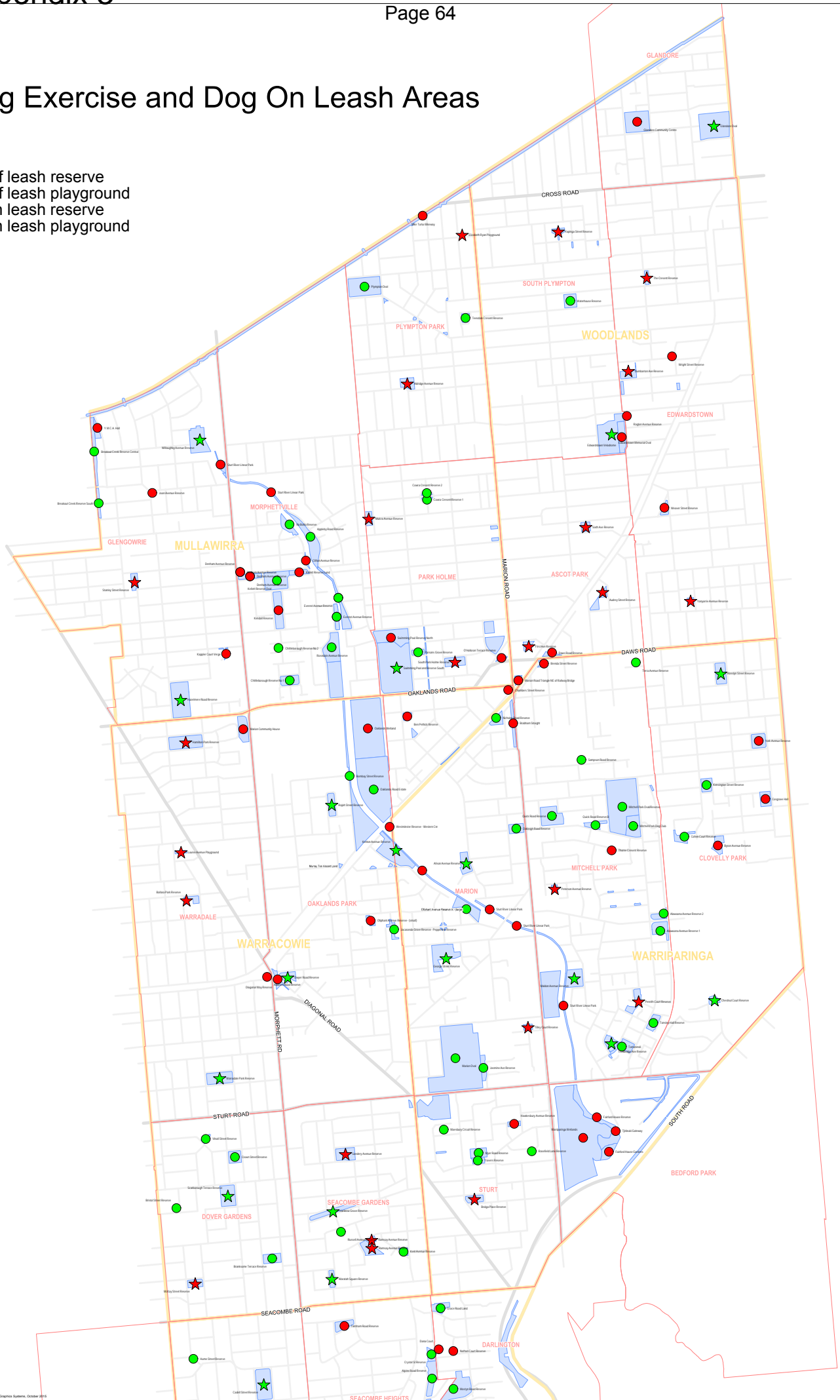
List of reserves/parks in the City of Marion	Dog Exercise Areas (dog off leash)	Proposed Dog on Leash Areas
Luke Court Reserve		√
Maesbury Circuit Reserve	√	
Maldon Avenue Reserve	√	
Manoora Drive Reserve		√
Manunda Way Reserve		√
Marino Community Hall		√
Marino Rocks Public Toilet		√
Marion Coastal Walking Trail		√
Marion Community House		√
Marion Golf Course		√
Marion Oval	√	
Marion Road Triangle NE of Railway Bridge		√
Matthew Street Reserve	√	
McConnell Avenue Reserve	√	
McKay Street Reserve		√
Mema Court Reserve		√
Mike Turtar Bike Way		√
Miners Court Reserve	√	
Mitchell Park Dog Club	√	
Mitchell Park Oval/Reserve	√	
Mitchell Street Reserve		√
Montague Drive Reserve	√	
Morford Reserve	√	
Morphett Road Reserve	√	
Mostyn Road Reserve	√	
Mulcra Avenue Reserve		√
Myer Road Reserve	√	
Na Botto Reserve	√	
Nannigai Drive Reserve		√
Nari Drive Reserve	√	
Nathan Court Reserve		√
Newland Ave Linear Park	√	
Newland Avenue Reserve		√
Nicholas Road Reserve	√	
Nimboya Road Reserve		√
Oaklands Road Estate	√	
Oaklands Wetland		√
Oakleigh Road Reserve	√	
Oakvale Way Reserve		√
Oceana Reserve		√
O'Halloran Terrace Reserve		√
Oliphant Avenue Reserve A - (large)	√	

List of reserves/parks in the City of Marion	Dog Exercise Areas (dog off leash)	Proposed Dog on Leash Areas
Olivier Terrace Reserve	√	
Parsons Grove Reserve	√	
Pavana Reserve	√	
Penrith Court Reserve		√
Percival Crescent Reserve	√	
Perry Barr Farm	√	
Peter Court Reserve	√	
Peterson Avenue Reserve		√
Phyllis Court Reserve	√	
Plympton Oval	√	
Quick Road Reserve	√	
Quick Road Reserve B	√	
Ragamuffin Drive Reserve	√	
Raglan Avenue Reserve		√
Rajah Street Reserve	√	
Ramsay Avenue Reserve		√
Ranger Street Reserve	√	
Reserve Street Reserve	√	
Resolute Crescent Reserve		√
Robertson Place Reserve	√	
Rosedale Avenue Reserve	√	
Rosefield Lane Reserve	√	
Roslyn Street Reserve	√	
Roy Lander Reserve	√	
Russell Avenue Reserve	√	
Sampson Road Reserve	√	
Sandery Avenue Reserve		√
Sandy Glass Court Reserve		√
Scarborough Terrace Reserve	√	
Scarvel Avenue Reserve	√	
Shamrock Road Reserve	√	
Sixth Ave Reserve		√
Skipper Close Reserve	√	
South Park Holme Reserve		√
South Road Reserve	√	
South Road Reserve2	√	
Southbank Boulevard Reserve	√	
Spinnaker Circuit Reserve - East	√	
Spinnaker Circuit Reserve - West		√
Stanley Street Reserve		√
Strutt Court Reserve	√	
Sturt River Linear Park		√

List of reserves/parks in the City of Marion	Dog Exercise Areas (dog off leash)	Proposed Dog on Leash Areas
Sturt River Linear Trail		√
Swimming Pool and Reserve North		√
Swimming Pool and Reserve South	√	
Tarnham Road Reserve		√
Tartonendi	√	
Teesdale Crescent Reserve	√	
Terra Avenue Reserve	√	
The Cove Oval and Sports Club	√	
The Crescent Reserve		√
The Esplanade Reserve South	√	
Thorne Crescent Reserve		√
Tilley Court Reserve		√
Tjirbruki Gateway		√
Tonsley Hall Reserve	√	
Travers Reserve	√	
Trowbridge Ave Reserve	√	
Tyson Avenue Reserve	√	
Vinall Street Reserve	√	
Vista Street Reserve	√	
Waratah Square Reserve	√	
Warradale Park Reserve	√	
Warriparinga Wetlands		√
Waterhouse Reserve	√	
Weaver Street Reserve		√
Weerab Drive Reserve	√	
West Street Reserve	√	
Westall Way Reserve		√
Westcliff North End Reserve		√
Westcliff Reserve	√	
Westminster Reserve - Western Cnr		√
Willoughby Avenue Reserve	√	
Wistow Crescent Reserve		√
Wright Street Reserve		√
Y.M.C.A. Hall		√
Yanyarrie Avenue Reserve		√
Yapinga Street Reserve		√
York Avenue Reserve		√
Young Street Reserve	√	
Zwerner Drive Reserve	√	

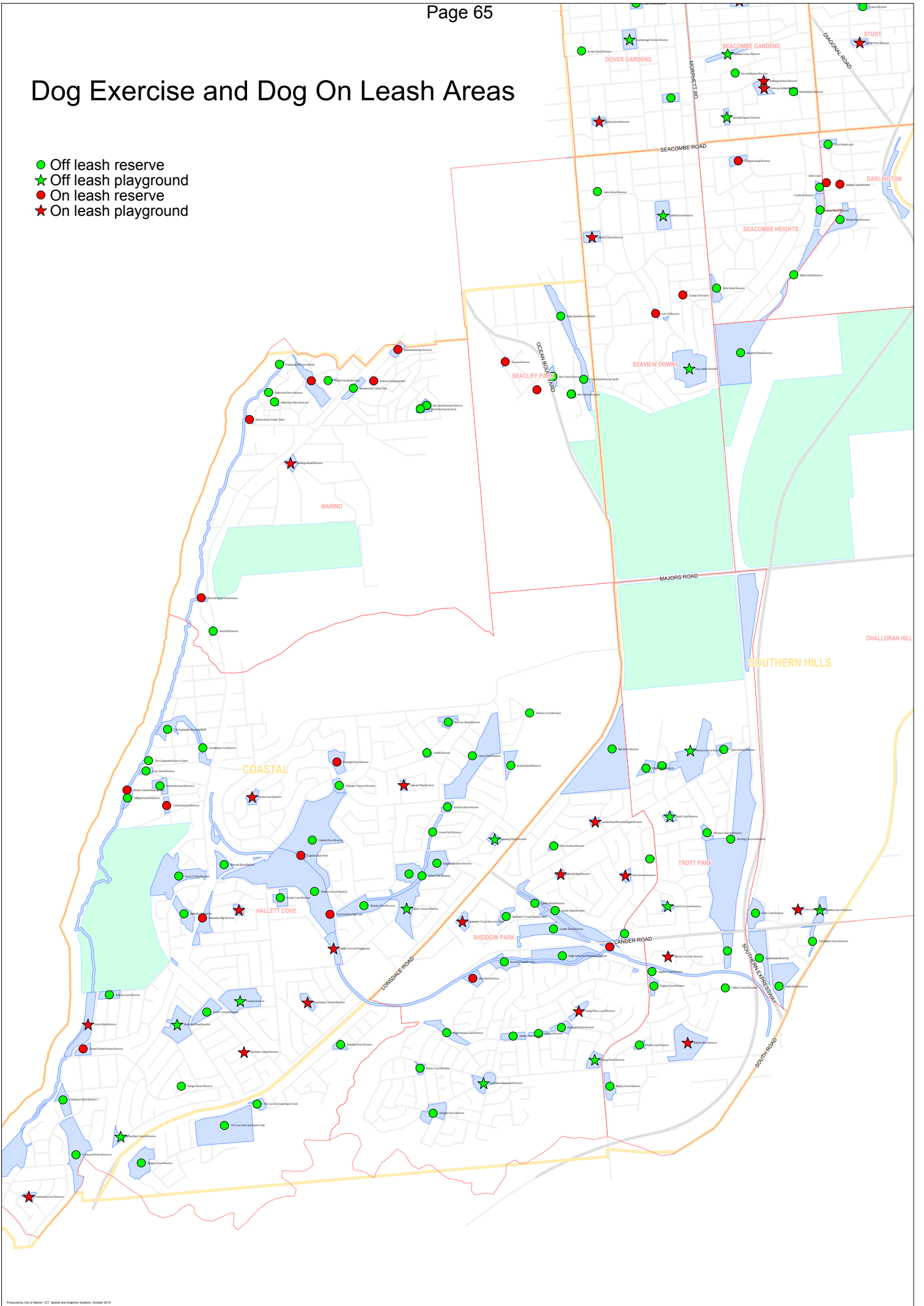
Dog Exercise and Dog On Leash Areas

- Off leash reserve
- ★ Off leash playground
- On leash reserve
- ★ On leash playground



Dog Exercise and Dog On Leash Areas

- Off leash reserve
- ★ Off leash playground
- On leash reserve
- ★ On leash playground



**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Jaimie Thwaites, Unit Manager Council Support
Corporate Manager: Kate McKenzie, Manager Governance
Director: Kathy Jarrett
Subject: Annual Review of the Schedule of Delegations
Reference No: GC101115R05

REPORT OBJECTIVE AND EXECUTIVE SUMMARY:

In accordance with Section 44(6) of the *Local Government Act 1999* Council must have a separate record of all delegations and this should be reviewed every financial year. The last full review of the schedule of delegations was completed in September 2014 and updated in April 2015.

This report provides a full review for the 2015/16 financial year to ensure that Council is compliant with the relevant legislation and provides for effective, efficient and appropriate decision making by Council officers.

Following on from the last update of the Schedule of Delegations in April 2015, a number of changes are recommended due to legislative amendments and changes to the Local Government Association templates.

This report provides details of the changes to the Schedule of Delegations including amendments for the following Acts:

- Development Regulations 2008,
- Local Government Act 1999,
- Real Property Act 1886,
- Authorisations under Road Traffic Act 1961,
- SA Public Health (Legionella) regulations 2013 and
- Supported Residential Facilities Act 1992

and seeks Council's adoption of the revised delegations.

RECOMMENDATIONS (4):

That having conducted its annual review of the Council's Delegations Register in accordance with Section 44(6) of the Local Government Act 1999, the Council:

1. Revocations

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

1.1.1 Development Regulations 2008

- 1.1.2 Local Government Act 1999
- 1.1.3 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
- 1.1.4 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013
- 1.1.5 Supported Residential Facilities Act 1992
- 1.1.6 Real Property Act 1886

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 1-6 (each of which is individually identified as indicated below) are hereby delegated this 10th day of November 2015 to the person occupying the office of Chief Executive Officer subject to the conditions and or limitations specified herein or in the Schedule of Conditions in each such proposed Instrument of Delegation.

2.1.1 Local Government Act 1999 (Appendix 1)

2.1.2 South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013 (Appendix 2)

2.1.3 Real Property Act 1886 (Appendix 3)

2.1.4 Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999 (Appendix 4)

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.

3. Authorisations and Subdelegation under the Road Traffic Act 1961

3.1 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:

Clause A.1 – Unit Manager Engineering Services;

Clause B.1 – Unit Manager Civil Services;

Clause C.1 – Unit Manager Civil Services;

Clause D.1 – Unit Manager Engineering Services;

Clause E.1 – Unit Manager Civil Services;

- 3.2 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:**

Unit Manager Engineering Services

- 3.3 In exercise of the power contained in, and in accordance with, Clause G.1 of the Instrument, the power contained in Section 33(1) of the Road Traffic Act 1961 and delegated to the Council pursuant to Clause G of the Instrument and contained in the proposed Instrument of Subdelegation (Appendix 4) is hereby sub-delegated this 10th day of November 2015 to the person occupying the office of Chief Executive Officer of the Council subject to:**

- (i) the conditions contained in the Instrument; and**
- (ii) any conditions contained in this Resolution or in the Instrument of Subdelegation.; and**
- (iii) the creation of a separate instrument in writing reflecting such subdelegation under the Instrument and this Resolution.**

- 3.4 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:**

Unit Manager Engineering Services

4. Delegations made under Development Act 1993

- 4.1 In exercise of the powers contained in Section 20 and 34(23) of the Development Act 1993, the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (Appendix 5) are hereby delegated this 10th day of November 2015 to the person occupying the office of Chief Executive Officer subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.**

- 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 Development Act 1993.**

- 4.3 In exercise of the powers contained in Section 20 and 34(23) of the Development Act 1993 the powers and functions under the Development Act 1993 and the Development Regulations 2008 contained in the proposed Instrument of Delegation (Appendix 5) and which are specified below are**

hereby delegated to the Council's Development Assessment Panel, subject to any conditions specified herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Development Act 1993.

Ref DA/DAP – 119 (Sections a – f)

5. Delegations under Supported Residential Facilities Act 1992

5.1 In exercise of the power contained in Section 9 of the Supported Residential Facilities Act 1992, the powers and functions under the Supported Residential Facilities Act 1992 contained in the proposed Instrument of Delegation (Appendix 6) are hereby delegated this 10th day of November 2015 to the person occupying the office of Chief Executive Officer subject to the conditions or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.

5.2 Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the Supported Residential Facilities Act 1992.

BACKGROUND:

Councils have certain duties which they must perform, and certain powers which they may exercise, pursuant to the Local Government Act 1999 as well as a range of other Acts. In most cases the relevant Acts grant those obligations and powers directly on the Council as a body.

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

Therefore it is necessary for the Council to take formal steps to delegate to such people/bodies the authority to make decisions, perform functions or undertake activities on behalf of the Council.

As a matter of best practice it is usual for delegations to be made by the Council to the Chief Executive Officer (or equivalent). Once the delegations to the Chief Executive Officer have been made, the Chief Executive Officer may then make sub-delegations to relevant Council officers (or such other bodies as are allowable, such as committees in some cases).

Section 44 of the Local Government Act 1999 provides the framework within which delegations may be made including the identification of a number of areas that cannot be delegated.

Section 44 (6) of the Local Government Act 1999 also provides that a review of delegations should be undertaken once in every financial year.

DISCUSSION:

After reviewing the existing schedule of delegations no changes were identified under the following Acts:

- Community Titles Act 1996
- Development Act 1993
- Environment Protection Act 1993
- Expiation of Offences Act 1996
- Fences Act 1975
- Fire & Emergency Services Act 2005
- Food Act 2001
- Freedom of Information Act 1991
- Heavy Vehicle National Law (Sa) Act 2013
- Housing Improvement Act 1940
- Land & Business (Sale & Conveyancing) Act 1994
- Liquor Licensing Act 1997
- Local Government Act 1934
- Natural Resources Management Act 2004
- Roads (Opening & Closing) Act 1991
- Road Traffic Act 1961
- Strata Titles Act 1988
- Water Industry Act 2012 and Water Industry Regulations 2012
- Work Health and Safety Act 2012
- Unclaimed Goods Act 1987

Provided below are sections of the City of Marion Schedule of Delegations that have been updated on the basis of:

- reviewing operations in the context of staff having the necessary authority to carry out their roles. It is also important that delegations operate at the lowest appropriate level within the organisation to improve efficiency and effectiveness.
- legislative changes that have occurred since the last review of the delegations,
- amendments made to the delegation templates on the Local Government Association's secure website and
- changes to position titles and responsibilities at the City of Marion since the last review.

A summary of the changes are below for your information.

Any changes which relate to powers, functions or duties (or part thereof) which have not previously been delegated are highlighted in grey in the table below, as well as marked-up in the appendix with the related Instrument of Delegation:

Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act	Whether change is Addition/ Amendment/ Deletion
Instrument of Delegation under the Development Regulations	95.2	Regulation78(4)(d)	Deletion
	97.3	Reg 82(5)	Addition
	108.1	Clause 2B(4)(b) Schedule 4	Amendment

Act Document/ Page on Website	Para number in instrument which contain changes	Section number of Act	Whether change is Addition/ Amendment/ Deletion
	119	Schedule 10	Deletion
	119.1	Clauses 2(a) and 2(b) Schedule 10	Deletion
Instrument of Delegation under the Local Government Act 1999	66.5	169(15)	Addition
	115	232	Addition
	143.4	296(5)	Amendment
Instrument of Delegation under the Real Property Act	14.1	93(1)	Amendment
	14.2	93(3a)	Addition
	40A.1	154A(1)	Addition
	40A.2	154A(6)	Addition
	40B.1	154B(2)(b)	Addition
	40B.2	154B(2)(v)	Addition
	40C.1	154E	Addition
	40D.1	154F(1)	Addition
	40D.2	154F(2)	Addition
	40E.1	154G(6)	Addition
	46.1	191	Amendment
	48A.1	221(1)	Amendment
	48A.2	221(2)	Amendment
	48A.3	221(3)	Amendment
	48A.4	221(4)	Amendment
	48A.5	221(5)	Amendment
	48A.6	221(9)	Amendment
	48A.7	221(10)	Amendment
Authorisations under Road Traffic Act 1961	Title of Instrument	0	Amendment
	6.1	Regulation 6(2)	Amendment
	6.2	Regulation 6(2)	Amendment
	Title of Instrument	-	Amendment
	7.1	Regulation 17(2) (previously Reg 14(2))	Amendment
	7.2	Regulation 17(3) (previously Reg 14(3))	Amendment
	8.1	Regulation 22(2) (previously Reg 19(2))	Amendment
Instrument of Delegation under the SA Public Health (Legionella) Regulations 2013	34.1	Reg 5B(2)	Addition
	34.2	Reg 5B(8)	Addition
Instrument of Delegation under the Supported Residential Facilities Act 1992	14.1	57(5) &(6)	Amendment
	14.2	57(7)	Addition

Some points to note include:

1. Under Section 44(4) of the Local Government Act a delegation is revocable at will and does not prevent the council from acting in a matter.
2. Sub-delegations from the Chief Executive Officer to relevant staff will be made at the time or near after endorsement of the Schedule by Council.
3. The delegations contained in the "Schedule of Delegations" will be effective immediately upon Council approval.
4. The updated "Schedule of Delegations" will be published on Council's Intranet and Internet sites.
5. The following matters have not been delegated in accordance with the Local Government Act 1999:
 - Power to make a by-law;
 - power to declare rates or a charge with the character of a rate;
 - power to borrow money or to obtain other forms of financial accommodation;
 - power to adopt or revise a strategic management plan or budget of the council;
 - power to approve expenditure of money on works, services or operations of the council not contained in a budget approved by the council;
 - power to determine annual allowances under Chapter 5;
 - 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;
 - power to establish a subsidiary, or to participate in the establishment of a regional subsidiary;
 - 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;
 - power to fix, vary or revoke a fee under section 188(1)(d) to (h); and
 - a power or function excluded from delegation by the regulations.

CONCLUSION:

The annual review of delegations ensures compliance with the Local Government Act 1999 and the effective administration of Council's powers, functions and duties with respect to various legislative requirements.

An update of the schedule of delegations, particularly in relation to legislative changes, is essential to ensure that the Council continues to act *intra vires*.

APPENDICES:

Appendix 1 – Local Government Act 1999

Appendix 2 - South Australian Public Health Act 2011 along with the South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013

Appendix 3 - Real Property Act 1886

- Appendix 4 - Road Traffic Act 1961 (SA), Road Traffic (Miscellaneous) Regulations 1999 and Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999
- Appendix 5 - Development Act 1993 and the Development Regulations 2008
- Appendix 6 - Supported Residential Facilities Act 1992

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

In exercise of the power contained in Section 44 of the Local Government Act 1999 the following powers, functions and duties under the Local Government Act 1999 are hereby delegated this 109th day of ~~September~~ ~~November~~ 2014-2015 to the person occupying the office of Chief Executive Officer of the Council and the said powers, functions and duties may be sub-delegated by the delegate to any other officer of Council.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

1. Composition and Wards	Delegate to CEO	Sub-delegation
1.1. The power pursuant to Section 12(1) of the Local Government Act 1999 ('the Act') to, by notice in the Gazette, after complying with the requirements of Section 12 of the Act,		
1.1.1. alter the composition of the Council;	N	
1.1.2. divide, or redivide, the area of the Council into wards, alter the division of the area of the Council into wards, or abolish the division of the area of the Council into wards.	N	
1.2. The power pursuant to Section 12(2) of the Act, also by notice under Section 12 of the Act, to		
1.2.1. change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council;	N	
1.2.2. alter the name of:		
1.2.2.1. the Council;	N	
1.2.2.2. the area of the Council;	N	
1.2.3. give a name to, or alter the name of, a ward,	N	

(without the need to comply with Section 13 of the Act).		
1.3. The duty pursuant to Section 12(3) of the Act to, before publishing a notice, conduct and complete a review under Section 12 of the Act for the purpose of determining whether the Council's community would benefit from an alteration to the Council's composition or ward structure.	Y	
1.4. The power pursuant to Section 12(4) of the Act to review a s pecific aspect of the composition of the Council, or of the wards of the Council, or of those matters generally and the duty to ensure that all aspects of the composition of the Council, and the issue of the division, or potential division, of the area of the Council into wards, are comprehensively reviewed at least once in every eight years,	Y	
1.5. The power pursuant to Section 12(4a) of the Act to consult with the Electoral Commissioner as to the period in which the Council must complete the first comprehensive review under Section 12(4).	Y	
1.6. The duty pursuant to Section 12(4a) of the Act to complete the first comprehensive review under Section 12(4) within the period specified by the Electoral Commissioner.	Y	
1.7. The duty pursuant to Section 12(5) of the Act to initiate the preparation of a representation options paper by a person who, in the opinion of the Delegate, is qualified to address the representation and g overnance issues that may arise with respect to the matters under review.	Y	
1.8. The duty pursuant to Section 12 (7) of the Act to give public notice of the preparation of a representation options paper and notice in a newspaper circulating within the Council's area, and to ensure that the notice contains an invitation to interested persons to make written submissions to the Council on the subject of the review within a period specified by the Council, being a period of at least six	Y	

weeks.		
1.9. The duty pursuant to Section 12(8) of the Act to make copies of the representation options paper available for public inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council during the period that applies under Section 7(a)(ii).	Y	
1.10. At the conclusion of public consultation under Section 12(7)(a), the duty pursuant to Section 12(8a) of the Act to prepare a report that:		
1.10.1. provides information on the public consultation process undertaken by the Council and the Council's response to the issues arising from the submissions made as part of that process; and	Y	
1.10.2. sets out:		
1.10.2.1. any proposals that the Delegate considers should be carried into effect under this Section; and	Y	
1.10.2.2. in respect of any such proposal - an analysis of how the proposal relates to the principles under Section 26(1)(c) and the matters referred to in Section 33 (to the extent that may be relevant); and	Y	
1.10.3. sets out the reasons for the Council's decision insofar as a decision of the Council is not to adopt any change under consideration as part of the representation options paper or the public consultation process.	Y	
1.11. The duty pursuant to Section 12(9) of the Act to make copies of the report available for public inspection at the principal office of the Council and to give public notice, by way of a	Y	

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

and		
1.15.3. after obtaining the certificate of the Electoral Commissioner, ensure that copies of the summary are made available for public inspection at the principle office of the Council, and on the internet and distributed in any other manner as may be directed by the Electoral Commissioner.	Y	
1.16. The duty pursuant Section 12(12) of the Act having then taken into account the operation of Section 12(11d) of the Act to refer the report to the Electoral Commissioner.	Y	
1.17. The duty pursuant to Section 12(12a) of the Act to send with the report copies of any written submissions received by the Council under Section 12(9) of the Act that relate to the subject matter of the proposal.	Y	
1.18. The power pursuant to Section 12(15)(b) of the Act to provide by notice in the Gazette, for the operation of any proposal that is recommended in the report, where a certificate is given by the Electoral Commissioner.	Y	
1.19. The duty pursuant to Section 12(16) of the Act to take such action as is appropriate in circumstances where the matter is referred back to the Council by the Electoral Commissioner and the power to refer the report back to the Electoral Commissioner.	Y	
1.20. Where the Council makes an alteration to its report under Section 12(16)(a) of the Act, the duty pursuant to Section 12(17) of the Act to comply with the requirements of Section 12(9) and (10) of the Act as if the report, as altered, constituted a new report, unless the Delegate determines the alteration is of a minor nature only.	Y	
1.21. The duty pursuant to Section 12(24) of the Act to undertake a review of ward representation within a period specified by the Electoral Commissioner, where the Electoral	Y	

Commissioner notifies the Council in writing that the number of electors represented by a councillor for a ward varies from the ward quota by more than 20 %.		
2. Status of a Council or Change of Various Names	Y	
2.1. The power pursuant to Section 13(1) of the Act, to, by notice in the Gazette, after complying with the requirements of Section 13 of the Act:		
2.1.1. change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council;	N	
2.1.2. alter the name of:	N	
2.1.2.1. the Council;	N	
2.1.2.2. the area of the Council;	N	
2.1.3. alter the name of a ward.	N	
2.2. The duty, pursuant to Section 13(2) of the Act, to, before publishing a notice, comply with the following requirements:		
2.2.1. to give public notice of the proposal and invite any interested persons to make written submissions on the matter within a specified period, being no less than six weeks;	Y	
2.2.2. publish the notice in a newspaper circulating within the area; and	Y	
2.2.3. give any person who makes written submissions in response to the invitation an opportunity to appear personally or by representative before the Council or Council committee and be heard on those submissions.	Y	
3. Staffing Arrangements		
3.1. The power pursuant to Section 21(4)(b) of the Act to give the Boundary Adjustment Facilitation Panel ("the Panel") use of the	Y	

Council's services, facilities or staff.		
4. Functions Of Panel		
4.1. The power pursuant to Section 22(b) of the Act to cooperate with the Panel in the formulation, development and implementation of proposals and submissions under Chapter 3 of the Act.	Y	
5. Council Initiated Proposal		
5.1. The power pursuant to Section 27(1) of the Act to submit to the Panel a proposal for the making of a proclamation under Chapter 3.	Y	
5.2. The duty pursuant to Section 27(2) of the Act to ensure that any proposal submitted by the Council to the Panel includes:	Y	
5.2.1. the nature of the proposal in general terms; and	Y	
5.2.2. an examination of the effect of the proposal to the extent required by the Panel for the purposes of this Section; and	Y	
5.2.3. submissions by all Councils affected by the proposal, where the proposal relates to more than the Council; and	Y	
5.2.4. compliance with requirements published by the Panel.	Y	
5.3. The power pursuant to section 27(7) of the Act, to, in relation to the proposal submitted by the Council or the Delegate, request or consent to the Panel:		
5.3.1. amending the proposal;	N	
5.3.2. substituting an alternative proposal.	N	
6. Public Initiated Submissions		
6.1. The power pursuant to Section 28(6) of the Act, on the receipt of a submission under Section 28(2) of the Act, to consider the issues determined by the Council or the Delegate to be relevant to the matter and to	N	

then decide whether or not it is willing to:		
6.1.1. conduct a review in relation to the matter under Division 2 of Part 1 of the Act; or	N	
6.1.2. formulate (or participate in the formulation of) a proposal in relation to the matter under Division 4 of Part 2 of the Act	N	
6.2. Where the Council is affected by a public initiated proposal under Chapter 3 of the Act, the duty to ensure that copies of the summary prepared by the Panel are made available for public inspection at the principal office of the Council and distributed to electors in accordance with the directions of the Panel, pursuant to Section 28(23)(f) and (g).	Y	
7. General Powers and Capacities		
7.1. The power pursuant to Section 36(1)(a)(i) of the Act to enter into any kind of contract or arrangement where the common seal of the Council is not required.	Y	
7.2. The power pursuant to Section 36(1)(c) of the Act to do anything necessary, expedient or incidental but within any policy or budgetary constraints set by the Council to perform or discharge the Council's functions or duties or to achieve the Council's objectives.	Y	
7.3. The power pursuant to Section 36 (2) of the Act to act outside the Council's area –	Y	
7.3.1. to the extent considered by the Delegate to be necessary or expedient to the performance of the Council's functions; or	Y	
7.3.2. in order to provide services to an unincorporated area of the State.	Y	
7.4. The duty pursuant to Section 36(3) of the Act to take reasonable steps to separate the Council's regulatory activities from its other activities in the arrangement of its affairs.	Y	
8. Provision Relating to Contract and		

Transactions		
8.1. The power pursuant to Section 37(b) of the Act to enter into contracts or to authorise another officer, employee or agent of the Council to enter into contracts, on behalf of the Council, where the common seal of the Council is not required.	Y	
9. Committees		
9.1. The power pursuant to Section 41(1) and (2) of the Act to establish committees.	N	
9.2. The power pursuant to Section 41(3) of the Act to determine the membership of a committee.	N	
9.3. The power pursuant to Section 41(4) of the Act to appoint a person as a presiding member of a committee, or to make provision for the appointment of a presiding member.	N	
9.4. The power pursuant to Section 41(6) of the Act to appoint the principal member of the Council as an ex officio member of a committee.	N	
9.5. The power and duty pursuant to Section 41(8) of the Act, to, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.	N	
10. Delegations		
10.1. The duty pursuant to Section 44(6) of the Act to cause a separate record to be kept of all delegations under the Act.	Y	
10.2. The duty pursuant to Section 44(7) of the Act to make available the record of delegations for inspection (without charge) by the public at the principal office of the Council during ordinary office hours.	Y	
11. Principal Office		
11.1. The duty pursuant to Section 45(1) of the Act to nominate a place as the principal office	Y	

of the Council for the purposes of the Act.		
11.2. The duty pursuant to Section 45(2) of the Act to keep the principal office of Council open to the public for the transaction of business during hours determined.	Y	
11.3. The power pursuant to Section 45(3) of the Act to consult with the local community in accordance with Council's public consultation policy about the manner, places and times at which the Council's offices will be open to the public for the transaction of business and about any significant changes to those arrangements.	Y	
12. Commercial Activities		
12.1. Subject to the Act, the power pursuant to Section 46(1) of the Act to in the performance of the Council's functions, engage in a commercial activity or enterprise ('a commercial project')	N	
12.2. The power pursuant to Section 46 (2) of the Act, to, in connection with a commercial project:		
12.2.1. establish a business;	N	
12.2.2. participate in a joint venture, trust, partnership or other similar body.	N	
13. Interests in Companies		
13.1. the power pursuant to Section 47(2)(b) of the Act to participate in the formation of, or to become a member of a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.	Y	
14. Prudential Requirements for Certain Activities		
14.1. The duty pursuant to Section 48(1) of the Act to obtain a report in accordance with Section 48(3) of the Act, that addresses the prudential issues set out at Section 48(2) of the Act, before the Council or the Delegate:		

14.1.1. 8.1.1 engages in a commercial project (including through a subsidiary or participation in a joint venture, trust, partnership or other similar body) where the expected recurrent or capital expenditure of the project exceeds an amount set by the Council for the purposes of this Section; or	Y	
14.1.2. engages in any project (whether commercial or otherwise and including through a subsidiary or participation in a joint venture, trust, partnership or other similar body):		
14.1.2.1. where the expected expenditure of the Council over the ensuing five years is likely to exceed 20 % of the Council's average annual operating expenses over the previous five financial years (as shown in the Council's financial statements); or	Y	
14.1.2.2. where the expected capital cost of the project over the ensuing five years is likely to exceed \$4,000,000.00.	Y	
14.2. The power pursuant to Section 48(1)(a) of the Act to set an amount for the purposes of Section 48(1)(a) of the Act.	N	
15. Contracts and Tender Policies		
15.1. The duty pursuant to Section 49(1) of the Act to prepare policies on contracts and tenders for consideration and adoption by the Council, including policies on the following:		
15.1.1. the contracting out of services; and	Y	
15.1.2. competitive tendering and the use of other measures to ensure that services are delivered cost effectively; and	Y	
15.1.3. the use of local goods and services; and	Y	
15.1.4. the sale or disposal of land or other	Y	

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

cases where the Act requires the Council to follow its public consultation policy and to make other arrangements appropriate to other classes of decisions, within the scope of the policy.		
16.3. The duty pursuant to Section 50(4) of the Act to ensure that the public consultation policy, in cases where the Act requires the policy to be followed, provides for:		
16.3.1. publication in a newspaper circulating within the area of the Council of a notice describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period stated, which is not less than 21 days; and	Y	
16.3.2. the consideration of any submissions made in response to that invitation.	Y	
16.4. The power pursuant to Section 50(5) of the Act, to, from time to time, alter the Council's public consultation policy, or substitute a new policy.	N	
16.5. Before the Council adopts a public consultation policy or alters, or substitutes a public consultation policy, the duty pursuant to Section 50(6) of the Act to -		
16.5.1. prepare a document that sets out its proposal in relation to the matter; and	Y	
16.5.2. publish in a newspaper circulating generally throughout the State and in a newspaper circulating within the area of the Council, a notice of the proposal inviting interested persons to make submissions on the proposal within a period stated in the notice, which must be at least one month.	Y	
16.5.3. consider any submissions made in response to an invitation made under Section 50(6)(d) of the Act.	Y	
16.6. The power pursuant to Section 50(7) of the Act to determine if the alteration of a public	Y	

consultation policy is of minor significance that would attract little or no community interest.		
16.7. The duty pursuant to Section 50(8) of the Act to ensure the public consultation policy is available for inspection (without charge) at the principal office of Council during ordinary office hours.	Y	
17. Deliberately left blank		
17.1. Deliberately left blank		
17.2. Deliberately left blank		
17.3. Deliberately left blank		
17.4. Deliberately left blank		
17.5. Deliberately left blank		
18. Inspection of Register		
18.1. The duty pursuant to Section 70(1) of the Act to make available for inspection (without charge) the Register of Interests of Councillors at the principal office of the Council during ordinary office hours.	Y	
19. Reimbursement of Expenses		
19.1. The power pursuant to Section 77(1)(b) of the Act to reimburse to members of the Council expenses of a kind prescribed for these purposes and approved by the Council (either specifically or under a policy established by the Council for these purposes) incurred in performing or discharging official functions and duties.	Y	
19.2. The duty pursuant to Section 77(3) of the Act to make available for inspection (without charge) any policy of Council concerning these reimbursements at the principal office of the Council during ordinary office hours.	Y	
20. Register of Allowances and Benefits		
20.1. The duty pursuant to Section 79(3) of the Act to make available for inspection (without	Y	

charge) the Register of Allowances and Benefits, at the principal office of the Council during ordinary office hours.		
21. Insurance of members		
21.1. The duty pursuant to Section 80 of the Act to take out a policy of insurance insuring every member of the Council and a spouse, domestic partner or another person who may be accompanying a member of the Council, against risks associated with the performance or discharge of official functions and duties by members.	Y	
22. Training and Development		
22.1. The duty pursuant to Section 80A(1) of the Act to prepare a training and development policy in accordance with Section 80A(2) of the Act for the Council's members.	Y	
22.2. The duty pursuant to Section 80A(2) of the Act to ensure that the Council's training and development policy is aimed at assisting the Council's members in the performance and discharge of their functions and duties.	Y	
22.3. The power pursuant to Section 80A(3) of the Act to, from time to time, alter the Council's training and development policy or substitute a new policy.	N	
22.4. The duty pursuant to Section 80A(4) and (5) of the Act to make available the training and development policy for inspection (without charge) at the principal office of the Council during ordinary office hours and for purchase (on payment of a fee fixed by the Council).	Y	
23. Committee Meetings		
23.1. The power pursuant to Section 87(1) of the Act to determine the times and places of ordinary meetings of Council committees.	Y	
23.2. The duty pursuant to Section 87(2) of the Act in appointing a time for the holding of an ordinary meeting of a Council committee to		

take into account:		
23.2.1. the availability and convenience of members of the committee; and	Y	
23.2.2. the nature and purpose of the committee.	Y	
24. Meetings to be Held In Public Except in Special Circumstances		
24.1. The duty pursuant to Section 90(7) of the Act to make a note in the minutes of the making of an order under Section 90(2) of the Act and the grounds on which it was made.	Y	
25. Minutes and Release of Documents		
25.1. The duty pursuant to Section 91(3) to supply each member of the Council with a copy of all minutes of the proceedings of the Council or Council committee meeting, within 5 days after that meeting.	Y	
25.2. Subject to Section 91(7), the duty pursuant to Section 91(4) of the Act to place a copy of the minutes of a meeting of the Council on public display in the principal office of the Council within 5 days after the meeting and to keep those minutes on display for a period of 1 month.	Y	
25.3. Subject to Section 91(7) of the Act, the duty pursuant to Section 91(5) of the Act to make available for inspection, without payment of a fee, at the principal office of the Council -		
25.3.1. minutes of the Council and Council committee meetings; and	Y	
25.3.2. reports to the Council or to a Council committee received at a meeting of the Council or Council committee; and	Y	
25.3.3. recommendations presented to the Council in writing and adopted by resolution of the Council; and	Y	
25.3.4. budgetary or other financial	Y	

statements adopted by the Council.		
26. Code of Practice for Access to Meetings and Documents		
26.1. 20.1 The duty pursuant to Section 92(1) of the Act, and subject to Section 92(4) of the Act, to prepare a Code of Practice for consideration and adoption by the Council, relating to the principles, policies, procedures and practices that the Council will apply for the purposes of the operation of Parts 3 and 4 of Chapter 6 of the Act.	Y	
26.2. The duty pursuant to Section 92(2) of the Act to cause a review to be undertaken of the operation of the Council's Code of Practice within 12 months after a periodic election.	Y	
26.3. The power pursuant to Section 92(3) of the Act, to, at any time, alter the Council's code of practice or substitute a new code of practice.	N	
26.4. The duty pursuant to Section 92(5) of the Act to ensure that before the Council adopts, alters or substitutes its Code of Practice that:		
26.4.1. copies of the proposed Code, alterations or a substitute Code are made available for inspection or purchase at the Council's principal office; and	Y	
26.4.2. the relevant steps set out in the Council's Public Consultation Policy are followed.	Y	
26.5. The duty pursuant to Section 92(6) and (7) of the Act to ensure that the Code of Practice is available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of Council during ordinary office hours.	Y	
27. Meetings of Electors		
27.1. The power pursuant to Section 93(1) of the Act to convene a meeting of electors in the area or part of the area of the Council.	Y	
27.2. The duty pursuant to Section 93(11) of the Act to provide each member of the Council	Y	

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

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

34.3. The duty pursuant to Section 123(5a) of the Act to ensure that provision is made for -		
34.3.1. a facility for asking and answering questions; and		
34.3.2. the receipt of submissions,		
on the Council's website during the public consultation period.	Y	
34.4. After the Council has adopted an annual business plan and a budget, the duty pursuant to Section 123(9) of the Act, to -		
34.4.1. Ensure		
34.4.1.1. that a summary of the annual business plan is prepared in accordance with the requirements set out at Sections 123(10), (11) and (12) of the Act, so as to assist in promoting public awareness of the nature of the Council's services and the Council's rating and financial management policies, taking into account its objectives and activities for the ensuing financial year; and	Y	
34.4.1.2. that a copy of the summary of the annual business plan accompanies the first rates notice sent to ratepayers after the declaration of the Council's rates for the financial year; and	Y	
34.4.2. ensure		
34.4.2.1. that copies of the annual business plan and the budget (as adopted) are available for inspection (without charge) or purchase (on payment of a fee fixed by the Council); and	Y	
34.4.2.2. that copies of the summary of the annual business plan are available for inspection and to take (without charge),	Y	

