

DISTRICT COUNCIL OF KAROONDA EAST MURRAY
Delegation of Powers and Functions of the Council under the Local Government Act
1999

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In exercise of the powers contained in Section 44 of the Local Government Act 1999 the following powers, functions and duties under the Local Government Act 1999 (“the Act”) are delegated this 12th day of September 2006 to the person occupying the office of the Chief Executive Officer (“the CEO”) of the Council:

1. Review of Representation

In circumstances where the Council seeks to determine whether its community would benefit from an alteration to its composition or ward structure pursuant to Section 12 of the Local Government Act 1999 (“the Act”)

- 1.1 The duty pursuant to Section 12(3) of the Act to conduct and complete a review under Section 12 of the Act to enable the Council to make such a determination,
- 1.2 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 every eight years,
- 1.3 The power pursuant to Section 12(4a) of the Act to consult with the Electoral Commissioner as to the period in which the Council must complete the first comprehensive review under Section 12(4).
- 1.4 The duty pursuant to Section 12(4a) of the Act to complete the first comprehensive review under Section 12(4) within the period specified by the Electoral Commissioner.
- 1.5 On completion of the review, the power to prepare a report on the following matters -
 - (a) the public consultation undertaken by the Council; and
 - (b) any proposals which should be carried into effect; and
 - (c) the reasons for any decision to not carry into effect a proposal considered during, or arising out of, the public consultation; and
 - (d) (insofar as is relevant to the subject matter of the proposal) the principles in Section 26 and the matters referred to in Section 33 of the Act,pursuant to Section 12 (7) and (8).
- 1.6 The duty to make copies of the report available for public inspection at the principal office of the Council and to give public notice and notice in a newspaper circulating in its area and to inform the public of the completion of the report and to invite interested persons to make written submissions to the Council on the report within a period specified being not less than 3 weeks pursuant to Section 12(9).

- 1.7 The power and duty to give any person who makes written submissions in response to an invitation under Section 12(9), an opportunity to appear personally or by representative before the Council or a Council committee and to be heard on those submissions, pursuant to Section 12(10).
 - 1.8 The power to finalise the report after all the requirements of Section 12 have been satisfied pursuant to Section 12(11).
 - 1.9 The power and duty to refer the report to the Electoral Commissioner, pursuant Section 12(12)
 - 1.10 The power to provide by notice in the *Gazette*, for the operation of any proposal that is recommended in the report, where a certificate is given by the Electoral Commissioner, pursuant to Section 12(15)(b).
 - 1.11 The power and duty to take such action as is appropriate in the circumstances where the matter is referred back to the Council by the Electoral Commissioner and then to further report to the Electoral Commissioner, pursuant to Section 12(16).
 - 1.12 Where the Council makes an alteration to its report under Section 12(16)(a), the power and duty to comply with the requirements of Section 12(9) and (10) as if the report, as altered, constituted a new report, unless the CEO determines the alteration is of a minor nature only, pursuant to Section 12(17).
 - 1.13 The power to undertake a review of ward representation 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%, pursuant to Section 12(24).
2. Status of a Council or Change of Various Names
- In circumstances where the Council wishes to alter its status or to change the name of the Council and/or its area or of a ward the power to publish relevant notices in the *Gazette* as required under Section 13 of the Act;
3. Boundary Adjustment
- 3.1 The power to give the Boundary Adjustment Facilitation Panel (“the Panel”) use of the services, facilities or staff of the Council, pursuant to Section 21(4)(b).
 - 3.2 The power to cooperate with the Panel in the formulation, development and implementation of proposals and submissions under Chapter 3 of the Local Government Act, pursuant to Section 22(b).
 - 3.3 The power to submit to the Panel a proposal for the making of a proclamation under Chapter 3, pursuant to Section 27(1).
 - 3.4 The power and duty to ensure that any proposal submitted to the Panel includes:
 - (a) the general terms of the nature of the proposal; and
 - (b) an examination of the effect of the proposal to the extent required by the Panel for the purposes of this Section; and

- (c) submissions by all Councils affected by the proposal where the proposal relates to more than the Council; and
- (d) compliance with requirements published by the Panel, pursuant to Section 27(2).

3.5 Where the Council is affected by a public initiated proposal under Chapter 3 of the Act, the duty to ensure that copies of the summary prepared by the Panel are made available for public inspection at the principal office of the Council and distributed to electors in accordance with the directions of the Panel, pursuant to Section 28(23)(f) and (g).

4. Council to be a Body Corporate

4.1 The power 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, pursuant to Section 36(1)(c).

4.2 The power to act outside the Council's area –

(a) to the extent considered by the CEO to be necessary or expedient to the performance of the Council's functions; or

(b) in order to provide services to an unincorporated area of the State, pursuant to Section 36 (2).

4.3 The duty to take reasonable steps to separate the Council's regulatory activities from its other activities in the arrangement of its affairs, pursuant to Section 36(3) of the Act.

4.4 The power to enter into contracts or to authorise another officer, employee or agent of the Council to enter into contracts, on behalf of the Council, where the common seal of the Council is not required, pursuant to Section 37(b).

5. Delegations by Council

5.1 The duty to cause a separate record to be kept of all delegations under the Act, pursuant to Section 44(6) of the Act.

5.2 The duty to make available the record of delegations for inspection by the public at the principal office of the Council during ordinary office hours, pursuant to Section 44(7) of the Act.

6. Principal Office

6.1 The power and duty to nominate a place as the principal office of the Council for the purposes of the Act, pursuant to Section 45(1).

6.2 The duty to keep the principal office of Council open to the public for the transaction of business during hours determined, pursuant to Section 45(2).

6.3 The power 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, pursuant to Section 45(3) of the Act.

7. Contracts and Tender Policies

7.1 The power to prepare policies on contracts and tenders, including policies on the following:

- (a) the contracting out of services; and
- (b) competitive tendering and the use of other measures to ensure that services are delivered cost effectively; and
- (c) the use of local goods and services; and
- (d) the sale or disposal of land or other assets,
pursuant to Section 49(1).

