

## APPENDIX 15

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

#### **NOTES**

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

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

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

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

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

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

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

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

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

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

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| 2.1.2.1   | the Council;  |
| 2.1.2.2   | the area of the Council;  |
| 2.1.3     | alter the name of a ward.   |
| 2.2       | The duty, pursuant to Section 13(2) of the Act, to, before publishing a notice, comply with the following requirements:   |
| 2.2.1     | to give public notice of the proposal and invite any interested persons to make written submissions on the matter within a specified period, being no less than six weeks;  |
| 2.2.2     | publish the notice in a newspaper circulating within the area; and  |
| 2.2.3     | give any person who makes written submissions in response to the invitation an opportunity to appear personally or by representative before the Council, Council committee or the Delegate and be heard on those submissions. |
| <b>3.</b> | <b>Deliberately left blank</b>  |
|           | Deliberately left blank   |
| <b>4.</b> | <b>Deliberately left blank</b>  |
|           | Deliberately left blank   |
| <b>5.</b> | <b>Council Initiated Proposal</b>   |
| 5.1       | Deliberately left blank   |
| 5.2       | Deliberately left blank   |
| 5.2.1     | Deliberately left blank   |
| 5.2.2     | Deliberately left blank   |
| 5.2.3     | Deliberately left blank   |
| 5.2.4     | Deliberately left blank   |
| 5.3       | Deliberately left blank   |
| 5.3.1     | Deliberately left blank   |
| 5.3.2     | Deliberately left blank   |
| <b>6.</b> | <b>Commission to Receive Proposals</b>  |

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

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

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

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| required.  |
| <b>9. Committees</b>   |
| 9.1 The power pursuant to Section 41(1) and (2) of the Act to establish committees.  |
| 9.2 The power pursuant to Section 41(3) of the Act to determine the membership of a committee.   |
| 9.3 The power pursuant to Section 41(4) of the Act to appoint a person as a presiding member of a committee, or to make provision for the appointment of a presiding member.   |
| 9.4 The power pursuant to Section 41(6) of the Act to appoint the principal member of the Council as an ex officio member of a committee.  |
| 9.5 The power and duty pursuant to Section 41(8) of the Act, to, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.  |
| <b>10. Delegations</b>   |
| 10.1 The duty pursuant to Section 44(6) of the Act to cause a separate record to be kept of all delegations under the Act.   |
| 10.2 The duty pursuant to Section 44(7) of the Act to make available the record of delegations for inspection (without charge) by the public at the principal office of the Council during ordinary office hours.  |
| <b>11. Principal Office</b>  |
| 11.1 The duty pursuant to Section 45(1) of the Act to nominate a place as the principal office of the Council for the purposes of the Act.   |
| 11.2 The power and duty pursuant to Section 45(2) of the Act to determine the hours the principal office of the Council will be open to the public for the transaction of business and the duty to keep the principal office of Council open to the public for the transaction of business during hours determined by the Delegate or the Council. |
| 11.3 The power pursuant to Section 45(3) of the Act to consult with the local community in accordance with Council's public consultation policy about the manner, places and times at which the Council's offices will be open to the public for the transaction of business and about any significant changes to those arrangements.              |
| <b>12. Commercial Activities</b>   |

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

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| 12.1  | Subject to the Act, the power pursuant to Section 46(1) of the Act to, in the performance of the Council's functions, engage in a commercial activity or enterprise ('a commercial project').  |
| 12.2  | The power pursuant to Section 46 (2) of the Act, to, in connection with a commercial project:  |
| 12.2.1  | establish a business;  |
| 12.2.2  | participate in a joint venture, trust, partnership or other similar body.  |
| <b>13. Interests in Companies</b>                         |  |
| 13.1  | The power pursuant to Section 47(2)(b) of the Act to participate in the formation of, or to become a member of a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.     |
| <b>14. Prudential Requirements for Certain Activities</b> |  |
| 14.00   | The power and duty pursuant to Section 48(aa1) of the Act and in accordance with Section 48(a1) of the Act, to develop and maintain prudential management policies, practices and procedures for the assessment of projects to ensure that the Council -                               |
| 14.00.1   | acts with due care, diligence and foresight; and   |
| 14.00.2   | identifies and manages risks associated with a project; and  |
| 14.00.3   | makes informed decisions; and  |
| 14.00.4   | is accountable for the use of Council and other public resources.  |
| 14.0  | The duty pursuant to Section 48(a1) of the Act to ensure the prudential management policies, practices and procedures developed by the Council for the purposes of Section 48(aa1) of the Act, are consistent with any regulations made for the purposes of Section 48(a1) of the Act. |
| 14.1  | Without limiting Section 48(aa1) of the Act, the power and duty pursuant to Section 48(1) of the Act to obtain and consider a report, that addresses the prudential issues set out at Section 48(2) of the Act, before the Council:  |
| 14.1.1  | Deliberately left blank.   |