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

Delegate or the Council, the power to determine the membership of any audit committee in accordance with Section 126(2) of the Act.		
38. Financial Statements		
38.1. The duty pursuant to Section 127(1) of the Act to prepare for each financial year:	Y	
38.1.1. financial statements and notes in accordance with standards prescribed by the regulations; and	Y	
38.1.2. other statements and documentation referring to the financial affairs of the Council required by the Regulations.	Y	
38.2. The duty pursuant to Section 127(2) of the Act to ensure that the financial statements prepared for the Council pursuant to Section 127(1) of the Act -	Y	
38.2.1. are prepared as soon as is reasonably practicable after the end of the relevant financial year and in any event before the day prescribed by the Regulations; and	Y	
38.2.2. comply with standards and principles prescribed by the Regulations; and	Y	
38.2.3. include the information required by the Regulations.	Y	
38.3. The duty pursuant to Section 127(3) of the Act to submit for auditing by the Council's auditor the statements prepared for each financial year.	Y	
38.4. The duty pursuant to Section 127(4) of the Act to submit a copy of the auditor's statements to the persons or bodies prescribed by the Regulations on or before the day prescribed by the Regulations.	Y	
38.5. The duty pursuant to Section 127(5) of the Act to ensure that copies of the Council's audited statements are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the	Y	

public at the principal office of the Council.		
39. The Auditor		
39.1. The power and duty pursuant to and in accordance with Section 128(2), (3) (4), (4a), (5), (6), (7) and (8) of the Act to appoint an auditor on the recommendation of the Council's audit committee.	Y	
39.2. The duty pursuant to Section 128(8) of the Act to comply with any requirements prescribed by the Regulations with respect to providing for the independence of the auditor.	Y	
39.3. The duty pursuant to Section 128(9) of the Act to ensure that the following information is included in the Council's annual report:		
39.3.1. information on the remuneration payable to the Council's auditor for work performed during the relevant financial year, distinguishing between -	Y	
39.3.1.1. remuneration payable for the annual audit of the Council's financial statements; and	Y	
39.3.1.2. other remuneration;	Y	
39.3.2. if a person ceases to be the auditor of the Council during the relevant financial year, other than by virtue of the expiration of his or her term of appointment and is not being reappointed to the office - the reason or reasons why the appointment of the Council's auditor came to an end.	Y	
40. Conduct of Audit		
40.1. The duty pursuant to Section 129(9) of the Act to ensure the opinions under Section 129(3) of the Act provided to Council under Section 129 of the Act accompany the financial statements of the Council.	Y	
41. Other Investigations		
41.1. The power, pursuant to and in accordance with Sections 130A(1) and (2) of the Act, as the Delegate thinks fit, to request the	Y	

<p>Council's auditor, or some other person determined by the Delegate to be suitably qualified in the circumstances, to examine and report on any matter relating to financial management, or the efficiency and economy with which the Council manages or uses its resources to achieve its objectives, that would not otherwise be addressed or included as part of an annual audit under Division 4 of Chapter 8 of the Act and that is considered by the Delegate to be of such significance as to justify an examination under this Section.</p>		
<p>41.2. Unless Section 130A(7) of the Act applies, the duty pursuant to Section 130A(6) of the Act to place the report prepared pursuant to Section 130A(1) of the Act on the agenda for consideration:</p>	Y	
<p>41.2.1. unless Section 130A(6)(b) of the Act applies – at the next ordinary meeting of the Council in accordance with Section 130A(6)(a), of the Act;</p>	Y	
<p>41.2.2. if the agenda for the next ordinary meeting of the Council has already been sent to members of the Council at the time that the report is provided to the principal member of the Council – at the ordinary meeting of the Council next following the meeting for which the agenda has already been sent unless the principal member of the Council determines, after consultation with the Chief Executive Officer, that the report should be considered at the next meeting of the Council as a late item on the agenda in accordance with Section 130A(6)(b) of the Act.</p>	Y	
<p>42. Annual Report to be Prepared and Adopted</p>		
<p>42.1. The duty pursuant to Section 131(1) of the Act to prepare for consideration and adoption by the Council, on or before 30 November each year, an annual report relating to the operations of the Council for the financial year ending on the preceding 30 June.</p>	Y	
<p>42.2. The duty pursuant to Section 131(2) and</p>	Y	

(3) of the Act to include in that report the material, and include specific reports on the matters, specified in Schedule 4 as amended from time to time by regulation.		
42.3. The duty pursuant to Section 131(4) of the Act to provide a copy of the annual report to each member of the Council.	Y	
42.4. The duty pursuant to Section 131(5) of the Act to submit a copy of the annual report to:		
42.4.1. the Presiding Member of both Houses of Parliament; and	Y	
42.4.2. to the persons or body prescribed by the Regulations,	Y	
on or before the date determined under the Regulations.	Y	
42.5. The power pursuant to Section 131(7) of the Act to provide to the electors for the area an abridged or summary version of the annual report.	Y	
42.6. The duty pursuant to Section 131(8) of the Act to ensure that copies of Council's annual report are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.	Y	
43. Access to Documents		
43.1. The duty pursuant to Section 132(1) of the Act to ensure a member of the public is able -	Y	
43.1.1. to inspect a document referred to in Schedule 5 of the Act at the principal office of the Council during ordinary office hours without charge; and	Y	
43.1.2. to purchase a document referred to in Schedule 5 to the Act at the principal office of the Council during ordinary office hours for a fee fixed by the Council.	Y	
43.2. The power pursuant to Section 132(2) of the Act to make a document available in electronic form for the purposes of Section	Y	

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

132(1)(a).		
43.3. The power and duty, pursuant to and in accordance with Section 132 (3) of the Act, to make the following documents available for inspection on the internet within a reasonable time after they are available at the principal office of the Council:		
43.3.1. agendas for meetings of the Council or Council committees;	Y	
43.3.2. minutes of meetings of the Council or Council committees;	Y	
43.3.3. codes of conduct or codes of practice adopted by the Council under this Act or the Local Government (Elections) Act 1999;	Y	
43.3.4. the Council's contract and tenders policies, public consultation policy and order-making policies;	Y	
43.3.5. the Council's draft annual business plan, annual business plan (as adopted by the council) and the summary of the annual business plan required under Part 2 of this Chapter;	Y	
43.3.6. the Council's budget (as adopted by the Council for a particular year);	Y	
43.3.7. a list of fees and charges imposed by the Council under this Act;	Y	
43.3.8. by-laws made by the Council and any determination in respect of a by-law made under Section 246(3)(e) of the Act;	Y	
43.3.9. procedures for the review of decisions established by the Council under Part 2 of Chapter 13;	Y	
43.3.10. the audited financial statements of the Council;	Y	
43.3.11. the annual report of the Council;	Y	
43.3.12. the Council's most recent information statement under the Freedom of	Y	

Information Act 1991, unless the Council provides it as part of the annual report of the Council.		
44. Related Administrative Standards		
44.1. The duty pursuant to Section 132A of the Act to ensure that appropriate policies, practices and procedures are implemented and maintained in order -		
44.1.1. to ensure compliance with any statutory requirements; and	Y	
44.1.2. to achieve and maintain standards that reflect good administrative practices.	Y	
45. Sources of Funds		
45.1. Subject to the Act, the power pursuant to Section 133 of the Act to obtain funds as permitted under the Act or another Act and as may otherwise be appropriate in order to carry out the Council's functions under the Act or another Act.	Y	
46. Ability of a Council to Give Security		
46.1. The power pursuant to Section 135(1) of the Act and subject to Section 135(2) of the Act to provide various forms of security, including:	N	
46.1.1. guarantees (including guarantees relating to the liability of a subsidiary of the Council);	N	
46.1.2. debentures charged on the general revenue of the Council (including to support a guarantee provided under Section 135(1) of the Act);	N	
46.1.3. bills of sale, mortgages or other charges (including to support a guarantee provided under Section 135(1)(a) of the Act.	N	
46.2. The power and duty pursuant to Section 135(2) of the Act, if the Council or the Delegate proposes to issue debentures on the	N	

general revenue of the Council to:		
46.2.1. assign a distinguishing classification to the debentures to be included in the issue so as to distinguish them from those included or to be included in previous or subsequent issues; and	N	
46.2.2. if the debentures are being offered generally to members of the public, appoint a trustee for the debenture holders.	N	
47. Expenditure of Funds		
47.1. Subject to the Act or another Act, the power pursuant to Section 137 of the Act to expend the Council's approved budgeted funds in the exercise, performance or discharge of the Council's powers, functions or duties under the Act or other Acts.	Y	
48. Investment Powers		
48.1. The power pursuant to Section 139(1) of the Act to invest money under the Council's control.	Y	
48.2. The duty pursuant to Section 139(2) of the Act in exercising the power of investment, to:	Y	
48.2.1. exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and	Y	
48.2.2. 35.2.2 avoid investments that are speculative or hazardous in nature.	Y	
48.3. The duty pursuant to Section 139(3) of the Act to take into account when exercising the power of investment, so far as is appropriate in the circumstances and without limiting the matters which may be taken into account, the following matters -	Y	
48.3.1. the purposes of the investment;	Y	
48.3.2. the desirability of diversifying Council investments;	Y	

48.3.3. the nature of and risk associated with existing Council investments;	Y	
48.3.4. the desirability of maintaining the real value of the capital and income of the investment;	Y	
48.3.5. the risk of capital or income loss or depreciation;	Y	
48.3.6. the potential for capital appreciation;	Y	
48.3.7. the likely income return and the timing of income return;	Y	
48.3.8. the length of the term of a proposed investment;	Y	
48.3.9. the period for which the investment is likely to be required;	Y	
48.3.10. the liquidity and marketability of a proposed investment during, and on determination of, the term of the investment;	Y	
48.3.11. the aggregate value of the assets of the Council;	Y	
48.3.12. 35.3.12 the likelihood of inflation affecting the value of a proposed investment;	Y	
48.3.13. the costs of making a proposed investment;	Y	
48.3.14. the results of any review of existing Council investments.	Y	
48.4. Subject to the matters specified in Section 139(3) of the Act, the power pursuant to Section 139(4) of the Act, so far as may be appropriate in the circumstances, to have regard to -	Y	
48.4.1. the anticipated community benefit from an investment; and	Y	
48.4.2. the desirability of attracting additional resources into the local community.	Y	

48.5. The power pursuant to Section 139(5) of the Act to obtain and consider independent and impartial advice about the investment of funds or the management of the Council's investments from the person whom the Delegate reasonably believes to be competent to give the advice.	Y	
48.6. The duty pursuant to Section 140 of the Act to review the performance (individually and as a whole) of the Council's investments, at least once in each year and the duty to report to the Council on the outcome of the review.	Y	
49. Review of Investment		
49.1. The duty pursuant to Section 140 of the Act to review the performance (individually and as a whole) of the Council's investments, at least once in each year.	N	
50. Gifts to Council		
50.1. Within the confines of Section 44(3) of the Act:		
50.1.1. the power pursuant to Section 141(1) of the Act to accept a gift made to the Council;	Y	
50.1.2. the power pursuant to Section 141(2) of the Act to carry out the terms of any trust (if any) that affects a gift to Council;	Y	
50.1.3. the power pursuant to Section 141(3) of the Act to apply to the Supreme Court for an order varying the terms of a trust for which the Council has been constituted a trustee;	Y	
50.1.4. where a variation is sought in the terms of a trust, the duty pursuant to Section 141(4) of the Act to give notice describing the nature of the variation by public notice and in any other such manner as may be directed by the Supreme Court; and	Y	
50.1.5. the duty pursuant to Section 141(6) of	Y	

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

declared on the property, after giving at least 14 days notice requiring payment, where the fee, charge, expense or other amount payable to the Council relates to something done in respect of rateable or other property.		
54. Land Against Which Rates May be Assessed		
54.1. The power and duty pursuant to Section 148(2) of the Act to make decisions about the division of land and the aggregation of land for the purposes of Section 148(1) of the Act fairly and in accordance with principles and practices that apply on a uniform basis across the area of the Council.	Y	
55. Basis of Rating		
55.1. Before the Council -		
55.1.1. changes the basis of the rating of any land (including by imposing differential rates on land that has not been differentially rated in the preceding financial year, or by no longer imposing differential rates on land that has been differentially rated in the preceding financial year); or	Y	
55.1.2. changes the basis on which land is valued for the purposes of rating; or	Y	
55.1.3. changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land;	Y	
the power and duty pursuant to Section 151(5)(d) and (e) of the Act to:		
55.1.4. prepare a report on the proposed change in accordance with Section 151(6) of the Act; and	Y	
55.1.5. follow the relevant steps set out in its public consultation policy in accordance with Section 151(7) of the Act.	Y	
55.2. The duty pursuant to Section 151(8) of the Act to ensure that copies of the report required under Section 151(5)(d) of the Act	Y	

are available at the meeting held under Section 151(7)(a)(i) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.		
56. General Rates		
56.1. The power pursuant to Section 152(2)(d) and (3) of the Act to determine, on application, if two or more pieces of rateable land within the area of the Council constitute a single farm enterprise.	Y	
57. Service Rates and Service Charges		
57.1. The duty pursuant to Section 155(6) of the Act, subject to Section 155(7) of the Act, to apply any amounts held in a reserve established in connection with the operation of Section 155(5) of the Act for purposes associated with improving or replacing Council assets for the purposes of the relevant prescribed service.	Y	
57.2. The power pursuant to Section 155(7) of the Act, if a prescribed service under Section 155(6) of the Act is, or is to be, discontinued, to apply any excess funds held by the Council for the purposes of the service (after taking into account any expenses incurred or to be incurred in connection with the prescribed service) for another purpose specifically identified in the Council's annual business plan as being the purpose for which the funds will now be applied.	Y	
58. Basis of Differential Rates		
58.1. The power pursuant to Section 156(3), (9), (10), (11) of the Act to attribute the use of the land for any basis for a differential rate and to decide objections to any of those attributions.	Y	
58.2. The power and duty pursuant to Section 156(14a) of the Act, before the Council changes from declaring differential rates in relation to any land on the basis of a	Y	

differentiating factor under either paragraphs (a), (b) or (c) of Section 156(1) of the Act to a differentiating factor under another of those paragraphs, to -		
58.2.1. prepare a report on the proposed change in accordance with Section 156(14b) of the Act; and	Y	
58.2.2. follow the relevant steps set out in its public consultation policy in accordance with Section 156(14d) of the Act.	Y	
58.3. The duty pursuant to Section 156(14e) of the Act to ensure that copies of the report required under Section 156(14a)(a) of the Act are available at the meeting held under Section 156(14d)(a)(i); and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.	Y	
59. Notice of Differentiating Factors		
59.1. If the Council declares differential rates, the duty pursuant to Section 157 of the Act in each rates notice, to specify the differentiating factor or combination of factors that governs the calculation of rates on the land to which the account relates.	Y	
60. Preliminary		
60.1. The power pursuant to Section 159(1) of the Act to determine the manner and form and such information as the Delegate may reasonably require, for a person or body to apply to the Council to determine if grounds exist for the person or body to receive a rebate of rates.	Y	
60.2. The power pursuant to Section 159(3) to grant a rebate of rates if satisfied that it is appropriate to do so (whether on an application or on the Delegate's own initiative).	Y	
60.3. The power pursuant to Section 159(4) of the Act to increase the rebate on the Delegate's initiative, if a rebate specifically	Y	

fixed by Division 5 Chapter 10 of the Act is less than 100 %.		
60.4. The power pursuant to Section 159(10) of the Act to determine, for proper cause, that an entitlement to a rebate of rates in pursuance of Division 5 no longer applies.	Y	
61. Rebate of Rates – Community Services		
61.1. The power pursuant to Section 161(1) and (3) of the Act to grant a rebate of more than 75% of the rates on land being predominantly used for service delivery or administration (or both) by a community service organisation, where that organisation –	Y	
61.1.1. is incorporated on a not-for-profit basis for the benefit of the public; and	Y	
61.1.2. provides community services without charge or for charge that is below the cost to the body of providing their services; and	Y	
61.1.3. does not restrict its services to persons who are members of the body.	Y	
62. Rebate of Rates – Educational Purposes		
62.1. The power pursuant to Section 165(1) and (2) of the Act to grant a rebate of rates at more than 75% on land –	Y	
62.1.1. occupied by a Government school under a lease or license and being used for educational purposes; or	Y	
62.1.2. occupied by non-Government school registered under the Educational and Early Childhood Services (Registration and Standards) Act 2011 and being used for educational purposes; or	Y	
62.1.3. land being used by University or University College to provide accommodation and other forms of support for students on a not-for-profit basis.	Y	

63. Discretionary Rebates of Rates		
63.1. The duty pursuant to Section 166(1a) of the Act to take into account, in deciding an application for a rebate under Section 166(1)(d), (e), (f), (g), (h), (i) or (j):	Y	
63.1.1. the nature and extent of the Council's services provided in respect of the land for which the rebate is sought in comparison to similar services provided elsewhere in its area; and	Y	
63.1.2. the community need that is being met by activities being carried out on the land for which the rebate is sought; and	Y	
63.1.3. the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons;	Y	
63.1.4. any other matter considered relevant by the Council or the Delegate.	Y	
63.2. The power pursuant to Section 166(1), (2) and (4) of the Act and taking into account Section 166(1a) of the Act and in accordance with Section 166(3b) of the Act to grant a rebate of rates or service charges on such conditions as the Delegate sees fit and such rebate may be up to and including 100% of the relevant rates or service charge, in the following cases:		
63.2.1. where the rebate is desirable for the purpose of securing the proper development of the area or part of the area;	Y	
63.2.2. where the rebate is desirable for the purpose of assisting or supporting a business in the area;	Y	
63.2.3. where the rebate will be conducive to the preservation of buildings or places of historic significance;	Y	
63.2.4. where the land is being used for educational purposes;	Y	

63.2.5. where the land is being used for agricultural, horticultural or floricultural exhibitions;	Y	
63.2.6. where the land is being used for a hospital or health centre;	Y	
63.2.7. where the land is being used to provide facilities or services for children or young persons;	Y	
63.2.8. where the land is being used to provide accommodation for the aged or disabled;	Y	
63.2.9. where the land is being used for a residential aged care facility that is approved for Commonwealth funding under the Aged Care Act 1997 (Commonwealth) or a day therapy centre;	Y	
63.2.10. where the land is being used by an organisation which, in the opinion of the Delegate, provides a benefit or a service to the local community;	Y	
63.2.11. where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment;	Y	
63.2.12. where the rebate is considered by the Delegate to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to:		
63.2.12.1. a redistribution of the rates burden within the community arising from a change to the basis or structure of the Council's rates; or	Y	
63.2.12.2. a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.	Y	
63.2.13. where the rebate is considered by the		

Delegate to be appropriate to provide relief in order to avoid what would otherwise constitute:		
63.2.13.1. a liability to pay a rate or charge that is inconsistent with the liabilities that were anticipated by the Council in its annual business plan; or	Y	
63.2.13.2. a liability that is unfair or unreasonable;	Y	
63.2.14. where the rebate is to give effect to a review of a decision of the Council under Chapter 13 Part 2; or	Y	
63.2.15. where the rebate is contemplated under another provision of the Act.	Y	
63.3. The power pursuant to Section 166(3) of the Act to grant a rebate of rates or charges for a period exceeding 1 year but not exceeding 10 years in the following cases:		
63.3.1. where the rebate is desirable for the purpose of securing a proper development of the area or part of the area; or	Y	
63.3.2. where the rebate is desirable for the purpose of assisting or supporting a business in the area; or	Y	
63.3.3. where the rebate relates to common property or land vested in a community corporation under the Community Titles Act 1996 over which the public has a free and unrestricted right of access and enjoyment.	Y	
63.4. 41.10 The power pursuant to Section 166(3a) of the Act to grant a rebate of rates or charges under Section 166(1)(l) of the Act for a period exceeding 1 year but not exceeding 3 years.	Y	
64. Valuation of Land for the Purpose of Rating		
64.1. The power pursuant to Section 167(1) of the Act to adopt valuations that are to apply to	Y	

land within the Council's area, for rating purposes for a particular financial year.		
64.2. For the purpose of adopting a valuation of land for rating, the duty pursuant to Section 167(2) of the Act and in accordance with Section 167(3), (4) and (5) of the Act, to adopt -		
64.2.1. valuations made, or caused to be made, by the Valuer-General; or	Y	
64.2.2. valuations made by a valuer employed or engaged by the Council, or by a firm or consortium of valuers engaged by the Council;	Y	
or a combination of both.	Y	
64.3. The duty pursuant to Section 167(6) of the Act to publish a notice of the adoption of valuations in the Gazette, within 21 days after the date of the adoption.	Y	
65. Valuation of Land		
65.1. The power pursuant to Section 168(1) of the Act to request the Valuer-General to value any land within the Council's area (being land that is capable of being separately rated).	Y	
65.2. The duty pursuant to Section 168(2) of the Act to furnish to the Valuer-General any information requested by the Valuer General for the purposes of valuing land within the area of the Council.	Y	
65.3. The power and duty pursuant to Section 168(3)(b) and (c) of the Act to enter a valuation in the assessment record, as soon as practicable after the valuation has been made and to give notice of the valuation to the principal ratepayer in accordance with the Regulations.	Y	
66. Objections to Valuations Made by Council		
66.1. The duty pursuant to Section 169(1), (2), (3), (4) and (5) of the Act to refer an objection to a valuation of land to the valuer who made the valuation and to request the valuer to		

reconsider the valuation, where –		
66.1.1. the objection does not involve a question of law; and	Y	
66.1.2. the objection is made in writing (setting out a full and detailed statement of the grounds on which the objection is based); and	Y	
66.1.3. is made within 60 days after the date of service of the notice of the valuation to which the objection relates (unless the Delegate, in his/her discretion, allows an extension of time for making the objection).	Y	
66.2. The power pursuant to Section 169(3)(b) of the Act to grant an extension of time for making an objection to a valuation of land.	Y	
66.3. The duty pursuant to Section 169(7) of the Act to give the objector written notice of the outcome of the reconsideration of the objection.	Y	
66.4. The duty pursuant to and in accordance with Section 169(8) and (9) of the Act to refer the valuation to the Valuer-General for further review, if the objector remains dissatisfied with the valuation and requests such further review, provided the request is –		
66.4.1. in the prescribed manner and form;	Y	
66.4.2. made within 21 days after the objector receives notice of the outcome of his or her initial objection; and	Y	
66.4.3. accompanied by the prescribed fee.	Y	
<u>66.5 The power pursuant to Section 169(15) of the Act to apply to SACAT for a review of the valuation in accordance with Section 169(15a) of the Act.</u>	<u>Y</u>	
67. Notice of Declaration of Rates		
67.1. The duty pursuant to Section 170 of the Act to ensure the notice of declaration of a rate or service charge is published in the	Y	

Gazette and in a newspaper circulating in the area within 21 days after the date of the declaration.		
68. Alterations to the Assessment Record		
68.1. The power pursuant to Section 173(3) and (5) of the Act to determine the procedure for a review of a decision by the Chief Executive Officer on an application for alteration of the assessment record.	Y	
68.2. The duty pursuant to Section 173(6) of the Act to give a person written notice of Council's decision on a review of a decision of the Chief Executive Officer concerning alteration of the assessment record.	Y	
69. Inspection of Assessment Record		
69.1. The duty pursuant to Section 174(1) and (2) of the Act to ensure that the assessment record is available for inspection and purchase of an entry (on payment of a fee fixed by the Council), by the public at the principal office of the Council during ordinary office hours.	Y	
70. Liability for Rates		
70.1. The power pursuant to Section 178(3) of the Act and subject to Section 178(9) of the Act to recover rates as a debt from -		
70.1.1. the principal ratepayer; or	Y	
70.1.2. any other person (not being a principal ratepayer) who is an owner or occupier of the land; or	Y	
70.1.3. any other person who was at the time of the declaration of the rates an owner or occupier of the land.	Y	
70.2. The power pursuant to Section 178(4) of the Act by written notice to a lessee or a licensee of land in respect of which rates have fallen due, to require him or her to pay to the Council rent or other consideration payable under the lease or a licence in	Y	

satisfaction of any liability for rates.		
70.3. Where a notice under Section 178(4) of the Act is given to a lessee or a licensee of land, the power pursuant to Section 178(5) of the Act to make and give notice of an additional charge of 5% of the amount in arrears, as payable and recoverable as part of the debt for unpaid rates.	Y	
70.4. The power pursuant to Section 178(6) of the Act to remit the charge of 5% of the amount in arrears payable under the Act in whole or in part.	Y	
71. Liability for Rates if Land is Not Rateable for the Whole of the Financial Year		
71.1. The power pursuant to Section 179(2) of the Act to adopt a valuation of land that has become rateable after the adoption of valuations by the Council for the relevant financial year.	Y	
71.2. The duty pursuant to Section 179(5) of the Act to refund to the principal ratepayer an amount proportionate to the remaining part of the financial year, if land ceases to be rateable during the course of a financial year and the rates have been paid.	Y	
72. Service of Rate Notice		
72.1. The duty pursuant to Section 180(1) of the Act and in accordance with Section 180(2) of the Act to send to the principal ratepayer or, in the case of a service charge, the owner or occupier of the relevant land, a rates notice, as soon as practicable after –		
72.1.1. the declaration of a rate; or	Y	
72.1.2. the imposition of a service charge; or	Y	
72.1.3. a change in the rates liability of land.	Y	
73. Payment of Rates – General Principles		
73.1. The power pursuant to Section 181(2) of the Act to determine the day on which each instalment of rates falls due in the months of	Y	

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

in order to encourage -		
73.7.1. the payment of instalments of rates in advance; or	Y	
73.7.2. prompt payment of rates.	Y	
73.8. The power pursuant to Section 181(12)(b) of the Act to impose a surcharge or administrative levy not exceeding 1% of the rates payable in a particular financial year with respect to the payment of rates by instalments under Section 181(4)(b) of the Act.	Y	
73.9. The power pursuant to Section 181(13) and subject to Section 44(3)(b) of the Act in relation to the payment of separate rates or service rates, by written notice incorporated in a notice for the payment of those rates sent to the principal ratepayer shown in the assessment record in respect of the land at the address shown in the assessment record, at least 30 days before an amount is payable in respect of the rates for a particular financial year, to impose a requirement that differs from the requirements of Section 181 of the Act.	Y	
73.10. The power pursuant to Section 181(15) of the Act to decide that rates of a particular kind will be payable in more than 4 instalments in a particular financial year and in such case –		
73.10.1. the instalments must be payable on a regular basis (or essentially a regular basis) over the whole of the financial year, or the remainder of the financial year depending on when the rates are declared; and	Y	
73.10.2. the Delegate must give at least 30 days notice before an instalment falls due.	Y	
74. Remission and Postponement of Payment of Rates		
74.1. The power pursuant to Section 182(1) of the Act to decide on the application of a ratepayer that payment of rates in accordance		

with the Act would cause hardship and, if so, to –		
74.1.1. postpone payment in whole or in part for such period as the Delegate thinks fit; or	Y	
74.1.2. remit the rates in whole or in part.	Y	
74.2. The power pursuant to Section 182(2) of the Act on a postponement of rates –		
74.2.1. to grant the postponement on condition that the ratepayer pay interest on the amount affected by the postponement at a rate fixed by the Delegate (but not exceeding the cash advance debenture rate);	Y	
74.2.2. to grant the postponement on other conditions determined by the Delegate; and	Y	
74.2.3. to revoke the postponement, at the Delegate's discretion (in which case the Delegate must give the ratepayer at least 30 days written notice of the revocation before taking action to recover rates affected by the postponement).	Y	
74.3. The power pursuant to Section 182(3) of the Act to grant other or additional postponements of rates –		
74.3.1. to assist or support a business in the Council's area; or	Y	
74.3.2. to alleviate the affects of anomalies that have occurred in valuations under the Act.	Y	
74.4. The power pursuant to Section 182(4) of the Act to grant other or additional remissions of rates on the same basis as applies under the Rates and Land Tax Remission Act 1986, (such remissions will be in addition to the remissions that are available under that Act).	Y	
74.5. The power pursuant to Section 182(5) of the Act to require a ratepayer who claims to be entitled to a remission of rates by virtue of	Y	

a determination under Section 182(4) of the Act to provide evidence to the satisfaction of the Delegate verifying that entitlement.		
74.6. The power pursuant to Section 182(6) of the Act to revoke a determination under Section 182(4) of the Act at any time (but the revocation will not effect an entitlement to remission in relation to rates declared before the revocation takes effect).	Y	
75. Postponement of Rates - Seniors		
75.1. The power pursuant to Section 182A(2) of the Act to require that an application pursuant to Section 182A(1) of the Act be accompanied by such information as the Delegate may reasonably require.	Y	
75.2. The power pursuant to Section 182A(3) of the Act, on an application for a postponement of the payment of the prescribed proportion of rates for the current or future financial made in accordance with Sections 182A(1) and (2) of the Act to -		
75.2.1. reject an application for the postponement of rates; or	Y	
75.2.2. impose conditions on the postponement of rates but only in accordance with the Regulations.	Y	
76.51. Application of money in respect of rates		
76.1. The power and the duty to apply monies received or recovered in respect of rates pursuant to and in accordance with Section 183 of the Act.	Y	
77. Sale of Land for Non-Payment of Rates		
77.1. The power pursuant to Section 184(1) of the Act to sell land, if an amount payable by way of rates in respect of the land, has been in arrears for 3 years or more.	Y	
77.2. The duty pursuant to Section 184(2) of the Act before selling land for non-payment of		

rates, to send a notice to the principal ratepayer at the address appearing in the assessment record –		
77.2.1. stating the period for which the rates have been in arrears; and	Y	
77.2.2. 52.2.2 stating the amount of the total liability for rates presently outstanding in relation to the land; and	Y	
77.2.3. stating that if that amount is not paid in full within 1 month of service of the notice (or such longer time as the Delegate may allow), the Council intends to sell the land for non-payment of rates.	Y	
77.3. The duty pursuant to Section 184(3) of the Act to send a copy of a notice sent to a principal ratepayer under Section 184(2) of the Act -		
77.3.1. to any owner of the land who is not the principal ratepayer; and	Y	
77.3.2. to any registered mortgagee of the land; and	Y	
77.3.3. if the land is held from the Crown under a lease, licence or agreement to purchase, to the Minister who is responsible for the administration of the Crown Lands Act 1929.	Y	
77.4. If -		
77.4.1. the Delegate cannot, after making reasonable enquiries, ascertain the name and address of a person to whom a notice is to be sent under Section 184(2) or (3) of the Act; or		
77.4.2. the Delegate considers that it is unlikely that a notice sent under Section 184(2) or (3) of the Act would come to the attention of the person to whom it is to be sent,		
the power pursuant to Section 184(4) of the Act to effect service of the notice by –	Y	

77.4.3. placing a copy of the notice in a newspaper circulating throughout the State; and	Y	
77.4.4. leaving a copy of the notice in a conspicuous place on the land.	Y	
77.5. The power pursuant to Section 184(5) of the Act to proceed to have the land sold, if the outstanding amount of rates is not paid in full within the time allowed in the notice given to the ratepayer under Section 184(2) of the Act.	Y	
77.6. The duty pursuant to Section 184(6) and (7) of the Act to conduct the sale of land for non-payment of rates by public auction and the power to set the reserve price for the purposes of the auction, except in the case of land held from the Crown under a lease, licence or agreement to purchase, unless the Minister responsible for the administration of the Crown Lands Act 1929 grants consent to sale by public auction.	Y	
77.7. The duty pursuant to Section 184(8) of the Act to advertise the auction of land under Section 184 of the Act on at least 2 separate occasions in a newspaper circulating throughout the State.	Y	
77.8. The duty pursuant to Section 184(9) of the Act to call off the auction, if before the date of such an auction, the outstanding amount and the costs incurred by the Council in proceeding under this Section are paid to the Council.	Y	
77.9. The power pursuant to Section 184(10) of the Act to sell the land by private contract for the best price that can be reasonably obtained, if an auction fails or an auction is not held because the land is held from the Crown under a lease, licence or agreement to purchase.	Y	
77.10. The power and duty to apply monies received by the Council in respect of the sale of land for non-payment of rates pursuant to and in accordance with Section 184(11) of the	Y	

Act.		
77.11. The duty pursuant to Section 184(12) of the Act to make reasonable enquiries to find the owner of land to be sold for non-payment of rates and where the owner cannot be found, the power to deal with the amount payable to the owner as unclaimed money under the Unclaimed Moneys Act 1981.	Y	
78. Objection, Review or Appeal		
78.1. If an objection, review or appeal in respect of a valuation of land results in the alteration of a valuation or of a decision to attribute a particular land use to land, and a due adjustment is made, the power pursuant to Section 186(2) of the Act and subject to Section 186(3), (4) and (5) of the Act –		
78.1.1. to refund or credit the overpaid amount against future liabilities for rates on the land subject to the rates; or	Y	
78.1.2. to recover an additional amount payable on account of an alteration of the value as arrears after at least 30 days have expired from the date on which notification of the alteration is given to the person who initiated the objection, review or appeal.	Y	
79. Certificate of Liabilities		
79.1. The power pursuant to Section 187(1) of the Act to issue a certificate, on application by or on behalf of a person who has an interest in land within the area, stating that:		
79.1.1. the amount of any liability for rates or charges on the land imposed under Part 1 of Chapter 10 of the Act (including rates and charges under this Part that have not yet fallen due for payment, and outstanding interest or fines payable in respect of rates and charges under this Part); and	Y	
79.1.2. any amount received on account of rates or charges on the land	Y	

imposed under this part, that is held in credit against future liabilities for rates or charges in relation to the land.		
80. Investigation by Ombudsman		
80.1. The duty pursuant to Section 187B(6) of the Act if the Ombudsman's report prepared pursuant to Section 187B(3) of the Act makes any recommendations as to action that should be taken by the Council, to within 2 months after receipt of that report, provide a written response to -		
80.1.1. the Ombudsman; and	Y	
80.1.2. if relevant, the person who made the complaint.	Y	
80.2. The power pursuant to Section 187B(7) of the Act to grant a rebate or remission of any rate or service charge, or of any charge, fine or interest under Part 1 of Chapter 10 of the Act, if the Ombudsman recommends that the Council do so on the ground of special circumstances pertaining to a particular ratepayer.	Y	
81. Fees and Charges		
81.1. The power pursuant to Section 188(1) and (2) of the Act to impose fees and charges –		
81.1.1. for the use of any property or facility owned, controlled, managed or maintained by the Council;	Y	
81.1.2. for services supplied to a person at his or her request;	Y	
81.1.3. for carrying out work at a person's request;	Y	
81.2. The power pursuant to Section 188(3) of the Act to provide for –		
81.2.1. specific fees and charges;	Y	
81.2.2. maximum fees and charges and minimum fees and charges;	Y	

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

84. Assumption of Care, Control and Management of Land		
84.1. The power pursuant to Section 192(1) of the Act to assume the care, control and management of land in the Council area that has been set aside for the use or enjoyment of the public or a section of the public under the circumstances specified in Section 192(1)(a) and (b) of the Act.	Y	
84.2. The duty pursuant to Section 192(4) of the Act to immediately cause a copy of a resolution under Section 192(1) of the Act to assume the care, control and management of land to be published in the Gazette.	Y	
85. Classification		
85.1. The duty pursuant to Section 193(6) of the Act to give notice in the Gazette of a resolution –		
85.1.1. to exclude land from classification as community land under Section 193(4) of the Act; or	Y	
85.1.2. to classify as community land, land that had previously been excluded from classification as such under Section 193(5) of the Act.	Y	
86. Revocation of Classification of Land as Community Land		
86.1. The duty pursuant to Section 194(2) of the Act before the Council revokes the classification of land as community land to –		
86.1.1. prepare a report on the proposal containing –	Y	
86.1.1.1. a summary of reasons for the proposal; and	Y	
86.1.1.2. a statement of any dedication, reservation or trust to which the land is subject; and	Y	
86.1.1.3. a statement of whether	Y	

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

with Section 196(1), (2), (3) and (7) of the Act to prepare for consideration and adoption by the Council a management plan or management plans for Council's community land, for which a management plan must be prepared, that –		
88.1.1. identifies the land to which it applies; and	Y	
88.1.2. states the purpose for which the land is held by the Council; and	Y	
88.1.3. states the Council's objectives, policies (if any) and proposals for the management of the land; and	Y	
88.1.4. states performance targets and how the Council proposes to measure its performance against its objectives and performance targets.	Y	
88.2. If a management plan relates to land that is not in the Council's ownership, the power and duty pursuant to Section 196(4) of the Act to consult with the owner of the land at an appropriate stage during the preparation of the plan and the plan must –		
88.2.1. identify the owner of the land; and	Y	
88.2.2. state the nature of any trust, dedication or restriction to which the land is subject apart from the Act; and	Y	
88.2.3. contain any provisions that the owner reasonably requires and identify those provisions as provisions required by the owner.	Y	
88.3. The duty pursuant to Section 196(5) of the Act to ensure (as far as practicable) that the management plan is consistent with other relevant official plans and policies about conservation, development and use of the land and contains any special provisions required under the Regulations.	Y	
89. Public Consultation on Proposed Management Plan		

89.1. Before the Council adopts a management plan for community land, the duty pursuant to Section 197(1) of the Act and subject to Section 197(2) of the Act –		
89.1.1. make copies of the proposed plan available for inspection or purchase at the Council's principal office; and	Y	
89.1.2. follow the relevant steps set out in Council's public consultation policy.	Y	
89.2. The duty pursuant to Section 197(3) of the Act to give public notice of the adoption of a management plan.	Y	
90. Amendment or Revocation of Management Plan		
90.1. The power pursuant to Section 198(1) of the Act and in accordance with Section 198(2) and (3) of the Act to amend or revoke a management plan by the adoption of a proposal for its amendment or revocation.	N	
90.2. 58.6 The power pursuant to Section 198(2) and (3) of the Act to conduct public consultation prior to the Council adopting a proposal for amendment to or revocation of a management plan, unless in the opinion of the Delegate the amendment has no impact or no significant impact on the interests of the community.	Y	
90.3. 58.7 The duty pursuant to Section 198(4) of the Act to give public notice of Council's adoption of a proposal for the amendment or revocation of a management plan.	Y	
91. Effect of Management Plan		
91.1. The duty pursuant to Section 199 of the Act to manage community land in accordance with any management plan for the relevant land.	Y	
92. Use of Community Land for Business Purposes		
92.1. The power pursuant to Section 200(1), (2)	Y	

and (3) of the Act to approve a person's use of community land for a business purpose, consistent with provisions of the management plan and on any conditions the Delegate considers appropriate.		
93. Sale or Disposal of Local Government Land		
93.1. 60.1 The power pursuant to Section 201(1) of the Act to sell or otherwise dispose of an interest in land:		
93.1.1. 60.1.1 vested in the Council in fee simple; or	Y	
93.1.2. 60.1.2 vested in the Council as lessee.	Y	
93.2. 60.2 The power pursuant to Section 201(2) of the Act to:		
93.2.1. 60.2.1 grant an easement (including a right of way) over community land; and	Y	
93.2.2. 60.2.2 grant an easement (excluding a right of way) over a road or part of a road.	Y	
94.1 Alienation of Land by Lease or Licence		
94.1. The power pursuant to Section 202(1) and (5) of the Act and subject to Section 202(7) of the Act to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve), for –		
94.1.1. the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;	Y	
94.1.2. the exclusion, removal or regulation of persons, vehicles or animals from or on the land, and the imposition of admission or other charges (subject to the fixing or varying of the charge by Council, pursuant to Section 44(3)(j) of the Act);	Y	

94.1.3. any other matter relevant to the use or maintenance of the land.	Y	
94.2. The duty pursuant to Section 202(2) and (3) of the Act and subject to Section 202(7) of the Act before granting a lease or licence relating to community land to follow the relevant steps set out in Council's public consultation policy, unless –		
94.2.1. the grant of the lease or the licence is authorised in an approved management plan for the land and the term of the proposed lease or licence is 5 years or less; or	Y	
94.2.2. the Regulations provide, in the circumstances of the case, for an exemption from compliance with the public consultation policy.	Y	
94.3. The power and duty pursuant to Section 202(4) of the Act and subject to Section 202(4a) and Section 202(7) of the Act to grant or renew a lease or a licence for a term (not exceeding 21 years) and to extend the term of the lease or licence but not so that the term extends beyond a total of 21 years.	Y	
94.4. The duty pursuant to Section 202(6) of the Act and subject to Section 202(7) of the Act to ensure that a lease or licence relating to community land is consistent with any relevant management plan.	Y	
95. Register		
95.1. The duty pursuant to Section 207(1) of the Act to keep a register of all community land in Council's area.	Y	
95.2. The duty pursuant to Section 207(2)(a) and (b) of the Act to ensure that the register -	Y	
95.2.1. contains the information required by the Regulations; and	Y	
95.2.2. contains copies of current management plans.	Y	

95.3. The power pursuant to Section 207(2)(c) of the Act to include in the register (if the Delegate so decides) a computer record of the relevant information.	Y	
95.4. 62.4 The duty pursuant to Section 207(3) and (4) of the Act to make available the register of all community land in the Council's area for inspection (without charge) or purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.	Y	
96. Ownership of Public Roads		
96.1. The duty pursuant to Section 208(4) of the Act to cause a copy of a resolution declaring a road or land to be a public road, or preserving an easement under Section 208(3), to be published in the Gazette.	Y	
97. Ownership of Fixtures and Equipment Installed on Public Roads		
97.1. The power pursuant to Section 209(3) of the Act to enter into an agreement with the provider of public infrastructure or the holder of an authorisation or permit under Section 209(1) and (2) of the Act which provides for the vesting of property in fixtures and equipment in the Council.	Y	
98. Conversion of Private Road to Public Road		
98.1. The duty pursuant to Section 210(1)(b) of the Act to make reasonable enquiries to find the owner of a private road which the Council is seeking to declare be a public road.	Y	
98.2. The duty pursuant to Section 210(2) of the Act at least 3 months before the Council makes a declaration under Section 210 of the Act to_-		
98.2.1. if the identity and whereabouts of the owner of the road are known to the Council, to give written notice to the owner of land subject to the proposed declaration; and	Y	