7.2 The power and duty to ensure that policies on contracts and tenders -

- (a) 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
- (b) provide a fair and transparent process for calling tenders and entering into contracts in those circumstances; and
- (c) provide for the recording of reasons for entering into contracts other than those resulting from the tender process, pursuant to Section 49(2).

7.3 The duty to make available a policy adopted under this Section for inspection at the principal office of Council during office hours (without charge), pursuant to Section 49(4).

8. Public Consultation Policies

8.1 The power to prepare a Public Consultation Policy which sets out the steps the Council will follow in cases where this Act requires the Council to follow its Public Consultation Policy and to set out the steps Council will follow in other cases involving Council decision making, pursuant to Section 50(1) and (2).

8.2 The duty to provide interested persons with a reasonable opportunity 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, pursuant to Section 50(3).

8.3 The duty to ensure that the Public Consultation Policy in cases where the Act requires the Policy to be followed provides for:

- (a) publication in a newspaper circulating within the area of a notice describing the matter under consideration and inviting interested persons to make submissions in relation to the matter within a period stated which is not less than 21 days;
 - (b) the consideration of any submissions made in response to that invitation;
- pursuant to Section 50(4).

8.4 Before the Council adopts a public consultation policy or alters, or substitutes a public consultation policy, the power and duty to -

- (a) prepare a document that sets out its proposal in relation to the matter; and
- (b) publish in a newspaper circulating generally throughout the State and in a newspaper circulating within the area of the Council, a notice of the proposal inviting interested persons to make submissions on the proposal within a period stated in the notice, which must be at least one month.

8.5 The power to determine if the alteration of a Public Consultation Policy is of minor significance that would attract little or no community interest, pursuant to Section 50(7).

8.6 The duty to ensure the Public Consultation Policy is available for inspection (without charge) at the principal office of Council during ordinary office hours, pursuant to Section 50(8).

9. Code of Conduct of Councillors

9.1 The power and duty to prepare a code of conduct to be observed by the members of Council, pursuant to Section 63(1).

9.2 Within 12 months after each general election of the Council, the power and duty to complete and, as appropriate, implement, a review of Council's code of conduct, pursuant to Section 63(2).

9.3 The duty to make available for inspection (without charge) the code of conduct at the principal office of the Council during ordinary office hours pursuant to Section 63(4).

10. Register of Interests

The duty to make available for inspection (without charge) the Register of Interests of Councillors, at the principal office of the Council during ordinary office hours, pursuant to Section 70(1).

11. Reimbursement of Certain Expenses

11.1 The power to reimburse to Councillors expenses of a kind prescribed for these purposes and approved by the Council (either specifically or under a policy established by the Council for these purposes) incurred in performing or discharging official functions and duties, pursuant to Section 77(1)(b).

11.2 The duty 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, pursuant to Section 77(3).

12. Insurance of members

The power and duty to take out a policy of insurance insuring every member of the Council and a spouse 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, pursuant to Section 80.

13. Council Meetings

The power and duty to decide the time and place of an ordinary meeting of the Council where a time and place has not been appointed during a month pursuant to and in accordance with Section 81.

14. Public Notice of Council Meetings

The duty to keep on public display the notice and agenda of ordinary meetings and special meetings, until the completion of the relevant meeting, pursuant to and in accordance with Section 84(2) and (4).

15. Committee Meetings

15.1 The power to determine the times and places of ordinary meetings of Council committees, taking into account -

- (a) the availability and convenience of members of the committee; and
- (b) the nature and purpose of the committee, pursuant to Section 87(1) and (2).

15.2 The duty to keep the notice and agenda of the Council committee meetings on public display until the completion of the relevant meeting, pursuant to Section 88(4).

16. Public Access to Council and Committee Meetings

The power to make recommendations to the Council or a Council committees as to whether the public should be excluded from attendance at so much of a meeting as is necessary to receive, discuss or consider in confidence any information or matter listed in Section 90(3), pursuant to Section 90(2).

17. Minutes of Council and Council Committee Meetings

17.1 The duty to supply each member of the Council with a copy of all minutes of the proceedings of the Council or a Council committee meeting, within 5 days after that meeting, pursuant to Section 91(3).

17.2 The duty 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 keep those meetings on display for a period of 1 month, pursuant to Section 91(4) of the Act.

17.3 The duty to make available for inspection, without payment of a fee, at the principal office of the Council -

- (a) minutes of Council and committee meetings; and

- (b) reports to the Council or a Council committee received at a meeting of the Council or committee; and
- (c) recommendations presented to the Council in writing and adopted by resolution of the Council; and
- (d) budgetary or other financial statements adopted by the Council, pursuant to Section 91(5) and subject to (7) and (8).

18. Code of Practice for Access to Meetings and Documents

- 18.1 The power and duty to prepare a Code of Practice relating to the principles, policies, procedures and practices that the Council will apply for the purposes of public access to Council and Council committee meetings and calling and timing of committee meetings, pursuant to Section 92(1).
- 18.2 The duty to cause a review to be undertaken of the operation of Council's Code of Practice for access to meetings and documents, at least once in every financial year, pursuant to Section 92(2).
- 18.3 The duty to ensure that before the adoption, alteration or substitution of a Code of Practice for access to meetings and documents that:-
 - (a) copies of the proposed Code, alterations or a substitute Code are made available for inspection or purchase of the Council's principal office; and
 - (b) the relevant steps set out in the Council's Public Consultation Policy are followed, pursuant to Section 92(5).
- 18.4 The duty to ensure that the Code of Practice is available for inspection (without charge) at the principal office of Council during ordinary office hours pursuant to Section 92 (6).

19. Meetings of Electors

- 19.1 The power to convene a meeting of electors in the area or part of the area of the Council, pursuant to Section 93(1).
- 19.2 The duty to provide each member of the Council with a copy of the minutes of any meeting of electors, within 5 days of that meeting, pursuant to Section 93(11).