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

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

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

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

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

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| 16.3.1                             | the publication of a notice:  |
| 16.3.1.1                           | in a newspaper circulating within the area of the Council; and  |
| 16.3.1.2                           | on a website determined by the Chief Executive Officer,   |
|                                    | describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and                                  |
| 16.3.2                             | the consideration of any submissions made in response to that invitation.   |
| 16.4                               | The power pursuant to Section 50(5) of the Act, to, from time to time, alter the Council's public consultation policy, or substitute a new policy.  |
| 16.5                               | Before the Council or the Delegate adopts a public consultation policy or alters, or substitutes a public consultation policy, the duty pursuant to Section 50(6) of the Act to:  |
| 16.5.1                             | prepare a document that sets out its proposal in relation to the matter; and  |
| 16.5.2                             | publish in a newspaper circulating within the area of the Council, a notice of the proposal inviting interested persons to make submissions on the proposal within a period stated in the notice, which must be at least one month; |
| 16.5.3                             | consider any submissions made in response to an invitation made under Section 50(6)(d) of the Act.  |
| 16.6                               | The power pursuant to Section 50(7) of the Act to determine if the alteration of a public consultation policy is of minor significance that would attract little or no community interest.  |
| 16.7                               | The duty pursuant to Section 50(8) of the Act to ensure the public consultation policy is available for inspection (without charge) at the principal office of Council during ordinary office hours.                                |
| <b>17. Deliberately left blank</b> |   |
| 17.1                               | Deliberately left blank   |
| 17.2                               | Deliberately left blank   |
| 17.3                               | Deliberately left blank   |

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

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

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

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| 22.3   | The power pursuant to Section 80A(3) of the Act to, from time to time, alter the Council's training and development policy or substitute a new policy.  |
| 22.4   | The duty pursuant to Section 80A(4) and (5) of the Act to make available the training and development policy for inspection (without charge) at the principal office of the Council during ordinary office hours and for purchase (on payment of a fee fixed by the Council).             |
| <b>23. Committee Meetings</b>  |   |
| 23.1   | The power pursuant to Section 87(1) of the Act and in accordance with Section 87(2) of the Act to determine the times and places of ordinary meetings of Council committees.  |
| 23.2   | The duty pursuant to Section 87(2) of the Act in appointing a time for the holding of an ordinary meeting of a Council committee to take into account:  |
| 23.2.1   | the availability and convenience of members of the committee;<br>and  |
| 23.2.2   | the nature and purpose of the committee.  |
| <b>24. Meetings To Be Held in Public Except in Special Circumstances</b> |   |
| 24.1   | The duty pursuant to Section 90(7) of the Act to make a note in the minutes of the making of an order under Section 90(2) of the Act and the grounds on which it was made.  |
| 24.2   | The power pursuant to Section 90(8a)(a) of the Act to adopt a policy on the holding of informal gatherings or discussions subject to Section 90(8b) of the Act.   |
| 24.3   | The power pursuant to Section 90(8c) of the Act, to, from time to time, alter the Council's policy or substitute a new policy.  |
| <b>25. Minutes and Release of Documents</b>                              |   |
| 25.1   | The duty pursuant to Section 91(3) to supply each member of the Council with a copy of all minutes of the proceedings of the Council or Council committee meeting, within 5 days after that meeting.  |
| 25.2   | Subject to Section 91(7), the duty pursuant to Section 91(4) of the Act to place a copy of the minutes of a meeting of the Council on public display in the principal office of the Council within 5 days after the meeting and to keep those minutes on display for a period of 1 month. |
| 25.3   | Subject to Section 91(7) of the Act, the duty pursuant to Section 91(5)   |