98.2.2. if a person has some other form of registered legal interest over the road and the identity and whereabouts of that person are known to the Council – give written notice to the person of the proposed declaration; and	Y	
98.2.3. to give public notice of the proposed declaration.	Y	
98.3. The duty pursuant to Section 210(5) to publish in the Gazette a declaration of the Council made in accordance with Section 210(1) of the Act.	Y	
98.4. The duty pursuant to Section 210(7) of the Act to furnish to the Registrar-General a copy of any declaration under Section 210 of the Act in a manner and form approved by the Registrar-General immediately after it is made.	Y	
99. Highways		
99.1. The power pursuant to Section 211(1)(a) of the Act to enter into an agreement with the Commissioner of Highways in order for the Council to exercise its powers under Part 2 of Chapter 11 of the Act in relation to a highway.	Y	
100. Power to Carry Out Roadwork		
100.1. The power pursuant to Section 212(1) of the Act to have road works carried out in the Council's area or, by agreement with another Council, in the area of another Council.	Y	
100.2. The power pursuant to Section 212(3) of the Act to do anything reasonably necessary for, or incidental, to roadwork pursuant to Section 212(2) of the Act, providing that –		
100.2.1. the roadwork is carried out in compliance with any relevant requirement under the Road Traffic Act 1961; and	Y	
100.2.2. before carrying out roadwork in relation to a road that runs into or intersects with a highway (and that may have an affect on the users of that	Y	

highway), consult with the Commissioner of Highways; and		
100.2.3. the roadwork in relation to a private road is only carried out if –	Y	
100.2.3.1. the owner agrees; or	Y	
100.2.3.2. the Council has given the owner reasonable notice of the proposed roadwork and a reasonable opportunity to make representations and has considered any representations made in response to the notice; or	Y	
100.2.3.3. the identity or whereabouts of the owner is unknown; and	Y	
100.2.4. the roadwork on other private land is carried out with the agreement of the owner (unless otherwise provided in the Act).	Y	
101. Recovery of Cost of Roadwork	Y	
101.1. Where roadwork has been carried by agreement, the power pursuant to Section 213(1) of the Act to recover the whole of the cost or an agreed contribution determined by the Delegate under the terms of the agreement.	Y	
101.2. Where roadwork has been carried out to repair damage to a road, the power pursuant to Section 213(2) of the Act to recover the cost of carrying out the work, as a debt, from –		
101.2.1. the person who caused the damage; or	Y	
101.2.2. in the case of damage caused by the bursting, explosion or fusion of any pipe, wire, cable, fitting or other object – the person who is the owner, or who has control of that infrastructure.	Y	
101.3. If the Council carries out roadwork on a private road, the power pursuant to Section 213(3) of the Act to recover the cost of the	Y	

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

104. Power to Order Owner of Private Road to Carry out Specific Roadwork		
104.1. The power pursuant to Section 216(1) of the Act to, by order in writing in accordance with Section 216(2) of the Act to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.	Y	
104.2. The power pursuant to Section 216(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to -		
104.2.1. any proposal to make an order; and	Y	
104.2.2. if an order is made, any order,	Y	
under Section 216(1) of the Act.	Y	
105. Power to Order Owner of Infrastructure on Road to Carry Out Specified Maintenance or Repair Work.		
105.1. The power pursuant to Section 217(1) of the Act by order in writing to the owner of a structure or equipment (including pipes, wires, cables, fittings and other objects) installed in, on, across, under or over a road, to require the owner –	Y	
105.1.1. to carry out specified work by way of maintenance or repair; or	Y	
105.1.2. to move the structure or equipment in order to allow the Council to carry out roadwork.	Y	
105.2. Where the order made pursuant to Section 217(1) of the Act is not complied with within a reasonable time fixed in the order, the power pursuant to Section 217(2)(a) of the Act to take action required by the order and to recover the cost of doing so as a debt from the owner.	Y	
106. Power to Require Owner of Adjoining Land to Carry Out Specific Work		
106.1. 66.5 The power pursuant to Section	Y	

218(1) of the Act to, by order in writing in accordance with Section 218(2) of the Act to the owner of land adjoining the road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.		
106.2. The duty pursuant to Section 218(2) of the Act to apply Divisions 2 and 3 of Part 2 of Chapter 12 of the Act with respect to -		
106.2.1. any proposal to make an order; and	Y	
106.2.2. if an order is made, any order	Y	
under Section 218(1) of the Act.	Y	
107. Power to Assign a Name, or Change the Name, of a Road or Public Place		
107.1. The power pursuant to Section 219(1) of the Act to assign a name to a public or private road, or to a public place, or change the name of a public or private road, or of a public place.	Y	
107.2. The duty pursuant to Section 219(1a) of the Act to assign a name to a public road created after the commencement of Section 219(1a) of the Act by land division.	Y	
107.3. Where it is proposed to change the name of a public road that runs into the area of an adjoining council, the duty pursuant to Section 219(2) of the Act to -		
107.3.1. give the adjoining Council at least 2 months notice of the proposed change; and	Y	
107.3.2. consider any representations made by the adjoining council in response to that notice.	Y	
107.4. The duty pursuant to Section 219(3) of the Act to -		
107.4.1. immediately notify the Registrar-General, the Surveyor-General and the Valuer-General of the assignment of a name, or the change of a name, under	Y	

Section 219 of the Act; and		
107.4.2. on request by the Registrar-General, the Survey-General or the Valuer-General, to provide information about the names of roads or public places in the Council's area.	Y	
107.5. The duty pursuant to Section 219(4) of the Act to give public notice of the assigning or changing a name under Section 219(1) of the Act.	Y	
107.6. The power pursuant to Section 219(5) of the Act to prepare a policy relating to the assigning of names under Section 219 of the Act for consideration and adoption by the Council.	Y	
107.7. The power pursuant to Section 219(6) of the Act to, at any time, alter a policy or substitute a new policy.	N	
107.8. The duty pursuant to Section 219(7) of the Act to give public notice of the adopting or altering of a policy under Section 219 of the Act.	Y	
108. Numbering of Premises and Allotments		
108.1. The power pursuant to Section 220(1) of the Act to adopt a numbering system for buildings and allotments adjoining a road.	Y	
108.2. The duty pursuant to Section 220(1a) of the Act to assign a number (as part of its primary street address) to all buildings or allotments adjoining a public road created after the commencement of Section 220(1a) of the Act by land division.	Y	
108.3. The duty pursuant to Section 220(1b) of the Act to ensure that an assignment under Section 220(1a) of the Act occurs within 30 days after the issue of certificate of title in relation to the relevant land division in accordance with any requirements prescribed by regulations made for the purposes of Section 220(1b) of the Act.	Y	

108.4. The power pursuant to Section 220(2) of the Act to, from time to time, alter a numbering system, or substitute a new numbering system, under Section 220 of the Act.	N	
108.5. The duty pursuant to Section 220(3) of the Act to give public notice of the adopting, altering or substituting a numbering system for a particular road.	Y	
108.6. The duty pursuant to Section 220(4) of the Act to notify the Valuer-General of the decision to adopt, alter or substitute a numbering system.	Y	
108.7. The power pursuant to Section 220(6) of the Act to request an owner of land to ensure that the appropriate number for the owner's building or allotment is displayed in a form directed or approved by the Delegate.	Y	
109. Alteration of Road		
109.1. The power pursuant to Section to 221(1) and (2) of the Act to authorise a person (other than the Council or a person acting under some other statutory authority) to make an alteration to a public road, such as:	Y	
109.1.1. altering the construction or arrangement of the road to permit or facilitate access from an adjacent property; or	Y	
109.1.2. erecting or installing a structure (including pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over the road; or	Y	
109.1.3. 68.1.3 changing or interfering with the construction, arrangement or materials of the road; or	Y	
109.1.4. changing, interfering with or removing a structure (including pipes, wires, cables, fixtures, fittings and other objects) associated with the road; or	Y	
109.1.5. planting a tree or other vegetation on	Y	

the road, interfering with vegetation on the road or removing vegetation from the road.		
109.2. Before authorising the erection or installation of a structure under Section 221(2)(b) of the Act the duty pursuant to Section 221(4) of the Act to give consideration as to whether the structure will –		
109.2.1. unduly obstruct the use of the road; or	Y	
109.2.2. unduly interfere with the construction of the road; or	Y	
109.2.3. have an adverse effect on road safety.	Y	
109.3. The power pursuant to Section 221(6) of the Act to grant an authorisation under Section 221 of the Act –		
109.3.1. for a particular act or occasion; or	Y	
109.3.2. for a term which is, subject to revocation for breach of a condition, to remain in force for a term (not exceeding 42 years) stated in the authorisation and, at the expiration of the term, the power to renew the term for a further term (not exceeding 42 years) fixed by the Delegate at the time of the renewal.	Y	
110. Permits for Business Purposes		
110.1. The power pursuant to Section 222(1) of the Act to <u>plant vegetation or</u> authorise a person to use a public road for business purposes and to give a permit to do so.	Y	
110.2. Subject to the Act, the power pursuant to Section 222(2) of the Act to issue a permit that grants rights of exclusive occupation in relation to part of a public road.	Y	
110.3. The power pursuant to Section 222(3) of the Act to issue a permit to use a public road for a particular occasion or for a term stated in	Y	

the permit.		
111. Public Consultation		
111.1. The duty pursuant to Section 223(1) of the Act before granting the authorisation to alter a public road or the permit to use a public road for business purposes, to follow the relevant steps set out in Council's public consultation policy, if the Delegate proposes to grant an authorisation or permit –		
111.1.1. that confers a right of exclusive occupation; or	Y	
111.1.2. that would have the effect of restricting access to a road; or	Y	
111.1.3. in relation to a use or activity for which public consultation is required under the Regulations.	Y	
111.2. The duty pursuant to Section 223(2) of the Act to give written notice of the proposal to agencies that are, under the Regulations, to be notified of the proposal to grant an authorisation to alter a public road or to permit the use of a public road for business purposes.	Y	
112. Conditions of Authorisation/Permit		
112.1. The power pursuant to Section 224 of the Act to grant an authorisation or permit under Division 6 of Part 2, Chapter 11 on conditions the Delegate considers appropriate.	Y	
113. Cancellation of Authorisation/Permit		
113.1. The power pursuant to Section 225(1) of the Act by notice in writing to the holder of an authorisation or permit, to cancel the authorisation or permit for breach of a condition.	Y	
113.2. The duty pursuant to Section 225(2) of the Act before cancelling an a uthorisation or permit, to -		
113.2.1. give the holder of the authorisation or permit a written notice of the proposed	Y	

cancellation stating the grounds on which the Delegate proposes to act and allowing the holder a reasonable period to make written representations to the Delegate on the proposed cancellation; and		
113.2.2. consider any representations made in response to the notice.	Y	
113.3. The power pursuant to Section 225(3) of the Act to determine if a shorter period of notice should apply under Section 225(2)(a) of the Act, to protect the health or safety of the public, or otherwise to protect the public interest.	Y	
114. Register		
114.1. The power and duty pursuant to Section 231(1) and (2) of the Act to keep a register of public roads in the Council's area, which -		
114.1.1. includes the information required by regulation; and	Y	
114.1.2. may consist (if the Delegate so decides) of a computer record of the relevant information.	Y	
114.2. The duty pursuant to Section 231(3) and (4) of the Act to make the register available for public inspection (without charge) and purchase of extracts (upon payment of a fee fixed by the Council) at the principal office of the Council during ordinary office hours.	Y	
115. Trees		
The power pursuant to Section 232 of the Act to authorise or permit the planting of vegetation, on a road, only after complying with the following matters (in addition to complying with any other statutory requirement) –		
115.1. giving consideration to whether the vegetation is, on balance, appropriate to the proposed site taking into account -	Y	
115.1.1. environmental and aesthetic issues;	Y	

and		
115.1.2. the use and construction of the road (including the potential for interference with the construction of the road or with structures (including pipes, wires, cables, fixtures, fittings or other objects) in the road); and	Y	
115.1.3. road safety matters; and	Y	
115.1.4. other matters (if any) considered relevant by the Delegate; and	Y	
115.2. where the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, to follow the relevant steps set out in its public consultation policy.	Y	
116. Damage		
116.1. The power pursuant to Section 233(1) and (2) of the Act to recover damages, in the same way as damages for a tort, where a person, without the Council's permission, intentionally or negligently damages a road or a structure (including pipes, wires, cables, fixtures, fittings and other objects) belonging to the Council associated with the road.	Y	
117. Council's Power to Remove Objects etc from Roads		
117.1. The power pursuant to Section 234(1) of the Act to remove and dispose of any structure, object or substance from a road if -		
117.1.1. it has been erected, placed or deposited on the road without the authorisation or permit required under Part 2 of Chapter 11 of the Act; or	Y	
117.1.2. an authorisation or permit has been granted but has later expired or been cancelled.	Y	
117.2. The power pursuant to Section 234(2) of the Act to recover the cost of acting under Section 234 of the Act as a debt from the person who erected, placed or deposited the	Y	

structure, object or substance on the road.		
117.3. Where, as a result of an accident involving a vehicle or vehicles, any wreckage, objects or materials are left on a road, the power pursuant to Section 234(3) of the Act to clear the area and to recover the cost from the driver of the vehicle or, if more than one vehicle was involved, the driver of any one of the vehicles.	Y	
118. Deposit of Rubbish		
118.1. The power pursuant to Section 235(1) of the Act to authorise or permit the following -		
118.1.1. the deposit of rubbish on a public road or public place; or	Y	
118.1.2. the deposit of goods, materials, earth, stone, gravel, or any other substance on a public road or public place.	Y	
119. Abandonment of Vehicles and Farm Implements		
119.1. The power pursuant to Section 236(2) of the Act to seek an order from the court by which a person is convicted of an offence against Section 236(1) of the Act, that the convicted person pay to the Council any costs incurred by the Council in removing or disposing of a vehicle or farm implement abandoned on a public road or public place.	Y	
120. Removal of Vehicles		
120.1. The duty pursuant to Section 237(4) of the Act to ensure that the owner of the vehicle is notified of the removal of the vehicle and the place to which it has been removed:		
120.1.1. by written notice in the prescribed form -		
120.1.1.1. served on the owner personally; or	Y	
120.1.1.2. served on the owner by the use of person-to-person registered post,	Y	

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

120.5. The duty pursuant to Section 237(8) of the Act to make reasonable inquiry to find the owner of the vehicle following sale and, if after that reasonable inquiry, the owner cannot be found, the duty to pay the balance of the proceeds of sale to the Council.	Y	
120.6. The duty pursuant to Section 237(9) of the Act to take reasonable steps to return property found in the vehicle, and where the property cannot be returned, the duty to deal with the property as unclaimed goods under the Unclaimed Goods Act 1987 as if the Council were the bailee of those goods.	Y	
121. Time Limits for Dealing with Certain Applications		
121.1. Where the power to decide upon certain applications to which the Section applies has been delegated, the duty pursuant to Section 242(1) and (2) of the Act within two months after the relevant date, to make a decision in respect of the application and, if not so decided, it is taken to have been refused.	Y	
121.2. The duty pursuant to Section 242(3) of the Act to notify the applicant in writing as soon as practicable of a decision or presumptive decision on a application to which Section 242 of the Act applies.	Y	
122. Issue of Certificate of Title by Registrar-General		
122.1. The duty pursuant to Section 243(1) of the Act to apply to the Registrar-General for the issue of a Certificate of Title for the land under the Real Property Act 1896, where land vests for an estate in fee simple in the Council under this Act.	Y	
122.2. The duty pursuant to Section 243(2) of the Act to make such application to the Registrar-General for the issue of a Certificate of Title as follows:		
122.2.1. in a manner and form approved by the Registrar-General; and	Y	

122.2.2. accompanied by -	Y	
122.2.2.1. unless otherwise required by the Registrar-General - the duplicate Certificate of Title for the land; and	Y	
122.2.2.2. any surveys of the land and other materials that the Registrar-General may reasonably require; and	Y	
122.2.2.3. a fee fixed by the Registrar-General.	Y	
123. Liability for Injury, Damage or Loss Caused by Certain Trees		
123.1. The power and duty pursuant to Section 245 of the Act to take reasonable action in response to a written request by an owner or occupier of property adjacent to a road for the Council to take reasonable action to avert a risk of damage to property of the owner or occupier from a tree growing in the road (whether planted by the Council or not).	Y	
124. Council May Require Bond or Other Security in Certain Circumstances		
124.1. Subject to Section 245A of the Act, if,		
124.1.1. a person has approval to carry out development under the Development Act 1993; and		
124.1.2. the delegate has reason to believe that the performance of work in connection with the development could cause damage to any local government land (including a road) within the vicinity of the site of the development,		
the power, pursuant to Section 245A of the Act, to, by notice in writing serve on the person who has the benefit of the approval, require the person to enter into an agreement that complies with any requirements prescribed by the regulations so as to ensure that money is available to address the cost of any damage that may be caused.	Y	

124.2. The power pursuant to Sections 37(b) and 245A of the Act, where a person has approval to carry out development under the Development Act 1993 and a notice in writing has been served pursuant to Section 245A of the Act on the person who has the benefit of the approval, to enter into an agreement that complies with any requirements prescribed by the regulations so as to ensure that money is available to address the cost of any damage that may be caused.	Y	
125. Power to Make By-Laws		
125.1. The duty pursuant to Section 246(4a) of the Act, if the Council makes a determination under Section 246(3)(e) of the Act, to ensure that notice of the determination is published in the Gazette and in a newspaper circulating in the area of the Council.	Y	
126. Passing By-Laws		
126.1. If it is proposed that the Council make a by-law, then at least 21 days before the Council resolves to make the by-law, the duty pursuant to Section 249(1) of the Act to -		
126.1.1. 83.1.4 make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for public inspection, without charge and during ordinary office hours, at the principal office of the Council, and so far as is reasonable practicable on the Internet; and	Y	
126.1.2. by notice in a newspaper circulating in the area of the Council -	Y	
126.1.2.1. inform the public of the availability of the proposed by-law; and	Y	
126.1.2.2. set out the terms of the by-law, or describe in general terms the by-law's nature and effect.	Y	
126.2. 83.2 Before the Council makes a by-law,		

the duty pursuant to Section 249(4) of the Act to obtain a certificate, in the prescribed form, signed by a legal practitioner certifying that, in the opinion of the legal practitioner –		
126.2.1. the Council has power to make the by-law by virtue of a statutory power specified in the certificate; and	Y	
126.2.2. the by-law is not in conflict with the Act.	Y	
126.3. The duty pursuant to Section 249(5) of the Act to publish a by-law in the Gazette.	Y	
126.4. The duty pursuant to Section 249(7) of the Act to publish a notice of the making of a by-law under Section 249 of the Act in a newspaper circulating in the area of the Council.	Y	
127. Model By-Laws		
127.1. The duty pursuant to Section 250(5) of the Act to publish the resolution adopting a model by-law or alteration made under Section 250 of the Act in the Gazette.	Y	
127.2. The duty pursuant to Section 250(7) of the Act to publish a notice of the adoption of a model by-law or alteration made under Section 250 of the Act in a newspaper circulating in the area of the Council.	Y	
128. Register of By-Laws and Certified Copies		
128.1. The duty pursuant to Section 252(1) and (2) to cause a separate register to be kept of all by-laws made or adopted by the Council; such register to include a copy of any code, standard or other document referred to or incorporated in a by-law.	Y	
128.2. The duty pursuant to Section 252(3) and (4) of the Act to make available the register of by-laws for inspection or purchase an extract from the register (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours.	Y	

128.3. The duty pursuant to Section 252(5) of the Act to make available, on payment of a fee fixed by the Council, a certified copy of a by-law of the Council in force at the particular time.	Y	
129. Power to Make Orders		
129.1. The power pursuant to Section 254 of the Act to order a person to do or to refrain from doing a thing specified in Column 1 of the Table in Part 2 of Chapter 12, if in the opinion of the Delegate, the circumstances specified in Column 2 of the Table exist and the person is within the description in Column 3 of the Table.	Y	
130. Procedures to be Followed		
130.1. The duty pursuant to Section 255(1) of the Act before taking action to make an order under Part 2 of Chapter 12 (but subject to this Section), to give the person to whom it is proposed that the order be directed a notice in writing -		
130.1.1. stating the proposed action, including the terms of the proposed order and the period within which compliance with the order will be required; and	Y	
130.1.2. stating the reasons for the proposed action; and	Y	
130.1.3. inviting the person to show, within a specified time (being a reasonable period), why the proposed action should not be taken (by making representations to the Delegate).	Y	
130.2. If a notice of intention to make an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(2) of the Act to take reasonable steps to serve a copy of the notice on the owner.	Y	
130.3. The power pursuant to Section 255(3) of the Act after considering representations made within the time specified under Section 255(1) of the Act –		

130.3.1. to make an order in accordance with the terms of the original proposal; or	Y	
130.3.2. to make an order with modifications from the terms of the original proposal; or	Y	
130.3.3. to determine not to proceed with an order.	Y	
130.4. The power pursuant to Section 255(5) of the Act to -		
130.4.1. include two or more orders in the same instrument;	Y	
130.4.2. direct two or more persons to do something specified in the order jointly.	Y	
130.5. The duty pursuant to Section 255(6) of the Act to ensure that the order -		
130.5.1. subject to Section 255 of the Act, specifies a reasonable period within which compliance with the order is required; and	Y	
130.5.2. states the reasons for the order.	Y	
130.6. The duty pursuant to Section 255(7) of the Act to serve an order in accordance with Part 2 of Chapter 14 of the Act on the person to whom it is addressed.	Y	
130.7. 84.8 If an order is directed to a person who is not the owner of the relevant land, the duty pursuant to Section 255(8) of the Act to take reasonable steps to serve a copy of the order on the owner.	Y	
130.8. The power pursuant to Section 255(11) of the Act at the request or with the agreement of the person to whom an order is directed, to vary the order on the Delegate's own initiative, or to revoke an order if satisfied that it is appropriate to do so.	Y	
130.9. The duty pursuant to Section 255 (12) of the Act, if the Delegate, in the circumstances of a particular case considers -		
130.9.1. that an activity constitutes, or is likely	Y	

to constitute, a threat to life or an immediate threat to public health or public safety; or		
130.9.2. that an emergency situation otherwise exists,	Y	
the Delegate has the power pursuant to Section 255(12) of the Act to -		
130.9.3. Proceed immediately to make an order under this Section without giving notice under Section 255(1); and	Y	
130.9.4. require immediate compliance with an order despite Section 255(6)(a).	Y	
131. Rights of Review		
131.1. The duty pursuant to Section 256(1) and (2) of the Act to ensure that an order made under Part 2 of Chapter 12 includes a statement setting out the rights of the person to appeal against the order under the Act, and to include the information specified by the Regulations to the Act.	Y	
132. Action on Non-Compliance		
132.1. The power pursuant to Section 257(1) of the Act, where the requirements of an order are not complied with within the time fixed for compliance, or if there is an application for review, within 14 days after the determination of the review, to (subject to the outcome of any review) take the action required by the order.	Y	
132.2. The power pursuant to Section 257(2) of the Act to authorise an employee or another person to take action under Section 257(1) of the Act.	Y	
132.3. The power pursuant to Section 257(3) of the Act to take action to recover the reasonable costs and expenses incurred by the Council in taking action for the non-compliance with an order, as a debt from the person who failed to comply with the requirements of the order.	Y	

132.4. The power pursuant to Section 257(5) of the Act where an amount is recoverable from a person by the Council for action of non-compliance with an order, by notice in writing to the person, to fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid and, if the amount is not paid by the person within that period -	Y	
132.4.1. the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and	Y	
132.4.2. if the person is the owner of the land to which the order relates – the power, in accordance with Schedule 6, to impose a charge over the land for the unpaid amount, together with interest.	Y	
133. Council to Develop Policies		
133.1. The duty pursuant to Section 259(1) of the Act to take reasonable steps to prepare for consideration and adoption by the Council policies concerning order making (“Orders Policy”).	Y	
133.2. The power and duty pursuant to Section 259(2) of the Act to -		
133.2.1. prepare a draft of an Orders Policy; and	Y	
133.2.2. by notice in a newspaper circulating in the area of the Council, to give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the Delegate (being at least four weeks).	Y	
133.3. The duty pursuant to Section 259(3) of the Act to consider any submission made on the proposed Orders Policy in response to an invitation under Section 259(2) of the Act.	Y	

133.4. The power to amend the Orders Policy at any time, pursuant to Section 259(4) of the Act.	Y	
133.5. The duty pursuant to Section 259(5) of the Act before adopting an amendment to the Orders Policy, to take the steps specified in Section 259(2) and (3) (as if the amendment were a new policy), unless the Delegate determines the amendment is only of minor significance.	Y	
133.6. The duty pursuant to Sections 259(6) and (7) of the Act to make available for inspection (without charge) and purchase (upon payment of a fee fixed by the Council) the Orders Policy at the principal office of the Council during ordinary office hours.	Y	
133.7. The duty pursuant to Section 259(8) of the Act in considering whether to make an order under Part 2 of Chapter 12 of the Act, to deal with the particular case on its merits and the duty to take into account any relevant policy under Division 3 of Part 2, Chapter 12 of the Act.	Y	
134. Appointment of Authorised Persons		
134.1. The power, pursuant to Section 260(1) of the Act by instrument in writing, to appoint a person (other than a member of the Council) to be an authorised person.	Y	
134.2. The power pursuant to Section 260(2) of the Act to make an appointment of an authorised person subject to such conditions or limitations as the Delegate determines and specified in the instrument of appointment.	Y	
134.3. The power and duty pursuant to Section 260(3) of the Act to issue to an authorised person an identity card –	Y	
134.3.1. containing a photograph of the authorised person; and	Y	
134.3.2. identifying any conditions or limitations imposed under Section 260(2) of the Act.	Y	

134.4. 88.4 The power pursuant to Section 260(5) of the Act to at any time revoke an appointment under Section 260 of the Act, or to vary or revoke a condition or limitation, or impose a further condition or limitation on the appointment.	Y	
135. Council to Establish Grievance Procedures		
135.1. The duty pursuant to Section 270(1) of the Act to establish procedures for the review of decisions of -		
135.1.1. the Council;	Y	
135.1.2. employees of the Council;	Y	
135.1.3. other persons acting on behalf of the Council,	Y	
135.2. The duty pursuant to Section 270(2) of the Act to ensure that the internal review procedures established under Section 270(1) of the Act address the following matters (and any other matters which the Delegate determines to be relevant) -		
135.2.1. the manner in which an application for review may be made;	Y	
135.2.2. the assignment of a suitable person to reconsider a decision under review;	Y	
135.2.3. the matters that must be referred to the Council itself for consideration or further consideration;	Y	
135.2.4. the notification of the progress and outcome of an application for review;	Y	
135.2.5. the timeframes within which notifications will be made and procedures on a review will be completed.	Y	
135.3. The power pursuant to Section 270(4) of the Act to refuse to consider an application for review of a decision under Section 270 of the Act, if -		
135.3.1. the application was made by an	Y	

employee of the Council and relates to an issue concerning his or her employment; or		
135.3.2. it appears that the application is frivolous or vexatious; or	Y	
135.3.3. the applicant does not have a sufficient interest in the matter.	Y	
135.4. The duty pursuant to Section 270(5) of the Act to ensure that copies of a document concerning the procedures for internal review of Council decisions are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council.	Y	
135.5. The power pursuant to Section 270(6) of the Act to amend the internal review procedures established under Section 270(1) of the Act.	Y	
135.6. The power and duty pursuant to Section 270(8) of the Act to initiate and consider a report that relates to -		
135.6.1. the number of applications for review made under Section 270; and	Y	
135.6.2. the kinds of matters to which the applications relate; and	Y	
135.6.3. the outcome of applications under this Section; and	Y	
135.6.4. such other matters as may be prescribed by the Regulations.	Y	
135.7. The power pursuant to Section 270(9) of the Act on an application for the provision of some form of relief or concession with respect to the payment of those rates, to, if appropriate, in view of the outcome of the application, refund the whole or a part of any amount that has been paid.	Y	
136. Mediation, Conciliation and Neutral Evaluation		

136.1. The power pursuant to Section 271(1) of the Act as part of, or in addition to, the procedures established under Section 270 of the Act, to make provision for disputes between a person and the Council to be dealt with under a scheme involving mediation, conciliation or neutral evaluation.	Y	
136.2. The duty pursuant to Section 271(2) of the Act to provide for the constitution of panels of persons who are available to act as mediators, conciliators and evaluators, and for the selection of an appropriate mediator, conciliator or evaluator, if a dispute is to be dealt with under a Scheme established under Section 271(1) of the Act.	Y	
136A. Provision of Information to Minister		
136A.1 The power and duty, pursuant to Section 271A of the Act, to, at the request of the Minister, provide to the Minister specified information, or information of a specified kind, relating to the affairs or operations of the Council.	Y	
136A.2 The power pursuant to Section 271A(3) of the Act to, provide information in accordance with a request under Section 271A(1) of the Act, even if:		
136AA.2.1 the information was given to the Council in confidence; or	Y	
136AA.2.2 is held on a confidential basis under Chapter 6 Part 4.	Y	
136B. Minister May Refer Investigation of Council to Ombudsman		
136B.1 The power pursuant to Section 272(3) of the Act, to, before the Minister refers a matter, explain the Council's actions and make submissions to the Minister.	Y	
136B.2 The power pursuant to Section 272(5) of the Act, to make submissions to the Minister in relation to the matter.	Y	
136C. Action on a Report		

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

138.1. Where a document is required or authorised to be served on or given to a person by the Council, the power and duty to effect service in accordance with and pursuant to Section 279 of the Act.	Y	
139. Service of Documents on Councils		
139.1. The power pursuant to Section 280(1)(c) and (d) of the Act to determine the means available for service of documents on the Council and the power to accept or authorise a person to accept documents on Council's behalf.	Y	
140. Recovery of Amounts from Lessees or Licensees		
140.1. Where an owner of land is liable to pay an amount to the Council, the power pursuant to Section 281(1) of the Act by written notice to a lessee or licensee of the land, to require him or her to pay to the Council rent or other consideration payable under the lease or license in satisfaction of the liability to the Council.	Y	
141. Ability of Occupiers to Carry out Works		
141.1. Where an owner of land fails to carry out work that the Council has required the owner to carry out under an Act, the power pursuant to Section 282(1) of the Act to give approval to the occupier of the land to cause the work to be carried out.	Y	
142. Power to Enter and Occupy Land in Connection with an Activity		
142.1. The duty pursuant to Section 294(1a) of the Act and subject to Section 294(1b) of the Act, to give an owner or occupier of land at least 48 hours notice in writing of an intention to exercise a power under Section 294(1)(b) or (c) of the Act.	Y	
142.2. The duty pursuant to Section 294(3) of the Act –	Y	
142.2.1. to pay the owner or occupier of the	Y	

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

Council's activities, under Section 296(1) of the Act.		
143.3. The duty pursuant to Section 296(3) of the Act to give notice of a valuation to the relevant owner under this Section of the Act.	Y	
143.4. 95.4 The duty pursuant to Section 296(5) of the Act to conduct an objection or <u>review appeal</u> in the same manner as an objection to or appeal against a valuation under Division 6 of Part 1, Chapter 10 of the Act.	Y	
144. Property in Rubbish		
144.1. The power pursuant to Section 297 of the Act to sell or dispose of any rubbish that the Council collects within its area, as the Delegate thinks appropriate.	Y	
145. Power to Act in an Emergency		
145.1. Where flooding in the area of the Council has occurred or is imminent and the Delegate is of the opinion that a situation of emergency has arisen in which there is danger to life or property, the power pursuant to Section 298(1) of the Act to order that action be taken as the Delegate thinks fit to avert or reduce the danger.	Y	
146. Vegetation Clearance		
146.1. The power pursuant to Section 299(1) of the Act on application of the owner or occupier of the land (the "relevant land"), to make an order under this Section requiring the owner or occupier of adjoining land to remove or cut back vegetation encroaching on the relevant land.	Y	
146.2. If there is a proposal to make an order or an order is made, the power and duty to act in accordance with Divisions 2 and 3 of Part 2, Chapter 12, pursuant to Section 299(2) of the Act.	Y	
147. Costs of Advertisements		
147.1. The duty pursuant to Section 300(1) of the Act to pay the cost of an advertisement	Y	

required by the Act, or where the Council or an employee of the Council takes any action that immediately necessitates the advertisement.		
148. Whistleblowing		
148.1. The duty pursuant to Section 302B of the Act to ensure that a member of staff of the Council who has the qualifications prescribed by the Local Government (General) Regulations 1999 is designated as the responsible officer for the Council for the purposes of the Whistleblowers Protection Act 1993.	Y	
149. Preparation of Stormwater Management Plans by Councils		
149.1. The duty pursuant to Clause 13(4) of Schedule 1A of the Act to ensure that a stormwater management plan prepared by the Council or group of councils -		
149.1.1. complies with the guidelines issued by the Authority; and	Y	
149.1.2. is prepared in consultation with the relevant regional NRM board or boards; and	Y	
149.1.3. is prepared in accordance with any other procedures or requirements prescribed by the regulations.	Y	
150. Authority May Require Preparation of Stormwater Management Plan		
150.1. The duty pursuant to Clause 14 of Schedule 1A of the Act if the Authority, of its own motion or at the request of a regional NRM board, so requires by notice in the Gazette, to prepare a stormwater management plan.	Y	
151. Authority May Issue Order		
151.1. The duty pursuant to Clause 16(4) of Schedule 1A of the Act to comply with an order served by the Authority on the Council	Y	

under Clause 16(1) of Schedule 1A of the Act.		
151.2. The power pursuant to Clause 16(5) of Schedule 1A of the Act to make submissions to the Authority in relation to the matter.	Y	
151.3. The power pursuant to Clause 16(6) of Schedule 1A of the Act, if costs and expenses are to be recovered from the Council as a debt, to enter into an agreement for the debt to be repaid over a period of time, subject to the payment by the Council of interest on the debt (at a rate agreed by the Authority and the Delegate).	Y	
152. Special Powers in Relation to Land		
152.1. The power, pursuant to Clause 21(1) of Schedule 1A of the Act and in accordance with Clause 21(2) of Schedule 1A of the Act, for the purpose of taking action consistent with the provisions of an approved stormwater management plan or required by an order under Clause 16 of Schedule 1A of the Act, to		
152.1.1. enter and occupy any land; and	Y	
152.1.2. construct, maintain or remove any infrastructure; and	Y	
152.1.3. excavate any land; and	Y	
152.1.4. inspect, examine or survey any land and for that purpose – (a) fix posts, stakes or other markers on the land; and (b) dig trenches or sink test holes in the land to determine the nature of the top soil and underlying strata; and (c) remove samples for analysis; and	Y	
152.1.5. alter water table levels, stop or reduce the flow of water in a watercourse, divert water flowing in a watercourse to another watercourse or to a lake or control the flow of water in any other manner; and	Y	

152.1.6. hold water in a watercourse or lake or by any other means; and	Y	
152.1.7. divert water to an underground aquifer, dispose of water to a lake, underground aquifer or the sea, or deal with water in any other manner; and	Y	
152.1.8. deepen, widen or change the course of a watercourse, deepen or widen a lake or take action to remove any obstruction to the flow of water; and	Y	
152.1.9. undertake any other form of work (including work undertaken for the purposes of stormwater management or flood mitigation); and	Y	
152.1.10. undertake any testing, monitoring or evaluation; and	Y	
152.1.11. undertake any other activity of a prescribed kind.	Y	
152.2. The duty pursuant to clause 21(2) of Schedule 1A of the Act not to exercise a power under sub-clause 21(1)(b), (c), (h) or (i) of Schedule 1A of the Act to private land with the intention that any infrastructure will be permanent unless -		
152.2.1. it is intended that the owner of the private land will undertake the care, control or management of any relevant infrastructure and the Delegate or the Authority (as the case may be) is acting with the agreement of the owner; and	Y	
152.2.2. the Council or the Authority (as the case may be) has first acquired an easement or other appropriate interest over the relevant land by agreement with the owner or in accordance with the Land Acquisition Act 1969 and any other applicable laws.	Y	
153. Entry and Occupation of Land Other Than Council Land		
153.1. The duty pursuant to Clause 22(2) of	Y	

Schedule 1A of the Act and in accordance with Clauses 22(1) and 22(3) of Schedule 1A of the Act to give reasonable notice of an intention to enter, or to enter and occupy land in accordance with Clause 21 to the occupier of the land.		
153.2. The duty pursuant to clause 22(3) of Schedule 1A of the Act to ensure that the period of the notice required by Clause 22(1) of Schedule 1A of the Act is at least 2 business days except -		
153.2.1. where the occupier has given his or her consent; or	Y	
153.2.2. in an emergency in which case the Delegate must give such notice (if any) as the Delegate considers is reasonable in the circumstances.	Y	
153.3. The duty pursuant to Clause 22(4) of Schedule 1A of the Act, if the Delegate enters or occupies land to which Clause 22 applies, to -		
153.3.1. cause as little harm and inconvenience as practicable; and	Y	
153.3.2. not occupy the land for any longer than is reasonably necessary; and	Y	
153.3.3. leave the land as nearly as possible in the condition in which the Delegate found the land; and	Y	
153.3.4. cooperate as far as practicable with any owner or occupier of the land.	Y	

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1. In exercise of the powers contained in Section 44 of the Local Government Act the following powers, functions and duties under the South Australian Health Act 2011, South Australian Public Health (Legionella) Regulations 2013 and the South Australian Public Health (Wastewater) Regulations 2013 are hereby delegated this ~~1025~~th day of ~~June~~ November 2015 to the person occupying the office of Chief Executive Officer of the Council and the said powers, functions and duties may be sub-delegated by the delegate to any other officer of the Council.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

	DELEGATE TO CEO	Sub-delegations
1. Power to Require Reports		
1.1 The power pursuant to Section 18(2) of the South Australian Public Health Act 2011 (the Act) to, if required by the Minister, provide a report on any matter relevant to the administration or operation of the Act.	Y	
1.2 The power pursuant to Section 18(3) of the Act to, if required by the Minister, in a case involving the Council provide a combined report with 1 or more other councils.	Y	
1.3 The power pursuant to Section 18(5) of the Act to provide the report in accordance with the requirements of the Minister.	Y	
2. Risk of Avoidable Mortality or Morbidity		
2.1 The power pursuant to Section 22(2) of the Act, if the Council receives a request under Section 22(1) of the Act, to consider the request and then respond in accordance with Section 22(3) of the Act to the Chief Public Health Officer within a reasonable time.	Y	
2.2 The power pursuant to Section 22(3) of the Act to include in a response under Section 22(2) of		

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

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	on the Council under the Act.		
5.2	The power pursuant to Section 41(6) of the Act to:		
5.2.1	make written submissions to the Minister in relation to the matter within a period specified by the Minister; and	Y	
5.2.2	request in the written submissions to the Minister that the Minister discuss the matter with a delegation representing the Council; and	Y	
5.2.3	appoint a delegation representing the Council to discuss the matter with the Minister.	Y	
6.	Transfer of Function of Council at Request of Council		
6.1	The power pursuant to Section 42(1) of the Act to request, in accordance with Section 42(2), of the Act that a function of the Council under the Act be performed by the Chief Public Health Officer.	Y	
6.2	The power pursuant to Section 42(10) of the Act to enter into an agreement with the Minister for the Minister to recover costs and expenses associated with the Chief Public Health Officer acting under Section 42 of the Act.	Y	
6.3	The power pursuant to Section 42(11) of the Act to request that the Minister vary or revoke a notice under Section 42 of the Act.	Y	
6.4	The power pursuant to Section 42(11) of the Act to consult with the Minister in relation to the Minister varying or revoking a notice under Section 42 of the Act.	Y	
7.	Local Authorised Officers		
7.1	The power pursuant to Section 44(1) of the Act, subject to Section 45 of the Act, to, by instrument in writing, appoint a suitably qualified person to be a local authorised officer.	Y	

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7.2	The power pursuant to Section 44(2) of the Act to make an appointment under Section 44 subject to such conditions or limitations as the Delegate thinks fit.	Y	
7.3	The power pursuant to Section 44(4) of the Act to direct a local authorised officer.	Y	
7.4	The power pursuant to Section 44(6) of the Act to vary or revoke an appointment at any time.	Y	
7.5	The power pursuant to Section 44(7) of the Act to notify the Chief Public Health Officer in accordance with Section 44(8) of the Act, if the Council or the Delegate:		
7.5.1	makes an appointment under Section 44 of the Act; or	Y	
7.5.2	revokes an appointment under Section 44 of the Act.	Y	
7.6	The power pursuant to Section 44(9) of the Act to determine the number of local authorised officers who should be appointed for the Council's area and in determining the number of local authorised officers who should be appointed for the Council's area, take into account any policy developed by the Chief Public Health Officer for the purposes of Section 44 of the Act.	Y	
8.	Identity Cards		
8.1	The power pursuant to Section 46(1) of the Act to issue in accordance with Section 46(2) of the Act to an authorised officer appointed under the Act an identity card in a form approved by the Chief Public Health Officer:	Y	
8.1.1	containing the person's name and a photograph of the person; and	Y	
8.1.2	stating that the person is an authorised officer for the purposes of the Act; and	Y	
8.1.3	setting out the name or office of the issuing authority.	Y	

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9.	Specific Power to Require Information		
9.1	The power pursuant to Section 49(1) of the Act to require a person to furnish such information relating to public health as may be reasonably required for the purposes of the Act.	Y	
10.	Regional Public Health Plans		
10.1	The power pursuant to Section 51(1) of the Act to in accordance with Sections 51(2), (5), (6), (8), (9), (11), (12), (13) and (15) of the Act prepare and maintain a plan or, if the Minister so determines or approves, with a group of councils, prepare and maintain a plan, for the purposes of the operations of the Council or Councils under the Act (a regional public health plan).	Y	
10.2	The power pursuant to Section 51(10) of the Act, to, subject to Section 51(11), amend a regional public health plan at any time.	Y	
10.3	The power pursuant to Section 51(11) of the Act to, in relation to any proposal to create or amend a regional public health plan:		
10.3.1	prepare a draft of the proposal; and	Y	
10.3.2	when the draft plan is completed, subject to Section 51(12) of the Act:	Y	
10.3.2.1	give a copy of it to:	Y	
(a)	the Minister; and	Y	
(b)	any incorporated hospital established under the <i>Health Care Act 2008</i> that operates a facility within the region; and	Y	
(c)	any relevant public health partner authority under Section 51(23); and	Y	