20. Obstruction of Meetings

The power to take proceedings under this Act against a person who intentionally obstructs or hinders proceedings at a meeting of the Council or a Council committee or at a meeting of electors, pursuant to Section 95.

21. Certain Matters Concerning Employees

- 21.1 The duty 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, pursuant to Section 105(3).

- 21.2 The duty to supply to any other Council at its request, details of the service of an employee or former employee of the Council, pursuant to Section 106(4).
- 21.3 The power and duty to prepare a Code of Conduct to be observed by the employees of the Council, within 12 months after each general election of the Council, pursuant to Section 110(1) and (2).
- 21.4 The power to alter recommendations to the Code of Conduct or the substitution of a new Code of Conduct for employees, pursuant to Section 110(4).
- 21.5 The power and duty to take reasonable steps to consult with Council's employees and with any registered industrial association that represents the interests of the employees of the Council, when preparing or revising Council's Code of Conduct for employees, pursuant to Section 110(5).
- 21.6 The duty to ensure the Code of Conduct of employees is available for inspection by the public (without charge) at the principal office of the Council during ordinary office hours.

22. Certain Aspects of Strategic Management Planning

- 22.1 The power to develop strategic management plans in accordance with the principles set out at Section 122(1) and (2) for adoption by the Council pursuant to Section 122(1).
- 22.2 The power and duty to adopt a process or processes to ensure that members of the public are given a reasonable opportunity to be involved in Council's development and review of its strategic management plans, pursuant to Section 122 (6).
- 22.3 The duty 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, pursuant to Section 122(7).

23. Budget Documents

The power and duty to ensure that copies of the Council's budget (including its annual business plan and any other associated documents) are available for inspection (without charge) and purchase (on payment of a fee fixed by Council) by the public at the principal office of the Council, pursuant to Section 123(6).

24. Accounting Records

- 24.1 The power and duty to:
 - (a) keep such accounting records as correctly and adequately record and explain the revenues, expenses, assets and liabilities of the Council;
 - (b) keep the Councils accounting records in such manner as will enable –
 - (i) the preparation and provision of statements that fairly present financial and other information;

- (ii) the financial statements of the Council to be conveniently and properly audited;

pursuant to Section 124(1).

- 24.2 The duty to keep the accounting records of the Council in the form or forms, and in a place or places that have been determined by the CEO, pursuant to Section 124(2).

25. Internal Control and Audit Committee

- 25.1 The power and duty 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 ensure adherence to management policies, to safeguard the Council's assets and to secure the accuracy and reliability of the Council's records, pursuant to Section 125.

- 25.2 The power to appoint an audit committee, pursuant to Section 126(1).

- 25.3 The power to determine the membership of any audit committee which may include persons who are not members of the Council but which may not include employees of the Council, pursuant to Section 126(2) and (3).

26. Financial Statements

- 26.1 The power and duty to prepare for each financial year:-

- (a) an operating statement; and
- (b) a statement of financial position as at the end of the financial year; and
- (c) a statement of changes in equity; and
- (d) a statement of cash flows; and
- (e) appropriate notes and any other explanatory documentation to be read in conjunction with the statements referred to above; and
- (f) other statements and documentation referring to the financial affairs of the Council required by the regulations pursuant to Section 127(1).

- 26.2 The duty to ensure that the financial statements prepared for the Council pursuant to Section 127(1) -

- (a) are prepared as soon as is reasonably practicable after the end of the relevant financial year and in any event before the prescribed day; and
- (b) comply with standards and principles prescribed by the regulations; and
- (c) include the information required by the regulations, pursuant to Section 127(2).

- 26.3 The power and duty to submit for auditing by the Council's auditor the statements prepared for each financial year, pursuant to Section 127(3).

26.4 The power and duty 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, pursuant to Section 127(4).

26.5 The duty 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, pursuant to Section 127(5).

27. Audit

27.1 The power to appoint an auditor pursuant to and in accordance with Section 128(2), (3) (4), (5) and (6).

27.2 The power to make a temporary appointment of an auditor for a period not exceeding one year, if an auditor does not complete a term of appointment for a reason that is outside the control of the Council, pursuant to Section 128(7).

27.3 The power to agree on terms and conditions and to enter an agreement in writing based on those terms and conditions on behalf of the Council, for the appointment of an auditor, pursuant to Section 128(8).

28. Annual Reports

28.1 The power and duty to prepare for adoption, 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, pursuant to Section 131(1).

28.2 The duty 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, pursuant to Section 131(2) and (3).

28.3 The duty to provide a copy of the annual report to each member of the Council, pursuant to Section 131(4).

28.4 The power to provide to the electors for the area an abridged or summary version of the annual report, pursuant to Section 131(7).

28.5 The duty 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 of the principal office of the Council pursuant to Section 131(8).

29. Internet Access to Public Documents

The power and duty, so far as is reasonably practicable, to make documents available for inspection on the internet within a reasonable time after they are available at the principal office of the Council, pursuant to and in accordance with Section 132 (3).

30. Sources of Funds

The power to obtain funds as permitted under this or another Act and as may otherwise be appropriate in order to carry out the Council's functions under this or another Act, by –

- (a) selling property;

- (b) by leasing or hiring out property;
- (c) by obtaining grants or other allocations of money other than by borrowing;
- (d) by carrying out commercial activities;
- (e) by recovering fees, charges, penalties or other money payable to the Council, pursuant to Section 133.

31. Expenditure of Funds

The power to expend Council's approved budgeted funds, subject to the Council's policies, the Local Government Act 1999 and any other Act, in the exercise performance or discharge of the Council's powers, functions or duties under the Local Government Act 1999 or any other Act, pursuant to Section 137 of the Act.

32. Investment

32.1 The power to invest money under the Council's control, pursuant to Section 139(1).

32.2 The duty in exercising the power of investment, to:

- (a) exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons; and
- (b) avoid investments that are speculative or hazardous in nature, pursuant to Section 139(2).