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

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

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

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

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

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



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

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

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

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| present financial and other information; and   |
| 35.1.2.2 the financial statements of the Council to be conveniently and properly audited.  |
| 35.2 The power pursuant to Section 124(2) to determine the form or forms and the place or places (within the state) to keep the accounting records of the Council.   |
| <b>36. Internal Control Policies</b>   |
| 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. |
| <b>37. Audit Committee</b>   |
| 37.1 The power and duty pursuant to Section 126(1) of the Act to appoint an audit committee in accordance with Section 126(2) of the Act.  |
| 37.2 If an audit committee is appointed by the Delegate or the Council, the power to determine the membership of any audit committee in accordance with Section 126(2) of the Act.   |
| <b>38. Financial Statements</b>  |
| 38.1 The duty pursuant to Section 127(1) of the Act to prepare for each financial year:  |
| 38.1.1 financial statements and notes in accordance with standards prescribed by the regulations; and  |
| 38.1.2 other statements and documentation referring to the financial affairs of the Council required by the Regulations.   |
| 38.2 The duty pursuant to Section 127(2) of the Act to ensure that the financial statements prepared for the Council pursuant to Section 127(1) of the Act:  |
| 38.2.1 are prepared as soon as is reasonably practicable after the end of the relevant financial year and in any event before the day prescribed by the Regulations; and   |
| 38.2.2 comply with standards and principles prescribed by the Regulations; and   |

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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| <p>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.</p>   |
| <p><b>54. Land Against Which Rates May be Assessed</b></p>  |
| <p>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.</p>  |
| <p><b>55. Basis of Rating</b></p>   |
| <p>55.1 Before the Council:</p>   |
| <p>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</p>   |
| <p>55.1.2 changes the basis on which land is valued for the purposes of rating; or</p>  |
| <p>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;</p>   |
| <p>the power and duty pursuant to Section 151(5)(d) and (e) of the Act to:</p>  |
| <p>55.1.4 prepare a report on the proposed change in accordance with Section 151(6) of the Act; and</p>   |
| <p>55.1.5 follow the relevant steps set out in its public consultation policy in accordance with Section 151(7) of the Act.</p>   |
| <p>55.2 The duty pursuant to Section 151(8) of the Act to ensure that copies of the report required under Section 151(5)(d) of the Act are available at the meeting held under Section 151(7)(a)(i) of the Act, and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.</p> |
| <p><b>56. General Rates</b></p>   |
| <p>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.</p>   |

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

**57. Service Rates and Service Charges**

57.1 The duty pursuant to Section 155(6) of the Act, subject to Section 155(7) of the Act, to apply any amounts held in a reserve established in connection with the operation of Section 155(5) of the Act for purposes associated with improving or replacing Council assets for the purposes of the relevant prescribed service.

57.2 The power pursuant to Section 155(7) of the Act, if a prescribed service under Section 155(6) of the Act is, or is to be, discontinued, to apply any excess funds held by the Council for the purposes of the service (after taking into account any expenses incurred or to be incurred in connection with the prescribed service) for another purpose specifically identified in the Council's annual business plan as being the purpose for which the funds will now be applied.

**58. Basis of Differential Rates**

58.1 The power pursuant to Section 156(3), (9), (10), (11) of the Act to attribute the use of the land for any basis for a differential rate and to decide objections to any of those attributions.

58.2 The power and duty pursuant to Section 156(14a) of the Act, before the Council changes from declaring differential rates in relation to any land on the basis of a differentiating factor under either paragraphs (a), (b) or (c) of Section 156(1) of the Act to a differentiating factor under another of those paragraphs, to -

58.2.1 prepare a report on the proposed change in accordance with Section 156(14b) of the Act; and

58.2.2 follow the relevant steps set out in its public consultation policy in accordance with Section 156(14d) of the Act.