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

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10.10	The power pursuant to Section 51(19) of the Act to review a regional public health plan at least once in every 5 years.	Y	
10.11	The power pursuant to Section 51(20) of the Act to, in preparing and reviewing the Council's regional public health plan insofar as is reasonably practicable, give due consideration to the plans of other councils insofar as this may be relevant to issues or activities under the Council's plan.	Y	
10.12	The power pursuant to Section 51(21) of the Act to, when performing functions or exercising powers under the Act or any other Act, insofar as may be relevant and reasonable, have regard to the State Public Health Plan, any regional public health plan that applies within the relevant area and any other requirement of the Minister, and in particular to give consideration to the question whether the Council or the Delegate should implement changes to the manner in which, or the means by which, the Council or the Delegate performs a function or exercises a power or undertakes any other activity that has been identified in the State Public Health Plan as requiring change.	Y	
11.	Reporting on Regional Public Health Plans		
11.1	The power pursuant to Section 52(1) of the Act to, in relation to a regional health plan for which the Council is responsible, on a 2 yearly basis, prepare a report that contains a comprehensive assessment of the extent to which, during the reporting period, the Council has succeeded in implementing its regional public health plan to the Chief Public Health Officer in accordance with Sections 52(2), (3) and (4) of the Act.	Y	
12.	Action to Prevent Spread of Infection		
12.1	The power pursuant to Section 66(6) of the Act to recover as a debt costs and expenses reasonably incurred in exercising powers under Section 66(5) of the Act from the person who failed to take the required action.	Y	

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12.2	The power pursuant to Section 66(9) of the Act to, if the Chief Public Health Officer informs the Council of the occurrence of a disease constituting a notifiable condition, take such action as is reasonably open to the Delegate to assist in preventing the spread of the disease.	Y	
13. Notices			
13.1	The power pursuant to Section 92(1) of the Act and subject to Sections 92(2), (3), (4), (5) and (12) of the Act to issue a notice for the purpose of:		
13.1.1	securing compliance with a requirement imposed by or under the Act (including the duty under Part 6 or a requirement imposed under a regulation or a code of practice under the Act); or	Y	
13.1.2	averting, eliminating or minimising a risk, or a perceived risk, to public health.	Y	
13.2	The power pursuant to Section 92(2) of the Act and subject to Section 92(12) of the Act, to, before issuing a notice to secure compliance with the general duty under Part 6 of the Act:		
13.2.1	have regard to:		
13.2.1.1	the number of people affected, or potentially affected, by the breach of the duty;	Y	
13.2.1.2	the degree of harm, or potential degree of harm, to public health on account of the breach of the duty;	Y	
13.2.1.3	any steps that a person in breach of the duty has taken, or proposed to take, to avoid or address the impact of the breach of the duty,	Y	

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	and such other matters as the Delegate thinks fit; and	Y	
13.2.2	subject to Section 92 of the Act, give the person to whom it is proposed that the notice be given a preliminary notice in writing:		
13.2.2.1	stating the proposed action, including the terms of the proposed notice and the period within which compliance with the notice will be required; and	Y	
13.2.2.2	stating the reasons for the proposed action; and	Y	
13.2.2.3	inviting the person show, within a specified time (of a reasonable period), why the proposed action should not be taken (by making representations to the Delegate or a person nominated to act on behalf of the Council).	Y	
13.3	The power pursuant to Section 92(2)(b)(iii) of the Act to nominate a person to act on behalf of the Council.	Y	
13.4	The power pursuant to Section 92(3) of the Act to, in a case where Section 92(2)(b) of the Act applies, after considering representations made within the time specified under Section 92(2)(b) of the Act:		
13.4.1	issue a notice in accordance with the terms of the original proposal; or	Y	
13.4.2	issue a notice with modifications from the terms of the original proposal; or	Y	
13.4.3	determine not to proceed further under Section 92.	Y	
13.5	The power pursuant to Section 92(4) of the Act		

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to:		
13.5.1	not give notice under Section 92(2)(b) of the Act if the Delegate considers that urgent or immediate action is required in the circumstances of the particular case; and	Y
13.5.2	not give further notice before issuing a notice with modifications under Section 92(3)(b) of the Act.	Y
13.6	The power pursuant to Section 92(5) of the Act issue a notice under Section 92 of the Act:	
13.6.1	in the form of a written notice served on the person to whom it is issued; and	Y
13.6.2	specifying the person to whom it is issued (whether by name or by a description sufficient to identify the person); and	Y
13.6.3	directing 2 or more persons to do something specified in the notice jointly; and	Y
13.6.4	without limiting any other provision, in the case of a notice that relates to the condition of any premises, to any person who:	
13.6.4.1	is the owner or occupier of the premises; or	Y
13.6.4.2	has the management or control of the premises; or	Y
13.6.4.3	is the trustee of a person referred to in Section 92(5)(i) or (ii) of the Act or is managing the affairs of such a person on some other basis; and	Y
13.6.5	stating the purpose for which the notice is issued and giving notice of the requirement or the risk to which it	Y

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	relates; and		
13.6.6	imposing any requirement reasonably required for the purpose for which the notice is issued including 1 or more of the following:	Y	
13.6.6.1	a requirement that the person discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from a relevant authority;	Y	
13.6.6.2	a requirement that the person not carry on a specified activity except at specified times or subject to specified conditions;	Y	
13.6.6.3	a requirement that the person take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;	Y	
13.6.6.4	a requirement that the person take action to prevent, eliminate, minimise or control any specified risk to public health, or to control any specified activity;	Y	
13.6.6.5	a requirement that the person comply with any specified code or standard prepared or published by a body or authority referred to in the notice;	Y	
13.6.6.6	a requirement that the person undertake specified tests or monitoring;	Y	
13.6.6.7	a requirement that the person furnish to a relevant authority specified results or	Y	

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	reports;		
13.6.6.8	a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the relevant authority, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to public health;	Y	
13.6.6.9	a requirement prescribed under or for the purposes of the regulations; and	Y	
13.6.7	stating that the person may, within 14 days, apply for a review of the notice or institute an appeal against the notice under the provisions of the Act.	Y	
13.7	The power pursuant to Section 92(9) of the Act by written notice served on a person to whom a notice under Section 92 of the Act has been issued by the Delegate or the Council, vary or revoke the notice.	Y	
13.8	The power pursuant to Section 92(15) of the Act to, not comply with any other procedure, or hear from any other person, except as provided by Section 92 of the Act before the Delegate issues a notice under Section 92 of the Act.	Y	
14.	Action on Non-compliance with Notice		
14.1	The power pursuant to Section 93(1) of the Act if the requirements of a notice under Part 12 of the Act are not complied with, to take any action required by the notice.	Y	
14.2	The power pursuant to Section 93(2) of the Act to authorise a person for the purpose of taking action on the Council's behalf under Section 93(1) of the Act.	Y	
14.3	The power pursuant to Section 93(4) of the Act to recover the reasonable costs and expenses	Y	

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	incurred by the Council in taking action under Section 93 of the Act as a debt from the person who failed to comply with the requirements of the notice.		
14.4	The power pursuant to Section 93(5) of the Act, if an amount is recoverable from a person by the Council under Section 93, to, by notice in writing to the person, fix a period, being not less than 28 days from the date of the notice, within which the amount must be paid by the person.	Y	
15.	Action in Emergency Situations		
15.1	The power pursuant to Section 94(5) of the Act to recover the reasonable costs and expenses incurred by a local authorised officer in taking action under Section 94 from any person who caused the risk to which the action relates, as a debt.	Y	
16.	Reviews – Notices Relating to General Duty		
16.1	The power pursuant to Section 95(13) of the Act to appear in proceedings before the Review Panel as a representative of the Council.	Y	
16.2	The power pursuant to Section 95(15) of the Act to make an application to the Review Panel to:		
16.2.1	dismiss or determine any proceedings that appear:		
16.2.1.1	to be frivolous or vexatious; or	Y	
16.2.1.2	to have been instituted for the purpose of delay or obstruction, or for some other improper purpose;	Y	
16.2.2	bring any proceedings to an end that appear:		
16.2.2.1	to be more appropriate suited to proceedings before the District Court rather than the Review Panel; or	Y	

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

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

		DELEGATE TO CEO	Sub- delegations
18. Duty to Register High Risk Manufactured Water System			
18.1	The power pursuant to Regulation 5(3) of the South Australian Public Health (Legionella) Regulations 2013 (the Legionella Regulations) to, on application made in a manner and form approved by the Council or Delegate and payment of the registration fee specified in Schedule 1 to the Council, register the high risk manufactured water system to which the application relates.	Y	
18.2	The power pursuant to Regulation 5(6) of the Legionella Regulations, to, on application made in a manner and form approved by the Council or Delegate and payment of the renewal fee specified in Schedule 1 to the Council, renew the registration of the high risk manufactured water system to which the application relates.	Y	
19. Register of High Risk Manufactured Water Systems			

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19.1	The power pursuant to Regulation 6(2) of the Legionella Regulations and subject to Regulation 6(3) of the Legionella Regulations to determine the manner and form of a register of high risk manufactured water systems registered by the Council.	Y	
19.2	The power pursuant to Regulation 6(3) of the Legionella Regulations to include in relation to each high risk manufactured water system on the register:		
19.2.1	the type of water system; and	Y	
19.2.2	the address of the premises on which the water system is installed; and	Y	
19.2.3	the location of the water system on the premises; and	Y	
19.2.4	the full name and residential and business addresses of the owner of the premises; and	Y	
19.2.5	the full name, residential and business addresses, and residential and business telephone numbers, of the person nominated by the owner of the premises as being responsible for the operation and maintenance of the water system,	Y	
	and such other information as the Delegate thinks fit.	Y	
19.3	The power pursuant to Regulation 15(2) of the Legionella Regulations to, at least once in every 12 months, give the owner of each of the premises on which a high risk manufactured water system registered with the Council is installed, written notice:	Y	
19.3.1	requiring the owner, within the period specified in the notice:		
19.3.1.1	to cause an inspection of the water system to be carried out by a competent person (not being the owner or	Y	

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	person responsible for the operation and maintenance of the system); and		
19.3.1.2	to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896:	Y	
	(a) of at least 1 sample of water taken from a cooling water system; and	Y	
	(b) of at least 2 samples of water taken from a warm water system,		
	to determine the presence and number of colony forming units of Legionella in the water; and	Y	
19.4	requiring the owner to submit to the Council written reports setting out the findings of the inspection and the results of the microbiological testing within 1 month of receiving the reports.	Y	
20.	Power of Council to Require Microbiological Testing in Other Circumstances		
20.1	The power pursuant to Regulation 16(1) of the Legionella Regulations, if:		
20.1.1	the Council is investigating the occurrence of Legionellosis in the near vicinity of premises on which a high risk manufactured water system is installed; or	Y	
20.1.2	the Council or Delegate has reason to believe that a high risk manufactured water system installed on premises situated in its area is not being maintained as required by these regulations,	Y	

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	to give the owner of the premises written notice:		
20.1.3	requiring the owner (either immediately or within a period specified in the notice) to arrange for a NATA accredited laboratory to conduct microbiological testing, in accordance with AS/NZS 3896, of water taken from the system, to determine the presence and number of colony forming units of Legionella in the water; and	Y	
20.1.4	requiring the owner to submit to the Council a written report setting out the results of the microbiological testing within 24 hours of receiving the report.	Y	
21. Fees			
21.1	The power pursuant to Regulation 21(3) of the Legionella Regulations, if a person is liable to pay a fee to the Council, to give the person written notice requiring the person to pay the fee within the period specified in the notice.	Y	
21.2	The power pursuant to Regulation 21(4) of the Legionella Regulations, to reduce or remit a fee payable to the Council under the Legionella Regulations if satisfied that it is appropriate to do so in a particular case.	Y	
21.3	The power pursuant to Regulation 21(5) of the Legionella Regulations, to recover a fee payable to the Council under the Legionella Regulations by action in a court of competent jurisdiction as a debt due to the Council.	Y	

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

		DELEGATE TO CEO	Sub- delegations
22. Relevant Authority			
22.1	The power pursuant to Regulation 6(1)(b) of the South Australian Public Health (Wastewater)	Y	

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

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24.1.2.1	the connection; and	Y	
24.1.2.2	if necessary, consequential alterations to the on-site wastewater system.	Y	
24.2	The power pursuant to Regulation 9(4) of the Wastewater Regulations, if the operator of an on-site wastewater system does not submit an application within the period specified in a notice under Regulation 9(1) of the Wastewater Regulations, to grant a wastewater works approval for the required wastewater works as if the application had been made.	Y	
24.3	The power pursuant to Regulation 9(6) of the Wastewater Regulations, if wastewater works are not carried out in accordance with a wastewater works approval for the connection of an on-site wastewater system to a community wastewater management system required under Regulation 9 of the Wastewater Regulations, to cause the requirements to be carried out (and a person authorised to do so by the Council may enter land at any reasonable time for the purposes of carrying out the relevant work).	Y	
24.4	The power pursuant to Regulation 9(6) of the Wastewater Regulations to if wastewater works are not carried out in accordance with a wastewater approval for the connection of an on-site wastewater system to a community wastewater management system required under Regulation 9 of the Wastewater Regulations, authorise a person to enter land at any reasonable time for the purpose of carrying out the relevant work.	Y	
24.5	The power pursuant to Regulation 9(7) of the Wastewater Regulations to recover as a debt the costs and expenses reasonably incurred in exercising a power under Regulation 9(6) of the Wastewater Regulations and the fee that would have been payable had the application been made as required under Regulation 9(1) of the Wastewater Regulations from the person who failed to comply with the notice.	Y	

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25. Exemptions		
25.1 The power pursuant to Regulation 10(3) of the Wastewater Regulations to give an exemption by written notice and subject to conditions determined by the Delegate and stated in the notice.	Y	
25.2 The power pursuant to Regulation 10(4) of the Wastewater Regulations to vary or revoke an exemption by further written notice to the holder of the exemption.	Y	
26. Exemptions From Prescribed Codes		
26.1 The power pursuant to Regulation 15(3) of the Wastewater Regulations to give an exemption by written notice and is subject to conditions determined by the Delegate and stated in the notice.	Y	
26.2 The power pursuant to Regulation 15(5) of the Wastewater Regulations to vary or revoke an exemption by further written notice to the holder of the exemption.	Y	
27. Application		
27.1 The power pursuant to Regulation 23(2) of the Wastewater Regulations to, by written notice, ask the applicant to provide the Council with further technical specifications, information or documents relevant to the application or to modify the technical specifications submitted for approval.	Y	
28. Determination of Application		
28.1 The power pursuant to Regulation 24(1) of the Wastewater Regulations to refuse to grant a wastewater works approval:		
28.1.1 if the applicant fails to satisfy the Delegate of either or both of the following:		
28.1.1.1 that the technical specifications for the wastewater works comply	Y	

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	with the prescribed codes;		
28.1.1.2	that the wastewater works will not, if undertaken in accordance with the conditions of approval, adversely affect or threaten public or environmental health; or	Y	
28.1.2	for any other sufficient reason.	Y	
28.2	The power pursuant to Regulation 24(2) of the Wastewater Regulations, if an application for a wastewater works approval relates to the connection of a community wastewater management system to SA Water sewerage infrastructure or a significant increase in the amount of wastewater to be discharged from a community wastewater management system to SA Water sewerage infrastructure, to give SA Water a reasonable opportunity to comment on the application and take into account any comments so made.	Y	
29. Conditions of Approval			
29.1	The power pursuant to Regulation 25(2) of the Wastewater Regulations to impose:	Y	
29.1.1	any 1 or more of the following prescribed expiable conditions:		
29.1.1.1	a condition that sets out mandatory notification stages during the progress of wastewater works when a person is required to notify the Council in a specified manner and stop the work pending an inspection carried out at the person's expense;	Y	
29.1.1.2	a condition that requires the display of specified notices on the premises on which the wastewater system is	Y	

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	located;		
29.1.1.3	a condition that requires a person to monitor the performance of the wastewater system in a specified manner (including by inspections carried out at specified times at the person's expense) and to provide the Council with specified information in a specified manner and at specified times;	Y	
29.1.1.4	a condition that provides that specified material must not, or that only specified material may, be discharged into, or from, the wastewater system;	Y	
29.1.1.5	a condition that requires the wastewater system to be operated, maintained or serviced by a person of a specified class;	Y	
29.1.1.6	a condition that requires records of a specified kind to be created, maintained, and provided to the Council; or	Y	
29.1.2	any other conditions including any 1 or more of the following:	Y	
29.1.2.1	a condition that requires decommissioning of the wastewater system:	Y	
	(a) after a specified trial period; or	Y	
	(b) in specified circumstances; or	Y	
	(c) on written notice to the operator of the system;	Y	

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29.1.2.2	a condition that requires a wastewater system to be connected to a community wastewater management system;	Y	
29.1.2.3	a condition that prevents activities that would adversely affect the operation or maintenance of a drain or treatment or disposal system or the reuse of wastewater from the wastewater system;	Y	
29.1.2.4	a condition that requires a wastewater system to have various access points for maintenance or inspection (raised to or terminating at surface level, or as required by the Council);	Y	
29.1.2.5	a condition that provides that a wastewater system must not be used unless or until it has been inspected or tested by an independent wastewater engineer and the Council supplied with a certificate given by that expert certifying that the wastewater works have been undertaken in accordance with the approved technical specifications;	Y	
29.1.2.6	a condition that otherwise specifies requirements relating to:		
	(a) the installation of the waste watersystem; or	Y	
	(b) the decommissioning of the wastewater system; or	Y	

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	(c) the connection of the wastewater system to a community wastewater management system or SA Water sewerage infrastructure or the disconnection of the wastewater system from a community wastewater management system or from SA Water sewerage infrastructure; or	Y	
	(d) the operation, servicing and maintenance of the wastewater system; or	Y	
	(e) the reuse or disposal of wastewater from the wastewater system.	Y	
29.2	The power pursuant to Regulation 25(3) of the Wastewater Regulations to impose a condition of approval that:		
29.2.1	provides that a matter or thing is to be determined according to the discretion of the Council or some other specified person or body; and	Y	
29.2.2	operates by reference to the manuals referred to in a product approval for the wastewater system; and	Y	
29.2.3	operates by reference to a specified code as in force at a specified time or as in force from time to time.	Y	
29.3	The power pursuant to Regulation 25(6) of the Wastewater Regulations to, on application and payment of the fee fixed by Schedule 1, by written notice to the applicant, vary or revoke a condition of a wastewater works approval.	Y	
29.4	The power pursuant to Regulation 25(7) of the Wastewater Regulations to, on the Delegate's own initiative, by written notice to the operator of	Y	

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

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32.2	The power pursuant to Regulation 29(3) of the Wastewater Regulations, if the requirements of a notice under Regulation 29 of the Wastewater Regulations are not complied with to obtain the required report and recover the costs and expenses reasonable incurred in doing so from the person who failed to comply with the notice, as a debt.	Y	
32.3	The power pursuant to Regulation 29(3) of the Wastewater Regulations, to authorise a person to enter land at any reasonable time for the purposes of the report.	Y	
33. Fees			
33.1	The power pursuant to Regulation 33(1) of the Wastewater Regulations, to refund, reduce or remit payment of a fee payable under the Wastewater Regulations if the Delegate considers that appropriate in the circumstances.	Y	
33.2	The power pursuant to Regulation 33(2) of the Wastewater Regulations, to recover a fee payable to the Council by action in a court of competent jurisdiction as a debt due to the Council.	Y	

**SOUTH AUSTRALIAN PUBLIC HEALTH (GENERAL)
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	<u>DELEGATE TO CEO</u>	<u>Sub- delegations</u>
<u>34. Non-compliance with Notices (Section 93(6) of Act)</u>		
<u>34.1 The power pursuant to Regulation 5B(2) of the South Australian Public Health (General) Regulations 2013 (the General Regulations), for the purposes of the creation of a charge on land under Section 93 of the Act, to deliver to the Registrar-General a notice, in a form determined by the Minister on the recommendation or with the approval of the Registrar-General:</u>		

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<u>34.1.1 setting out the amount recoverable under Section 93 of the Act; and</u>	<u>Y</u>	
<u>34.1.2 setting out the land in relation to which the relevant action was taken; and</u>	<u>Y</u>	
<u>34.1.3 requesting the Registrar-General to make a notation under Regulation 5B of the General Regulations in relation to the relevant land.</u>	<u>Y</u>	
<u>34.2 The power pursuant to Regulation 5B(8) of the General Regulations, if or when the amount to which the charge relates is paid, to by further notice in writing to the Registrar-General (being a notice in a form determined by the Minister on the recommendation or with the approval of the Registrar-General) cancel the charge.</u>	<u>Y</u>	

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

NOTES

In exercise of the power contained in Section 44 of the Local Government Act 1999 the following powers, functions and duties under the Real Property Act 1886 are hereby delegated this 910th day of ~~September~~ November 2014-2015 to the person occupying the office of Chief Executive Officer of the Council and the said powers, functions and duties may be sub-delegated by the delegate to any other officer of Council.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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

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	whether such land shall constitute the entire or only part of the land included in any land grant, to consent to an application to bring the said land under the provisions of the Act.		
1.3	The power pursuant to Section 27(c) of the Act, where the Council claims or appears to be beneficially entitled in reversion or remainder to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts, whether such land shall constitute the entire or only part of the land included in any land grant, to consent to an application to bring the said land under the provisions of the Act.	Y	
2.	Undivided shares and mortgaged land may not be brought under Act except upon conditions		
2.1	The power pursuant to Section 28 of the Act to join in the application with a view to bringing the entirety under the provisions of the Act, where,		
2.1.1	the Council appears to be entitled to an undivided share of the land; or	Y	
2.1.2	the Council is the mortgagee of the land.	Y	
3.	Caveat against bringing land under Act		
	The power pursuant to and in accordance with Section 39 of the Act, where the Council has or claims an estate or interest in any land sought to be brought under the provisions of the Act, to, within the time by the Registrar-General or under any order of the Court for that purpose limited, lodge a caveat with the Registrar-General, in the form of Schedule 3 to the Act, forbidding the bringing of such land under the provisions of the Act.	Y	
4.	Applicant may withdraw his application		
4.1	The power pursuant to Section 41 of the Act, to:		
4.1.1	withdraw the Council's application at any time prior to the issuing of the certificate;	Y	
4.1.2	request in writing signed by the Delegate the return to the Council or the person notified in the application as having a lien thereon of all documents of title	Y	

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deposited in support of the application.		
5. Proceedings under Caveat		
The power pursuant to Section 44 of the Act, whenever a caveat shall have been lodged with the Registrar-General forbidding land to be brought under the provisions of the Act, to bring like proceedings as provided for in the Act for the removal of caveats, in the case of land already under the provisions of the Act, for removal of the caveat, and for the recovery of costs and damages from the caveator, in case the caveat shall have been lodged by the caveator wrongfully and without reasonable cause.	Y	
6. Priority of instruments		
6.1 The power pursuant to Section 56(2) of the Act and in accordance with Section 56(3) of the Act to apply to the Registrar-General, in the appropriate form, to vary the order of priority between two or more registered mortgages or encumbrances.	Y	
6.2 The power pursuant to Section 56(3)(b) of the Act to consent to an application for the variation of an order of priority in accordance with Section 56(2) of the Act where the Council is the holder of a registered mortgage or encumbrance which is, by virtue of the proposed variation of order of priority, to be postponed to a mortgage or encumbrance over which it has had priority.	Y	
7. Certificates in lieu of surrendered certificates		
The power pursuant to Section 78 of the Act where the Council is a registered proprietor holding land under one or more certificates, to, by the delivering up of such instruments of title, apply to the Registrar-General for the issue of one certificate for the whole of such land, or several certificates each comprising portion of such land.	Y	
8. Substituted Certificate etc		
The power pursuant to Section 79(1) of the Act where any duplicate certificate or any tenant's copy of a Crown lease has been lost, mislaid or destroyed, to apply to the Registrar-General for a substituted certificate or	Y	

INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886

tenant's copy of Crown lease (as the case may be).		
9. Application for Certificate based on possession		
The power pursuant to Section 80A of the Act and in accordance with Section 80B of the Act, where the Council would have obtained a title by possession to any land which is subject to the Act if that land had not been subject to the Act, to apply to the Registrar-General for the issue to the Council of a certificate of title to that land.	Y	
10. Caveats		
The power pursuant to and in accordance with Section 80F of the Act, where the Council claims an estate or interest in land to which an application under Part 7A relates, to lodge a caveat with the Registrar-General forbidding the granting of the application.	Y	
11. Variation and Extinguishment of Easements		
11.1 The power pursuant to Section 90B(1) of the Act, and subject to Section 90B of the Act, where the Council is the proprietor of the dominant or servient land, to make application (in a form approved by the Registrar-General) to:		
11.1.1 vary the position of, or extend or reduce the extent of, an easement over servient land; or	Y	
11.1.2 vary an easement by extending the appurtenance of the easement to other land owned by the proprietor of the dominant land; or	Y	
11.1.3 extinguish an easement.	Y	
11.2 The power pursuant to Section 90B(2) of the Act, where the Council is the proprietor of the dominant land or servient land, or has, or claims to have, an estate or interest in the dominant or servient land, to give written consent to the Registrar-General acting under Section 90B(1) of the Act.	Y	

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12. Easement subject to existing mortgage etc		
The power pursuant to Section 90F of the Act, where an easement is created over servient land and the dominant land or any part of it is subject to a mortgage or encumbrance held by the Council, to consent to the easement also being subject to the mortgage or encumbrance and endorse the Council's consent on the instrument granting the easement.	Y	
13. Person now holding under lease or agreement may surrender		
13.1 The power pursuant to Section 92 of the Act, where the Council holds Crown lands under a lease or agreement for sale granted or made by or on behalf of the Crown, to, subject to the approval of the Minister of Lands, surrender the lease or agreement for a Crown lease of the land remaining subject to such lease or agreement, upon all the same terms as shall have been applicable to such land prior to the surrender but so that every person having any estate or interest in the surrendered land shall concur in the surrender.	Y	
13.2 The power pursuant to Section 92 of the Act where a person holding any Crown lands under a lease or agreement for sale granted or made by or on behalf of the Crown and the lease or agreement for a Crown lease of the land remaining subject to such lease or agreement is to be surrendered, to as a person having an estate or interest in the surrendered land, concur in the surrender.	Y	
14. Execution and registration of Crown Lease		
14.1 The power pursuant to Section 93(1) of the Act, where the Council is party to a Crown lease, to execute two copies of the lease, one of which must be lodged with the Lands Titles Registration Office Registrar General for inclusion or recording in the Register of Crown Leases and the other of which must be delivered to the lessee.	Y	
14.2 The power pursuant to Section 93(3a) of the Act to transfer, mortgage and deal with a Crown	Y	

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<p><u>lease registered under Section 93(3) of the Act as if it were a lease registered in the Register Book (provided that an entry in respect of a lease that would ordinarily be made in the Register Book must instead be made in the Register of Crown Leases).</u></p>		
<p>15. Transfers</p>		
<p>15.1 The power pursuant to and in accordance with Section 96 of the Act, where the Council is the registered proprietor of any land intended to be transferred to execute a transfer in the appropriate form, which transfer shall, for the description of the land intended to be dealt with, refer to the certificate of such land, or shall give such description as may be sufficient to identify the same, and shall contain or have endorsed thereon a memorandum of all leases, mortgages, and encumbrances to which the land shall be subject, and an accurate statement of the estate or interest intended to be transferred or created.</p>	Y	
<p>15.2 The power pursuant to and in accordance with Section 96 of the Act, where the Council is the registered proprietor of any right-of-way or other easement intended to be created or transferred, to execute a transfer in the appropriate form, which transfer shall, for the description of the land intended to be dealt with, refer to the certificate of such land, or shall give such description as may be sufficient to identify the same, and shall contain or have endorsed thereon a memorandum of all leases, mortgages, and encumbrances to which the land shall be subject, and an accurate statement of the estate or interest intended to be transferred or created.</p>	Y	
<p>16. Creation of easements by reservation</p>		
<p>The power pursuant to Section 96AA of the Act, to create an easement on the transfer under the Act of an estate of freehold or the granting of an estate of leasehold under the Act by reservation of the easement to the transferor or lessor in the instrument of transfer or the lease.</p>	Y	
<p>17. Acceptance of transfer</p>		

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The power pursuant to Section 96A of the Act, where the Council is the transferee, to sign a statement indicating that the Council accepts the transfer or grant of the land, right of way or easement.	Y	
18. New certificate to purchaser and balance certificate to registered proprietor		
The power pursuant to Section 100 of the Act, where the Council is the proprietor of any portion or balance of land included in a partially cancelled certificate, to require the Registrar-General to issue to the Council a certificate for the portion or balance of which the Council is the proprietor.	Y	
19. Sale under Writ of fieri facias or Decree, Warrant or Order of Court		
The power pursuant to Section 105 of the Act in relation to a writ or warrant of execution against land, or of a decree or order (other than an order for sale for non-payment of rates) affecting land issued out of or made by the Court, or any Court of insolvency or other Court of competent jurisdiction, to sign a statement to accompany such a writ, warrant, decree or order where the Council is a party interested, specifying the land sought to be affected.	Y	
20. Issue of certificate where land is vested by operation of law		
20.1 The power pursuant to Section 115A of the Act, in relation to an estate or interest in land that has become vested in the Council, to make an application to the Registrar-General, to:		
20.1.1 in the case of land under the provisions of the Act – register the Council as the proprietor of that estate or interest in the land; or	Y	
20.1.2 in the case of land not under the provisions of the Act – bring the land under the provisions of the Act and register the Council as the proprietor of that estate or interest in the land.	Y	

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21. Lands, now leased		
The power pursuant to Section 116 of the Act, when any land is intended to be leased for a life or lives, or for any term of years exceeding one year, to execute a lease in the appropriate form, in accordance with Section 117 of the Act.	Y	
22. Leases not to bind non-consenting mortgagees or encumbrancees		
The power pursuant to Section 118 of the Act, to consent in writing to a lease of mortgaged or encumbered land prior to the lease being registered where the Council is the mortgagee or encumbrancee of the land.	Y	
23. Standard terms and conditions of lease		
The power pursuant to Section 119A(1) of the Act to deposit with the Registrar-General for filing in the Lands Titles Registration Office a document containing terms and conditions for incorporation as standard terms and conditions in leases under Section 119A of the Act.	Y	
24. Lease may be surrendered by separate instrument		
The power pursuant to Section 120 of the Act to surrender a registered lease by instrument in the appropriate form, signed by the lessee and lessor.	Y	
25. Registrar-General may enter surrender		
The power pursuant to Section 121 of the Act, where the lessee has delivered to the Council as lessor or the Council's agent, the duplicate of the lease accompanied by some writing signed by the lessee evidencing his intention to give up possession of the land comprised in such lease, to make application to the Registrar-General to make an entry in the Register Book of the surrender of the lease.	Y	
26. Surrender where lease subject to mortgage or under lease		
The power pursuant to Section 123 of the Act, where the Council holds a mortgage or encumbrance over a lease or over land, to provide written consent to the surrender of the lease.	Y	

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27. Registrar-General to note particulars of re-entry in Register Book		
The power pursuant to Section 126 of the Act, where the Council is the lessor of land, to provide proof to the Registrar-General of the Council's re-entry of the land.	Y	
28. Lands, now mortgaged or encumbered		
28.1 The power pursuant to Section 128 of the Act and in accordance with the requirements of Section 129 of the Act:		
28.1.1 whenever the Council is the registered proprietor of land intended to be charged or made security in favour of any person - to execute a mortgage in the appropriate form; and	Y	
28.1.2 whenever the Council is the registered proprietor of land intended to be charged with, or made security for, the payment of an annuity, rent charge or sum of money, in favour of any person - to execute an encumbrance in the appropriate form.	Y	
29. Standard terms and conditions of Mortgage or Encumbrance		
The power pursuant to Section 129A(1) of the Act to deposit with the Registrar-General for filing in his office a document containing terms and conditions for incorporation as standard terms and conditions in mortgages or encumbrances under Section 129A of the Act.	Y	
30. Nature of Mortgage and Encumbrance and procedure in case of default		
The power pursuant to Section 132 of the Act, where the Council holds a mortgage or encumbrance and default is made in the payment of the principal sum, interest, annuity, or rent charge, or any part thereof thereby secured, or in the observance of any covenant therein expressed or implied and such default be continued for the space of one month, or for such other period of time as may therein for that purpose be expressly limited, to give to the mortgagor or encumbrancer notice in writing to pay the money then	Y	

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<p>due or owing on such mortgage or encumbrance, or to observe the covenants therein expressed or implied, as the case may be and that sale will be effected if such default be continued, and to leave such notice on the mortgaged or encumbered land, or at the usual or last known place of abode in South Australia of the mortgagor or encumbrancer.</p>		
<p>31. Power of sale</p>		
<p>The power pursuant to and in accordance with Section 133 of the Act, if such default continues for the further space of one month from the date of such notice or for such period as may in such instrument be for that purpose limited, to sell the land so mortgaged or encumbered, or any part thereof and all the estate and interest therein of the mortgagor or encumbrancer and either altogether or in lots, by public auction or by private contract or by both such modes of sale, and subject to such conditions as the Delegate may think fit, and to buy in and resell the same and to make and execute all such instruments as shall be necessary for carrying the sale thereof into effect.</p>	Y	
<p>32. Power of Mortgagee to enter, take possession, distraint, let or bring action for recovery of land</p>		
<p>32.1 The power pursuant to Section 137 of the Act, where the Council is a mortgagee or encumbrancee and there is a default in payment of the principal sum, interest, annuity, or rent charge secured by that mortgage or encumbrance, to:</p>		
<p>32.1.1 enter into possession of the mortgaged or encumbered land and receive the rents and profits thereof; or</p>	Y	
<p>32.1.2 distraint upon the occupier or tenant of the land; or</p>	Y	
<p>32.1.3 from time to time let the said land for any term not exceeding one year; or</p>	Y	
<p>32.1.4 bring an action for recovery of the land either before or after entering into the receipt of the rent and profits or making any distress.</p>	Y	

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<p>33. Power of Mortgagee to distrain on tenant or occupier for arrears not exceeding the amount of rent due</p>		
<p>The power pursuant to and in accordance with Section 138 of the Act, where the Council is a mortgagee or encumbrancee and the principal sum, interest, annuity, or rent charge has been in arrears for 21 days and a further 7 days have elapsed from the date of application for the payment thereof to the occupier or tenant, to enter upon the mortgaged or encumbered land and distrain upon the goods and chattels of the occupier or tenant for such arrears to an amount not exceeding the rent then due from such occupier or tenant to the Council, and to dispose of the goods and chattels so distrained upon in like manner as landlords may do in ordinary distresses for rent, and out of the proceeds to retain the moneys distrained for, and all costs and expenses occasioned by such distress and sale.</p>	Y	
<p>34. Application to Mortgagee to Registrar-General for foreclosure</p>		
<p>The power pursuant to Section 140(1) of the Act, and in accordance with Section 140(2) of the Act, when default has been made for six months in the payment of the principal or interest secured by any mortgage held by the Council, to make application, in writing, to the Registrar-General for an order for foreclosure.</p>	Y	
<p>35. Provision for case where Mortgagee or Encumbrancee refuses to join in proceedings on default</p>		
<p>35.1 The power pursuant to Section 142A(1) of the Act, where the Council and one or more other persons are registered as mortgagees or encumbrances under the same mortgage or encumbrance, and default has been made in payment of any money due under the mortgage or encumbrance or in the performance of any covenant in the said mortgage or encumbrance expressed or implied as entitles the mortgagees or encumbrances to exercise any of their rights or remedies under the Act or under the mortgage or encumbrance, and any such mortgagee or encumbrance fails or refuses to join in giving any notice, making any application or doing any other act or thing for the purpose of enforcing any of</p>		

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the said rights or remedies, to apply to the Court by originating summons to:		
35.1.1 appoint the Council or any other person to exercise on behalf of the mortgagees or encumbrances such of the said rights or remedies as the Court thinks proper;	Y	
35.1.2 give any directions as to the mode of exercising the said rights or remedies and as to any other matters incidental thereto.	Y	
36. Discharge of Mortgages and Encumbrances		
The power pursuant to and in accordance with Section 143(1) of the Act to wholly or partially discharge, by instrument in a form approved by the Registrar-General and signed by the Delegate, a mortgage or encumbrance held by the Council.	Y	
37. Partial discharge of Mortgage or Encumbrance on Grant of Easement		
The power pursuant to Section 144 of the Act, where an easement is granted over land that is subject to a mortgage or an encumbrance and the Council is the mortgagee or encumbrancee, to endorse the Council's consent to the easement on the instrument granting the easement.	Y	
38. Equitable Mortgage may be created		
The power pursuant to Section 149 of the Act to create an equitable mortgage of land by deposit of the certificate or other instrument of title.	Y	
39. Transfer of Mortgage Lease and Encumbrance		
The power pursuant to Section 150 of the Act to transfer a registered mortgage, lease or encumbrance by execution of a transfer in the appropriate form.	Y	
40. Renewal or extension of Mortgage etc		
The power pursuant to Section 153(1) of the Act and in accordance with Sections 153(1) and (2) of the Act to renew or extend a mortgage, encumbrance or lease by registration of an instrument in the appropriate form.	Y	

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<u>40A Person who intends to lodge instrument may lodge priority notice</u>		
<u>40A.1 The power pursuant to Section 154A(1) of the Act to, where the Council intends to lodge an instrument, on payment of the prescribed fee, lodge in the Lands Titles Registration Office a notice (a priority notice), in accordance with Sections 154A(2), (3), (4) and (9) of the Act, for the purpose of giving priority to 1 or more instruments relevant to the same conveyancing transaction.</u>	<u>Y</u>	
<u>40A.2 The power pursuant to Section 154A(6) of the Act to, if a priority notice is lodged in the Lands Titles Registration Office in relation to land, lodge a further priority notice in relation to the same land.</u>	<u>Y</u>	
<u>40B Effect of priority notice</u>		
<u>40B.1 The power pursuant to Section 154B(2)(b) of the Act to, where a priority notice lodged by the Council is in force in relation to land, provide written consent to the Registrar-General to register, record or give effect to an instrument in relation to the land.</u>	<u>Y</u>	
<u>40B.2 The power pursuant to Section 154B(2)(v) of the Act, where a priority notice is in force in relation to land, to make an application under the Act where the Council is a person to whom land has been transmitted for registration as proprietor of the land.</u>	<u>Y</u>	
<u>40C Withdrawal of priority notice</u>		
<u>40C.1 The power pursuant to Section 154E of the Act to withdraw a priority notice lodged by the Council by lodging in the Lands Titles Registration Office a notice of withdrawal in the appropriate form.</u>	<u>Y</u>	
<u>40D Cancellation of priority notice by Registrar-General</u>		
<u>40D.1 The power pursuant to Section 154F(1) of the Act where the Council is a person with an interest in land to which a priority notice is in force, to make application to the Registrar-General to cancel the notice on the basis that the priority notice purports to protect the priority of an instrument</u>	<u>Y</u>	

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that is unlikely to be registered or recorded within 90 days of the day on which the notice was lodged.		
40D.2 The power pursuant to Section 154F(2) of the Act, where the Registrar-General gives written notice to the Council as the person who lodged a priority notice, of an application under Section 154F(1) to cancel the priority notice, to provide written submissions in response to the application within a specified period.	<u>Y</u>	
<u>40E Cessation of priority notice</u>		
40E.1 The power pursuant to Section 154G(6) of the Act, where the Council has lodged a priority notice, to make application to the Registrar-General to extend the duration of the notice for 30 days.	<u>Y</u>	
41. Disclaimers		
41.1 The power pursuant to Section 169(1) of the Act, where the Council claims that it has been registered, without its consent, as proprietor of any estate or interest in land, to execute and lodge with the Registrar-General an instrument of disclaimer of that estate or interest.	Y	
41.2 The power pursuant to Section 169(2a) of the Act to lodge with the Registrar-General a notice of objection to the registration of the instrument of disclaimer.	Y	
41.3 The power pursuant to Section 169(6) of the Act, where the Council is a disclaimant who has received a notice under paragraph (b) of Section 169(4) of the Act, or a notice of objection under Section 109(5) of the Act, to, apply to the Supreme Court by originating summons for an order that the Registrar-General take such action as is necessary to give effect to the instrument of disclaimer.	Y	
42. Bankruptcy or assignment of lessee		
42.1 The power pursuant to Section 173(a) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore	Y	

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<p>made or shall hereafter make, a statutory assignment and if such lease be not mortgaged or encumbered under the provisions of the Act, to apply to the Registrar-General in writing accompanied by a statement in writing, signed by the Official Receiver or the trustee under such bankruptcy or assignment, certifying his refusal to accept such lease, to enter in the Register Book a note of such refusal;</p>		
<p>42.2 The power pursuant to Section 173(b) of the Act and in accordance with Section 173(c) of the Act, where the Council is the mortgagee or encumbrancee of a lease and the registered proprietor of the lease has heretofore or shall hereafter become bankrupt or has heretofore made or shall hereafter make, a statutory assignment to:</p>		
<p>42.2.1 apply to the Registrar-General in writing, accompanied by a statement in writing, signed by the Official Receiver or the trustee under such bankruptcy or assignment certifying his refusal to accept such lease to enter in the Register Book a note of such refusal.</p>	Y	
<p>42.2.2 apply to the Registrar-General with proof that the Official Receiver has neglected or refused to certify such refusal or to become registered as proprietor of such lease within one month after being thereunto required by notice in writing given to him by the Council to enter in the Register Book a note of such refusal or neglect.</p>	Y	
<p>42.3 The power pursuant to Section 173(c) of the Act, where the Council is the mortgagee or encumbrancee of a lease and the registered proprietor of the lease has heretofore made or shall hereafter make, a statutory assignment to give fourteen days' notice in writing of the Council's intended application to every subsequent mortgagee or encumbrancee of the lease, or obtain their written consent.</p>	Y	
<p>42.4 The power pursuant to Section 173(c) of the Act where the Council is a subsequent mortgagee or</p>	Y	

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<p>encumbrancee of a lease and the registered proprietor of the lease has heretofore or shall hereafter become bankrupt or has heretofore made or shall hereafter make a statutory assignment, to consent in writing to an application to the Registrar-General by a mortgagee or encumbrance to enter in the Register Book a note of the refusal or neglect of the Official Receiver or trustee under bankruptcy or assignment to accept such lease.</p>		
<p>42.5 The power pursuant to Section 173(d) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make, a statutory assignment to:</p>		
<p>42.5.1 require the Official Receiver or the trustee under the bankruptcy or assignment by notice in writing to become registered as the proprietor of the lease;</p>	Y	
<p>42.5.2 require the mortgagees or encumbrancees (if any) of the lease by notice in writing to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained.</p>	Y	
<p>42.6 The power pursuant to Section 173(d) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make a statutory assignment, and the Official Receiver or the trustee under the bankruptcy or assignment certifies his refusal to accept the lease, or shall neglect or refuse to become registered as proprietor of the lease, within, one month after having been thereunto required by notice in writing given to him by the Council, and the mortgagees or encumbrancees (if any) of the lease shall neglect or refuse to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained within the period of two months after having been thereunto required by</p>	Y	