32.3 The power and duty 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 -

- (a) the purpose of the investment;
- (b) the desirability of diversifying Council investments;
- (c) the nature of and risk associated with existing Council investments;
- (d) the desirability of maintaining the real value of the capital and income of the investment;
- (e) the risk of capital or income loss or depreciation;
- (f) the potential for capital appreciation;
- (g) the likely income return and the timing of income return;
- (h) the length of the term of a proposed investment;
- (i) the period for which the investment is likely to be required;

- (j) the liquidity and market ability of a proposed investment during, and on determination of, the term of the investment;
- (k) the aggregate value of the assets of the Council;
- (l) the likelihood of inflation affecting the value of a proposed investment;
- (m) the costs of making a proposed investment;
- (n) the results of any review of existing Council investments,
pursuant to Section 139(3).

32.4 Subject to the matters specified in Section 139(3), the power, so far as may be appropriate in the circumstances, to have regard to -

- (a) the anticipated community benefit from an investment;
 - (b) the desirability of attracting additional resources into the local community;
- pursuant to Section 139(4).

32.5 The power to obtain and consider independent and impartial advice about the investment of funds or the management of the Council's funds from the person whom the CEO reasonably believes to be competent to give the advice, pursuant to Section 139(5).

32.6 The power and duty to review the performance (individually and as a whole) of the Council's investments, at least once in each year pursuant to Section 140 and the duty to report to the Council on the outcome of the review.

33. Gifts to Council

33.1 Within the confines of Section 44(3) of the Act:

- 33.1.1 the power to accept a gift made to the Council, pursuant to Section 141(1);
- 33.1.2 the power to carry out the terms of any trust affecting a gift to Council, pursuant to Section 141(2);
- 33.1.3 the power to apply to the Supreme Court for an order varying the terms of a trust for which the Council has been constituted a trustee, pursuant to Section 141(3); and
- 33.1.4 where a variation is sought in the terms of a trust, the duty to give notice, by public notice and in any other such manner as may be directed by the Supreme Court pursuant to Section 141(4); and
- 33.1.5 the duty to publish a copy of any order of the Supreme Court to vary the terms of the trust, in the *Gazette*, within 28 days after that order is made, pursuant to Section 141(6).

34. Duty to Insure Against Liability

The power and duty to take out and maintain insurance to cover the Council's liabilities at least to the extent prescribed by the regulations, pursuant to Section 142.

35. Bad Debts

35.1 The power to write off any debts owed to the Council –

- (a) if the Council has no reasonable prospect of recovering the debts; or
- (b) if the costs of recovery are likely to equal or exceed the amount to be recovered, pursuant to Section 143(1).

35.2 The duty to ensure that any debt is not written off unless the CEO has certified –

- (a) reasonable attempts have been made to recover the debt; or
- (b) the costs of recovery are likely to equal or exceed the amount to be recovered, pursuant to Section 143(2).

35.3 The duty to ensure that any exercise of this delegated power to write off debts is within amounts which the Council has determined, pursuant to Section 143(3).

36. Recovery of Amounts due to Council

36.1 The power 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, pursuant to Section 144(1).

36.2 The power to recover any fee, charge, expense or other amount as if it were a rate declared on the property, after giving at least 14 days notice requiring payment, where the fee, charge, expense or other amount payable to the Council relates to something done in respect of rateable or other property, pursuant to Section 144(2), (3) and (4).

37. Certain Matters Associated with Rating

37.1 The power to make decisions about the division of land and the aggregation of land for the purpose of the assessment of rates against that land, pursuant to Section 148.

37.2 The power to determine, on application, if two (2) or more pieces of rateable land within the area of the Council constitute a single farm enterprise, pursuant to Section 152(2)(d) and (3).

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

37.4 If the Council declares differential rates, the power and duty, 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, pursuant to Section 157.

38. Rebate of Rates

- 38.1 The power to determine the manner and form (supplying such information as the Council 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, pursuant to Section 159(1).
- 38.2 The power to grant a rebate of rates if satisfied that it is appropriate to do so (whether on application or on the CEO's own initiative), pursuant to Section 159(3).
- 38.3 The power to increase the rebate, on the CEO's initiative, if a rebate specifically fixed by Division 5 Chapter 10 of the Act is less than 100%, pursuant to Section 159(4).
- 38.4 The duty to take into account, in deciding an application for a rebate under Section 166(1)(d), (e), (f), (g), (h), (i) or (j):
- (a) 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
 - (b) the community need that is being met by activities being carried out on the land for which the rebate is sought; and
 - (c) the extent to which activities carried out on the land for which the rebate is sought provides assistance or relief to disadvantaged persons;
 - (d) any other matter considered relevant by the Council or the CEO,
- pursuant to Section 166(1a).
- 38.5 The power to determine, for proper cause, that an entitlement to a rebate of rates no longer applies pursuant to Section 159(10).
- 38.6 The power to grant a rebate of more than 75% of the rates on land being predominantly used for service delivery and administration by a community service organisation, where that organisation –
- (a) is incorporated on a not-for-profit basis for the benefit of the public; and
 - (b) provides community services without charge or for charge that is below the cost to the body of providing their services; and
 - (c) does not restrict its services to persons who are members of the body,
- pursuant to Section 161(1) and (3).
- 38.7 The power to grant a rebate of rates at more than 75% on land –
- (a) occupied by a Government school under a lease or license and being used for educational purposes; or
 - (b) occupied by non-Government school registered under Part 5 of the Education Act 1972 and being used for educational purposes; or

(c) land being used by University or University College to provide accommodation and other forms of support for students on a not-for-profit basis,
pursuant to Section 165(1) and (2).