58.3 The duty pursuant to Section 156(14e) of the Act to ensure that copies of the report required under Section 156(14a)(a) of the Act are available at the meeting held under Section 156(14d)(a)(i); and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for public consultation.

**59. Notice of Differentiating Factors**

59.1 If the Council declares differential rates, the duty pursuant to Section 157 of the Act in each rates notice, to specify the differentiating factor or combination of factors that governs the calculation of rates on the land to which the account relates.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

to return property found in the vehicle, and where the property cannot be returned, the duty to deal with the property as unclaimed goods under the Unclaimed Goods Act 1987 as if the Council were the bailee of those goods.

**121. Time Limits for Dealing with Certain Applications**

121.1 Where the power to decide upon certain applications to which the Section applies has been delegated, the duty pursuant to Section 242(1) and (2) of the Act within two months after the relevant date, to make a decision in respect of the application and, if not so decided, it is taken to have been refused.

121.2 The duty pursuant to Section 242(3) of the Act to notify the applicant in writing as soon as practicable of a decision or presumptive decision on an application to which Section 242 of the Act applies.

**122. Registrar-General to Issue Certificate of Title**

122.1 The duty pursuant to Section 243(1) of the Act to apply to the Registrar-General for the issue of a Certificate of Title for the land under the Real Property Act 1896, where land vests for an estate in fee simple in the Council under this Act.

122.2 The duty pursuant to Section 243(2) of the Act to make such application to the Registrar-General for the issue of a Certificate of Title as follows:

122.2.1 in a manner and form approved by the Registrar-General; and

122.2.2 accompanied by:

122.2.2.1 Deliberately left blank

122.2.2.2 any surveys of the land and other materials that the Registrar-General may reasonably require; and

122.2.2.3 a fee fixed by the Registrar-General.

**123. Liability for Injury, Damage or Loss Caused by Certain Trees**

123.1 The power and duty pursuant to Section 245 of the Act to take reasonable action in response to a written request by an owner or occupier of property adjacent to a road for the Council to take reasonable action to avert a risk of damage to property of the owner or occupier from a tree growing in the road (whether planted by the Council or not).

**124. Council May Require Bond or Other Security in Certain Circumstances**

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

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

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

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

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

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

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

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

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

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| <p>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.</p>   |
| <p>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:</p>                               |
| <p>132.4.1 the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and</p>   |
| <p>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.</p>   |
| <p><b>133. Councils to Develop Policies</b></p>  |
| <p>133.1 The power and duty pursuant to Section 259(1) of the Act to take reasonable steps to prepare and adopt policies concerning the operation of Part 2 of Chapter 12 of the Act.</p>  |
| <p>133.2 The power and duty pursuant to Section 259(2) of the Act to:</p>  |
| <p>132.2.1 prepare a draft of a Policy; and</p>  |
| <p>133.2.2 by notice in a newspaper circulating in the area of the Council, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the Council or the Delegate (being at least four weeks).</p> |
| <p>133.3 The duty pursuant to Section 259(3) of the Act to consider any submission made on a proposed policy in response to an invitation under Section 259(2) of the Act.</p>   |
| <p>133.4 The power pursuant to Section 259(4) of the Act to amend a policy at any time.</p>  |
| <p>133.5 The duty pursuant to Section 259(5) of the Act before adopting an amendment to a policy, to take the steps specified in Section 259(2) and (3) (as if the amendment were a new policy), unless the Council or the Delegate determines the amendment is only of minor significance.</p>  |

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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| a register of building upgrade agreements in accordance with Clause 13(2) of Schedule 1B of the Act. |
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| 164.2 The power pursuant to Clause 13(3) of Schedule 1B of the Act to make available the register for inspection (without charge) by a member of the public at the principal office of the Council during ordinary office hours and to provide a person with an extract from the register (without charge). |
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**INSTRUMENT OF DELEGATION UNDER THE LOCAL GOVERNMENT ACT 1999**

**SCHEDULE OF CONDITIONS**

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

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

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