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notice in writing given to them by the Council, to apply to the Registrar-General in writing to enter in the Register Book a note of such neglect or refusal.		
43. Application to be made in such case		
The power pursuant to Section 176 of the Act where the Council is an executor before dealing with such estate or interest, make application in writing to the Registrar-General to be registered as the proprietor.	Y	
44. Proceedings when executor etc refuse to transfer		
The power pursuant to Section 181 of the Act, whenever an executor, or administrator, or the Public Trustee, is registered as proprietor of any land, and refuses, or, after tender of a transfer, unnecessarily delays to transfer such land to the Council where the Council claims to be entitled to the land, to, apply to the Court for an order that the executor, administrator, or Public Trustee shall transfer the said land to the Council.	Y	
45. Registration of survivor of joint proprietors, and of remainder-man entitled to estate in possession		
The power pursuant to Section 188 of the Act, upon the death of any person registered together with any other person as joint proprietor of any estate or interest in land, or when the life estate in respect of which any certificate has been issued has determined, and the Council has become vested in possession, or the Council has become entitled to the land for an estate in fee-simple in possession, to apply to the Registrar-General to make an entry thereof in the Register Book, that the Council is the registered proprietor of the estate or interest to which the Council is entitled.	Y	
46. Caveats		
46.1 The power pursuant to and in accordance with Section 191 of the Act, where the Council is the settlor of land, beneficiary claiming under a will or settlement, or claiming to be interested at law or in equity whether under an agreement, or under an unregistered instrument or otherwise howsoever in any land to, lodge a caveat with the Lands Titles Registration Office Registrar-General forbidding the registration of any dealing with	Y	

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	such land, either absolutely or unless such dealing shall be expressed to be subject to the claim of the Council, or to any conditions conformable to law expressed therein.		
46.2	The power pursuant to Section 191(d) of the Act, where the Council is the registered proprietor or other person claiming estate or interest in the land, to, by summons, call on any caveator, including the Registrar-General, to attend before the Court to show cause why the caveat should not be removed.	Y	
46.3	The power pursuant to and in accordance with Section 191(e) of the Act except when the caveat is lodged by a settlor, or by a beneficiary under a will or settlement, to make application in writing to the Registrar-General to remove the caveat.	Y	
46.4	The power pursuant to Section 191(fa) of the Act, where the Council is a caveator, to bring an action in the Court to establish the validity of the claim on which the caveat is based.	Y	
46.5	The power pursuant to Section 191(g) of the Act to apply to the court to extend the period of 21 days until an action under Section 191(fa) is determined or for any other period.	Y	
46.6	The power pursuant to Section 191(h) of the Act, to, by notice in writing to the Registrar-General, withdraw the Council's caveat at any time.	Y	
46.7	The power pursuant to Section 191(k) of the Act to seek the permission of the Court to lodge a further caveat relating to the same matter.	Y	
47. Ejectment			
47.1	The power pursuant to Section 192 of the Act, and in accordance with Section 193 of the Act, where the Council is:		
47.1.1	the registered proprietor of a freehold estate in possession;	Y	
47.1.2	the registered mortgagee or encumbrancee where the person in possession of land is a mortgagor or encumbrancer in default or a person	Y	

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

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<u>review of the decision by the Tribunal.</u>		
<u>48A.3 The power pursuant to Section 221(3) of the Act, if the Registrar-General rejects a priority notice lodged by the Council where the Council is a person in relation to whom a determination has been made under Section 154A(12) of the Act, to seek a review by the Tribunal of the decision to reject the notice.</u>	<u>Y</u>	
<u>48A.4 The power pursuant to Section 221(4) of the Act, if the Registrar-General refuses an application by the Council under Section 154F of the Act for the cancellation of a priority notice, to seek a review by the Tribunal of the decision to refuse to cancel the notice.</u>	<u>Y</u>	
<u>48A.5 The power pursuant to Section 221(5) of the Act, if the Registrar-General cancels a priority notice under Section 154F of the Act and the Council is affected by the cancellation to seek a review by the Tribunal of the decision to cancel the notice.</u>	<u>Y</u>	
<u>48A.6 The power pursuant to Section 221(9) of the Act, if the reasons of the Registrar-General are not given in writing at the time the Council receives notice of the decision, to within 21 days of receiving notice of the decision, require the Registrar-General to state the reasons in writing.</u>	<u>Y</u>	
<u>48A.7 The power pursuant to Section 221(10) of the Act, to make an application to the Tribunal for any 1 or more of the following orders:</u>		
<u>48A.7.1 an order prohibiting a person from lodging a priority notice in the Lands Titles Registration Office;</u>	<u>Y</u>	
<u>48A.7.2 an interim order extending the duration of a priority notice until the determination of the application or until a date specified by the Tribunal or until further order;</u>	<u>Y</u>	
<u>48A.7.3 an interim order preventing the Registrar-General from registering or recording a specified instrument until the determination of the application.</u>	<u>Y</u>	
49. Applications for amendment		

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49.1 The power pursuant to and in accordance with Section 223A(1) of the Act, and subject to Section 223A(3) of the Act, where the Council is the registered proprietor of land, to apply to have the certificate amended if:		
49.1.1 the boundaries, area, or position of the land described in the certificate differ from the boundaries, area or position of the land actually and bona fide occupied by it as being the land included in the certificate; or	Y	
49.1.2 the description of the land in the certificate is erroneous or imperfect on the face of it.	Y	
49.2 The power pursuant to Section 223A(2) of the Act, and subject to Section 223A(3) of the Act, where the Council is the registered proprietor of land, to apply to have the certificate of any other registered proprietor amended if any of the land described in the Council's certificate, and actually and bona fide occupied by the Council as being the land included in the certificate, is, by reason of any error in survey or in any misdescription, included in the certificate of the other registered proprietor.	Y	
50. Caveats		
The power pursuant to Section 223D(1) of the Act and in accordance with Section 223D(2) of the Act, where the Council claims any estate or interest in any land in respect of which an application under Part 19A of the Act is made, to at any time before the application is granted lodge a caveat with the Registrar-General forbidding the granting of the application.	Y	
51. Rectification by consent		
The power pursuant to Section 223J of the Act to consent to the Registrar-General making any correction or amendment to any certificate of title for the purpose of reconciling the boundaries shown in the certificate with the boundaries of the land occupied.	Y	
52. Application for Division of Land		

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52.1	The power pursuant to Section 223LD of the Act and in accordance with Section 223LD(2), (3) and (11) of the Act, where the Council is the registered proprietor of land, to make application for the division of land to the Registrar-General.	Y	
52.2	The power pursuant to Section 223LD(8) of the Act and subject to Section 223LD(9) of the Act to consent to the withdrawal or amendment of a plan of division or the application to which it relates.	Y	
52.3	The power pursuant to and subject to Section 223LD(9) of the Act to amend the application or the plan to which it relates in order to comply with the Act or with a requirement of the Registrar-General under the Act.	Y	
53.	Application may deal with statutory encumbrances		
53.1	The power pursuant to Section 223LDA of the Act to:		
53.1.1	specify in an application under Part 19AB of the Act or the plan of division that variation or termination of a statutory encumbrance is to be registered or noted; and	Y	
53.1.2	sign a certificate on behalf of the Council as the holder of the statutory encumbrance certifying that the requirements of the Act under which the encumbrance was entered into, or is in force, as to the variation or termination of the statutory encumbrance (if any) have been complied with.	Y	
54.	Consent to plans of division		
54.1	The power pursuant to Section 223LH(1) of the Act:		
54.1.1	where the deposit of a plan of division in the Lands Titles Registration Office will affect the estate or interest of the Council, in the land - to consent to the deposit of the plan and sign a certificate certifying that the Council has consented	Y	

INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886

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

INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886
SCHEDULE OF CONDITIONS
**CONDITIONS OR LIMITATIONS
APPLICABLE TO DELEGATIONS
CONTAINED IN THIS INSTRUMENT**

Paragraph(s) in instrument to which conditions/limitations apply	Conditions / Limitations
28	The delegation of the power contained in Section 128 of the Act is subject to Section 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation.
38	The delegation of the power contained in Section 149 of the Act is subject to Section 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation.

**INSTRUMENT OF DELEGATION UNDER THE
ROAD TRAFFIC ACT 1961, THE ROAD TRAFFIC (MISCELLANEOUS) REGULATIONS 1999 AND THE
ROAD TRAFFIC (ROAD RULES – ANCILLARY AND MISCELLANEOUS PROVISIONS) REGULATIONS 1999**

**INSTRUMENT OF DELEGATION UNDER THE
ROAD TRAFFIC ACT 1961, THE ROAD TRAFFIC (MISCELLANEOUS)
REGULATIONS 1999 AND THE ROAD TRAFFIC (ROAD RULES – ANCILLARY
AND MISCELLANEOUS PROVISIONS) REGULATIONS 1999**

NOTES

In exercise of the power contained in Section 44 of the Local Government Act 1999 the following powers, functions and duties under the Road Traffic Act 1961, the Road Traffic (Miscellaneous) Regulations 1999 and the Road Traffic (Road Rules – Ancillary and Miscellaneous Provisions) Regulations 1999 are hereby delegated this ~~22nd~~-~~10th~~ day of ~~May~~-~~November~~ ~~2012~~-~~2015~~ to the person occupying the office of Chief Executive Officer of the Council and the said powers, functions and duties may be sub-delegated by the delegate to any other officer of Council.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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

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ROAD TRAFFIC ACT 1961, THE ROAD TRAFFIC (MISCELLANEOUS) REGULATIONS 1999 AND THE
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satisfied might constitute a hazard to traffic.		
3. Notice of Removal of Vehicle and Disposal of Vehicle if Unclaimed		
3.1 The duty pursuant to Section 40P(3) of the Act and subject to Section 40P(4) to offer a vehicle, which was removed by an officer of the Council under Section 40N of the Act and for which there had been notice given according to Section 40P(2) of the Act and the owner of the vehicle failed to take possession of the vehicle and pay all expenses in connection with the removal, custody and maintenance of the vehicle and of serving, posting or publishing the notice, within one month after service or publication of the notice in accordance with Section 40P(2) of the Act, for sale by public auction.	Y	Team Leader Community Safety Inspectors
3.2 The power pursuant to Section 40P(4) of the Act, where a vehicle is offered for sale by public auction but is not sold at the auction or the relevant authority reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle, to dispose of the vehicle in such manner as the Delegate thinks fit.	Y	Team Leader Community Safety Inspectors
3.3 The duty pursuant to Section 40P(5) of the Act to apply the proceeds of the sale of a vehicle as follows:	Y	Team Leader Community Safety Inspectors
3.3.1 firstly, in payment of the costs of and incidental to the sale;	Y	Team Leader Community Safety Inspectors
3.3.2 secondly, in payment of the costs of and incidental to the removal, custody and maintenance of the vehicle and of the notice served, posted or published under this section; and	Y	Team Leader Community Safety Inspectors

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3.3.3	thirdly, in payment of the balance to the owner of the vehicle.	Y	Team Leader Community Safety Inspectors
3.4	The power pursuant to Section 40P(6) of the Act, if after reasonable inquiry following sale of the vehicle the owner of the vehicle cannot be found, to pay the balance of the proceeds of the sale to the Council.	Y	Team Leader Community Safety Inspectors
4.	Compensation Orders for Damage to Road Infrastructure		
	The power, pursuant to Section 163ZC(2) of the Act and in accordance with Section 163ZC(5) of the Act to make an application for a compensation order.	Y	Unit Manager Engineering
4A.	Assessment of Compensation		
4A.1	The power pursuant to Section 163ZD(2) of the Act and in accordance with Section 163ZE of the Act to use in proceedings for the court to take into account in assessing the amount of any compensation:	Y	Unit Manager Engineering
4A.1.1	any evidence not adduced in connection with the prosecution of the offence but adduced in connection with the making of the proposed order; and	Y	Unit Manager Engineering
4A.1.2	any certificate of the Council, as the road authority stating that the Council maintains the road concerned; and	Y	Unit Manager Engineering
4A.1.3	any other certificate of the Council as the road authority, such as a certificate:	Y	Unit Manager Engineering
4A.1.3.1	estimating the monetary value of all or any part of the road infrastructure or of the damage to it; or	Y	Unit Manager Engineering
4A.1.3.2	estimating the cost of	Y	Unit Manager

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	remedying the damage; or		Engineering
4A.1.3.3	estimating the extent of the offender's contribution to the damage.	Y	Unit Manager Engineering
4B. Service of Certificates			
4B.1	The duty, pursuant to Section 163ZE(1) of the Act, if the Council, as the road authority, proposes to use a certificate referred to in Section 163ZD in proceedings, to serve a copy of the certificate on the defendant at least 28 working days before the day on which the matter is set down for hearing.	Y	CEO
5. Exemptions			
5.1	The power pursuant to Section 174C(1) of the Act to exempt any person, or any persons of specified class, or any specified vehicle, or any vehicles of a specified class, from compliance with a prescribed provision of the Act, subject to the payment of such fee and to such other conditions (if any) as the Delegate thinks fit and specifies in the exemption.	Y	Team Leader, Community Safety Inspectors

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<u>DELEGATIONS UNDER THE ROAD TRAFFIC (MISCELLANEOUS) REGULATIONS 19992014</u>	<u>Delegate to CEO</u>	<u>Sub- delegations</u>
6. Event Management Plan		
6.1 The power pursuant to Regulation 6B(2) of the Road Traffic (Miscellaneous) Regulations 2014 1999 to consult with an applicant in the preparation of an event management plan to be provided to the Council for the purpose of a temporary road closure under Section 33(1) of the Act.	Y	Unit Manager Engineering Unit Manager Risk
6.2 The power pursuant to Regulation 6B(2) of the Road Traffic (Miscellaneous) Regulations 1999–2014 to consult with the Minister in the preparation of an event management plan to be provided to the Council for the purpose of a temporary road closure under Section 33(1) of the Act.	Y	Unit Manager Engineering Unit Manager Risk

<u>DELEGATIONS UNDER THE ROAD TRAFFIC (ROAD RULES – ANCILLARY AND MISCELLANEOUS PROVISIONS) REGULATIONS 19992014</u>	<u>Delegate to CEO</u>	<u>Sub- Delegations</u>
7. Permit Zones		
7.1 The power pursuant to Regulation 1417 (2) of the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 1999–2014 to determine –		
7.1.1 the class of permits required for vehicles to stop in a permit zone established by the Council;	Y	Team Leader Community Safety Inspectors
7.1.2 the persons entitled to such permits;	Y	Team Leader Community Safety Inspectors
7.1.3 any fees to be paid for such permits;	Y	Team Leader Community

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		Safety Inspectors
7.1.4	the conditions to which the permits will be s ubject (which may include conditions as to the period for which such permits remain in force and conditions as to the display of permits in vehicles).	Y Team Leader Community Safety Inspectors
	and to vary any such determination.	
7.2	The power pursuant to Regulation 174(3) of the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 1999 - 2014 to issue permits in respect of permit zones to persons entitled to them, on payment of a fee (if any) and s ubject to the conditions, determined by the Delegate.	Y Team Leader Community Safety Inspectors
8. Parking and Parking Ticket-Vending Machines or Parking Meters		
8.1	The power pursuant to Regulation 179(2) of the Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 1999 - 2014 if the Council has installed permissive parking signs on a l ength of road or an ar ea, to determine fees that will be payable for parking by the operation of parking ticket-vending machines or parking meters, installed or to be installed in the length of road or area, and the power to vary such fees.	Y CEO

AUTHORISATIONS
UNDER THE ROAD TRAFFIC ACT 1961
APPROVED BY THE CHIEF EXECUTIVE OFFICER
OF THE COUNCIL IN ACCORDANCE WITH
THE INSTRUMENT OF GENERAL APPROVAL AND DELEGATION
TO COUNCIL DATED 22 AUGUST 2013
FROM THE MINISTER FOR TRANSPORT AND INFRASTRUCTURE

BACKGROUND

1. On 22 August 2013 the Minister for Transport and Infrastructure issued an Instrument of General Approval and Delegation to Council (the '**Instrument**') containing:
 - (i) General Approvals by the Minister to the Council in accordance with Section 12 of the Road Traffic Act 1961 (the '**Act**') for the purposes of the Act; and
 - (ii) Delegations pursuant to Section 11 of the Act, by the Minister to the Council for the purposes of the Act.

This document contains Authorisations made by the Council to Officers of the Council and approved by the Chief Executive Officer on behalf of the Council, pursuant to the terms of the Instrument. The Instrument contains certain conditions, exceptions and requirements, and this document must be read in conjunction with the Instrument.

AUTHORISATIONS

2. TRAFFIC CONTROL DEVICES

- 2.1 Pursuant to Clause A of the Instrument the Minister granted the Council approval, for the purposes of Sections 17(1) and (2) of the Act, to install, maintain, alter, operate, or remove, or cause to be installed, maintained, altered, operated or removed, any traffic control device, on, above or near a road which is under the Council's care, control and management subject to the conditions specified in the Instrument, other than those specified in Clause A.8 of the Instrument, or those dealt with in other Clauses of the Instrument.
- 2.2 Pursuant to Clause A.1 of the Instrument, the Council may authorise any Officer to exercise, for and on behalf of the Council, the powers conferred on the Council pursuant to Clause A of the Instrument, provided that such authorisation is made by instrument in writing and approved by the Chief Executive Officer of the Council.

- 2.3 In accordance with Clause A.1 of the Instrument, I, as Chief Executive Officer of the Council approve on behalf of the Council, the following Officers to be **AUTHORISED** to exercise, for and on behalf of the Council, the powers conferred on the Council pursuant to Clause A of the Instrument, subject to the conditions specified in the Instrument in relation to Clause A of the Instrument: Unit Manager Engineering Services

3. **SPEED LIMITS AT WORKS ON ROADS**

- 3.1 Pursuant to Clause B of the Instrument, the Minister granted the Council approval, for the purposes of Section 20(2) of the Act, to place signs for the purpose of indicating the maximum speed to be observed by drivers while driving by or towards a work area or a worksite where workers are engaged or works are in progress at the direction of the Council subject to the conditions specified in the Instrument.
- 3.2 Pursuant to Clause B.1 of the Instrument, the Council may authorise any Officer to exercise, for and on behalf of the Council, the powers conferred on the Council pursuant to Clause B of the Instrument, provided that such authorisation is made by instrument in writing and is approved by the Chief Executive Officer of the Council.
- 3.3 In accordance with Clause B.1 of the Instrument, I, as Chief Executive Officer of the Council approve on behalf of the Council the following Officer(s) to be **AUTHORISED** to exercise for and on behalf of the Council the powers conferred on the Council pursuant to Clause B of the Instrument, subject to the conditions specified in the Instrument in relation to Clause B of the Instrument: Unit Manager Civil Services.

4. **TRAFFIC CONTROL DEVICES SIGNS AT WORKS ON ROADS**

- 4.1 Pursuant to Clause C of the Instrument, the Minister granted the Council approval for the purposes of Section 17(3) of the Act, to install, display, alter, operate or remove any traffic control device in relation to an area where persons are engaged in work or an area affected by works in progress, or in relation to part of a road temporarily closed to traffic under the Act or any other Act, subject to the conditions specified in the Instrument.
- 4.2 Pursuant to Clause C.1 of the Instrument, the Council may authorise any Officer to exercise, for and on behalf of the Council, the powers conferred on the Council pursuant to Clause C of the Instrument, provided that such authorisation is made by instrument in writing and is approved by the Chief Executive Officer of the Council.
- 4.3 In accordance with Clause C.1 of the Instrument, I, as Chief Executive Officer of the Council approve on behalf of the Council the following Officer(s) to be **AUTHORISED** to exercise for and on behalf of the Council the powers conferred on the Council pursuant to Clause C of the

Instrument, subject to the conditions specified in the Instrument in relation to Clause C of the Instrument: Unit Manager Civil Services.

5. TEMPORARY PARKING CONTROLS

- 5.1 Pursuant to Clause D of the Instrument the Minister granted the Council approval for the purposes of Section 17(3) of the Act, to install, display, alter, operate or remove a traffic control device for the purposes of imposing, varying or abolishing a parking control on a temporary basis on a road or road which is under the Council's care, control or management subject to the conditions specified in the Instrument.
- 5.2 Pursuant to Clause D.1 of the Instrument, the Council may authorise any Officer to exercise, for and on behalf of the Council, the powers conferred on the Council in Clause D of the Instrument, provided that such authorisation is made by instrument in writing and is approved by the Chief Executive Officer of the Council.
- 5.3 In accordance with Clause D.1 of the Instrument, I, as Chief Executive Officer of the Council approve, on behalf of the Council the following Officers to be **AUTHORISED** to exercise for and on behalf of the Council the powers conferred on the Council pursuant to Clause D of the Instrument, subject to the conditions specified in the Instrument in relation to Clause D of the Instrument: Unit Manager Engineering Services.

6. GRANT APPROVAL TO ANOTHER ROAD AUTHORITY

- 6.1 Pursuant to Clause F of the Instrument the Minister delegated to the Council the power conferred on the Minister pursuant to Section 17 of the Act to specifically approve the installation, maintenance, alteration, operation, or removal of a traffic control device in the municipality or district of the Council by a road authority, on, above, or near a road under the care control or management of the Council, subject to the conditions specified in the Instrument.
- 6.2 Pursuant to Clause F.1 of the Instrument, the Council may authorise any Officer(s) to exercise, for and behalf of the Council, the powers conferred on the Council in Clause F of the Instrument, provided that such authorisation is made by instrument in writing and is approved by the Chief Executive Officer of the Council.
- 6.3 In accordance with Clause F.1 of the Instrument, I, as Chief Executive Officer of the Council, approve on behalf of the Council, the following Officer(s) to be **AUTHORISED** to exercise, for and on behalf of the Council, the powers conferred on the Council pursuant to Clause F of the Instrument, subject to the conditions specified in the Instrument in relation to Clause F of the Instrument: Unit Manager Civil Services.

.....
Date

.....
Signature of Chief Executive Officer

.....
Name of Chief Executive Officer

INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008

INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008

NOTES

1. In exercise of the powers contained in Section 20 of the Development Act, 1993, the powers, functions and duties under the Development Act, 1993 and the Development Regulations, 2008 are hereby delegated this 108th day of ~~October~~ November 2015 to the person occupying the office of Chief Executive Officer of the Council and the said powers, functions and duties may be sub-delegated by the said delegate to any other officer of the Council:

References:

Abbreviation	Position Title
AC	Administration Co-ordinator
ASODS	Administration Support Officer Development Services
BS	Building Surveyor
COD	Compliance Officer Development
DOB	Development Officer Building
DOE	Development Officer Engineering
DOP	Development Officer Planning
EHO	Environmental Health Officer
FC	Financial Co-ordinator
MDS	Manager Development Services
MF	Manager Finance
POA	Planning Officer Arboriculture
PP	Policy Planner
SDOB	Senior Development Officer Building
SDOP	Senior Development Officer Planning
SO	Systems Officer
SPP	Senior Policy Planner
TLB	Team Leader Building
CCHS	Unit Manager Community Health and Safety
TLP	Team Leader Planning
TLE	Team Leader Engineering

INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

	Delega te to CEO	Sub-delegation
1. Concept of Change in the Use of Land		
1.1 The power pursuant to Section 6(3) of the Development Act 1993 ("the Act") and in circumstances where a particular use of land has been discontinued for a period of six months or more:		
1.1.1 to form the opinion that the revival of that use would be inconsistent with the Development Plan and have an adverse effect on the locality in which the land is situated; and	Y	
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.	Y	
2. Appointment of Authorised Officers		
2.1 The power pursuant to Section 18(1) of the Act to appoint a person to be an authorised officer for the purposes of the Development Act 1993.	Y	
2.2 The power pursuant to Section 18(2) of the Act to impose conditions on the appointment of an authorised officer.	Y	
2.3 The duty pursuant to Section 18(3) of the Act to issue an authorised officer with an identity card.	Y	
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.	Y	
3. Delegations		
3.1 The duty pursuant to Section 20(8) of the Act to ensure that notice of a delegation under Section 20 of the Act is, in prescribed circumstances, given in the Gazette.	N	

**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008**

4. Council or Minister May Amend a Development Plan		
4.1 Where an amendment relates to the area, or part of the area, of a council, the power pursuant to Section 24(1)(a)(i) of the Act to prepare an amendment to a Development Plan.	Y	
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.	Y	
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.	Y	
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 24(b)(ii) of the Act.	Y	
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.	Y	
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.	Y	
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.	Y	
5. Amendments by a Council		
5.1 The power pursuant to Section 25(1) of the Act to prepare a "Statement of Intent" in accordance with the Regulations.	Y	
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.	Y	

**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 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:		
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**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008**

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;	Y	
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	Y	
5.3.2.2	accords with the Statement of Intent; and	Y	
5.3.2.3	accords with other parts of the Development Plan; and	Y	
5.3.2.4	complements the policies in the Development Plans for adjoining areas; and	Y	
5.3.2.5	satisfies the matters prescribed in the Regulations;	Y	
5.3.3	<i>the DPA must include -</i>		
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	Y	
5.3.3.2	a summary of the conclusions drawn from the investigations and assessments referred to above; and	Y	
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);	Y	
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	Y	

**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008**

	infrastructure) identified by the Council through strategic planning or other processes undertaken by the Council under the Act or the Local Government Act 1999 or identified by a Minister, or any other relevant government agency, in accordance with any scheme set out in the Regulations, in connection with the preparation of the DPA under the Act;		
5.3.5	the DPA must include any other matter prescribed by the Regulations.	Y	
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.	Y	
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.	Y	
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.	Y	
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.	Y	
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.	Y	
5.9	Process A		

**INSTRUMENT OF DELEGATION UNDER THE
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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.	Y	
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.	Y	
5.9.3	The power pursuant to Section 25(7)(c) of the Act to consult with the Minister.	Y	
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.	Y	
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.	Y	
5.10	3.1K Process B	Y	

**INSTRUMENT OF DELEGATION UNDER THE
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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.	Y	
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.	Y	
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.	Y	
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.	Y	
5.11	3.1L Process C	Y	

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5.11.1 The duty and power pursuant to Section 25(9)(a) of the Act to refer the DPA to any government Department or agency that has a direct interest in the matter, and any other body specified in the Statement of Intent for comment within a period of 4 weeks, and, if a response is not received within this period, to assume that the particular Department, agency or body does not desire to provide any comment.		
5.11.2 Subject to Sections 25(10), 25(11), 25(12) and 25(12a) of the Act, the duty pursuant to Section 25(9)(b) of the Act to release the DPA for public consultation in accordance with the Regulations, over a period that is at least concurrent with the period that applies under Section 25(9)(a) of the Act.	Y	
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	Y	
5.11.3.2 an owner or occupier of each piece of adjacent land to land that is directly subject to the operation of the proposed amendment, a written notice in accordance with the Regulations.	Y	
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:	Y	

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5.12.1	accords with the Planning Strategy; and	Y	
5.12.2	accords with the Statement of Intent; and	Y	
5.12.3	accords with other parts of the Development Plan; and	Y	
5.12.4	complements the policies in the Development Plans for adjoining areas; and	Y	
5.12.5	satisfies the matters prescribed in the Regulations.	Y	
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:	Y	
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	Y	
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,	Y	
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.	Y	
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	Y	

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5.14.1	informing the owner of the proposed amendment, and	Y	
5.14.2	inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.	Y	
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:	Y	
5.15.1	informing the owner of the proposed amendment; and	Y	
5.15.2	inviting the owner to make submissions on the amendment within the period provided for public consultation under the Regulations.	Y	
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.	Y	
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.	Y	
5.18	The duty to send to the Minister:		
5.18.1	a copy of a report under Section 25(13)(a); and	Y	
5.18.2	a certificate from the Chief Executive Officer;	Y	
	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	Y	

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	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.	Y	
5.21	The power pursuant to Section 25(23) of the Act to consult with the Minister.	Y	
6.	Amendments by the Minister		
6.1	The power pursuant to Section 26(5)(d)(i) of the Act, in relation to a DPA referred to the Council by the Minister, to make comment on the DPA to the Minister within a period of 8 weeks.	Y	
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.	Y	
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.	Y	
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.	Y	
6.5	The power pursuant to, Section 26(12) of the Act to, by notice in writing, object to the Minister's proposed action.	Y	
7.	Parliamentary Scrutiny		
7.1	The power pursuant to Section 27(6) of the Act to consult with the Minister.	Y	
8.	Strategic Directions Report		
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 -	Y	

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8.1.1	addresses the strategic planning issues within the area of the Council, with particular reference to -	Y	
8.1.1.1	the Planning Strategy; and	Y	
8.1.1.2	any other policy or document prescribed by the regulations; and	Y	
8.1.2	addresses appropriate amendments to any Development Plan that applies within the area of the Council; and	Y	
8.1.3	sets out the Council's priorities for -	Y	
8.1.3.1	achieving orderly and efficient development through the implementation of planning policies; and	Y	
8.1.3.2	the integration of transport and land-use planning within its area; and	Y	
8.1.3.3	implementing any relevant targets set out in the Planning Strategy; and	Y	
8.1.3.4	implementing affordable housing policies set out in the Planning Strategy within its area; and	Y	
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	Y	
8.1.3.6	other projects or initiatives considered to be relevant by the Council; and	Y	
8.1.4	contains such other material as may be -	Y	
8.1.4.1	prescribed by the regulations; or	Y	

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	8.1.4.2 required by the Minister.	Y	
8.2	The duty pursuant to Section 30(2) of the Act to prepare and complete a report under Section 30 of the Act -	Y	
	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 -	Y	
	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	Y	
	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	Y	
	8.2.2 in any event, within 5 years after the completion of the last report under Section 30 of the Act.	Y	
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 4.3.1 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	Y	
	8.3.2 4.3.2 consult with any prescribed authority or body in the manner specified by the regulations.	Y	
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.	Y	
8.5	The duty pursuant to Section 30(5) of the Act to give	Y	

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	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	Y	
8.6.2	if relevant, prepare a DPA that is suitable for consideration under Section 25(3) of the Act.	Y	
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.	Y	
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).	Y	
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	Y	
8.9.2	from a particular requirement with respect to a report under Section 30 of the Act.	Y	
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.	Y	
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	Y	

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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.	Y	
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.	Y	
9. Copies of Plans to be Made Available to the Public		
9.1 The duty pursuant to Section 31(3) of the Act to make copies of a Development Plan published under Section 31(1) of the Act that applies in relation to the area of the Council available for inspection (without charge) and purchase by the public at an office of the Council.	Y	
10. Matters Against Which Development Must be Assessed		
10.1 The power, as the relevant authority and pursuant to Section 33 of the Act, to assess a development against and grant or refuse consent in respect of each of the following matters:	Y	
10.1.1 the provisions of the appropriate Development Plan; with the exception of the following: - Development that has been the subject of Category 2 or 3 public notification where there has been written representations by third parties expressing opposition to the proposal that cannot be satisfied by conditions or modifications to the plans - Development that has been classified as non-complying. The Manager Development Services may determine to proceed with further assessment with	Y	

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	<p>a non-complying development. Such decisions shall be reported to the next meeting of the DAP.</p> <ul style="list-style-type: none"> - Development that includes or is likely to include a new Liquor License or substantial amendment to a Liquor License other than for applications or amendments of a minor nature which may be determined by the Manager Development Services. Such applications shall be reported to the next meeting of the DAP and the respective Ward Councillors advised. - Residential development and land division applications received by Council after 14 August 2003 that incorporate proposed allotments or site areas below the minimum allotment or site areas designated in respective zones and policy areas in the City of Marion Development Plan, unless the Manager Development Service intends to refuse such an application - Outdoor advertising signs: <ul style="list-style-type: none"> - of a freestanding/pylon design where the face of the advertising structure exceeds 5m² in area (each side when double sided). - Attached to a building or structure where the face of the advertising structure exceeds 10m² - Additions to existing signage where the proposed additions exceed 5m² - of a "billboard" construction/design 		
10.1.2	the provisions of the Building Rules;	Y	
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;	Y	
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;	Y	
10.1.5	the requirement that any encroachment of a	Y	

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	building over, under, across or on a public place has been dealt with in a satisfactory manner;		
10.1.6	such other matters as may be prescribed.	Y	
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.	Y	
10.3	If -		
10.3.1	a development only requires an assessment under paragraph (b) of Section 33(1) of the Act; and		
10.3.2	the Council -		
10.3.2.1	is the relevant authority; and		
10.3.2.2	is to make the assessment under that paragraph; and		
10.3.3	the Council determines to grant consent under that paragraph,		
	the duty, pursuant to Section 33(4b) of the Act as the relevant authority, to issue the relevant development approval with the consent.	Y	
11.	Determination of Relevant Authority		
11.1	The power pursuant to Section 34(1)(b)(iii) of the Act to request the Minister to declare the Development Assessment Commission to be the relevant authority for a proposed development.	Y	
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.	Y	
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	Y	

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	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	Y	
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.	Y	
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.	Y	
12.	Special Provisions Relating to Assessment Against Development Plans		
12.1	The duty pursuant to Section 35(1) of the Act to grant a development plan consent if the Regulations or the relevant Development Plan describes any proposed development as a complying development (subject to such conditions or exceptions as may be prescribed by the Regulations or the relevant Development Plan and subject to any other provision made by the Act or applying under the Regulations).	Y	
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.	Y	
12.3	Subject to Sections 35 (1d) and (1e) of the Act, if a proposed development meets all but 1 c riteria 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.	Y	
12.4	The power pursuant to Section 35(2) of the Act to	Y	

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	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.	Y	
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.	Y	
13.	Special Provisions Relating to Assessment Against Building Rules		
13.1	The duty pursuant to Section 36(1) of the Act to grant a building rules consent if the Regulations provide that any proposed building work complies with the Building Rules.	Y	
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;	Y	
13.2.2	to determine whether to grant building rules consent where the variance is with the performance requirements of the Building Code and the Building Rules Assessment Commission concurs in the granting of consent;	Y	
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 on the basis that the Delegate is satisfied that:	Y	
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	Y	

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	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.	Y	
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.	Y	
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.	Y	
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	Y	
	13.5.2 such compliance is certified by a private certifier.	Y	
13.6	The power pursuant to Section 36(6) of the Act to refuse to grant a consent in relation to any development if, as a result of that development, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of the Building Rules for a building of that classification.	Y	
14.	Consultation with Other Authorities or Agencies		
14.1	Subject to Section 37AA of the Act, the duty		

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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	Y	
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).	Y	
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.	Y	
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.	Y	
15. Preliminary Advice and Agreement		
15.1 The power pursuant to and in accordance with Section 37AA(2)(e) of the Act to be satisfied that an application accords with an agreement indicated by a prescribed body in accordance with Section 37AA(2)(c) of the Act.	Y	
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.	Y	
16. Proposed development involving creation of fortifications		

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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”).	Y	
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.	Y	
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 –		
	(a) if the proposed development consists only of the creation of fortifications – refuse the application; or	Y	
	(b) in any other case – impose conditions in respect of any consent to or approval of the proposed development prohibiting the creation of the fortifications.	Y	
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.	Y	
17.	Public Notice and Consultation		

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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 C ategory 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.	Y	
17.2	Where a person applies for a consent in respect of the Development Plan for a C ategory 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	Y	
17.2.1.2	give any other person of a prescribed class,	Y	
	notice of the application; and		

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17.2.2	the duty pursuant to Section 38(3a)(b) of the Act, to -		
17.2.2.1	give consideration to any representations in writing made in accordance with the Regulations by a person who is entitled to be given notice under paragraph (a) of Section 38(3a) of the Act; and	Y	
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	Y	
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.	Y	
17.3	The duty pursuant to Section 38(4) of the Act to give notice of a proposal for a Category 2 development.	Y	
17.4	The duty pursuant to Section 38(5) of the Act to give notice of a proposal for a Category 3 development.	Y	
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.	Y	
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.	Y	
17.7	The duty pursuant to Section 38(10)(b) of the Act, in respect of a Category 3 development, to allow a	Y	

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	person who made a representation and who as part of that representation indicated an interest in appearing before the Delegate or the Council, 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.	Y	
17.9	The duty pursuant to Section 38(12) of the Act, where representations have been made under Section 38 of the Act, to give notice of the decision on the application to each person who made a representation and in respect of a Category 3 development of the person's appeal rights under the Act, and give notice to the Court.	Y	
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.	Y	
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.	Y	
18.	Application and Provision of Information		
18.1	The power pursuant to Section 39(2) of the Act to request an applicant to:		
18.1.1	provide such additional documents or information to enable assessment of the application;	Y	
18.1.2	remedy any defect or deficiency in any application or accompanying document or information required by or under the Act;	Y	
18.1.3	consult with an authority or body prescribed by the Regulations;	Y	
18.1.4	(where required by the Regulations) prepare	Y	

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	a statement of effect in relation to non-complying development; and		
18.1.5	comply with any other requirement prescribed by the Regulations.	Y	
18.2	If -		
18.2.1	a development is of a kind that is complying development; and		
18.2.2	the development falls within a class of development prescribed by the Regulations for the purpose of Section 39(2a)(b) of the Act; and		
18.2.3	the applicant has complied with the requirements of Section 39(1)(a), (c) and (d),		
	the duty, pursuant to Section 39(2a) of the Act, to, in making an assessment as to development plan consent, assess the application without requesting the applicant to provide additional documents or information.	Y	
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;	Y	
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;	Y	

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18.3.4	make that request within a period prescribed by the Regulations.	Y	
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	Y	
18.4.2	refuse the application in prescribed circumstances (including, if the Regulations so provide, in a case involving development that is complying development).	Y	
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.	Y	
18.6	The duty, pursuant to Section 39(3b) of the Act, in dealing with an application that relates to a regulated tree that is not a significant tree, to seek to assess the application without requesting the applicant to provide an expert or technical report relating to the tree, unless the Delegate considers that special circumstances apply.	Y	
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.	Y	
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.	Y	
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	Y	

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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.	Y	
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.	Y	
18.12 The power pursuant to Section 39(7) of the Act to approve of 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.	Y	
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.	Y	
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.	Y	
18.15 Where granting an application for variation of a development authorisation pursuant to section 39(6), the power, pursuant to section 39(7a), to make specific provision for the variation of a condition imposed with respect to the original authorisation in its decision on the application for variation.	Y	

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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.	Y	
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.	Y	
19.	Determination of Application		
19.1	The duty pursuant to Section 40(1) of the Act to give notice of a decision in accordance with the regulations (and in the case of a refusal, the duty to include the reasons for the refusal and any appeal rights that exist under the Act.)	Y	
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.	Y	
20.	Time Within Which Decision Must Be Made		
20.1	The duty, pursuant to Section 41(1) of the Act to deal with an application as expeditiously as possible and within the time prescribed by the Regulations.		
20.2	If -		
20.2.1	the relevant authority does not decide an application that relates to development that is a complying development within the time prescribed under Section 41(1) of the Act; and		
20.2.2	the applicant gives the relevant authority a notice in accordance with the Regulations on the basis that the decision on the application has not been made,		
	the duty pursuant to Section 41(5)(d) of the Act, subject to any exclusion or qualification prescribed by the Regulations, to refund the fee received by the relevant authority under Section 39(1)(d) in relation to the application.	Y	
21.	Conditions		
21.1	The power pursuant to Sections 42(1) and (3) of the	Y	

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	Act to attach such conditions as the Delegate thinks fit or as may be prescribed by regulation to any decision under Division 1 of Part 4 of the Act.		
21.2	The duty, pursuant to Section 42(4) of the Act, in accordance with Section 42(5) of the Act and subject to Sections 42(6) and (8) of the Act, if a development authorisation provides for the killing, destruction or removal of a regulated tree or a significant tree, to apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the Delegate) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).	Y	
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.	Y	
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.	Y	
22.	Cancellation by a Relevant Authority		
22.1	The power pursuant to Section 43 of the Act to cancel a development authorisation previously given by the Council or the Delegate.	Y	
23.	Investigation of Development Assessment Performance		
23.1	The power pursuant to Section 45A(2) of the Act to explain the Council's actions and to make submissions (including, if relevant, an indication of undertakings that the Council is willing to give in order to take remedial action) to the Minister within a period (being at least 28 days) specified by the Minister.	Y	

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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.	Y	
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.	Y	
24.	Crown Development and Public Infrastructure		
24.1	The power pursuant to Section 49(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.	Y	
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.	Y	
24.3	The power pursuant to Section 49(9) of the Act to withdraw opposition to a State agency proposed development.	Y	
25.	Electricity Infrastructure Development		
25.1	The power pursuant to Section 49A(4a) of the Act to receive notice from the Development Assessment Commission containing the prescribed particulars of the development in accordance with the Regulations.	Y	
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.	Y	
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.	Y	

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26. Open Space Contribution System		
26.1 The power pursuant to Section 50(1) of the Act, with respect to an application for the division of land into more than 20 allotments where one or more allotments is less than one hectare in area, to require:		
26.1.1 that up to 12.5% in area of the relevant area be vested in the Council to be held as open space; or	Y	
26.1.2 that the applicant make the contribution prescribed by the regulations in accordance with the requirements of Section 50 of the Act; or	Y	
26.1.3 that the land be vested in the Council and that the applicant make a contribution determined in accordance with Section 50(7) of the Act according to the determination and specification of the Council or Delegate.	Y	
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.	Y	
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.	Y	
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.	Y	
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	Y	

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	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.	Y	
27. Car Parking Fund			
27.1	The power pursuant to Section 50A(1) of the Act to establish a car parking fund.	Y	
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.	Y	
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.	Y	
27.4	The power pursuant to Section 50A(5)(d) of the Act to agree with an applicant that a contribution calculated in accordance with a determination of the Council 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.	Y	
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.	Y	
27.6	The duty pursuant to and in accordance with Section 50A(6) of the Act to publish a determination of the Council for the purpose of calculating amounts to be paid into a carparking fund and any variations from time to time in the Gazette.	Y	
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	Y	

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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.	Y	
28. Urban Trees Fund		

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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).	N	
28.2	The duty, pursuant to Section 50B(2) of the Act, to effect establishment of the fund by notice in the Gazette.	Y	
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.	N	
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.	Y	
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	Y	
28.5.2	purchase land within the designated area in order to maintain or plant trees which are, or will (when fully grown) constitute, significant trees under the Act.	N	
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;	Y	
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	Y	