38.8 The power to grant a rebate of rates or service charges on such conditions as the CEO sees fit and such rebate may be up to and including 100% of the relevant rates or service charge, in the following cases:

- (a) where the rebate is desirable for the purpose of securing the proper development of the area or part of the area;
- (b) where the rebate is desirable for the purpose of assisting or supporting a business in this area;
- (c) where the rebate will be conducive to the preservation of buildings or places of historic significance;
- (d) where the land is being used for educational purposes;
- (e) where the land is being used for agricultural, horticultural or floricultural exhibitions;
- (f) where the land is being used for a hospital or health centre;
- (g) where the land is being used to provide facilities or services for children or young persons;
- (h) where the land is being used to provide accommodation for the aged or disabled;
- (i) where the land is being used for a residential aged care facility that is approved for commonwealth funding under the Aged Care Act 1997 or a day therapy centre;
- (j) where the land is being used by an organisation which, in the opinion of the Council, provides a benefit or a service to the local community;
- (k) 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;
- (l) where the rebate is considered by the council to be appropriate to provide relief against what would otherwise amount to a substantial change in rates payable by a ratepayer due to:
 - (i) a redistribution of the rates burden within the community arising from a change to the basis or structure of the council's rates; or
 - (ii) a change to the basis on which land is valued for the purpose of rating, rapid changes in valuations, or anomalies in valuations.

pursuant to Section 166(1).

38.9 The power to grant a rebate of rates or charges under Section 166(1) on such conditions as the CEO thinks fit, pursuant to Section 166(2).

38.10 The power to grant a rebate of rates or charges for a period exceeding one (1) year but not exceeding ten (10) years in the following cases:

- (m) where the rebate is desirable for the purpose of securing a proper development of the area or part of the area; or
- (n) where the rebate is desirable for the purpose of assisting or supporting a business in its area; or
- (o) 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,

pursuant to Section 166(3).

38.11 The power to grant a rebate of rates or charges under Section 166(1)(l) for a period exceeding one (1) year but not exceeding three (3) years pursuant to Section 166(3a).

39. Valuation of Land for the Purpose of Rating

39.1 The power to adopt valuations that are to apply to land within the Council's area, for rating purposes for a particular financial year, pursuant to Section 167(1).

39.2 For the purpose of adopting a valuation of land for rating, the power and duty to adopt -

- (a) valuations made, or caused to be made, by the Valuer General; or
- (b) valuations made by a valuer employed or engaged by the Council, or by a firm or consortium of valuers engaged by the Council; or
- (c) a combination of (a) and (b),

pursuant to Section 167(2) and in accordance with Section 167(3), (4) and (5).

39.3 The duty to publish a notice of the adoption of values in the *Gazette*, within 21 days after the date of the adoption, pursuant to Section 167(6).

40. Valuation of Land

40.1 The power to request the Valuer General to value any land within the Council's area (being land that is capable of being separately rated), pursuant to Section 168(1).

40.2 The duty 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, pursuant to Section 168(2).

40.3 The power and duty to enter a valuation in the assessment record, as soon as practicable after the valuation has been made and to give notice to the valuation to the principal ratepayer in accordance with the regulations, pursuant to Section 168(3)(b) and (c).

40.4 The duty 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 –

- (a) the objection does not involve a question of law; and
- (b) the objection is made in writing (setting out a full and detailed statement of the grounds on which the objection is based); and
- (c) is made within 60 days after the date of service of the notice of the valuation to which the objection relates (unless the CEO, in his/her discretion, allows an extension of time for making the objection),

pursuant to Section 169(1), (2), (3), (4) and (5).

- 40.5 The power to grant an extension of time for making an objection to a valuation of land, pursuant to Section 169(3)(b).
- 40.6 The duty to give the objector written notice of the outcome of the objection, pursuant to Section 169(7).
- 40.7 The duty to refer the valuation to the Valuer General for further review, if the objector remains dissatisfied with the valuation and seeks such further review, in the prescribed manner and form, within the relevant time and accompanied by the prescribed fee, pursuant to and in accordance with Section 169(8) and (9).

41. Issues Associated with the Declaration of Rates

- 41.1 The duty to ensure the notice of declaration of a rate or service charge is published in the *Gazette* and in a newspaper circulating in the area within 21 days after the date of the declaration, pursuant to Section 170.
- 41.2 The power and duty, for each financial year, in conjunction with Council's declaration of rates, to prepare for adoption by the Council a rating policy, pursuant to Section 171(1).
- 41.3 The duty to ensure that the rating policy -
 - (a) indicates the relationship between Council's strategic management plans, its budget and its rates structure; and
 - (b) insofar as may be relevant, reflect the Council's consideration of issues of consistency and comparability across Council areas in the imposition of rates on various sectors of the business and wider community; and
 - (c) includes a business impact statement which assesses the impact of the Council's rates on business in the area; and
 - (d) addresses the following;
 - (i) the reason why the Council has adopted the valuation method used by the Council;
 - (ii) the use of differential rates in the area and, if differential rates are used, the reasons and justifications for the differentiation, and the expected level of revenue to be raised by each differential rate;

- (iii) the use and level of a fixed charge component of a general rate (if applicable);
- (iv) the use and level of any separate rate, service rate or service charge, including the reasons for the rate or charge;
- (v) issues concerning equity within the community and the impact of rates across the area;
- (vi) issues of equity arising from circumstances where ratepayers provide or maintain infrastructure that might otherwise be provided or maintained by the Council;
- (vii) the application or operation of a minimum amount payable by way of rates (if applicable);
- (viii) the Council's policy on discretionary rebates and remissions, with particular reference to the rebates that will apply for more than one financial year and including information on how a rebate is designed to meet the purpose behind the rebate;
- (ix) methods and frequency of payments of rates;
- (x) the application of penalties for late payments;
- (xi) any other matter prescribed by regulation; and
- (xii) any other issue considered relevant by the Council;

pursuant to Section 171(2).

- 41.4 The duty to ensure that copies of the Council's rating policy are available for inspection (without charge) and purchase (on payment of the fee fixed by the Council) by the public at the principal office of the Council, pursuant to Section 171(3).
- 41.5 The duty to ensure that an abridged or summary version of the Council's rating policy accompanies the first rates notice sent to ratepayers after the declaration of rates, pursuant to Section 171(4).

42. Alterations to the Assessment Record

- 42.1 The power to determine the procedure for a review of a decision by the CEO on an application for alteration of the assessment record, pursuant to Section 173(3) and (5).
- 42.2 The duty to give a person written notice of Council's decision on a review of a decision of the CEO concerning alteration of the assessment record, pursuant to Section 173(6).
- 42.3 The duty to ensure that the assessment record is available for inspection (without charge) and purchase of on entry (on payment of a fee fixed by the Council) by the public at the principal office of the Council during ordinary office hours, pursuant to Section 174(1).

43. Recovery of Rates and Charges

43.1 The power and duty to recover rates as a debt from -

- (a) the principal ratepayer; or
- (b) any other person (not being a principal ratepayer) who is an owner or occupier of the land; or
- (c) any other person who was at the time of the declaration of the rates an owner or occupier of the land,

pursuant to Section 178(3) and subject to Section 178(9).

43.2 The power 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, pursuant to Section 178(4).

43.3 The power 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, pursuant to Section 178(5).

43.4 The power to remit the charge of 5% of the amount in arrears payable under the Act in whole or in part, pursuant to Section 178(6).

44. Service of Rate Notice

44.1 The power to adopt a valuation of land which has become rateable after the adoption of valuations by the Council for the relevant year, pursuant to Section 179(2).

44.2 The power 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, pursuant to Section 179(5).

45. Service of Rate Notice

The power to send to the principal rate payer or, in the case of a service charge, the owner or occupier of the relevant land, a rates notice, as soon as practicable after –

- (a) the declaration of a rate; or
- (b) the imposition of a service charge; or
- (c) a change in the rates liability of land,

pursuant to Section 180(1) and in accordance with Section 180(2).

46. Payment of Rates

46.1 The power to determine the day on which each instalment falls due in the months of September, December, March and June of the financial year for which the rates are declared, where the Council decides that rates are payable in four (4) instalments, pursuant to Section 181(2)(a)(i) and (ii).

Note: (A similar power exists where the Council determines there will be one (1) or two (2) instalments, however, from the beginning of the 2001/2002 financial year, Council must offer its rates payers the opportunity to pay rates in four (4) equal instalments).

- 46.2 The power to agree with the principal rate payer that rates will be payable in such instalments falling due on such days as the CEO thinks fit and in that event, the rate payers rates will be payable accordingly, pursuant to Section 181(5).
- 46.3 The power and duty in relation to each instalment of rates to send a rates notice to the principal rate payer shown in the assessment record in respect of the land at the address shown in the assessment record, showing the amount of the instalment and the date on which it falls due and the account must be sent –
- (a) if rates are payable in two (2) or more instalments – at least 30 days but not more than 60 days before an instalment falls due; or
 - (b) if rates are payable in a single instalment – at least 60 days before the instalment falls due,
- pursuant to Section 181(6).
- 46.4 The power, where the Council has entered into an agreement with a principal rate payer under Section 181(5), as part of the agreement, to vary the periods for the provision of accounts under Section 181(6)(a) or (b), pursuant to Section 181(7).
- 46.5 The power to remit any amount payable as a fine on unpaid instalments of rates, in whole or in part, pursuant to Section 181(8) and (9).
- 46.6 The power to grant discounts or other incentives in order to encourage early or prompt payment of rates, pursuant to Section 181(11).
- 46.7 The power 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(5), pursuant to Section 181(12)(b).
- 46.8 The power, 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 rate payer 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, pursuant to Section 181(13) and subject to Section 44(3)(b).
- 46.9 The duty, from the beginning of the 2001/2002 financial year, to offer Council ratepayers the opportunity to pay rates in four (4) equal or approximately equal instalments per year, pursuant to Section 181(14).
- 46.10 The power to decide that rates of a particular kind will be payable in more than four (4) instalments in a particular financial year and in such case –

- (a) the instalments must be payable on 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
- (b) the CEO must give at least 30 days notice before an instalment falls due, pursuant to Section 181(15).

47. Remission and Postponement of Payment of Rates

47.1 The power to decide in consultation with the Chair, Corporate Services, on the application of a ratepayer, that payment of rates in accordance with the Act would cause hardship and, if so, to –

- (a) postpone payment for such period as the CEO thinks fit; or
- (b) remit the rates in whole or in part,

pursuant to Section 182(1).

47.2 The power on postponement of rates, –

- (a) to grant the postponement on condition that the ratepayer pay interest on the amount affected by the postponement at a rate fixed by the CEO (but not exceeding the cash advance debenture rate);
- (b) to grant the postponement on other conditions determined by the CEO; and
- (c) to revoke the postponement, at the CEO's discretion (in which case the CEO must give the ratepayer at least 30 days written notice of the revocation before taking action to recover rates affected by the postponement),

pursuant to Section 182(2).

47.3 The power to grant other or additional postponements of rates –

- (d) to assist or support a business in the Council's area; or
- (e) to alleviate the affects of anomalies that have occurred in valuations under the Act,

pursuant to Section 182(3).

47.4 The power to grant other or additional remissions of rates on the same basis as applies under the Rates and Land Tax Remission Act 1986, pursuant to Section 182(4).

47.5 The power to require a ratepayer who claims to be entitled to a remission of rates by virtue of a determination under Section 182(4) to provide evidence to the satisfaction of the CEO verifying that entitlement, pursuant to Section 183(5).

47.6 The power to revoke a determination under Section 182(4) at any time (but the revocation will not effect an entitlement to remission in relation to rates declared before the revocation takes effect), pursuant to Section 182(6).