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these requirements is the designated proportion of the proceeds of sale.		
29. Certificate in Respect of the Division of Land		
29.1 The duty pursuant to Section 51(2) of the Act to provide appropriate information to the Development Assessment Commission (upon request by the Development Assessment Commission) before it issues a certificate in respect of the division of land.	Y	
30. Saving Provisions		
30.1 The power pursuant to Section 52(4) of the Act to extend the limitation period referred to in Section 52(2) of the Act in order to avoid or reduce hardship.	Y	
31. Avoidance of duplication of procedures in relation to Commonwealth Environment Protection and Biodiversity Conservation Act, 1999		
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.	Y	
31.2 The power pursuant to Section 52A(2)(b) of the Act where a document has been accepted for the purposes of the Act, to direct that a procedure taken under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 in relation to the said document will be taken to have fulfilled the requirements for a procedure in relation to the relevant document under the Act, if the requirements of the Act in relation to the procedure have been complied with under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.	Y	
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	Y	

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<p>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.</p>		
<p>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.</p>	Y	
<p>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:</p>		
<p>31.5.1 in circumstances where:</p>		
<p>31.5.1.1 the Commonwealth Minister has given his or her approval to the controlled action; and</p>		
<p>31.5.1.2 the applicant for the development authorisation or the Commonwealth Minister has informed the relevant authority of that fact;</p>		
<p>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</p>	Y	

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

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34. Action if Development Not Substantially Completed		
34.1 The power pursuant to Section 55(1) of the Act to apply to the Court for an order under Section 55(3) of the Act where the development to which an approval relates has been commenced but not substantially completed within the period prescribed by the Regulations for the lapse of the approval.	Y	
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.	Y	
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.	Y	
35. Completion of Work		
35.1 The power pursuant to Section 56(1) of the Act to issue a notice in writing requiring an owner of land to complete a development on the land within a period specified in the notice.	Y	
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.	Y	
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.	Y	
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.	Y	
36. Council to Establish Development Assessment Panels		

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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.	N	
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.	N	
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.	N	
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.	N	
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.	N	
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:	N	

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36.6.1	breach of, or failure to comply with, the conditions of appointment; or	N	
36.6.2	misconduct; or	N	
36.6.3	neglect of duty; or	N	
36.6.4	incapacity to carry out satisfactorily the duty of his or her office; or	N	
36.6.5	failure to carry out satisfactorily the duty of his or her office; or	N	
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.	N	
36.7	The duty pursuant to and in accordance with Section 56A(5) of the Act to give notice of an appointment.	Y	
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 panel available for reasonable access by members of the public.	Y	
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.	Y	
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).	Y	
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.	Y	
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	Y	
36.13	The power pursuant to Section 56A(28) of the Act to	Y	

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	consult with the Minister in relation to revoking an exemption under Section 56A(27) of the Act.		
37.	Building Rules Assessment Audits		
37.1	The duty pursuant to Section 56B(2) to have its building assessment auditor audit the Council's activities in relation to the undertaking of assessments of proposed developments against the provisions of the Building Rules in accordance with the requirements of Section 56B.	Y	
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.	Y	
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.	Y	
37.4	32A.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).	Y	
37.5	32A.5 The duty pursuant to Section 56B(16) to comply with a direction given to the Council under Sections 56B(12) or 56B(15).	Y	
	37A. Development Plan Assessment Audits		
37A.1	The power and duty pursuant to Section 56C(2) of the Act to have the Council's activities in relation to Development Plan assessments audited by a development assessment auditor in accordance with the requirements of Section 56C of the Act.	Y	
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.	Y	
37A.3	The power pursuant to Section 56C(14) of the Act to make submissions in relation to the matter to the Minister.	Y	
37A.4	The power pursuant to Section 56C(15) of the Act to, if		
	37A.4.1 the Minister makes a recommendation to	Y	

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	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,	Y	
	consult with the Minister.		
38.	Land Management Agreements		
38.1	The power pursuant to Sections 57(2) and 57(2a) of the Act to enter into an agreement relating to the development, management, preservation or conservation of land within the area of the Council with the owner of the land.	Y	
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).	Y	
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 Council's decision.	Y	
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.	Y	
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.	Y	
38.6	The power pursuant to Section 57(8) of the Act to apply to the Registrar-General where a land management agreement has been rescinded or amended to have a note of the rescission or amendment made against the instrument of title or against the land.	Y	
38.7	The power pursuant to Section 57(11) of the Act to	Y	

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consent to the remission of rates payable to the Council provided for in an agreement entered into by the Minister.		
39. Land Management Agreements - Development Applications		
39.1 The power pursuant to and s ubject 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.	Y	
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.	Y	
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.	Y	
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.	Y	
39.4 The duty pursuant to Section 57A(6) of the Act to keep a r egister available for public inspection (without charge) in accordance with the Regulations.	Y	
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.	Y	
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 t he notice of the relevant authority's decision under the Act.	Y	
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	Y	

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	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.	Y	
39.9	The power pursuant to Section 57A (18) of the Act where an agreement under Section 57A does not have effect under Section 57A within the prescribed period, to, by notice given in accordance with the regulations, lapse the relevant development approval (and the agreement will then be rescinded by force of Section 57A(18) of the Act).	Y	
40.	Notification During Building		
40.1	The power pursuant to Section 59(3) of the Act to direct that building work stop when a mandatory notification stage has been reached.	Y	
41.	Classification of Buildings		
41.1	The power pursuant to Section 66(2) of the Act to assign to any building a classification that conforms with the Regulations and the duty pursuant to Section 66(4) of the Act to give notice in writing to the owner of the building to which the classification has been assigned.	Y	
42.	Certificates of Occupancy		
42.1	The duty pursuant to and in accordance with the requirements of Sections 67(2), (3), (4), (5) and (6) of the Act to give a certificate of occupancy.	Y	
42.2	The power pursuant to Section 67(3)(a) of the Act to require information from an applicant for a certificate of occupancy.	Y	
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.	Y	
42.4	The power pursuant to Section 67(13) of the Act to revoke a certificate of occupancy in prescribed circumstances.	Y	

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43. Temporary Occupation		
43.1 The power pursuant to Sections 68(1) and (2) of the Act to approve the occupation of a building on a temporary basis without a certificate of occupancy and subject to such conditions as the Delegate thinks fit to impose.	Y	
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.	Y	
44. Emergency Orders		
44.1 Where an owner of land fails to comply with the requirements of an emergency order issued under Section 69(1) of the Act:		
44.1.1 the power pursuant to Section 69(4) of the Act to cause the required work to be carried out; and	Y	
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.	Y	
44A Fire Safety		
44A.1 The power pursuant to Sections 71(18) and (19) of the Act to establish and designate a body as an appropriate authority.	Y	
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.	Y	
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)).	Y	
44A.4 The power pursuant to Section 71(19)(a)(iii) of the Act to appoint a person with expertise	Y	

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	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.	Y	
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.	Y	
44A.7	The power pursuant to Section 71(19)(d) of the Act to appoint deputy members to the appropriate authority.	Y	
44A.8	The power pursuant to Section 71(19)(e) of the Act to determine the procedures of an appropriate authority.	Y	
45.	Building Inspection Policies		
45.1	The duty pursuant to and in accordance with Section 71A of the Act to prepare and from time to time alter a building inspection policy.	Y	
45A.	Building Fire Safety		
45A.1	Where satisfied that the fire safety of a building is not adequate, the power to serve a notice on the owner of the building pursuant to Section 71(2) of the Development Act 1993.	Y	
45A.2	The power to allow an owner of a building who is required to report to the Council on work or other measures necessary to ensure the fire safety of the building is adequate a longer period than two months within which to provide that report pursuant to Section 71(4) of the Development Act 1993.	Y	
45A.3	The power to give notice to the owner of a building: <ul style="list-style-type: none"> a requiring the owner to seek an appropriate development authorisation under the Development Act 1993 and, if granted, to carry out a program of work or to take other measures to ensure that the fire safety of buildings is adequate; or b prohibiting occupation of the building until satisfied that any fire hazard no longer exists; or c requiring the owner to take such other action as prescribed by regulation pursuant to Section 71(6) of the Development Act 1993. 	Y	

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45A.4	The power to vary or revoke a notice under Section 71 pursuant to Section 71(11) of the Development Act 1993.	Y	
46.	Advertisements		
46.1	The power pursuant to and in accordance with Section 74(1) of the Act to:	Y	
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	Y	
46.1.2	serve notice in writing requiring the removal or obliteration of the advertisement or the removal of the advertising hoarding (or both).	Y	
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.	Y	
47.	Enforcement Notices		
47.1	The power pursuant to and in accordance with Section 84(2) of the Act to issue an enforcement notice where the Delegate has reason to believe on reasonable grounds that a person has breached the Act or a repealed Act.	Y	
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.	Y	
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:		

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47.3.1	the power pursuant to Section 84(6) of the Act to cause the necessary action to be undertaken; and	Y	
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.	Y	
48.	Applications to Court		
48.1	The power pursuant to Section 85(1) of the Act to apply to the Court for an order to remedy or restrain a breach of the Act, or a repealed Act.	Y	
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.	Y	
49.	General Right to Apply to Court		
49.1	Where the Council is a party to a dispute referred to in Section 86(1)(e) of the Act, the power pursuant to Section 86(1)(e) of the Act to apply to the Court for determination of the dispute.	Y	
50.	Authority to be Advised of Certain Matters		
50.1	The power pursuant to Section 93(1)(b)(iii) of the Act to require from a private certifier who is making a decision of a prescribed kind in relation to any aspect of building work such other information or documentation as the Delegate or the Council may require.	Y	
51.	Referrals		
51.1	The power pursuant to and in accordance with Section 94 of the Act to consent to the referral by a private certifier to the Council or Delegate of any function under the Act.	Y	
52.	Professional Advice to be Obtained in Relation to Certain Matters		
52.1	The power pursuant to Section 101(1) of the Act, in	Y	

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	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.	Y	

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

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NOTES

1. In exercise of the powers contained in Section 20 of the Development Act, 1993, the powers, functions and duties under the Development Regulations, 2008 are hereby delegated this ~~109~~¹⁰⁹th day of November ~~2015~~²⁰¹⁵ to the person occupying the office of Chief Executive Officer of the Council and the said powers, functions and duties may be sub-delegated by the said delegate to any other officer of the Council:

References:

Abbreviation	Position Title
AC	Administration Co-ordinator
ASODS	Administration Support Officer Development Services
BS	Building Surveyor
COD	Compliance Officer Development
DOB	Development Officer Building
DOE	Development Officer Engineering
DOP	Development Officer Planning
EHO	Environmental Health Officer
FC	Financial Coordinator
MDS	Manager Development Services
MF	Manager Finance
POA	Planning Officer Arboriculture
PP	Policy Planner
SDOB	Senior Development Officer Building
SDOP	Senior Development Officer Planning
SO	Systems Officer
SPP	Senior Policy Planner
TLB	Team Leader Building
CCHS	Unit Manager Community Health and Safety
TLP	Team Leader Planning
TLES	Team Leader Engineering Services

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

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	Delegate to CEO	SUB-DELEGATION
<u>DELEGATIONS UNDER THE DEVELOPMENT REGULATIONS 2008</u>		
54. Infrastructure Planning		
54.1 The power pursuant to Regulation 9A(1) of the Development Regulations 2008 (“the Regulations”) to, in preparing the DPA, to the extent (if any) required by the Statement of Intent, seek, in accordance with Regulation 9A(2), the advice of a Minister and any other government agency, specified by the Minister as part of the agreement on the Statement of Intent.	Y	
55. Consultation with Government Departments or Agencies		
55.1 The duty pursuant to Regulation 10A(1) of the Regulations if the Council is subject to a requirement under Section 25(7)(a) of the Act to ensure that a copy of any written report received from a Department or agency is furnished to the Minister for the purposes of considering the matter under Section 25(7)(b) of the Act.	Y	
56. Public Consultation – Section 25 & 26		
56.1 Subject to Regulations 11A(3) and 11A(6) of the Regulations, for the purposes of Sections 25 and 26 of the Act, the duty pursuant to Regulation 11A(1) of the Regulations to give public notice of a DPA by publication in the designated manner of a notice:		

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56.1.1	advising the time and places at which the DPA is available for inspection (without charge) and purchase by the public; and	Y	
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	Y	
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 hearing held for the purposes of Section 25(11)(b) or 26(5c)(b) of the Act (or, if no such meeting is to be held, until the decision is made not to hold the meeting); and	Y	
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).	Y	
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).	Y	
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.	Y	
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.	Y	

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57. Public Meeting		
57.1 The duty pursuant to and in accordance with Regulation 12 of the Regulations to hold a public meeting if an amendment has been prepared by the Council or the Delegate.	Y	
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.	Y	
58. Application to Relevant Authority		
58.1 The power pursuant to Regulation 15(1)(c) of the Regulations to require an additional or lesser number of copies of plans, drawings, specifications and other documents and information relating to a proposed development than the number prescribed in Regulation 15(1)(c) of the Regulations.	Y	
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.	Y	
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, to the Development Assessment Commission.	Y	
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 Council wishes to receive written documentation instead of electronic access to the relevant documents and information via the Internet.	Y	

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58.4A The power and duty pursuant to Regulation 15(7b) of the Regulations, to within 2 business days of receipt of a copy of an application under Regulation 15(7a) of the Regulations, furnish to the private certifier:		
58.4A.1 the Development Assessment number assigned to the development proposed under the application; and	Y	
58.4A.2 if the private certifier, at the time of forwarding a copy of an application under Regulation 15(7a) of the Regulations, requests advice on the matters set out in subparagraphs (i) and (ii), and if such advice is relevant:	Y	
58.4A.2.1 advice about any site contamination that is believed to exist at the site where the development would be undertaken; and	Y	
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.	Y	
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).	Y	
58.6 Deliberately left blank		
58.7 The power pursuant to Regulation 15(11) and subject to Regulation 15(12) of the Regulations, to, in an appropriate case, dispense with or modify the requirements of Schedule 5 in relation to a particular application.	Y	
58.8 The duty pursuant to Regulation 15(12) of the Regulations to not modify the requirements of Schedule 5 in relation to an application if the application is in relation to <i>residential code</i> development.	Y	

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59. Nature of Development		
59.1 The duty pursuant to Regulation 16(1) of the Regulations, where an application requires the assessment of a proposed development against the provisions of the Development Plan, to determine the nature of the development applied for.	Y	
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.	Y	
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.	Y	
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.	Y	
60. Non-Complying Development		
60.1 The power pursuant to Regulation 17(3) of the Regulations, after receipt of an application which relates to a kind of development that is described as non-complying development to:		
60.1.1 refuse the application pursuant to Section 39(4)(d) of the Act and notify the applicant accordingly; or	Y	

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60.1.2	resolve to proceed with an assessment of the application.	Y	
60.2	The duty pursuant to Regulation 17(4) of the Regulations, in situations where the Council or 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.	Y	
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.	Y	
61.	Notification of Application for Tree-damaging Activity to Owner of Land		
61.1	Where the owner of land to which an application for a tree-damaging activity in relation to a significant 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	Y	
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.	Y	
62.	Amended Applications		
62.1	The power pursuant to Regulation 20(4) of the Regulations to form the opinion that variations to an application are not substantial and that repeating of the referral process under Part 5 of the Regulations, or the giving of notice under Part 6 of the Regulations is not required.	Y	
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.	Y	

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63. Withdrawing / Lapsing Application		
63.1 The duty pursuant to Regulation 22(1) of the Regulations, where an applicant withdraws an application, to notify any agency to which an application was referred under Part 5 of the Regulations and any person who made a representation in relation to the application under Part 6 of the Regulations of the withdrawal.	Y	
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.	Y	
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:	Y	
63.3.1 take reasonable steps to notify the applicant of the action under consideration; and	Y	
63.3.2 allow the applicant a reasonable opportunity to make submissions to the Council or the Delegate about the proposed course of action, and the power to determine the manner and form of those submissions.	Y	
64. Contravening Development		
64.1 The power pursuant to Regulation 23(2) of the Regulations, by notice in writing to the applicant to decline to proceed with an application until proceedings under the Act have been concluded.	Y	
65. Referrals		
65.1 The duty pursuant to Regulation 24(1) of the Regulations to refer an application of a prescribed kind together with a copy of any relevant information provided by the applicant to the relevant body prescribed by Schedule 8 of the Regulations and to not make a decision on the application until a response has been received	Y	

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from the referral body or the time period for receipt of a response has lapsed.		
66. Procedure Where Concurrence Required		
66.1 The duty pursuant to Regulation 25 of the Regulations, if concurrence must be sought from another body prior to issuing a consent or approval to forward to the other body whose concurrence must be sought that information required by Regulation 25(b) of the Regulations.	Y	
67. Additional Information or Amended Plans		
67.1 The duty pursuant to Regulation 27(1) of the Regulations, where an application has been referred to a prescribed body under Part 5 of the Regulations and additional information is received which is materially relevant to the referral, to repeat the referral process where the Delegate is of the opinion that the additional information or amendment is significant and the power to repeat the referral process in all other instances.	Y	
68. Special Provisions - Referrals		
68.1 The duty pursuant to and in accordance with Regulation 28(3) of the Regulations to refer an application for building rules consent to the relevant fire authority for comment and report where the Delegate considers that:		
68.1.1 a proposed alternative solution within the meaning of the Building Code requires assessment against a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or		
68.1.2 the proposed development is at variance with a performance requirement of the Building Code which provides for fire fighting operations of a fire authority; or		
68.1.3 special problems for fire fighting could arise due to hazardous conditions of a kind described in Section E of the Building Code,		
and the duty pursuant to Regulation 28(5) of the Regulations to have regard to any report received	Y	

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	from the fire authority under Regulation 28.		
68.2	The power pursuant to Regulation 28(4) of the Regulations, when a report from a fire authority pursuant to Regulation 28(3) is not received by the Council within 20 business days, to presume that the fire authority does not desire to make a report.	Y	
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	Y	
68.3.6	not grant consent unless the Building Rules Assessment Commission concurs in the granting of consent.	Y	
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.	Y	
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	Y	

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

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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	Y	
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 -	Y	
71.2.3	to obtain a variation to the agreement under Section 37AA of the Act; or	Y	
71.2.4	to obtain a response from the prescribed body for the purposes of Section 37 of the Act.	Y	
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.	Y	
71.4	The power pursuant to Regulation 31A(8) of the Regulations if:		
71.4.1	an application is lapsed by a relevant authority under Regulation 22 of the Regulations; and		
71.4.2	the applicant sought to rely on an agreement under Section 37AA of the Act in connection with the application,		
	to notify the relevant prescribed body of the lapsing of an application.	Y	
71.5	The power pursuant to Regulation 31A(9) of the		

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

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73. Response by Applicant		
73.1 The power pursuant to Regulation 36 of the Regulations to extend the time within which an applicant may respond to any representation	Y	
74. Determination of Commission as Relevant Authority		
74.1 Where the Development Assessment Commission is the relevant authority under Section 34(1)(b) of the Act:		
74.1.1 in a case where the Minister has made a declaration under Section 34(1)(b)(iii) or 34(1)(b)(vi) of the Act, the duty pursuant to and in accordance with Regulation 38(2)(a)(i) of the Regulations to forward to the Development Assessment Commission any application received by the Council under the Act and the Regulations in relation to the matter together with accompanying documentation or information and, as appropriate, fees; and	Y	
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).	Y	
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.	Y	
75. Assessment in Respect of Building Rules Referred to the Council		
75.1 The duty pursuant to and in accordance with Regulation 39 of the Regulations, where the Council is the relevant authority pursuant to Section 34(2) of the Act, not to give any decision in respect of the assessment against the Building Rules until the Development Assessment Commission or the regional development	Y	

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assessment panel (as the case may be) has made its decision.		
76. Notification of Decision to Applicant (Including Conditions)		
76.1 The duty pursuant to and in accordance with Regulation 42 of the Regulations to give notice of a decision on an application under Division 1 of Part 4 of the Act including, but not limited to, the power to endorse approved plans and documentation under Regulation 42(4).	Y	
77. Notification of Decision to a Prescribed Body		
77.1 The duty pursuant to and in accordance with Regulation 43 of the Development Regulations, to send a copy of the notice of decision issued under Regulation 42 of the Regulations to any prescribed body to which the application had been referred.	Y	
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.	Y	
78. Notification of Decision to Owner of Land		
78.1 The duty pursuant to and in accordance with Regulation 44 of the Regulations to send a copy of any notice issued under Regulation 42 of the Regulations to the owner of land to which a decision on the application relates where the owner is not a party to the application.	Y	
79. Scheme Description – Community Titles		
79.1 The duty pursuant to Regulation 45(2) of the Regulations to endorse a scheme description under Section 3 of the Community Titles Act 1996 in the following terms:		
79.1.1 63.4A.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	Y	

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<p>Titles Act 1996 have been granted.</p> <p style="text-align: center;">OR</p> <p>No consent or approval is required under the Development Act 1993 in relation to the division of land (or a change in the use of the land) in accordance with this scheme description.</p> <p>This endorsement does not limit a relevant authority's right to refuse, or to place conditions on, development authorisation under the Development Act 1993 in relation to any other development envisaged by this scheme description.</p> <p>Signed:</p> <p>Dated:</p>		
<p>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.</p>	Y	
<p>80. Special Provisions Relation to Staged Consents</p>		
<p>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, take any step that the Delegate, as the relevant authority considers it needs to take under Section 42 of the Act, to issue a Notice of Approval in the circumstances prescribed by Regulation 46 of the Regulations.</p>	Y	
<p>81. Endorsed Plans</p>		
<p>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</p>	Y	

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consent.		
81.A Minor Variation of Development Authorisation		
81A.1 The power pursuant to Regulation 47A of the Regulations, if a person requests the variation of a development authorisation previously given under the Act (including by seeking the variation of a condition imposed with respect to the development authorisation) to form the opinion that the variation is minor in nature and, if the delegate is satisfied that the variation is minor in nature, to approve the variation.	Y	
82. Lapse of Consent or Approval		
82.1 The power pursuant to Regulation 48(2) of the Regulations to extend the time when any consent or approval under Part 4 of the Act will lapse.	Y	
83. Width of Roads and Thoroughfares		
83.1 The power pursuant to Regulation 51(4) of the Regulations to dispense with the requirements of Regulation 51(1) and (3) dealing with the width of any proposed road or thoroughfare where the Delegate is of the opinion that the prescribed width is not necessary for the safe and convenient movement of vehicles or pedestrians or for underground services.	Y	
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.	Y	
84. Road Widening		
84.1 The power pursuant to Regulation 52(1) of the Regulations to require a road widening if land to be divided abuts an existing road.	Y	
85. Requirement as to Forming of Roads		
85.1 The power pursuant to Regulation 53(1) and (2) of the Regulations to specify the width of roads.	Y	
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	Y	

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	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.	Y	
86.	Construction of Roads, Bridges, Drains and Services		
86.1	The power pursuant to Regulation 54(1) of the Regulations to require the paving and sealing of the roadway of proposed roads.	Y	
87.	Supplementary Provisions		
87.1	The duty pursuant to Regulation 55(1) of the Regulations to consider and if appropriate approve a road location and grading plan for the forming of any proposed road, including every footpath, water-table, kerbing, culvert and drain.	Y	
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.	Y	
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.	Y	
88.	General Land Division		
88.1	The power pursuant to and in accordance with Regulation 58(1) of the Regulations to enter into a binding arrangement with an applicant for land division for the satisfaction of outstanding requirements.	Y	
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	Y	

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arrangements pursuant to Section 51(1) of the Act.		
89. Division of Land by Strata Title		
89.1 The power pursuant to Regulation 59(1) of the Regulations to advise the Development Assessment Commission that an applicant has entered into a binding arrangement with the Council for the satisfaction of the requirements of Section 33(1)(d) of the Act and that the arrangement is supported by adequate security.	Y	
90. General Provisions		
90.1 The power pursuant to and in accordance with Regulation 60(1) of the Regulations to enter into a form of arrangement with an applicant to the satisfaction of the Development Assessment Commission for the purposes of Section 51(1) of the Act.	Y	
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 30(4) of the Regulations be furnished to the Council by sending a written copy to the Council.	Y	
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.	Y	
91. Declaration by The Minister – Section 46		
91.1 The duty pursuant to and in accordance with Regulation 61(2) of the Regulations, to transmit to the Minister any relevant documentation (including the application and any accompanying documentation or information lodged by the proponent with the Council under Division 1 of Part 4 of the Act) within 10 business days after the receipt of a copy of a notice required by Regulation 61(1) of the Regulations.	Y	
91.2 At the same time that documents are transmitted to the Minister under Regulation 61(2) of the	Y	

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<p>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).</p>		
<p>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.</p>	Y	
<p>92. Referral of Assessment of Building Work</p>		
<p>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.</p>	Y	
<p>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:</p>		

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92.2.1	provide the certification in the form set out in Schedule 12A; and	Y	
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	Y	
92.2.2.2	assign a classification to the building under the Regulations; and	Y	
92.2.2.3	ensure that the appropriate levy has been paid under the Construction Industry Training Fund Act 1993.	Y	
92.3	Where the Council issues a certificate in the form set out in Schedule 12A of the Regulations as required by Regulation 64(3)(a) of the Regulations, the duty pursuant to Regulation 64(4) of the Regulations to furnish to the Minister a copy of the certificate together with a copy of any schedule of essential safety provisions.	Y	
93.	Notifications During Building Work		
93.1	The power pursuant to Regulation 74(1)(b) to specify by notice in writing to the building owner, on or before development approval is granted in respect of the work, any stage of the building work, for the purposes of the notification requirements in Section 59(1) of the Act.	Y	
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.	Y	
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.	Y	
94.	Essential Safety Provisions		

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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.	Y	
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.	Y	
95. Building Rules: Bushfire Prone Areas		
95.1 Where:		
95.1.1 application is made for building rules consent for building work in the nature of an alteration to a class 1, 2 or 3 building under the Building Code; and		
95.1.2 the building is in a bushfire prone area under Regulation 78(1) of the Regulations; and		
95.1.3 the total floor area of the building would, after the completion of the proposed building work, have increased by at least 50% when compared to the total floor area of the building as it existed 3 years before the date of the application (or, in the case of a building constructed since that time, as it existed at the date of completion of original construction),		
the power, pursuant to Regulation 78(2) of the Regulations, to require, as a condition of consent, that the entire building be brought into conformity with the relevant requirements of the Building Rules for bushfire protection.	N	
95.2 Where:		

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95.2.1	application is made for building rules consent for building work and the building (or proposed building) is in an area identified as a general bushfire risk area by the relevant Development Plan; and		
95.2.2	the building work is in the nature of an alteration to a C class 1, 2 or 3 building under the Building Code; and		
95.2.3	the total floor area of the building would, after the completion of the proposed building work, have increased by at least 50% when compared to the total floor area of the building as it existed 3 years before the date of the application (or, in the case of a building constructed since that time, as it existed at the date of completion of original construction);		
	the power pursuant to Regulation 78(4)(d) of the Regulations to require, as a condition of consent, that the entire building be brought into conformity with the relevant requirements of Appendix F8 of the South Australian Housing Code.	N	
96. Construction Industry Training Fund			
96.1	The duty pursuant to Regulation 79(2) of the Regulations to withhold issuing a building rules consent until satisfied that the appropriate levy has been paid under the Construction Industry Training Fund Act 1993 or that no such levy is payable.	Y	
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.	Y	
96.3	The power pursuant to and in accordance with Regulation 79(5)(b) of the Regulations to determine that the application has lapsed.	Y	
97. Classification of Buildings			
97.1	The power pursuant to Regulation 82(3)(b)(i) of the	Y	

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	Regulations to require such details, particulars, plans, drawings, specifications, certificates and other documents as may reasonably be required to determine a building's classification upon application by an owner of a building under Regulation 82(1) or (2) of the Regulations.		
97.2	The duty pursuant to Regulation 82(4) of the Regulations to assign the appropriate classification under the Building Code to a building upon being satisfied that the building possesses the attributes appropriate to its present or intended use.	Y	
97.3	<u>The power pursuant to Regulation 82(5) of the Regulations, on as signing 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 –</u>		
	<u>97.3.1 the maximum number of persons who may occupy the building (or part of the building); and</u>		
	<u>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.</u>		
98.	Certificates of Occupancy		
98.1	The power pursuant to Regulation 83(2)(c) of the Regulations to require from an applicant for a certificate of occupancy reasonable evidence that conditions attached to a development approval have been satisfied.	Y	
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 one storey, the requirements of Minister's Specification SA 83 have been complied with, or in any other case the building is suitable for occupation.	Y	
98.3	The power pursuant to Regulation 83(3) of the	Y	

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	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 one or both parts of the Statement has refused or failed to complete that part and that the person seeking the issuing of the certificate of occupancy has taken reasonable steps to obtain the relevant certification(s) and it appears to the Delegate that the relevant building is suitable for occupation.		
98.4	Where:		
98.4.1	a building is required by the Building Rules:		
98.4.1.1	to be equipped with a booster assembly for use by a fire authority; or		
98.4.1.2	to have installed a fire alarm that transmits a signal to a fire station; and		
98.4.2	facilities for fire detection, fire fighting or the control of smoke must be installed in the building pursuant to an approval under the Act,	Y	
	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.	Y	
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.	Y	
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.	Y	
98.7	The power pursuant to Regulation 83(9) of the Regulations to revoke a certificate of occupancy.	Y	

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99. Certificate of Independent Technical Expert in Certain Case		
99.1 The power pursuant to Regulation 88(3) of the Regulations, in circumstances where Regulation 88 of the Regulations applies, to rely on the certificate of an independent technical expert.	Y	
100. Fees		
100.1 The power pursuant to Regulation 95(2) of the Regulations to require an applicant to provide such information as the Delegate may reasonably require to calculate any fee payable under Schedule 6 and the power to make any other determination for the purposes of Schedule 6.	Y	
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.	Y	
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.	Y	
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	Y	
100.4.2 if it appears that an underpayment has occurred, to charge any further amount payable in accordance with the reassessment.	Y	
101. Register of Applications		
101.1 The duty pursuant to Regulation 98 of the Regulations to keep available for public inspection a register of applications for consent, approval, or the assignment of building classifications under the Act.	Y	

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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).	Y	
102. Registration of Land Management Agreements		
102.1 The duty pursuant to and in accordance with Regulation 99(2) of the Regulations to establish a register of agreements entered into by the Council under Section 57(2) of the Act.	Y	
102.2 The power pursuant to Regulation 99(3) of the Regulations to determine what other information may be contained in the Register.	Y	
103. Land Management Agreements - development applications		
103.1 The duty pursuant to Regulation 100(2) of the Regulations to establish a register of agreements entered into by the Council under Section 57A of the Act	Y	

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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.	Y	
103.3	The duty pursuant to Regulation 100(5) of the Regulations to keep the register at the principal office of the Council.	Y	
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.	Y	
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.	Y	
104. Documents to be Preserved by Council			
104.0	The power and duty pursuant to Regulation 101(a1) of the Regulations to retain a copy of each document provided to the Council by a private certifier in relation to any application for a development plan consent assessed by the private certifier.	Y	
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.	Y	
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.	Y	
104.2	The duty pursuant to Regulation 101(2) of the Regulations to preserve any document referred to in Regulation 101(1) of the Regulations until the building to which the document relates is demolished or removed.	Y	
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	Y	

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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.	Y	
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:	Y	

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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	Y	
104.5.1.2 constitute a breach of any other law; or	Y	
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	Y	
104.5.2.2 involve an infringement of copyright in matter contained in a document; or	Y	
104.5.2.3 constitute a breach of any other law.	Y	
104A Documents to be Provided by Private Certifier		
104A.1 The power pursuant to Regulation 102(2) of the Regulations to request a private certifier to produce to the Council within a reasonable period, a copy of any document that has been submitted to the private certifier for the purposes of an application for development plan consent (and that it is not already held by the Council under the Regulations) so that the Council can respond to a request from a member of the public for access to such document.	Y	
105. Transfer Of Development Potential		
105.1 The duty pursuant to Regulation 104 of the Regulations, wherever the provisions of the Development Plan provide for the transfer of development potential, to maintain a register of development rights containing the information prescribed in Regulation 104(1) and to make the said register available for public inspection on payment of the appropriate fee.	Y	

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106. System Indicators		
106.1 The duty pursuant to Section 115(1)(a) of the Regulations to keep and collate the information specified in the system indicators document on a quarterly basis.	Y	
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.	Y	
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.	Y	
107. Schedule 1A – Demolition		
107.1 The power, pursuant to Clause 12(3) of Schedule 1A of the Regulations, to make an application to the Minister for an area to be declared by the Minister to be a designated area.	Y	
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.	Y	
108. Schedule 4 – New Dwellings		
108.1 The power pursuant to Clause 2B(4)(b) of Schedule 4 of the Regulations to form the belief that the allotment is, or may have been, subject to site contamination as a result of a previous use of the land or a previous activity on the land <u>or in the vicinity of the land</u> other than a previous use or activity for residential purposes.	Y	
109. Fees		
109.1 The power pursuant to Clause 1(7) of Schedule 6 to the Regulations to determine the amount of the fee to be charged to an applicant to cover the	Y	

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Council's reasonable costs in giving public notice of the application under Section 38(5) of the Act.		
110. Schedule 8 – Development Near the Coast		
110.1 The power pursuant to Item 1(b) of Clause 2 of Schedule 8 of the 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.	Y	
111. Schedule 8 - Development Adjacent to Main Roads		
111.1 The power pursuant to Item 3 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development is likely to:		
111.1.1 alter an existing access; or	Y	
111.1.2 change the nature of movement through an existing access; or	Y	
111.1.3 create a new access; or	Y	
111.1.4 encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972,	Y	
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).	Y	
112. Schedule 8 - State Heritage Places		
112.1 The power pursuant to Item 5(1) of Clause 2 of Schedule 8 of the Regulations to form the opinion that a development materially affects the context within which a State Heritage place is situated.	Y	
113. Schedule 8 – Mining – General		
113.1 The power pursuant to and in accordance with Item 7 of Clause 2 of Schedule 8 of the Regulations to form the opinion that development	Y	

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is of a minor nature only.		
114. Schedule 8 - Activity of Environmental Significance		
114.1 The power pursuant to Item 10(b) of Clause 2 of Schedule 8 of the Regulations, where development involves, or is for the purposes of an activity specified in Schedule 21 of the Regulations (including, where an activity is only relevant when a threshold level of capacity is reached, development with the capacity or potential to operate above the threshold level, and a n 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.	Y	
115. Schedule 8 – Aquaculture Development		
115.1 The power pursuant to and i n accordance with Item 15 o f Clause 2 of Schedule 8 o f the Regulations to form the opinion that development involves a minor alteration to an existing or approved development.	Y	
116. Schedule 8 – Development Within the River Murray Floodplain Area		
116.1 The power pursuant to and i n accordance with Item 19(b) of Clause 2 o f Schedule 8 o f the Regulations to form the opinion that development materially affects the context within which a State Heritage place is situated.	N	
117. Schedule 8 – Development Within the River Murray Tributaries Area		
117.1 The power pursuant to and i n accordance with Item 20(a) of Clause 2 o f Schedule 8 o f the Regulations to form the opinion that development materially affects the context within which a State Heritage place is situated.	N	
118. Schedule 9 - Part One, Category One Development		

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and Part Two Category Two Development		
118.1 The power pursuant to Clause 1 of Part 1 to Schedule 9 of the Regulations in circumstances where a development would be a complying development under the Regulations or the relevant Development Plan but for the fact that it fails to meet the conditions associated with the classification, to form the opinion that the failure to meet those conditions is of a minor nature only.	Y	
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.	Y	
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:-	Y	
118.3.1 the alteration of, or addition to, a building is of a minor nature only, pursuant to sub-paragraph (a);	Y	
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).	Y	
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	Y	
118.4.2 whether the division will change the nature or function of an existing road.	Y	
118.5 The power pursuant to Clause 11 of Part 1 to Schedule 9 of the Regulations, in circumstances	Y	

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where development comprises a special event and the special event will not be held over more than 3 consecutive days, to form the opinion that an event of a similar or greater size or of a similar or greater impact on surrounding areas, has not been held on the same site (or substantially the same site) within 6 months immediately preceding the day or days on which the special event is proposed to occur.		
118.6 Pursuant to Clause 17 of Part 1 of Schedule 9 to the Regulations for the purpose of determining whether a development should be considered to be of a minor nature only:		
118.6.1 the duty to not take into account what is included within Schedule 3 of the Regulations; and	Y	
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	Y	
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.	Y	
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	Y	
118.7.2 whether the proposed division will change the nature or function of an existing road.	Y	
119. Schedule 10 – Decisions by Development Assessment Commission		
119.1118.8. In circumstances where the Council is		

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**INSTRUMENT OF DELEGATION UNDER THE
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<p>undertaking development within the meaning of that term under Section 4 of the Act and:-</p>		
<p>119.1.1 118.8.1 the development involves the construction (but not alteration of or change in use to a hotel or tavern, or tourist accommodation, or an entertainment complex, or a cinema, or a hospital) but where the Council's interest is limited to the ownership of rights associated with an easement, road or reserve, the power pursuant to Clause 2(a) of Schedule 10 of the Regulations to form the opinion that the purpose of the easement, road or reserve will not be materially affected;</p>	<p>¥</p>	
<p>119.1.2 118.8.2 in circumstances where the development involves the construction of, or a change in use to, a shop or office or the construction of a building for the purposes of, or a change in use to, a form of industry and the interest of the Council is limited to the ownership of rights associated with an easement, road or reserve, the power pursuant to Clause 2(b) of Schedule 10 of the Regulations to form the opinion that the purpose of the easement, road or reserve will not be materially affected.</p>	<p>¥</p>	

INSTRUMENT OF DELEGATION UNDER THE
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**DELEGATIONS UNDER THE DEVELOPMENT ACT 1993
AND DEVELOPMENT REGULATIONS, 2008**

Pursuant to Section 20 of the Development Act 1993 and effective from ~~22nd May 2012~~ 10th November 2015, the Council delegates to the Development Assessment Panel the following powers, functions and duties of the Council under the Development Act and Regulations, and the said powers, functions and duties may be sub-delegated by the Development Assessment Panel to an officer or officers of the Council.

Ref DA/DAP-__	Sub-delegation
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**INSTRUMENT OF DELEGATION UNDER THE
DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008**

Ref DA/DAP-__	Sub-delegation
<p>120.119. The power, as the relevant authority and pursuant to Section 33 of the Development Act 1993, to assess a development against the provisions of the appropriate Development plan and grant with or without conditions or refuse consent in respect of each of the following:</p> <p>a Development that has been the subject to Category 2 or 3 public notification where there has been written representations by third parties expressing opposition to the proposal that cannot be satisfied by conditions or modifications to the plans.</p> <p>b Development that has been classified as non-complying. The Manager Development Services may determine to proceed with further assessment with a non-complying development. Such decisions shall be reported to the next meeting of the DAP.</p> <p>c Development that includes or is likely to include a new Liquor License or substantial amendment to an existing Liquor License other than for applications or amendments of a minor nature which may be determined by the Manager Development Services. Such applications shall be reported to the next meeting of the DAP.</p> <p>d Residential development and land division applications received by Council after 14 August 2003 that incorporate proposed allotments or site areas below the minimum allotment or site areas designated in respective zones and policy areas in the City of Marion Development Plan, unless the Manager Development Service intends to refuse such an application.</p> <p>e Development that includes:</p> <ul style="list-style-type: none"> • Outdoor advertising signs of a freestanding/pylon design where the face of the advertising structure exceeds 5m² in area (each side when double sided). • Outdoor advertising signs attached to a building or structure where the face of the advertising structure exceeds 10m². • Additions to existing signage where the proposed additions exceed 5m². • Outdoor advertising signs of a "billboard" construction/design <p>f Any matter that is referred for consideration or determination under Part 4 of the Development Act 1993 at the discretion of the Manager Development Services that may otherwise be considered or determined by the Manager Development Services, Team Leader Planning or Development Officer Planning under separate delegation from Council or the Chief Executive Officer.</p>	Remains with Development Assessment Panel

Sub-delegations by the Development Assessment Panel (DAP) as endorsed at its meeting on 15 July 2015.	
Development Assessment Panel (DAP) sub-delegate to the Manager Development Services, Team Leader Planning, Senior Development Officer Planning and Development Officer Planning the powers, duties, and functions of the DAP to assess a proposed development against the provisions of the Marion Council Development Plan and to grant or refuse consent to that	

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application, in relation to the following:	
a) Applications (land division and/or land use) for group dwellings and/or residential flat building(s); if the overall area of an allotment or site (including any common areas such as driveways, etc.) when divided by the proposed number of dwellings and/or allotments satisfies the minimum site area designated for that dwelling type as prescribed within the relevant zone and/or policy area in the Marion Council Development Plan;	
b) Applications for advertisements; which do not exceed the maximum height and display area/panel size requirements as prescribed within the relevant zone and/or policy area and/or within the General Section: Advertisements in the Marion Council Development Plan;	
c) Applications (land division and/or land use) for dwelling(s) (including detached dwellings, semi-detached dwellings, row dwellings, group dwellings and residential flat buildings); where the proposed allotment(s)/site area(s) are no greater than 5% less than the minimum allotment or site area(s) designated in the relevant zone and/or policy area in the Marion Council Development Plan;	
d) Applications (land division and/or land use) for, or that include, detached dwelling(s); that propose allotment/site area(s) for the detached dwelling(s) which satisfy the minimum site area required for semi-detached dwelling(s), as designated in the relevant zone and/or policy area in the Marion Council Development Plan;	
e) Applications for land divisions; that relate to a previously approved land use application where the allotment(s)/site(s) proposed are less than the minimum allotment or site area(s) designated in the relevant zone and/or policy area in the Marion Council Development Plan;	
f) Applications that seek variations to applications previously determined by the Development Assessment Panel (DAP); that, in the opinion of the Manager Development Services, Team Leader Planning, Senior Development Officer Planning or Development Officer Planning, do not compromise or undermine the DAP's decision; and	
g) Applications for dwellings; where the application delineates that the development will comprise detached, semi-detached or row dwelling(s) once a plan of division has been deposited with the Lands Titles Office, and where the allotments either satisfy the site area requirements for the above-mentioned applicable form of development, or are no greater than 5% less than the applicable minimum allotment or site area, as designated in the relevant zone and/or policy area in the Marion Council Development Plan.	
h) Applications (land division or land-use) that relate to a previously approved and corresponding land division or land-use where the allotment(s)/site(s) proposed are less than the minimum allotment or site area(s) designated in the relevant zone and/or policy area in the Marion Council Development Plan;	
i) Applications for a single dwellings received by Council after 14 August 2003 on existing allotment(s)/site(s) that are below the minimum allotment or site area(s) designated in respective zones and policy areas in the City of Marion Development Plan.	