48. Sale of Land for Non-Payment of Rates

- 48.1 The power to sell land, if an amount payable by way of rates in respect of the land, has been in arrears for three (3) years or more, pursuant to Section 184(1).
- 48.2 The duty, before selling land for non-payment of rates, to send a notice to the principal ratepayer at the address appearing in the assessment record –
- (a) stating the period for which the rates have been in arrears; and
 - (b) stating the amount of the total liability for rates presently outstanding in relation to the land; and
 - (c) stating that if that amount is not paid in full within one month of service of the notice (or such longer time as the CEO may allow), the Council intends to sell the land for non-payment of rates, pursuant to Section 184(2).
- 48.3 The duty to send a copy of any notice sent to a principal ratepayer under Section 184(2) -
- (a) to any owner of the land who is not the principal ratepayer; and
 - (b) to any registered mortgagee of the land; and
 - (c) 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,
- pursuant to Section 184(3).
- 48.4 If -
- (a) the CEO cannot, after making reasonable enquiries, ascertain the name and address of a person to whom a notice is to be sent under Section 184(2) or (3); or
 - (b) the CEO considers that it is unlikely that a notice sent under Section 184(2) or (3) would come to the attention of the person to whom it is to be sent,
- the power to effect service of the notice by -
- (c) placing a copy of the notice in a newspaper circulating throughout the State; and
 - (d) leaving a copy of the notice in a conspicuous place on the land;
- pursuant to Section 184(4).
- 48.5 Where the outstanding amount is not paid in full within the time allowed under Section 184(2), the power to proceed to have the land sold, pursuant to Section 184(1).
- 48.6 The power 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) pursuant to Section 184(5).

- 48.7 The duty 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 grants consent to sale by public auction, pursuant to Section 184(6) and (7).
- 48.8 The duty to advertise the auction of land on at least two (2) separate occasions in a newspaper circulating throughout the state, pursuant to Section 184(8).
- 48.9 The power and duty 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, pursuant to Section 184(9).
- 48.10 The power 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, pursuant to Section 184(10).
- 48.11 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).
- 48.12 The duty 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 Monies Act 1981, pursuant to Section 184(12).

49. Objection, Review or Appeal

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 there is a due adjustment to be made –

- (f) the power to refund or credit the overpaid amount against future liabilities for rates on the land subject to the rates; or
- (g) the power 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,

pursuant to Section 186(2) and subject to Section 186(3), (4) and (5).

50. Certificate of Liabilities

The power to issue a certificate, on application by or on behalf of a person who has an interest in land within the area, stating that:

- (a) the amount of any liability for rates or charges on the land imposed under Part 1 Division 10 of the Act (including rates and charges under this part that have not yet fallen due for payment, and outstanding interest or fines payable in respect of rates and charges under this part); and

- (b) 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,

pursuant to Section 187(1).

51. Fees and Charges

51.1 The power to impose fees and charges:-

- (a) for the use of any property or facility owned, controlled, managed or maintained by the Council;
- (b) for services supplied to a person at his or her request;
- (c) for carrying out work at a person's request, pursuant to Section 188(1) and (2).

51.2 The power to provide for:-

- (a) specific fees and charges;
- (b) maximum fees and charges and minimum fees and charges;
- (c) annual fees and charges;
- (d) the imposition of fees or charges according to specified conditions or circumstances;
- (e) the variation of fees or charges according to specified factors in respect of fees and charges set under Section 188(1)(a) – (c) inclusive; and
- (f) the reduction, waiver or refund, in whole or in part, of any fees and charges,

pursuant to Section 188(3).

51.3 The power to fix, vary or revoke those fees and charges, set under Section 188(1)(a) - (c) pursuant to Section 188(5).

51.4 The duty to keep a list of fees and charges imposed on public display during ordinary office hours at the principal office of the Council, pursuant to Section 188(6) and subject to Section 188(7).

52. Acquisition of Land

52.1 The power to acquire land by agreement, pursuant to Section 190.

52.2 The power to continue with the process to acquire land compulsorily, in circumstances which require the Minister's written approval, after the Council has obtained the Minister's approval, pursuant to Section 191(1).

52.3 The power to acquire land compulsorily for a purpose classified by the regulations as an approved purpose pursuant to Section 191(2) and (3).

52.4 The duty to cause immediately a copy of a resolution to compulsorily acquire land to be published in the *Gazette*, pursuant to Section 192(4).

53. Community Land

53.1 The duty to follow the relevant steps set out in Council's public consultation policy where the Council has decided to exclude land from classification as community land, pursuant to Section 193(2).

53.2 The duty to give notice in the *Gazette* of a resolution –

- (a) to exclude land from classification as community land under Section 193(4); or
- (b) to classify, as community land, land that had previously been excluded from classification as such under Section 193(5),

pursuant to Section 193(6).

53.3 The duty, before the Council revokes the classification of land as community land to –

- (c) prepare a report on the proposal containing -
 - (i) a summary of reasons for the proposal; and
 - (ii) a statement of any dedication, reservation or trust to which the land is subject; and
 - (iii) a statement of whether revocation of the classification is proposed with a view to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and the statement of how the Council proposes to use the proceeds; and
 - (iv) an assessment of how implementation of the proposal would affect the area and the local community; and
 - (v) 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

(b) follow the relevant steps set out in the Councils public consultation policy, pursuant to Section 194(2).

53.4 After complying with the requirements of Section 194(2), the power and duty –

- (a) to prepare the proposal with a report on all submissions made on it as part of the public consultation process for submission by the Council to the Minister;

pursuant to Section 194(3).

53.5 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 power, 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, pursuant to Section 195(2).

54. Management Plans for Community Land

54.1 The power to prepare for adoption a management plan or management plans for Council's community land, which must:-

- (a) identify the land to which it applies; and
- (b) state the purpose for which the land is held by the Council; and
- (c) state the Council's objectives, policies (if any) and proposals for the management of the land; and
- (d) state performance targets and how the Council may measure its performance against its objectives and performance targets,

pursuant to Section 196(1), (2) and (3).

54.2 If a management plan relates to land that is not in the Council's ownership, the power to consult with the owner of the land at an appropriate stage during the preparation of the plan and the plan must:-

- (a) identify the owner of the land; and
- (b) state the nature of any trust, dedication or restriction to which the land is subject apart from the Act; and
- (c) contain any provisions that the owner reasonably requires and identify those provisions as provisions required by the owner,

pursuant to Section 196(4).