**INSTRUMENT OF DELEGATION UNDER THE
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**INSTRUMENT OF DELEGATION UNDER THE
SUPPORTED RESIDENTIAL FACILITIES ACT 1992 AND SUPPORTED
RESIDENTIAL FACILITIES REGULATIONS 2009**

NOTES

1. In exercise of the powers contained in Section 44 of the Local Government Act, 1999 the following powers, functions and duties under the Supported Residential Facilities Act 1992, and Supported Residential Facilities Regulations 2009 are hereby delegated this ~~22nd~~ 10th day of ~~May~~ November 2015 to the person occupying the office of Chief Executive Officer of the Council and the said functions and duties may be sub-delegated by the delegate to any other officer of the Council.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

	Delegate to CEO	Sub-delegation
1. Appointment of Authorised Officers		
1.1 The power pursuant to Section 21(1) of the Supported Residential Facilities Act 1992 ("the Act") to appoint a person to be an authorised officer under the Act;	Y	
1.2 The duty pursuant to Section 21(2) of the Act to issue to an authorised officer an identity card; and	Y	
1.3 The power pursuant to Section 21(4) of the Act by notice in writing served on an authorised officer, to revoke the appointment as an authorised officer.	Y	
2. Application for a Licence		
2.1 The power pursuant to Section 24(3) of the Act by notice in writing not later than two months after a licence application has been made, to require the applicant to furnish specified information;	Y	
2.2 The power pursuant to Section 24(5) of the Act to require any information included in an application or required by a notice to be verified by statutory declaration;	Y	

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2.3	The power pursuant to Section 24(9) of the Act subject to such conditions as the Delegate thinks fit, to conditionally approve the issue of a licence in respect of proposed premises and the duty where satisfied that the premises have been established in substantial compliance with those conditions (and within such a period, if any as the Delegate may have determined), to grant a licence; and	Y	
2.4	Where an application for a licence is refused, the duty pursuant to Section 24(10) of the Act notify the applicant in writing of the refusal, the reasons for the refusal, and any appeal rights that the applicant has under the Act.	Y	
2.5	The duty, pursuant to Section 25(1) of the Act in considering an application for a licence in respect of the use of premises as a supported residential facility, to take into account those matters specified in this Section and such other matters as the Delegate thinks fit;	Y	
2.6	The duty pursuant to Section 25(2) of the Act in determining whether or not an applicant is suitable to be granted a licence, to have regard to those matters specified in this Section and to such other matters as the Delegate thinks fit;	Y	
2.7	The duty pursuant to Section 25(3) of the Act in determining whether or not premises are suitable to be used as a supported residential facility, to have regard to those matters specified in Section 25(3) of the Act and to such other matters as the Delegate thinks fit;	Y	
2.8	The duty pursuant to Section 25(4) of the Act not to grant a licence where it appears that the facility would not be administered in accordance with the principles prescribed in Part 2 of the Act.	Y	

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2.9 Pursuant to Regulation 5 of the Supported Residential Facilities Regulations, 1994 the duty, pursuant to Section 25(1)(f) of the Act, to take into account in relation to the standard of the premises (or proposed premises), the extent to which the premises accord with the standards prescribed by or under the Building Code of Australia.	Y	
3. Renewal of Licence		
3.1 The power pursuant to Section 27(3) of the Act at the Delegate's discretion, to determine a late application for renewal provided that the applicant pays the prescribed late application fee;	Y	
3.2 The duty pursuant to Section 27(4) of the Act by notice in writing served on the applicant, to give a decision on an application for the renewal of a licence before the date of expiry of the licence and where the Delegate decides to refuse an application for renewal of a licence, the duty to state in the notice of refusal the reasons for the refusal and the appeal rights that the applicant may have under the Act.	Y	
3.3 The power pursuant to Section 28 of the Act to refuse to renew a licence on any ground on which a licence may be cancelled.	Y	
4. Licence Conditions		
4.1 The power pursuant to Section 29(2) of the Act to impose licence conditions with respect to such matters as are contemplated by the Act or as the Delegate considers necessary or expedient for the purposes of the Act;	Y	
4.2 Pursuant to Section 29(3) of the Act where conditions are imposed by the Delegate:	Y	
4.2.1 if imposed at the time of grant or renewal of the licence – the duty to include them in the licence itself;	Y	
4.2.2 if imposed during the currency of the licence – the duty to impose them by	Y	

**INSTRUMENT OF DELEGATION UNDER THE
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notice in writing served on the holder of the licence;		
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4.2.3	the power to vary or revoke conditions at any time by notice in writing served on the holder of the licence;	Y
4.3	The duty pursuant to Section 29(4) of the Act in formulating or varying a condition, to take into account any relevant guideline published by the Advisory Committee.	Y
5. Transfer of Licence		
5.1	The duty pursuant to Section 30(4) of the Act, upon due application under Section 30 of the Act and payment of the prescribed fee, to transfer the licence to the proposed transferee if satisfied that the proposed transferee would be a suitable person to be granted a licence under the Act.	Y
6. Cancellation of Licence		
6.1	The power pursuant to Section 31(1) of the Act, to cancel a licence, on reasonable grounds, where satisfied that any of the matters specified in this Section are applicable;	Y
6.2	The duty pursuant to Section 31(2) of the Act before acting under this Section, to notify the holder of the licence in writing of the proposed cancellation of the licence and allow the holder of the licence at least 28 days within which to make submissions in relation to the proposed action;	Y
6.3	The power pursuant to Section 31(3) of the Act pending the cancellation (or possible cancellation) of a licence under this Section, to impose conditions to protect the interests of the residents of the facility; and	Y
6.4	The power pursuant to Section 31(4) of the Act, to appoint an administrator of the facility and to take such other steps as may be reasonable to secure the proper care of the residents of the facility.	Y
7. Appeals		

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7.1	The power pursuant to Section 32(5) of the Act where the Delegate is satisfied that an applicant for renewal of a licence has instituted or intends to institute an appeal, to order that the licence remain in force until the determination of the appeal; and to impose such conditions as the Delegate thinks fit.	Y	
7.2	The power pursuant to Section 32(7) of the Act if a person contravenes, or fails to comply with, a condition imposed under Section 32(5) of the Act to revoke any order to which the condition relates.	Y	
7.3	The duty pursuant to Section 33(1) of the Act, and subject to Section 33(2), where application is made for a licence in respect of a facility that was in operation during the period of three (3) months immediately preceding the commencement of the Section, to upon payment of the prescribed fee, grant a licence in accordance with the Act for a term of one year.	Y	
8.	Appointment of Manager		
8.1	The power pursuant to Section 34(1) of the Act where the proprietor of a facility is not directly involved in the management of the facility or the proprietor of a facility is a body corporate, to approve a natural person for the purpose of managing the facility under that person's personal supervision.	Y	
8.2	The power pursuant to Section 34(2) of the Act to extend the period of management without supervision.	Y	
9.	Death of Licensee		
9.1	The power pursuant to Section 35 of the Act, where the holder of a licence dies, to approve the personal representative or some other person to be taken to be the holder of the licence (on the same conditions as applicable to the former holder of the licence) as from the date of death until the expiration of six months from that date or until such later date as may be fixed by the Delegate.	Y	

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10. Recision of Resident Contract by Proprietor		
10.1 The power pursuant to Section 39(2)(b) of the Act to approve the method of providing a termination notice subject to this Section.	Y	
11. Disputes		
11.1 The power pursuant to Section 43(2) of the Act on an application made in relation to any of the matters specified in Section 43(1) of the Act, to explore any possible avenue of achieving conciliation between the parties and for these purposes, the Delegate, may as he/she thinks fit, take any action in accordance with Section 43(3) of the Act;	Y	
11.2 The power pursuant to Section 43(6) of the Act, to require an applicant, to furnish such further information in relation to the subject matter of the application as the Delegate thinks necessary, and to verify any information by statutory declaration;	Y	
11.3 The duty pursuant to Section 43(7) of the Act to give the applicant and the respondent reasonable notice of the time and place of any hearing of the application;	Y	
11.4 The power pursuant to Section 43(9) of the Act where satisfied that an interim order is justified by the urgent circumstances of the case, to make an interim order pending final resolution of the matter.	Y	
11.5 The power pursuant to Section 43(11) of the Act to vary or revoke an order made under Section 43 of the Act;	Y	
11.6 The power, pursuant to Section 43(12) of the Act -	Y	
11.6.1 to decline to proceed with an application under this Section until satisfied that reasonable steps have been taken to resolve the dispute pursuant to other procedures specified by the Delegate;	Y	

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11.6.2 to decline to proceed with an application under this Section if the Delegate considers that it would be more appropriate for proceedings to be taken in a court or tribunal constituted by law; or	Y	
11.6.3 to decline to proceed (or further proceed) with an application under this Section if proceedings related to the subject matter of the application have been commenced in a court or tribunal constituted by law; and	Y	
11.7 The duty pursuant to Section 43(13) of the Act in determining any application under this Section, to act with as much expedition as is reasonably practicable in the circumstances.	Y	

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12. Attendance by Health Service Providers etc.		
12.1 The power pursuant to Section 47(1) of the Act to approve a health service provider, social worker, or any person, for the purposes of Section 47.	Y	
13. Complaints		
13.1 The power pursuant to Section 49(1) of the Act to receive a complaint about the management of a supported residential facility or any residential-only premises or about the conduct of a resident of a supported residential facility or any residential-only premises.	Y	
13.2 The power pursuant to Section 49(2) of the Act to require a complaint to be reduced to writing.	Y	
13.3 The power pursuant to Section 49(3) of the Act to take such action as the Delegate thinks fit in view of the complaint.	Y	
13.4 The power pursuant to Section 49(4) of the Act to appoint an authorised officer to carry out an investigation into the circumstances surrounding the complaint and to attempt to resolve the matter as expeditiously as possible.	Y	
<u>14. Regulations</u>		
13.5.1 14.1 Pursuant to Sections 57(5) and (6) of the Act where the proprietor of a facility who holds a licence under the Act applies to the Council for an exemption from a regulation that applies to the facility and the Delegate is satisfied -		
13.5.1 14.1.1 that the Delegate can grant the exemption without seriously affecting the interests of a resident of the facility; and	Y	
13.5.2 14.1.2 that it is appropriate for the Delegate to grant the exemption in the circumstances of the particular	Y	

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case,		
the power to, by notice in writing to the proprietor, exempt the proprietor from the regulation to which the application relates, on such conditions as the Delegate thinks fit.	Y	
14.2 The power pursuant to Section 57(7) of the Act, to, at any time, by further notice to the proprietor:		
14.2.1 revoke an exemption under Section 57(5);	<u>Y</u>	
14.2.2 vary or revoke a condition under Section 57(6).	<u>Y</u>	

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DELEGATIONS UNDER THE SUPPORTED RESIDENTIAL FACILITIES REGULATIONS 2009 (“the Regulations”)	Delegate to CEO	Sub-delegation
14.15. The duty pursuant to Regulation 4(1) of the Supported Residential Facilities Regulations 2009 (“the Regulations”) to decide an application for a licence under Section 24 of the Act within eight weeks of the application being made.	Y	
15.16. The duty pursuant to Regulation 4(2) of the Regulations, in considering an application for a licence in respect of the use of premises (or proposed premises) as a supported residential facility, to take into account the extent to which the premises (or proposed premises) accord with the standards prescribed by or under the Building Code of Australia.	Y	
16.17. The power pursuant to Regulation 5(2) of the Regulations to receive a copy of a prospectus, or a copy of an alteration to a prospectus, and a copy of the written statement required to accompany the prospectus or alteration to the prospectus pursuant to Regulation 5(2)(b) of the Regulations.	Y	
17.18. The power pursuant to Regulation 14(1)(b) of the Regulations to receive information of any untoward medical event that occurs in relation to a resident of a facility.	Y	
18.19. The power pursuant to Regulation 17(2) of the Regulations to approve an acting manager for the purpose of appointment to or otherwise assuming the duties of the office of manager of a facility if, for a period exceeding seven days, a manager is absent from the duties of office, or the position of manager is temporarily vacant and a resident of the facility is in need of personal care services.	Y	
19.20. The power pursuant to Regulation 18(1) of the Regulations to approve a registered nurse as being a person who has appropriate qualifications, skills and experience to oversee the provision of nursing care at a facility.	Y	

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<p>20.21. The power pursuant to Regulation 18(2) of the Regulations, if there is a change in the type or level of services provided at a nursing home, to revoke, by notice in writing to the proprietor, an approval under Regulation 18(1) of the Regulations and require that a new appointment be made to ensure that the person who oversees the provision of nursing care at the facility has the qualifications, skills and experience appropriate to the facility.</p>	Y	
<p>21.22. The power pursuant to Regulation 21(1)(b) of the Regulations to approve a kitchen at a facility otherwise than in accordance with the requirements of Regulation 21(1)(b) of the Regulations.</p>	Y	
<p>22.23. The power pursuant to Regulation 21(3)(e) of the Regulations to require the fitting of handrails, ramps and, for a multi-storey building, lifts.</p>	Y	
<p>23.24. The power pursuant to Regulation 24(1) of the Regulations to direct the proprietor of a facility to install a communication system at the facility.</p>	Y	
<p>24.25. The duty pursuant to Regulation 26(2) of the Regulations to remit amounts payable to the indemnity fund under Section 56(4) of the Act to the fund manager within 28 days after the end of the financial year in which they are received by the Council.</p>	Y	

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Kate McKenzie, Manager Governance
Director: Kathy Jarrett
Subject: Appointment of Date, Time and Place of Council Meetings
Report Reference: GC101115R06

EXECUTIVE SUMMARY:

As an aid to provide open, responsive and accountable government, the *Local Government Act 1999*, requires Council to resolve the times and places at which ordinary meetings of the Council will be held.

The manner in which Council can do this is by the adoption of a Schedule of Meeting dates, which can also be used to relay the dates and times of meetings to the community.

The purpose of this report is therefore to provide a draft Schedule of Meeting dates until December 2016 for Council consideration.

RECOMMENDATIONS (3)

DUE DATE

That Council resolves to:

1. Adopt the following meeting cycle to facilitate open, responsive and accountable government as well as the timely conduct of Council's business:

10 Nov 15

- i. General Council Meeting to be held on Tuesday, 19 January 2016;**
- ii. General Council meetings to be held on the 2nd and 4th Tuesday of the months in February, April, June, August October 2016:**
- iii. General Council meeting to be held the 4th Tuesday of the month in March, May, July, September and November 2016**
- iv. General Council meeting to be held on Tuesday, 13th December 2016.**
- v. General Council meetings will be held in the Chamber, at the City of Marion Administration Centre, 245 Sturt Road, Sturt commencing at 6.30pm.**

2. Adopts the schedule of meeting dates for 2016 provided at Appendix A to the report.

10 Nov 15

3. Publish the Schedule of Meetings for 2016 in the Guardian Messenger the week commencing Monday 30th November 2015.

10 Nov 15

BACKGROUND:

Sections 81 of the *Local Government Act 1999* (the Act) require Council to appoint the times and places for ordinary meetings of Council.

DISCUSSION:

The proposed Schedule of Meetings 2016 provided at **Appendix 1** identifies meeting dates and times from January to December 2016.

Matters to be noted in considering the Schedule include:

- The schedule complies with the requirements of the Act which provide that there must be at least one ordinary (General) meeting of the Council in each month.
- The proposed meeting dates and times allow Council to meet the objective of providing open, responsive and accountable government.
- It is proposed to change the meeting start time from 7 pm to 6.30 pm.
- Australia day 2016 falls on a Tuesday and hence is a public holiday. It is proposed to hold the first meeting of 2016 on Wednesday, 27 January.
- The holding of two General Council meetings one month and one the next allows Council to have adequate informal gathering time to focus on planning/strategies, training, etc.
- Meetings have not been included for the Section 41 Committees & Development Assessment Panel as these Committees/Panels have either been set by separate resolution or they set their own schedule of meetings in accordance with their Terms of Reference.

Financial Implications

Funds have been provided in the 2015/16 budget for the conduct of Council meetings in line with the proposed schedule.

Implementation

The Schedule of Meetings for 2016 will be published in the Guardian Messenger and will be available at the Administration Centre and via Council's website. Details of Council's upcoming meetings will also be placed on the sign at the front of the Administration Centre.

CONCLUSION:

Adoption of the Schedule of Meeting Dates for 2016 ensures compliance with the requirements of the *Local Government Act 1999* and enables Council to relay the dates and times of Council meetings to the community.

Appendix 1

SCHEDULE OF GENERAL COUNCIL MEETINGS – 2016		
All meetings will be held at the City of Marion Administration Centre, 245 Sturt Road, Sturt		
Date	Time (PM)	Meeting
19 January	6.30 – 9.30	General Council
9 February	6.30 – 9.30	General Council
23 February	6.30 – 9.30	General Council
22 March	6.30 – 9.30	General Council
12 April	6.30 – 9.30	General Council
26 April	6.30 – 9.30	General Council
24 May	6.30 – 9.30	General Council
14 June	6.30 – 9.30	General Council
28 June	6.30 – 9.30	General Council
26 July	6.30 – 9.30	General Council
9 August	6.30 – 9.30	General Council
23 August	6.30 – 9.30	General Council
27 September	6.30 – 9.30	General Council
11 October	6.30 – 9.30	General Council
25 October	6.30 – 9.30	General Council
22 November	6.30 – 9.30	General Council
13 December	6.30 – 9.30	General Council

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Kate McKenzie, Manager Governance
Director: Kathy Jarrett
Subject: Code of Practice, Procedures at Meetings 2015
Report Reference: GC101115R07

REPORT OBJECTIVE:

The purpose of this report is to seek Council consideration and adoption of the proposed *Code of Practice, Procedures at Meetings 2015 (Appendix 1)*.

EXECUTIVE SUMMARY:

Section 86 of the Local Government Act 1999 (the Act), prescribes the procedures at meetings at a high level. Section 86(8) states:

Subject to this Act, the procedures to be observed at a meeting of a council will be:

(a) As prescribed by regulation

(b) Insofar as the procedure is not prescribed by regulation, as determined by the Council.

The relevant regulations are the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations). If Council determines to establish its own practices in certain matters, Council must prepare a Code of Practice or Policy.

Pursuant to section 6(1) of the Regulations, if Council establishes its own procedures it must be supported by resolution of at least two-thirds of the members of the Council as a whole.

RECOMMENDATIONS (1)

That Council adopts the amended 'Code of Practice – Procedures at Council Meetings 2015' provided at Appendix 1 to this report, subject to the inclusion of identified changes.

DUE DATES

**10 November
2015**

BACKGROUND

The Regulations allow for a Council to adopt a Code of Practice or Policy to vary procedures at meetings. The common practice is to adopt a Code of Practice as it can be a useful document that provides greater clarity (to both Elected Members and the public) in relation to the procedures used at General Council and Council Committee meetings. This allows Council to have a degree of flexibility in meeting procedures.

Section 4 of the Regulations provides guiding principles that should be applied with respect to the procedures to be observed at formal meetings as follows:

- Procedures should be fair and contribute to open, transparent and informed decision-making;
- Procedures should encourage appropriate community participation in the affairs of the council;
- Procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- Procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

DISCUSSION

The immediate past Council adopted a Code of Practice, Procedures at Meetings (the Code) and is attached as Appendix 1 with minor variations as follows:

- The Code has been updated to comply with the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations).
- Publication of Council agendas (1.3) has been varied to reflect current practice.
- Council Committee Reporting Obligations (1.4) has been varied to reflect current practice.
- The verbal report from Elected Members at Council Meetings has been deleted and only a written report will be accepted and included in the minutes (section 3.5).
- The time at which each item commences has been included (3.5(c))
- The listing of Adjourned Items on the agenda has been moved to directly before the Corporate Reports (14.3)

CONCLUSION

The adoption of the Code provides clarity to Elected Members and the public on the procedures to be used at Council meetings.

Should Council endorse the revised Code, all Elected Members will be provided with a copy of the document, which will also be published on Council's website to enable public access to the Code.

The regulations require that the Code of Practice be reviewed once per financial year and hence the next review will be undertaken during the 2016/2017 financial year.



CODE OF PRACTICE

Procedures at Council Meetings

2015

Adopted by Council 13 October 2015

To be review: 2016/17

CODE OF PRACTICE – PROCEDURES AT COUNCIL MEETINGS

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PART 1 – PRELIMINARY

Introduction

The role of a council is to manage its local area by acting as an informed representative and responsible decision-maker in the best interests of its community. Council can only make decisions and act through a majority vote of the Council (or Committee). The effectiveness of Council Meetings directly contributes towards accountability to the community.

Council meeting procedures are largely determined by the Local Government (Procedures at Meetings) Regulations 2013 (the Regulations). In addition to the requirements of the Regulations, this Code of Practice identifies a number of discretionary procedures adopted by Council for Council meetings.

Guiding Principles

Council's approach to the conduct of its meetings adopts the **Guiding Principles** contained within the Local Government (Procedures at Meetings) Regulations 2013 which state:

- Procedures should be fair and contribute to open, transparent and informed decision-making;
- Procedures should encourage appropriate community participation in the affairs of the council;
- Procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- Procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

Legislative Requirements and Policy Context

Procedures at Council meetings are regulated by the Local Government (Procedures at Meetings) Regulations 2013. In accordance with these Regulations, Council is able to set discretionary procedures pursuant to Regulation 6. This Code of Practice is made pursuant to this Regulation and has been passed by a two thirds majority of Elected Members.

The provisions set out in this Code of Practice reflect the provisions of the Regulations (including numbering) except where Council has utilised its discretionary powers. Regulations that have been varied by Council under these powers are highlighted in **bold** in this document.

Definitions

In these procedures, unless the contrary intention appears-

"**Act**" means the *Local Government Act 1999*,

"clear days" means days, inclusive of Saturdays, Sundays and public holidays, which do not include:

- the day on which the notice is given
- the day on which the meeting occurs

"deputation" means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter;

"formal motion" means a motion-

- (a) that the meeting proceed to the next business; or
- (b) that the question be put; or
- (c) that the question lie on the table; or
- (d) that the question be adjourned; or
- (e) that the meeting be adjourned¹;

"member" means a member of the council or council committee (as the case may be);

"point of order" means a point raised to draw attention to an alleged breach of the Act, Regulations or this Code of Practice in relation to the proceedings of a meeting;

"presiding member" means the person who is the presiding member of a council or council committee (as the case may be) and includes any person who is presiding/chairing at a particular meeting.

"written notice" includes a notice given in a manner or form determined by the council.

¹ See clause 13 for specific provisions about formal motions

PART 2 – PROCEDURES AT COUNCIL MEETINGS

1. City of Marion General Procedures

1.1 Council Meeting Close Time

Where Council meetings continue to 10.00pm, unless there is a specific motion adopted at the meeting to continue beyond this time, the meeting will be adjourned to a date and time specified as part of the motion.

1.2 Publication of Council Agenda

Council meeting Agendas will be uploaded to Council's website at least three clear days before the meeting and available for inspection upon request.

1.3 Late Items (Reports)

Late items (reports) listed on a circulated Agenda will be emailed and/or delivered to members prior to the scheduled meeting. Late reports will only occur where information has not been provided in time for the delivery of the Agenda and where an urgent Council decision is required.

1.4 Council Committee Reporting Obligations

Council Committees will report to Council in the form of the minutes from each committee meeting. The minutes will be received and noted. Any matters discussed by the Committee where a Council resolution is required is to be considered as separate resolutions to the receiving and noting of the Committee minutes.

1.5 Moving Items “En Bloc”

Items listed on the Agenda for Council consideration may be “moved on block”.

2. Commencement of Meetings and Quorums

Regulation 7

- 2.1 A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- 2.2 If the number of apologies received by the Chief Executive Officer indicates that a quorum will not be present at a meeting, the Chief Executive Officer may adjourn the meeting to a specified day and time.
- 2.3 If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the Chief Executive Officer, will adjourn the meeting to a specified day and time.
- 2.4 If a meeting is adjourned for want of a quorum, the Chief Executive Officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- 2.5 If a meeting is adjourned to another day, the Chief Executive Officer must-
 - (a) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
 - (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

3. Minutes

- 3.1 The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- 3.2 No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- 3.3 On the confirmation of the minutes, the presiding member will-
- (a) initial each page of the minutes, which pages are to be consecutively numbered; and
 - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.
- 3.4 The minutes of the proceedings of a meeting must include-
- (a) The names of the members present at the meeting; and
 - (b) in relation to each member present-
 - i. the time at which the person entered or left the meeting; and
 - ii. unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and
 - (c) each motion or amendment, and the names of the mover and seconder; and
 - (d) any amendment or withdrawal of a motion or amendment; and
 - (e) whether a motion or amendment is carried or lost; and
 - (f) any disclosure of interest made by a member; and
 - (g) an account of any personal explanation given by a member; and
 - (h) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and

- (i) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and
- (j) details of any adjournment of business; and
- (k) any other matter required to be included in the minutes by or under the Act or any regulation including:
 - i. a question on notice asked by an Elected Member of which five clear days notice has been given together with the reply provided (refer also to Clause 4.2(b) of this Code of Practice).
 - ii. if resolved by Elected Members present at the meeting at which the question is asked, details of a question without notice together with the reply provided (refer also to Clause 4.5 of this Code of Practice).
 - iii. In the event that a division is called by a member, the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote) (refer also to Clause 12.4 of this Code of Practice)

3.5 The minutes of relevant Council meetings will also include:

- (a) **Elected Member communication reports to the following extent:**
 - i. **The Mayor's, Deputy Mayor's and Elected Member reports (only the subject matter) where those reports have been provided in writing to the minute taker by 12 noon on the Wednesday next following the meeting.**
 - ii. **Types of activities to be included in reports are those attended by Elected Members in their Representative or Civic capacity only. Examples include:**
 - **Civic activities (e.g. citizenship ceremonies)**
 - **Meetings with external bodies attended as Council Liaison**

- **Meetings with residents**
- **Training sessions attended**

Attendance at Council meetings will not be recorded. Attendance at Development Assessment Panel or Committee meetings will be recorded.

- (b) **The name of a person or persons (representor) making a deputation. However, the details of the content of the deputation will not be included (refer also to Clause 6.9 of this Code of Practice).**
- (c) **The time at which each item commences**

3.6 Minutes will be forwarded by email to Elected Members to confirm accuracy and then placed on Council's website by 5.00pm on the Friday next following the meeting, or at the latest, within five days after the meeting.

3.7 The minutes of the meetings will not include:

- (a) **Apologies received from Elected Members**
- (b) **Leave of Absences**
- (c) **Voting Patterns other than Divisions or as required by legislation**

4. Questions

- 4.1 A member may ask a question on notice by giving the Chief Executive Officer written notice of the question at least five clear days before the date of the meeting at which the question is to be asked.
- 4.2 If notice of a question is given under Clause 4.1:
- (a) the Chief Executive Officer must ensure that the question and answer is placed on the agenda for the meeting at which the question is to be asked; and
 - (b) the question and the reply must be entered in the minutes of the relevant meeting (refer also to Clause 3.4(k)(i) of this Code of Practice).
- 4.3 A member may ask a question without notice at a meeting.
- 4.4 The presiding member may allow the reply to a question without notice to be given at the next meeting.
- 4.5 A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made (refer also to Clause 3.4(k)(ii) of this Code of Practice).
- 4.6 The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.
- 4.7 **Members are able to ask a maximum of three Questions without Notice at a Council meeting except with the consent of the meeting.**
- 4.8 **Questions may be asked prior to the moving of a motion or during a debate on a motion for clarification purposes only. Such questions are not considered “questions without notice” as described in Clauses 4.3, 4.4, 4.5, and 4.7 of this Code of Practice.**
- 4.9 **In asking a clarification question a member will not be considered to be speaking to the motion.**
- 4.10 **A maximum of two clarification points may be asked by**

individual members in relation to each motion except with the consent of the presiding member.

4.11 Members are encouraged to seek answers to questions prior to the Council meeting.

4.12 In relation to Questions with Notice, all questions and answers will be included in the agenda papers and the minutes therefore will not be read out at the relevant meeting.

5. Petitions

Regulation 10

5.1 A petition to the council must-

- (a) be legibly written or typed or printed; and
- (b) clearly set out the request or submission of the petitioners; and
- (c) include the name and address of each person who signed or endorsed the petition.
- (d) be addressed to the council and delivered to the principal office of the council.

5.2 If a petition is received as detailed in 5.1, the Chief Executive Officer must ensure that the petition or a statement as to the nature of the request or submission and the number of signatures is placed on the agenda for the next ordinary meeting of the council.

5.3 Where further investigation is required on issues raised in a petition, the petition will be provided to the next meeting of Council from receipt of the petition to note the petition and a report providing further detail will be provided to Council once investigations have been completed.

5.4 On initial receipt of the petition, a summary and the first page only will be provided to Council. When the matter is considered the entire petition will be attached to the report.

6. Deputations

- 6.1 A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.
- 6.2 The chief executive officer must transmit a request received as detailed in Section 6.1 to the presiding member.
- 6.3 The presiding member may refuse to allow the deputation to appear at a meeting.
- 6.4 The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.
- 6.5 If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council.
- 6.6 The council may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- 6.7 A council may refer the hearing of a deputation to a council committee.
- 6.8 **A deputation must not exceed five minutes except with the consent of the meeting.**
- 6.9 **The name of the representor will be recorded in the minutes of a Council meeting however, the details of the content of the deputation will not be included (refer also to Clause 3.5(b) of this Code of Practice).**

7. Motions

- 7.1 A member may bring forward any business in the form of a written notice of motion.
- 7.2 The notice of motion must be given to the chief executive officer at least five clear days before the date of the meeting at which the motion is to be moved.
- 7.3 A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last periodic election of the council must be brought by written notice of motion.
- 7.4 If a motion as detailed in Clause 7.3 is lost, a motion to the same effect cannot be brought-
- (a) until after the expiration of 12 months; or
 - (b) until after the next periodic election,
- whichever is the sooner.
- 7.5 **Where a notice of motion has been given by a member who is not present at the meeting the notice of motion may be moved by any other member present at the meeting.**
- 7.6 **Notice of motions cannot be added to on the night of the meeting where the notice of motion is presented. Additions to notices of motions will be dealt with separately as a motion without notice.**
- 7.7 Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- 7.8 The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.
- 7.9 The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council.
- 7.10 **A motion without notice will not be accepted, where in the opinion of the presiding member, the motion relates to a significant issue or substantive information is required in order to make an informed decision on the motion (Refer**

Clause 7.8 above). Such issues should be provided as written notices of motion.

7.11 A motion will lapse if it is not seconded at the appropriate time.

7.12 A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion for no longer than three minutes (clause 10.1). If further time is required, it will be considered by the presiding member and granted at their discretion to a total maximum of five minutes.

7.13 If the motion is seconded, the common practice of the meeting will be to put the motion without further debate/discussion unless there is a speaker against the motion.

7.14 The common practice of the meeting will be to alternate speakers for and against the motion until the debate is complete.

7.15 At the conclusion of the debate, if a member who has not already spoken wishes to raise a new matter that has not been covered in previous debate/discussion or a matter considered of high importance, they will be permitted to speak for a maximum of three minutes.

7.16 A member may only speak once to a motion except-

- (a) To provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
- (b) with leave of the meeting; or
- (c) as the mover in reply.
- (d) for the mover who may exercise a right to speak in closing the debate.

for no longer than three minutes (Clause 10.1). The period of speaking may be extended with the consent of the presiding member.

7.17 A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.

7.18 A member who has not spoken in the debate on a question may move a formal motion.

7.19 A formal motion must be in the form of a motion set out in 7.17 (and no other formal motion to a different effect will be recognised).

7.20 If the formal motion is-

- (a) that the meeting proceed to the next business, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
- (b) that the question be put, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or
- (c) that the question lie on the table, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
- (d) that the question be adjourned, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
- (e) that the meeting be adjourned, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.

7.21 If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).

7.22 A formal motion does not constitute an amendment to a substantive motion.

7.23 If a formal motion is lost-

- (a) the meeting will be resumed at the point at which it was interrupted; and

- (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (i.e., a motion to the same effect) cannot be put until at least one member has spoken on the question.

7.24 A formal motion for adjournment must include the reason for the adjournment and the details for resumption.

8. Amendments to Motions

Regulation 13

- 8.1 A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.
- 8.2 An amendment must be relevant to the motion and so framed that it forms a sensible alternative proposal. It must not be a direct negation of the original motion.
- 8.3 An amendment will lapse if it is not seconded at the appropriate time.
- 8.4 A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.
- 8.5 If an amendment is lost, only one further amendment may be moved to the original motion.
- 8.6 If an amendment is carried, only one further amendment may be moved to the original motion.
- 8.7 **Amendments are to be provided to the minute taker in writing to ensure accuracy of recording.**

9. Variations etc

Regulation 14

- 9.1 The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- 9.2 The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

10. Addresses by Members etc

Regulation 15

- 10.1 A member must not speak for longer than three minutes at any one time without leave of the meeting.
- 10.2 **Members are to speak through the Chair of the meeting when speaking to a motion.**
- 10.3 A member may, with leave of the meeting, raise a matter of urgency.
- 10.4 A member may, with leave of the meeting, make a personal explanation.
- 10.5 The subject matter of a personal explanation may not be debated.
- 10.6 The contribution of a member must be relevant to the subject matter of the debate.
- 10.7 **Members will address other members as Councillor during council meetings.**
- 10.8 **Members may choose to sit or stand when addressing the Council meeting.**

11. Voting

- 11.1 The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.
- 11.2 The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.
- 11.3 A person who is not in his or her seat is not permitted to vote **unless extenuating circumstances exist, in which case the Elected Member may be located elsewhere within the Chamber, but not in an area designated a public area.**
- 11.4 For the purpose of clause 11.3 extenuating circumstances are;
- infant or dependent care
 - injury
 - infirmity

12. Divisions

12.1 A division will be taken at the request of a member.

12.2 If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.

12.3 The division will be taken as follows-

- (a) the members voting in the affirmative will, until the vote is recorded, stand in their places; and
- (b) the members voting in the negative will, until the vote is recorded, sit in their seats; and
- (c) the presiding member will count the number of votes and then declare the outcome.

12.4 The chief executive officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).

12.5 Members wishing to vote in the affirmative but are unable (to stand) due to extenuating circumstances, may indicate their affirmative vote by raising a hand or by indicating in some other unambiguous manner.

12.6 Members voting in the negative, who are not currently in their seats due to extenuating circumstances may indicate their negative vote by raising a hand or by indicating in some other unambiguous manner

13. Tabling of Information

Regulation 18

13.1 A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).

13.2 The chief executive officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

14. Adjourned Business

Regulation 19

14.1 If a formal motion for a substantive motion to be adjourned is carried-

- (a) the adjournment may either be to a later hour of the same day, to another day, or to another place; and
- (b) the debate will, on resumption, continue from the point at which it was adjourned.

14.2 If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.

14.3 Business adjourned from a previous meeting must be dealt with directly before the Corporate Reports at a subsequent meeting.

15. Short-term Suspension of Proceedings

15.1 If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.

15.2 The Guiding Principles must be taken into account when considering whether to act in accordance with Clause 15.1.

15.3 If a suspension occurs in accordance with Clause 15.1

- (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
- (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension-
 - (i) the provisions of the Act must continue to be observed; and
 - (ii) no act or discussion will have any status or significance under the provisions which have been suspended; and
 - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and
- (c) the period of suspension should be limited to achieving the purpose for which it was declared; and
- (d) the period of suspension will come to an end if-
 - (i) the presiding member determines that the period should be brought to an end; or
 - (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

16. Points of Order

- 16.1 The presiding member may call to order a member who is in breach of the Act or these regulations.
- 16.2 A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach.
- 16.3 A point of order takes precedence over all other business until determined.
- 16.4 The presiding member will rule on a point of order.
- 16.5 If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.
- 16.6 The presiding member is entitled to make a statement in support of the ruling before a motion under 16.5 is put.
- 16.7 A resolution under 16.5 binds the meeting and, if a ruling is not agreed with-
- (a) the ruling has no effect; and
 - (b) the point of order is annulled.

17. Interruption of Meetings by Members

17.1 A member of a council must not, while at a meeting-

- (a) behave in an improper or disorderly manner; or
- (b) cause an interruption or interrupt another member who is speaking.

17.2 Clause 17.1(b) does not apply to a member who is-

- (a) objecting to words used by a member who is speaking; or
- (b) calling attention to a point of order; or
- (c) calling attention to want of a quorum.

17.3 If the presiding member considers that a member may have acted in contravention of Clause 17.1, the member must be allowed to make a personal explanation.

17.4 Subject to complying with Clause 17.3, the relevant member must leave the meeting while the matter is considered by the meeting.

17.5 If the remaining members resolve that a contravention of Clause 17.1 has occurred, those members may, by resolution-

- (a) censure the member; or
- (b) suspend the member for a part, or for the remainder, of the meeting.

17.6 A member who-

- (a) refuses to leave a meeting in contravention of Clause 17.4; or
- (b) enters a meeting in contravention of a suspension under Clause 17.5,

is guilty of an offence and the Maximum penalty is \$1,250

18. Interruption of Meetings by Others

18.1 A member of the public who is present at a meeting of a council must not-

- (a) behave in a disorderly manner; or
- (b) cause an interruption.

Maximum penalty: \$500

Adopted by Council:	13 October 2015
Next Review:	October 2016
Previous Version:	12 February 2013
Owner:	Manager Governance
Applicable Legislation:	Local Government Act 1999 Local Government (Procedures at Meetings) Regulations 2013

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Kate McKenzie, Manager Governance
Director: Kathy Jarrett
Subject: 2014 Elections Review - Submission
Report Reference: GC101115R08

REPORT OBJECTIVES:

To seek Council's comment and endorsement of a submission to be provided to the Office of Local Government and the Local Government Association (LGA) for the review of the 2014 Local Government Elections.

EXECUTIVE SUMMARY:

The City of Marion was notified of the 'Review of 2014 Local Government Elections' via the LGA's Circular 39.1. The circular included a discussion paper (**Appendix 1**) which was developed by the Officer of Local Government, in conjunction with the LGA and the Electoral Commission.

Feedback is being sought from all Councils, with responses due to the LGA by the 30th October 2015 and the Office of Local Government by 27th November 2015.

The discussion paper is seeking comments on the following:

- Voter turnout
- Electronic Voting
- Property Franchise
- Caretaker Provisions
- Timing of Elections
- Access to the voters roll
- Disclosure of candidates addresses and political party membership/affiliations

A draft submission (**Appendix 2**) has been developed in response to the discussion paper for Council consideration and any further comment.

RECOMMENDATIONS (1)

DUE DATES

That Council endorse the submission provided in Appendix 2 'City of Marion submission regarding 2014 Elections Review' and forward to the Local Government Association and Office of Local Government, subject to the following amendments:

October 15

-

Review of 2014 Local Government Elections

The Office of Local Government takes responsibility for the contents of this paper, and gratefully acknowledges the input of the Local Government Association of South Australia and the Electoral Commission of South Australia.

Comments on the attached paper close 5pm Friday 27 November 2015.

Submissions on this paper should be made to the Office of Local Government
DPTI.PDLocalGovernment@sa.gov.au



**Government
of South Australia**

Department of Planning,
Transport and Infrastructure

CONSULTATION QUESTIONS FOR REVIEW OF 2014 LOCAL GOVERNMENT ELECTIONS

Similar to previous years, the Office of Local Government, with input from the Local Government Association and the Electoral Commissioner, is reviewing and evaluating the 2014 Local Government Elections. The review will focus on specific matters that will improve the operation of the elections, as well as voter turnout, rather than a broad examination of all systemic and policy based matters. The Office of Local Government takes responsibility for the content of this discussion paper.

Appended to the back of this paper is a table detailing proposed technical amendments to the *Local Government (Elections) Act 1999*. The Electoral Commissioner of South Australia has proposed the amendments to remove inconsistencies and address technical issues that have arisen at the 2010 and 2014 Local Government elections.

Councils and other interested stakeholders are invited to consider the following issues and accompanying questions relating to Local Government elections in South Australia.

Voter participation in Local Government elections

In South Australia, since the 2000 Local Government elections, ballot papers have been posted to enrolled voters, and voting is voluntary. Tasmania and Western Australia have similar voting arrangements.

In Victoria, NSW, Queensland and the Northern Territory, enrolled voters are required to vote in their Local Government elections, but with various qualifications and penalties applied across the jurisdictions.

Comparison of Voting Method and Voter Turnout in Jurisdictions with Compulsory Voting (excl. Vic)

Jurisdiction	Method of voting	Year	Participation Rate
NSW ¹	Polling Booth	2012	82.1%
Qld ²	Polling Booth, or postal at Minister's discretion	2012	80%
NT ³	Polling Booth/ early voting centres	2012	70.3%

It is clear from the above table that a requirement to vote in Local Government elections does not result in 100% participation rate, and that an administration and cost question arises from the enforcement of compulsory voting. Who is responsible for enforcing compulsory participation requirements? Who bears the cost?

In Victoria, postal or attendance (polling booth) voting occurs at Council's discretion. Voting is only compulsory for voters under 70 years old and who are on the residential roll only.

Comparison of Voter Turnout in Victoria

Year	Postal Participation Rate	Attendance Participation Rate
2012	72.57%	63.62%

¹ NSW: compulsory for those on residential roll only. Electoral Commissioner (EC) to serve penalty notice to non-voters

² QLD: councils can apply to Minister to conduct full or partial postal voting if their Local Government area includes a large rural sector, large remote areas or extensive island areas. EC to serve penalty notice to non-voters

³ NT: penalty for not voting occurs at council's discretion. No notices served for 2012 LG elections.

Voting in Local Government Elections in South Australia

In South Australia, voters who are already on the State Electoral roll in their Council area to vote in State elections are automatically included on the Council voters roll and receive ballot papers in the post. However, landlords, business lessees or resident non - Australian citizens who wish to vote in Council elections must enrol for each Local Government elections by completing an enrolment form.

The voting system is preferential voting, and the vote counting method used in Local Government elections is known as Proportional Representation. It is a counting method designed to ensure that vacant positions are allocated as nearly as possible in proportion to the votes received. A candidate is elected after obtaining a quota or proportion of the formal vote. It is assessed as a 'fair' system for counting votes but more complex counting process than other counting systems, and may take longer to finalise.

Other commonly used voting systems include full preferential voting, optional preferential and first past the post systems.

With regard to the costs and expenses incurred by the returning officer in local government elections, section 13 of the *Local Government (Elections) Act 1999* states that

All costs and expenses incurred by the returning officer in carrying out official duties must be defrayed from funds of the council.

Voter Turnout in South Australia

At the 2014 Local Government elections the average statewide voter turnout was 31.99%, with 20.05% the lowest turnout for a position, and 77.67% the highest turnout for a position.

Before the introduction of postal voting in Local Government elections in 1997, the statewide average voter participation in contested elections rarely exceeded 20%. Since 2000 (when postal voting was introduced statewide for the first time) participation rates have been consistently above 30%. However, after the peak year of 2000 (when 40.10% of

voters participated) the percentage dropped to 32.67% in 2003, 31.62% in 2006, 32.88% in 2010, and 31.99% at the 2014 Local Government elections.

Rural councils consistently achieve higher rates of voter participation than metropolitan and provincial city councils. In the 2014 Local Government elections, the average metropolitan turnout rate was 27.74%, compared to 43.28% for non-metropolitan councils. This is broadly consistent with previous elections since the introduction of postal voting.

The following table shows voter turnout in the three jurisdictions which have voluntary postal voting in Local Government elections. The results for the most recent Local Government elections (shown below) are broadly consistent with previous years' results in these jurisdictions.

Comparison of Voter Turnout in Jurisdictions with Voluntary Postal Voting

Jurisdiction	Year of LG Election	Participation Rate
WA	2013	27.76%
Tas	2014	54.28%
SA	2014	31.99%

Questions:

- 1. Would compulsory voting be a better option to improve voter turnout at Local Government elections?*
- 2. What other options could improve voter turnout at Local Government elections?*

Electronic Voting in Local Government elections

In recent years the issue of electronic voting in Local Government elections has been raised on several occasions. However, due to the significant costs involved and security risks presented, careful consideration needs to be given regarding what benefits electronic voting offer, compared to continued use of the postal voting system.

A number of countries have introduced some form of electronic voting system in recent years, including the United States, Canada, Brazil, the United Kingdom (now abandoned), Ireland (now abandoned), and India.

In the 2015 NSW elections, the NSW Electoral Commission anticipated that up to 200,000 eligible electors would use the electronic voting system 'iVote'. However, immediately prior to the elections, researchers found security flaws that allowed for the interception and changing of votes⁴. The researchers stated that they were able to *"make the voter's web browser display what the voter wanted, but secretly send a different vote to the iVote voting server."*

The researchers concluded that *"the electoral commission's security testing failed to expose the vulnerability we found, and may have also missed flaws in the server software, verification protocol, and auditing process."*

Further, an analysis by the ABC's Antony Green⁵ comparing iVote to ordinary, pre-poll and postal ballot paper voting results in the 2015 NSW elections found that voters' screen size influenced their vote:

"...it is clear that the current electronic ballot paper structure has created a new donkey vote... parties in the first few columns on the ballot paper are clearly advantaged by the presentation of the ballot paper."

Few attempts to introduce electronic voting have been free from controversy, which have mainly revolved around four key issues:

- Security: can the system be made secure from tampering?
- Operational: can the system be securely and effectively administered by electoral officials? Can votes be verified and scrutinised?
- Authenticity – who is voting? Can votes be verified?
- Perceptual: even if the system is secure, will electors accept this to be the case?

Overall, the security issue sits at the core of the debate. The potential for fraud is very high. A resourceful hacker, and not the voters, could decide who wins an election. The simple act of conducting an election on the internet may be seen as a challenge to some hackers.

⁴ <http://theconversation.com/thousands-of-nsw-election-online-votes-open-to-tampering>

⁵ <http://blogs.abc.net.au/antonygreen/2015/04/does-electronic-voting-increase-the-donkey-vote.html>

Personal computers are extremely vulnerable to cyber attacks. Furthermore, it is much harder to be sure that the person casting the vote is the same person that the vote is registered to, and there is no way to know for sure that the vote was cast in secret and without undue pressure.

Proponents of electronic voting have cited low voter turnout rates as a reason for introducing electronic voting. It should be noted that in 2013, Norway trialled internet voting, but ended trials because of security concerns and a lack of evidence that the trials led to increased participation. There was also evidence that a small percentage of people voted twice – once on the internet and then at a polling booth.

The cost of introducing an electronic voting system requires careful consideration, with regard to both the initial investment and ongoing maintenance.

In its Second Interim Report⁶ delivered in November 2014, the Commonwealth's Joint Standing Committee on Electoral Matters noted the high cost of electronic voting systems. The Report noted that in 2011, the NSW Electoral Commission introduced iVote to voters who were vision impaired, voters who were disabled (within the meaning of the anti-discrimination legislation), or lived more than 20km from a polling station. At an approximate total cost of \$3.5m, iVote had an average cost per vote of \$74 compared to an average cost of all votes cast of \$8.

The Committee also noted that the development of the static electronic voting system used in Ireland cost approximately A\$78m, which included not only the up-front purchase of machines, but the total cost of ownership including review, software upgrade, maintenance and replacement. These ongoing costs contributed to Ireland abandoning electronic voting.

Within the context of Local Government elections in South Australia, section 13 of the *Local Government (Elections) Act 1999* states that

All costs and expenses incurred by the returning officer in carrying out official duties must be defrayed from funds of the council.

⁶ Second interim report on the inquiry into the conduct of the 2013 federal election: An assessment of electronic voting options

There are therefore significant direct cost implications for councils if electronic voting is introduced.

Question:

3. Do Councils support the introduction of electronic voting, despite the security risks and costs involved?

Property Franchise

Until the 2010 Local Government elections, those entitled to the property franchise did not need to enrol to vote and their entitlement existed whether or not they chose to exercise it.

The 2008 *Independent Review of Local Government Elections*⁷ found that:

...councils incur significant expense in compiling and maintaining a separate voters roll for local government elections... in most cases, the vast majority of this effort is wasted in respect of the 82.8% of property franchisees who choose not to vote.

A review undertaken to assist in preparing the 2008 Interim Report found that the costs of maintaining a separate Council voters roll, comprising those voters who are landlords, business lessee or resident non-Australian citizens, was in the order of \$1 per enrollee, and, depending on voter turnout, could often be as high as \$4 per actual property franchise voter. In six country councils in 2006, the entire cost of preparing the Council's roll for the elections was wasted when a subsequent lack of nominees meant that in each of these six councils no election was required.

As a result of the Review's findings, the *Local Government (Elections) Act 1999* was amended in 2009 to remove the automatic entitlement of property owners who were not on the House of Assembly electoral roll for a council area to be included on the voters roll for council elections (except for the City of Adelaide where the automatic entitlement was retained).

⁷ http://www.dpti.sa.gov.au/__data/assets/pdf_file/0019/152542/IRLGE_-_Final_Report_-_2008-01-08.pdf

Specifically, section 15(5a) of the *Local Government (Elections) Act 1999* stipulates that the voters roll expires on 1 January after each periodical election and that a fresh voters roll must be prepared after that date (with the exception of the City of Adelaide). Such action is a method of purging the roll to ensure that only those currently eligible are included on the voters roll. An alternative method to ensuring the accuracy of the voters roll is to periodically write to those on the roll requesting them to confirm their eligibility.

However, concerns were raised at the 2014 Local Government elections that a large number of property owners did not receive their entitlement to vote as they were not aware of the requirement to re-enrol. Section 13A(2) of the LGE Act requires each council to inform potential electors in its area (other than where entitled as an elector on the House of Assembly roll) of the requirement to apply to be enrolled on the voters roll. However, enrolment for the property franchise portion of the council voters rolls reduced overall by 19.4% from 23 407 in 2010 to 18 871 in 2014 (Adelaide City Council accounted for 13 369 of the 18 871). Property owners did not take up the option or council activity did not deliver the desired outcome.

The matter is now being re-examined with a view to both maintaining an accurate voters roll as well as ensuring that those eligible to vote are receiving their entitlement to vote.

Question:

- 4. How could the Property Franchise entitlement be changed to best support and manage property franchisees?**

Caretaker Provisions

Prior to the 2010 Local Government elections, an amendment to the *Local Government (Elections) Act 1999* required each Council to have a caretaker policy to govern the conduct of the Council and its staff during an election period. As a minimum, the caretaker policy was required to prohibit the making of a 'designated decision' during the election period. A designated decision is defined in section 91A of the Elections Act and further refined in the *Local Government (Elections) Regulations 2010* (the Regulations).

The objectives of the new provisions were to ensure that an outgoing Council could not bind a new Council to large contracts (other than for prescribed contracts as defined in reg 12 of the Regulations) and that no candidate, either sitting or prospective, was unfairly disadvantaged.

A designated decision, under section 91A, means a decision:

- relating to the employment or remuneration of a chief executive officer (other than a decision to appoint an acting chief executive officer); or
- to terminate the appointment of a chief executive officer; or
- to enter into a contract, arrangement or understanding (other than a prescribed contract) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year; or
- allowing the use of Council resources for the advantage of a particular candidate or group of candidates (subsection (8d)).

Section 91A also makes a Council's caretaker policy part of each code of conduct for Council Members and Council staff.

One of the key areas of concern and uncertainty within Councils was the provision in section 91A(8)(d) of the Elections Act which defined a designated decision to include:

(d) allowing the use of council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of council resources by all candidates for election).

After the 2010 Local Government elections it was agreed that it was inappropriate to include this provision in a definition of a designated decision as it is clearly distinguishable from other matters that form part of the definition, which have the effect of binding an incoming Council to a significant policy decision, expenditure, or employment contract for a CEO.

The attached table of proposed amendments to the *Local Government (Elections) Act 1999* reflects the consensus that there was a need to remove this section from section 91A.

However, there remains the question of whether the provision is placed elsewhere in the Act, or removed altogether and becomes a policy matter for Councils.

Clearly, the intention of this section was to ensure that councils weren't providing assistance, or an advantage, for some candidates over others eg through the use of Council photocopiers to print election material. However, because a designated decision is linked to a Council Member's or staff member's code of conduct by section 91A(7), some Council staff have felt individually responsible for how Council Members used Council resources.

Question:

5. *How can the current Caretaker Period provisions be improved?*

Concurrent Timing of State and Local Government Elections

At the November 2014 Local Government elections it was suggested that holding State and Local Government elections on the same day would improve voter turnout for Local Government elections.

As this would necessitate a move from postal voting to polling booth in Local Government elections, consideration needs to be given as to how voting papers would be provided for voters on both House of Assembly and non-House of Assembly electoral rolls. Significant costs may be incurred through the necessity to hold ballot papers for every ward and council at each booth statewide. As outlined earlier, the *Local Government (Elections) Act 1999* stipulates that such costs are to be borne by councils.

Question:

6. *How could concurrent Local and State Government elections be held in a way that would both improve voter turnout and not significantly add to the costs to councils?*

Access to Voters Roll

Under section 26(2)(c) of the State *Electoral Act 1985*, electronic copies of the House of Assembly roll for any district may be given to members of the Legislative Council and registered political parties, while a member of the House of Assembly may receive the roll for their district .

Section 15(15) of the *Local Government (Elections) Act 1999* states that a Local Government elections candidate can obtain a printed copy of the voters roll from the relevant council. The provision of electronic copies of the roll is not referred to in the Act.

The combination of the two Acts means that candidates who are members of registered political parties can get access to an electronic copy of the House of Assembly portion of the voters roll in Local Government elections, but candidates who are not members of a registered party can only obtain a printed copy of the entire voters roll.

Question:

7. Should all candidates have access to electronic copies of the voters roll?

Disclosure of Candidates' residential address

Candidates for Local Government elections are required to complete a Nomination Form, the front page of which is displayed at the Council office for interested members of the public. Included in the front page is the candidate's enrolled address, and address of rateable property, if different from enrolled address.

Section 17(1)(b) of the *Local Government (Elections) Act 1999* states that a person is eligible to stand as a candidate in Local Government elections if the person is an elector for the area or the designated person for a body corporate which has its name on the voters roll for the area.

Particularly in the case of Council areas which attract a large number of businesses, such as the City of Adelaide or City of Marion, the potential contribution of Councillors who may reside outside of the Council area, but operate businesses in the Council area, is arguably as equally important as those Councillors who reside in the same area.

Regardless of where a Councillor resides, section 59(1)(b) of the *Local Government Act 1999* states that the role of the elected member is to:

represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the council.

It has been suggested that both the candidate profile and nomination form should state the candidate's residential suburb. There have been some concerns raised that non-resident candidates are not able to represent a council area's community as well as candidates who reside in the area, and that electors would benefit from knowing whether a candidate resides in the council area.

There are valid, important reasons of safety why candidates may wish to have their residential address suppressed, such as occupation (police officer etc), Family Court orders etc. There is a real possibility that disclosure may inadvertently endanger a Councillor, or his or her family.

Question:

- 8. *How would disclosure of a candidate's residential suburb change representation and decision-making on Councils?***
- 9. *How could voters identify whether a candidate resides in the Council area without compromising their safety?***

Disclosure of Candidate's Political Party Membership or Affiliations

Currently, a candidate is not required to declare membership of a political party. As a result of an Ombudsman's investigation, it has been recommended that candidates are required to declare the name of any political party, or any body or association formed for political purposes, of which the candidate is a member or has been a member within the past 12 months.

There are strong arguments both for and against candidates disclosing political party memberships and affiliations. At the heart of the matter is the need to balance transparency for voters and ratepayers with good representation and decision making on councils.

Question:

- 10. How would disclosure of a candidate's political party membership or affiliation change representation and decision making on councils?*
- 11. Where would information about a candidate's political party membership or affiliation be published, or not be published and why?*

Any other comments or suggestions to improve the operations of elections and voter turnout?

Any other concerns regarding the conduct of the 2014 Local Government elections should be sent separately to the Office of Local Government DPTI.PDLocalGovernment@sa.gov.au for appropriate attention.

28 October 2015

Office of Local Government
DPTI.LocalGovernment@sa.gov.au

Dear Sir/Madam

Submission on the Review of 2014 Local Government Elections

At its meeting of 27 October 2015, the City of Marion considered the '2014 Review of Local Government Elections Discussion Paper' and has adopted the following submission to be provided to the Office of Local Government.

Voter Participation

The City of Marion acknowledges that the voting in Local Government Elections within South Australia is voluntary and the participation rate for metropolitan Councils has been approximately 30% over the past few elections. From the data provided within the discussion paper, those states with compulsory voting are achieving participation rates of between 70-80%.

Council noted that compulsory voting would increase voter participation, however also noted the varying views such as:

- Local Government is equally important as any other level of government and the election processes should be consistent across all tiers of government, to the opposite view that
- compulsory voting may politicise Local Government and party politics will creep into decision making to benefit the party rather than for the benefit of the local community.

Improvement for voter turnout could include:

- Additional advertising
- Stronger promotion of candidates
- Further community awareness regarding what Local Government can do for the local community.

Electronic Voting

Majority of Council Members supported the implementation of electronic voting, noting that security risks are still prevalent. The views of the Council were that electronic voting may increase the voter participation and it is worth further exploration. It was noted that matters such as the census are now online and the security risks should be appropriately risk managed.

Property Franchise

The Council supported limited change to the enrolment requirements for the property franchise suggesting that the current arrangements are reasonable. The only suggestion

has been that Council should not be required to purge the Council voters roll at the beginning of an election year and the property franchise should only have to enrol once.

Caretaker Provisions

The Council supported retaining caretaker provisions but suggested that clarity is required on the following:

- The designated decisions need to be black and white so it is clear regarding what can and can't be done.
- The use of Council resource by sitting Elected Members who are re-standing for election requires further definition. It is often difficult for Elected Members to create a clear delineation between the current role as an Elected Member and what may be considered a part of their candidacy.

Timing

The timing of the Local Government Elections is important and should not be confused with other levels of government. The risk of combining State and Local Government is local government will become politicised with party politics rising within the sector.

The Council considered the implementation of a national voting day each year with Federal one year, State one year and Local Government one year.

Access to Voters Roll

Council supported that copies of the voters roll should be made available in either printed or electronic form. It should be only for the area where the candidate has nominated. If the candidate withdraws before the conclusion of nominations, the voters roll must be returned to Council.

If the candidate chooses an electronic copy, this should be provided in PDF format only and the candidate be required to sign a disclosure form confirming that the voters roll will only be used for the purposes of the election and no other means.

Disclosure of Candidates Residential Address

The City of Marion supports the disclosure of candidate's residential suburb to provide clarity of where the candidate may reside. It was noted that a motion was considered at the LGA Ordinary General Meeting in May 2015 requesting the LGA to lobby State Government to investigate amending the Local Government (Elections) Act 1999, the Electoral Act 1985 or the Commonwealth Electoral Act 1918 to ensure a nominated candidate's residential suburb is visible to the public, both on the front page of the candidate nomination form as well as on candidate profile to ensure that use of a PO Box or suppressed/silent voters roll address does not prevent residents knowing which suburb or Council area a candidate lives in, for the purposes of Local Government elections. This was supported by the City of Marion.

This being the case, the disclosure of a residential suburb would have little impact on representation and decision making on the Council.

In the absence of the above and to ensure the safety of all candidates, a statement could be required on the nomination form or in the candidate profile stating that the candidate does or doesn't reside in the ward/council area.

Disclosure of Candidates Political Parties

During the course of the 2014 Local Government Elections, several voters contacted Council to seek information about political party affiliations. As this information was not available to Council, voters were advised to seek this information direct from the candidates.

Council supported the disclosure of political parties as it would allow voters to make a more informed choice. This disclosure should occur on the nomination form and on any electoral material produced by the candidate (including the profile on the LGA Website).

In addition to the above, the technical amendments attached to this submission are all supported by the Council. The City of Marion thanks you for the opportunity to comment and should you have any queries regarding the submission, please contact Kate McKenzie, Manager Governance, by phone on (08) 8375 6625 or email kate.mckenzie@marion.sa.gov.au

Yours faithfully

Kris Hanna
Mayor

Cc – Local Government Association

LOCAL GOVERNMENT (ELECTIONS) ACT 1999 - TECHNICAL PROPOSALS

Section	Source	Problem	Proposal	Outcome
6(8) Supplementary elections	ECSA.	Currently, there is an inconsistency between closing time for voting for supplementary elections (12 noon) and closing time for Local Government periodic elections (5 pm).	Amend this section to allow for the close of voting for supplementary elections to be 5pm on polling day. Following further review, ECSA proposes that the close of voting for supplementary elections should close at a time determined by the Returning Officer, allowing the Returning Officer to set both polling day [under section 6(6)] and the time for the close of voting on that day. Such a determination would be made by the Returning Officer when setting all other dates for the supp election including the Close of Rolls and Close of Nominations.	Corrects an inconsistency.
9(3) Council may hold polls	LGA. ECSA	Currently, only required to give notice of polling day in print.	Amend this section so that councils must also provide notice of polling day on its website. Amend to 'public notice'	Updates the provision in line with society's progression to the internet.
9(6) Council may hold polls	ECSA.	Currently, there is an inconsistency between closing time for voting for polls (12 noon) and closing time for periodic Local Government elections (5 pm).	Amend this section to allow for the close of voting for a council poll to be 5pm on polling day. Amend in line with section 6(8) for consistency.	Corrects an inconsistency.

LOCAL GOVERNMENT (ELECTIONS) ACT 1999 - TECHNICAL PROPOSALS

Section	Source	Problem	Proposal	Outcome
15(13) The voters roll	ECSA.	Needs to be made consistent with section 15(14): it is understood that this remaining reference to purchase of the voters roll was an oversight.	Amend this section to remove the reference to 'purchase' of the voters roll.	Corrects an inconsistency.
19A Publication of candidate statements etc	LGA.	The cost of supporting the website and the significant workload it generates for LGA staff outweighs any benefit given due to the extremely low use of the website for <u>supplementary</u> elections.	Amend this section to remove the requirement for the LGA to operate the candidates' website for supplementary elections.	The Electoral Commission will send candidates' profiles to councils to upload onto their websites.
27(1)(a) Publication of electoral material	Councillor	Inconsistent with section 27(3) re post office box not allowed.	Amend to make consistent with section 27(3), namely, exclude the use of post office boxes.	Consistency.
28(2a) Publication of misleading material	LGA.	During the 2010 elections, the Electoral Commissioner found a number of candidates breached this section and they were requested to withdraw the offending material and publish a retraction in The Advertiser. However, the retractions, published as 'postage stamp' size entries in the back pages of the newspaper, were considered unsatisfactory.	Amend this section to require the publication of a retraction to be prominently placed in the early pages of The Advertiser and other local press.	Improves the retraction requirements.

LOCAL GOVERNMENT (ELECTIONS) ACT 1999 - TECHNICAL PROPOSALS

Section	Source	Problem	Proposal	Outcome
29(3) Ballot papers	ECSA.	Current time for drawing of lots for the order of candidates' names on the ballot paper for elections is 4pm and it is impractical: no need to wait till then.	Amend this section to allow for drawing of lots as soon as practicable after 12 noon. This amendment only recommended for supplementary elections. For periodic elections, the Returning Officer will require the timing to remain at 4pm so that the relevant checks can be undertaken to ensure that no candidate for an election has nominated for any other election throughout the State.	Practical improvement.
39(4) Issue of postal voting papers 43(4) Issue of fresh postal voting papers	ESCA	Currently, applications by post and in person not aligned.	To align the cut-off for both an application by post and in person to be that in paragraphs (a), namely by 5pm on the second business day before polling day.	Achieves consistency of cut-off for both applications by post and in person.
47 Arranging postal papers	ECSA.	Will be inconsistent with sections 6(8) and 9(6) if those provisions are amended as proposed.	Amend this section to remove the reference to the close of voting at 12 noon for an election or poll.	Makes consistent with other proposed amendments.

LOCAL GOVERNMENT (ELECTIONS) ACT 1999 - TECHNICAL PROPOSALS

Section	Source	Problem	Proposal	Outcome
48 Method of counting and provisional declarations	ECSA.	This section currently uses the method of distributing ballot papers in elections with single member vacancies: a time-consuming process.	Amend so that method is altered to the method used when conducting an optional preferential count.	Simplifies the process without any change to the result.
91A(8)(d) Conduct of council during election period	LGA. ECSA	This section caused confusion for election candidates/council staff at the last election, regarding the use of council resources during the election period for the advantage of a particular candidate/group of candidates. It is different from the other matters that form part of the definition of "designated decision". Removing this provision will allow councils to allow use of council resources for selected candidates/groups of candidates. It was intended to ensure that councils weren't providing assistance for some candidates over others.	Remove this section from the definition of a 'designated decision'. Have this provision somewhere else in the Act.	Councils can form a policy as to how council resources are used for candidates. Intention of the provision remains but is not a part of the definition of 'designated decision'.

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Kate McKenzie, Manager Governance
Director: Vincent Mifsud, Director
Subject: Section 270 Review – Phone Tower Kellett Reserve
Process for Review
Report Reference: GC101115R09

REPORT OBJECTIVES:

To advise Council of:

- The grievance received regarding the Council decision for the location of the telecommunications tower at Kellett Reserve.
- The process for managing the grievance and how the review will occur.

EXECUTIVE SUMMARY:

At its meeting of 13 October 2015, Council resolved to support the development of a telecommunications facility at Kellett Reserve, Morphettville Park Sports Club. Following this decision of Council, a complaint was received requesting that 'Council complete a full review of the process that has been undertaken by Council, as there were many mistakes'.

Section 270(1a)(b) of the *Local Government Act 1999* requires that Council must develop and maintain policies, practices and procedures for dealing with complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council. To comply with this section Council has adopted the Complaints and Grievance Policy which is available on the City of Marion website (www.marion.sa.gov.au)

This complaint and request for a review fits within the definition of a grievance within the Policy.

RECOMMENDATIONS (2)

DUE DATES

That Council:

- | | |
|---|----------------------|
| 1. Notes the process regarding the Section 270 review for the Council decision regarding the telecommunications tower at Kellett Reserve. | November 2015 |
| 2. Adopts option 1 or option 2 to undertake the Section 270 Review for the location of the telecommunication tower on Kellett Reserve | November 2015 |

BACKGROUND

The location of a telecommunication's tower at Morphetville/Glengowrie was first brought to Council's attention in March 2014 when Telstra applied for development approval to install a tower on the car yard located at 142 Morphet Road, Glengowrie. The community raised concerns about the location of the tower and a petition opposing the location was presented to Council at its meeting of 22 April 2014 with a total of 147 signatures.

Following this, the City of Marion worked with Telstra and the community to discuss and consider alternative sites for the telecommunications tower. Kellett Reserve was identified as an alternative site and at its meeting of 13 October 2015, Council resolved the following:

1. Support the development of a telecommunications facility at Kellett Reserve. That the new lease for Kellett reserve is adjusted accordingly from 1 July 2016 to accommodate this development. That the Morphetville Park Sports Club are invited to vary their current lease to accommodate the telecommunication facility.
2. That the funds from the commercial lease on Kellett Reserve are held in Trust by council for capital works for the Morphetville Parks Sports club's facility and the council delegate's authority to the CEO for the administration and allocation of these funds.
3. Council delegates authority to the CEO to negotiate and undertake any variations to the lease including any development plan variations that may be required to further mitigate the visual impact of the Telecommunications facility at Kellett Reserve.
4. That council notes case management support that is provided to the Morphetville Park Sports club will be focusing on various areas of support and if needed development including but limited to: strategic planning, prudent financial management, internal and external stakeholder management and governance best practice.
5. Having considered Agenda item Telecommunications Facilities Morphetville (GC131015R01) the Council, pursuant to Section 90(2) and (3)(h) of the Local Government Act 1999, the Council pursuant to 91(7) of that Act orders that Appendix 3 to this report be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed every twelve months in accordance with Council's Confidential Items review, commencing December 2015.

Directly following the Council decision, a grievance was received, requesting that a full review of the process be undertaken, '*as there were many mistakes*'. It is alleged that these mistakes have ultimately lead Council to decide to put the phone tower at Kellett Reserve.

ANALYSIS

In accordance with the Policy, once a grievance has been received, the following process will occur:

1. An unresolved grievance will be received by the Manager Governance for investigation.
2. The Manager Governance will assess, investigate and review the decision and then refer the outcomes to Council for consideration.
3. If the complainant is satisfied with the review, it will conclude the matter. If the complainant is not satisfied with the review, the complainant can refer the matter to the Ombudsman or relevant legal authority.

The principles of the Policy require that the grievance is dealt with in an efficient, fair and accessible manner to resolve the matter.

Process

For this review to take place, Council may consider the following options:

Option 1 - Panel investigations

Under the procedure, a review panel can be established consisting of key staff within the City of Marion who are independent from the original decision making process and/or were not involved in the preparation of information for the decision.

An alternative is to seek interest from other Council's staff with experience and skills in similar areas to form the panel (or part of the panel).

There would be no direct cost to this option as it would be completed through internal resources.

Option 2 – Council to appoint an independent person.

Council could appoint an independent person to complete the review. This option provides a level of independence as staff would not be involved in the review process. The person would be supported by the Manager Governance.

No quotes have been sourced but it would be anticipated that the review would be scoped between \$5,000 to \$10,000.

A selection of people who could complete the review can be circulated to elected members if this were the preferred method.

Investigation

The investigation process will include:

- Gathering data, reports and any other information regarding the matter
- Establishing a chronological timeline of events and decision making
- Reviewing the process and identifying any gaps or errors that may have occurred
- Identifying if these gaps/errors have impacted on Council's decision making
- Recommendations regarding upholding the original decision, or if an alternate decision should be considered
- Recommendations regarding opportunity for improvement
- A preliminary report will be provided to Council and the complainant for comment to ensure procedural fairness
- The final report will be reported to Council and provided to the complainant.

CONCLUSION:

The City of Marion is committed to dealing with grievance of this nature in an efficient and fair manner. It is recognised the importance of transparency in decision making and the need to provide a fair and objective process for the review of all decisions and actions.

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Kate McKenzie, Manager Governance
Director: Vincent Mifsud, Director
Subject: Section 270 Review – Reserve Street, Dog Park
Report Reference: GC101115R10

REPORT OBJECTIVES:

To advise Council of:

- The grievance received regarding the Council decision for the Reserve Street, Dog Park.
- The process for managing the grievance and how the review will occur.

EXECUTIVE SUMMARY:

At its meeting of 27 October 2015, Council resolved to adopt option 3 of the Reserve Street Reserve Dog Park (GC271015R12) report which stated that Council endorse (Option 3) Concept Plan that included \$226,419 development of a larger dog park to be delivered in full at one time with the additional funding of \$126,419 required to be sourced from identified savings, resulting from the 2014/15 financial year.

Following this decision of Council, a complaint was received requesting that '*a formal review of the process in regards to the Council's approval of the dog park enclosure at Trott Park*' be undertaken.

Section 270(1a)(b) of the Local Government Act 1999 requires that Council must develop and maintain policies, practices and procedures for dealing with complaints about the actions of the council, employees of the council, or other persons acting on behalf of the council. To comply with this section Council has adopted the Complaints and Grievance Policy which is available on the City of Marion website (www.marion.sa.gov.au)

This complaint and request for a review fits within the definition of a grievance within the Policy.

RECOMMENDATIONS (2)

DUE DATES

That Council:

- | | |
|---|----------------------|
| 1. Notes the process regarding the Section 270 review for the Council decision regarding the Reserve Street, Dog Park. | November 2015 |
| 2. Adopts option 1 or option 2 to undertake the Section 270 Review for the Reserve Street, Dog Park. | November 2015 |

BACKGROUND

In December 2014, Council resolved to enter into an agreement with the State Government to receive \$100,000 grant funding for the development of a dog park (fenced) in Trott Park.

At the commencement of the design development, an internal review of large open space sites within Trott Park/Sheidow Park was undertaken, this included:

- Hessing Crescent, Trott Park
- Reserve Street Reserve, Trott Park
- Nari Reserve, Sheidow Park

The site assessment resolved that the Reserve Street Reserve was the most appropriate location for the Dog Park (fenced) in Trott Park.

A draft Concept Plan was prepared for the site using the Dog and Cat Management Board Guideline 'Unleashed: A Guide to Successful Dog Parks'. The Concept Plan was limited to meeting only the essential items of the dog park (fenced) guidelines due to the budget constraints of \$100,000. The Draft Concept Plan was presented to the community for feedback in May 2015.

Following this, a report was presented to the 27 October 2015 Council Meeting presenting three options being:

- Option 1 – \$100,000 development of a dog park
- Option 2 – \$255,394 development of a larger dog park in two stages. Stage one \$100,000 to commence immediately. Stage two (\$155,394) to be referred to the strategic prioritisation process for further consideration.
- Option 3 – \$226,419 development of a larger dog park to be delivered in full at one time with the additional funding of \$126,419 required to be sourced from identified savings, resulting from the 2014/15 financial year.

A deputation was received at this meeting from Ms Michelle Dyer opposing the location of the Dog Park.

At the meeting, Council then resolved the following:

1. Endorse (Option 3) Reserve Street Reserve Dog Park Concept Plan.
2. Declare the area within the Concept Plan (Option 3) as a designated dog exercise area – dog park (fenced) under By Law No. 4 – Dogs
3. Allocate funding as a recurrent operating budget in the LTFP to cover the annual operating costs for the ongoing maintenance of the Dog Park as per Attachment 4.
4. Endorse the development of (Option 3) Reserve Street Reserve Dog Park for Detailed Design and Construction.

The Mayor sought and was granted leave of the meeting to include a description of option 3 in the minutes as follows:

Option 3 - \$226,419 development of a larger dog park to be delivered in full at one time with the additional funding of \$126,419 required to be sourced from identified savings, resulting from the 2014/15 financial year.

Directly following the Council decision, a grievance was received, requesting that a full review of the process be undertaken as there was 'massive flaw in the process and its unfairness'. It is alleged that these mistakes have ultimately lead Council to decide to put the dog park at this location when an alternative site should have been investigated.

ANALYSIS

In accordance with the Policy, once a grievance has been received, the following process will occur:

1. An unresolved grievance will be received by the Manager Governance for investigation.
2. The Manager Governance will assess, investigate and review the decision and then refer the outcomes to Council for consideration.
3. If the complainant is satisfied with the review, it will conclude the matter. If the complainant is not satisfied with the review, the complainant can refer the matter to the Ombudsman or relevant legal authority.

The principles of the Policy require that the grievance is dealt with in an efficient, fair and accessible manner to resolve the matter.

Process

For this review to take place, Council may consider the following options:

Option 1 - Panel investigations

Under the procedure, a review panel can be established consisting of key staff within the City of Marion who are independent from the original decision making process and/or were not involved in the preparation of information for the decision.

An alternative is to seek interest from other Council's staff with experience and skills in similar areas to form the panel (or part of the panel).

There would be no direct cost to this option as it would be completed through internal resources.

Option 2 – Council to appoint an independent person.

Council could appoint an independent person to complete the review. This option provides a level of independence as staff would not be involved in the review process. The person would be supported by the Manager Governance.

No quotes have been sourced but it would be anticipated that the review would be scoped between \$5,000 to \$10,000.

A selection of people who could complete the review can be circulated to elected members if this were the preferred method.

Investigation

The investigation process will include:

- Gathering data, reports and any other information regarding the matter
- Establishing a chronological timeline of events and decision making
- Reviewing the process and identifying any gaps or errors that may have occurred
- Identifying if these gaps/errors have impacted on Council's decision making
- Recommendations regarding upholding the original decision, or if an alternate decision should be considered
- Recommendations regarding opportunity for improvement
- A preliminary report will be provided to Council and the complainant for comment to ensure procedural fairness
- The final report will be reported to Council and provided to the complainant.

CONCLUSION:

The City of Marion is committed to dealing with grievance of this nature in an efficient and fair manner. It is recognised the importance of transparency in decision making and the need to provide a fair and objective process for the review of all decisions and actions.

**CITY OF MARION
GENERAL COUNCIL MEETING
10 NOVEMBER 2015**

Notice Received from: Councillor Jerome Appleby
Subject: Legal Fees
Ref No: GC101115M01
File No: 9.24.1.4 & 9.33.3.20

MOTION:

That Administration provide a report on the engagement of lawyers and their fees and include:

- Which law firms/ lawyers are used for different issues? Eg. planning, employment etc.
- What is the hourly rate or retainer in each case?
- How were the lawyers chosen? To what extent are lawyers selected on the basis of who staff feel comfortable consulting?
- What is the breakdown of lawyers selected from the panel relative to those who are not?
- Is there a database in any sense of legal advice received?
- Are there budgets ever imposed for legal matters? Is there a threshold legal expenditure figure at which matters are referred to the elected body?
- Evaluation of the practicality and value of sharing legal opinions (or extracts) with other councils on common issues, including at least the G6.
- Evaluation of the value of employing one or more lawyers, not necessarily fulltime.

COMMENTS: Councillor Appleby

Nil

COMMENTS: Kate McKenzie, Manager Governance

A report can be prepared and brought to Council regarding the above information. It is proposed that this be present to the first Council Meeting in 2016. Please note that commercial information (i.e. hourly rates and retainers) will either need to be presented in a manner that does not identify the firm or provided to Council in confidence.

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Notice Received from: Councillor Bruce Hull

Subject: Oaklands Estate Reserve Toilet Block

Ref No: GC101115M02

File No: 9.24.1.4 & 9.33.3.27

MOTION:

That the old brick toilet block in the grounds of the Oaklands Estate Reserve be condemned and closed immediately, that temporary toilets be made available for the visiting public until such time as a more suitable permanent toilet block is built on the site

COMMENTS: Councillor Hull

After receiving on going reports (and my own observations just today) of men liaising at this toilet block and the adverse public perception of their safety at this site, the time has come to say enough! Visitors to this magnificent reserve should feel reasonably confident that they do not have to approach this amenity with trepidation in that they may be intruding on other peoples sexual activities. Inherently there is the inconvenience to the public in that the cubical is "occupied" unnecessarily. To be frank, these men should "get a room" and stay out of our public conveniences. The provision of modern toilets at this site will go a long way to resolving this issue.

COMMENTS: Fiona Harvey, Manager Innovation and Strategy

Community Safety

Through the development of the planning for the Oaklands Estate Reserve, contact was made with the Sturt Police in regard to the community feedback received in relation to the undesirable activities occurring at the toilet block at the site.

Crime Prevention staff at SAPOL's Sturt Local Service Area Station have confirmed that the toilet block is and has for some time been known as a meeting location for sexual activity.

They recommend that should there be a toilet block on site in the future and that it be one that considers Crime Prevention through Environmental Design (CPTED) principles.

Should the toilet be replaced, this advice would be in line with Council's preferred toilet model, the Exeloo toilet which features high visibility at the entrance, no space for loitering or group gatherings, can be automatically closed at night times, and has timed occupation to

ensure that the door opens after a preset time ensuring the facility is available for use by all genuine public toilet users.

Broader Oaklands Estate Reserve

Following Council's decision to reconsider the location of the Inclusive Playspace from Oaklands Estate Reserve to Hendrie Street Reserve, the future of the remaining elements of the Oaklands Estate Reserve, playspace, associated facilities (including the toilet), park furniture, biodiversity area, duckpond, Japanese garden and vineyard are subject to further consideration.

The future of the roundhouse building is yet to be finalised with Council to consider options following clarification in relation to terms of dedication of the land upon which the building lies. Council has written to the Minister for Sustainability, Environment and Conservation regarding reconsideration of the terms of the dedication of the Roundhouse in Oaklands Park.

This Oakland Estate Reserve and P layspace initiative is currently on Council's unfunded/unprioritised items list. Council has requested a workshop/forum discussion on this initiative as part of its Strategic Prioritisation Process. In line with the Council's Asset Management Policy, no progress on this initiative will progress until Council has resolved to do so.

Toilet / Site Management Options

There are several options available for management of the toilet facilities for consideration which are detailed below. It is recommended should Council wish to address the issues with the toilet block at Oaklands Estate Reserve that a further report be developed for Council. The report will provide full costings for the following options and can be brought back to Council at the 8 December 2015 General Council meeting.

1. Leave the toilet block as is for the time being.

It is clear that consideration of the future of the toilet facility is needed. This option is a temporary measure and provides Council an opportunity to plan and consult for the broader reserve facilities at one time and potentially implement eventual plans for the reserve in stages with the toilet facility being a high priority.

It is envisaged that the broader planning and consultation required for this would not be able to commence until 2016/17 given other high priority projects, and would require necessary resources allocated to the planning and design as well as any capital expenditure associated with this project.

2. a) Close the toilet block without demolishing and replace with temporary toilets.
b) Demolish the existing toilet block and replace with temporary toilets

It is envisaged that closing and/or demolishing the toilets and replacing with temporary toilets would not necessarily prevent some of the issues being experienced at the site currently and any temporary infrastructure would be subject to vandalism and misuse.

3. Demolish the existing toilet block without replacement.

This would be an option that would dissuade the site issues and activities experienced however would not likely meet community needs in the reserve near the existing play space. There is however a toilet onsite that can be accessed at the Recreation Plaza approximately 500 metres away.

4. Demolish the existing toilet block and replace with an Exeloo facility.

If Council wishes to demolish the existing toilet block and replace with an Exeloo there are two possibilities.

The first would be to replace with a new Exeloo facility.

The second option is to investigate the relocation of one of two existing Exeloo toilet facilities currently located at Hendrie Street Reserve. With the planning for the Inclusive Playspace taking place at the moment, the future of the location of the inclusive toilet facility requirements for the new Playspace are currently being considered. It is envisaged that the Inclusive Playspace toilet facility requirements will necessitate a new facility with appropriate and additional provisions such as an adult change table providing the opportunity to consider the relocation of one of the current toilet facilities at Hendrie Reserve to Oaklands Estate Reserve.

Funding/Resources

In line with the Asset Management Policy and Framework these works are 'new' or 'upgrade' works, and therefore there is currently no budget allocated through Council resolution for the Oaklands Estate Reserve, toilet, playspace or roundhouse building works. Consideration of whole of life costs and resource requirements is also required.

The options outlined in respect to the toilet facility would require funding and range from \$0 (option 1) through to approximately \$180,000 including demolition of the existing toilet and connection to services (option 4).

Community Consultation Requirements

It is currently unclear what the community aspirations are for the future provision of a toilet facility within the reserve however it is likely that should a playspace remain and be upgraded at this popular regional reserve, a toilet facility would be requested and the provision of one is in line with the reserve's hierarchy within Councils' open space network and level of use.

It is expected that there would need to be a level of consultation/communication with surrounding residents, any key stakeholder groups ie residents association and users of the park in respect to any plans for the toilet going forward.

CONFIDENTIAL REPORT

REPORT RELATING TO: A leader in the delivery of the Community Vision

Originating Officer: John Valentine, Manager Strategic Projects
Corporate Manager: John Valentine, Manager Strategic Projects
Director: Vincent Mifsud
Subject: Former Hallett Cove Library and Youth Services Building
Reference No: GC101115F01
File No: 13.60.1.1

If the Council so determines, this matter may be considered in confidence under Section 90(3)(b) and (d) of the *Local Government Act 1999* on the grounds that the report contains information relating to a matter that could confer a commercial advantage to a third party and is of a commercial nature.



Adrian Skull
Chief Executive Officer

RECOMMENDATION:

1. That pursuant to Section 90(2) and (3)(b) and (d) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Kathy Jarrett, Vincent Mifsud, Fiona Harvey, Kate McKenzie, Victoria Moritz, John Valentine and Craig Clarke be excluded from the meeting as the Council receives and considers information relating to the disposal of the former Hallett Cove Library (and Youth Services) building, and the appointment of commercial agent, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to a matter that could confer a commercial advantage to a third party and is of a commercial nature.

CONFIDENTIAL REPORT

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Kathy Jarrett, Director
Subject: DAP Code of Conduct Complaint
Ref No: GC101115F02

If the Council so determines, this matter may be considered in confidence under Sections 90(2) and (3)(a) of the Local Government Act 1999 on the grounds that it relates to matters that may affect personal affairs of a person living or dead.



Adrian Skull
Chief Executive Officer

1. Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following [Adrian Skull, Chief Executive Officer; Vincent Mifsud Director; Abby Dickson, Acting Director; Kate McKenzie, Manager Governance; Craig Clark, Unit Manager Communications; and Victoria Moritz, Governance Officer], be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider information pertaining to Code of Conduct for Council Members issues.

CONFIDENTIAL REPORT

**CITY OF MARION
GENERAL COUNCIL MEETING
10 November 2015**

Originating Officer: Adrian Skull, Chief Executive Officer

Subject: Code of Conduct Complaint

Ref No: GC101115F03

If the Council so determines, this matter may be considered in confidence under Sections 90(2) and (3)(a) of the Local Government Act 1999 on the grounds that it relates to matters that may affect personal affairs of a person living or dead.



Adrian Skull
Chief Executive Officer

1. Pursuant to Section 90(2) and (3)(a) of the Local Government Act 1999 the Council orders that all persons present, with the exception of the following [Adrian Skull, Vincent Mifsud, Abby Dickson, Kate McKenzie, Victoria Moritz and Craig Clark], be excluded from the meeting as the Council considers that the requirement for the meeting to be conducted in a place open to the public has been outweighed in circumstances where the Council will receive and consider information pertaining to Code of Conduct for Council Members issues.