54.3 The duty to ensure 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, pursuant to Section 196(5).

54.4 The duty to ensure that the Council has a management plan for community land in its area (if required) -

- (a) if the land was owned by the Council or was under the Council's care, control and management at the commencement of Part 1, Chapter 11 of the Act - within five years after the commencement of this Part; or
- (b) if the land is acquired or placed under the Council's care, control and management after the commencement of this Part - as soon as practicable after the requirement for the plan arises,

pursuant to Section 196(7).

- 54.5 Before the Council adopts a management plan for community land, the power and duty to:-
- (c) make copies of the proposed plan available for inspection or purchase at the Council's principal office; and
 - (d) follow the relevant steps set out in Council's public consultation policy, pursuant to Section 197(1) and subject to Section 197(2).
- 54.6 The duty to give public notice of the adoption of a management plan pursuant to Section 197(3).
- 54.7 The power to conduct public consultation prior to the Council adopting a proposal for amendment to or revocation of a management plan, unless in the opinion of the CEO the amendment has no impact or no significant impact on the interests of the community, pursuant to Section 198(2) and (3).
- 54.8 The duty to give public notice of Council's adoption of a proposal for the amendment or revocation of a management plan pursuant to Section 198(4).
- 54.9 The power and duty to manage community land in accordance with any management plan for the relevant land, pursuant to Section 199.

55. Business Use of Community Land

The power to approve a persons use of community land for a business purpose, consistent with provisions of the management plan and on any conditions the CEO considers appropriate, pursuant to Section 200(1), (2) and (3).

56. Disposal and Alienation of Local Government Land

- 56.1 The power to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve), pursuant to Section 202(1).
- 56.2 Before granting a lease or licence relating to community land, the power and duty to follow the relevant steps set out in Council's public consultation policy, unless:-
- (a) 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 five (5) years or less; or
 - (b) the regulations provide, in the circumstances of the case, for an exemption from compliance with the public consultation policy,
- pursuant to Section 202(2) and (3).
- 56.3 The power to grant or renew a lease or a licence relating to community land for a term (not exceeding 21 years) stated in the lease or a licence subject to the operation of Division 7 of Part 1 Chapter 11 of the Act, which may provide for:-
- (c) the erection or removal of buildings and other structures for the purpose of activities conducted under the lease or licence;

- (d) 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));
- (e) any other matter relevant to the use or maintenance of the land, pursuant to Section 202(4) and (5).

56.4 The duty to ensure that a lease or licence relating to community land is consistent with any relevant management plan, pursuant to Section 202(6).

57. Register of Community Land

57.1 The power and duty to keep a register of all community land in Council's area, pursuant to Section 207(1).

57.2 The duty to ensure that the register -

- (a) contains the information required by the regulations; and
- (b) contains copies of current management plans; and
- (c) consists (if the delegate so decides) of a computer record of the relevant information;

pursuant to Section 207(2).

57.3 The duty 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, pursuant to Section 207(3).

58. Roads and Highways

58.1 The power to preserve an easement when land that vests in Council as a public road has an easement, pursuant to Section 208(3).

58.2 The power and duty to cause a copy of a resolution declaring a road or land to be a public road, or preserving an easement under Section 208(3), to be published in the *Gazette*, pursuant to Section 208(4).

58.3 The power to enter into an agreement with the holder of an authorisation or permit under Section 209 which provides for the vesting of property in fixtures and equipment in the Council, pursuant to Section 209(3).

58.4 The duty, at least 3 months before the Council declares a road to be a public road:-

- (a) if the identity and whereabouts of the owner of the road are known to the Council, to give written notice to the owner of land subject to the proposed declaration; and
- (b) to give public notice of the proposed declaration, pursuant to Section 210(2).

- 58.5 The duty to furnish to the Registrar General a copy of any declaration under this Section in a manner and form approved by the Registrar General immediately after it is made, pursuant to Section 210(7).
- 58.6 The power to enter into an agreement with the Commissioner of Highways in order for the Council to exercise its powers under Chapter 11 Part 2 of the Act in relation to a highway, pursuant to Section 211(a).
- 58.7 The power to carry out road work in the Council's area or, by agreement with another council, in the area of another council, pursuant to Section 212(1).
- 58.8 The power to do anything reasonably necessary for, or incidental, to roadwork, pursuant to Section 212(2), providing that:-
- (a) the roadwork is carried out in compliance with any relevant requirement under the road Traffic Act 1961; and
 - (b) before carrying out roadwork in relation to a road that runs into or intersects with a highway (and that may have an affect on the users of that highway), consult with the Commissioner of Highways; and
 - (c) the roadwork in relation to a private road is only carried out if:-
 - (i) the owner agrees; or
 - (ii) the has been given 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
 - (iii) the identity or whereabouts of the owner is unknown to the Council; and
 - (d) the roadwork on other private land is carried out with the agreement of the owner (unless otherwise provided in the Act),
- pursuant to Section 212(3).

59. Recovery of Cost of Roadwork

- 59.1 Where roadwork has been carried by agreement, the power to recover the whole of the cost or an agreed contribution under the terms of the agreement pursuant to Section 213(1).
- 59.2 Where roadwork has been carried out to repair damage to a road, the power to recover the cost of carrying out the work, as a debt, from:-
- (a) the person who caused the damage; or
 - (b) 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, pursuant to Section 213(2).
- 59.3 If the Council carries out roadwork on a private road, the power to recover the cost of the work or a contribution towards the cost of the work determined by the delegate:-

(a) as a debt from the owner of the private road;

59.4 Where roadwork is carried out on a road on the boundary between two (2) council areas, the power 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,

59.5 pursuant to Section 214(1) and (2).

60. Special Provisions for Certain Kinds of Roadwork

60.1 If the Council changes the level of a road, the power and duty to:-

(a) ensure that adjoining properties have adequate access to the road; and

(b) construct any retaining walls, embankments or other structures necessary to provide protection required in consequence of the change of level,

pursuant to Section 215(1).

60.2 The power to carry out road work to allow water from a road to drain into adjoining property if, in the CEO's opinion:-

(a) there is no significant risk of damage to the adjoining property; or

(b) the road work does not significantly increase the risk of damage to adjoining property,

pursuant to Section 215(2).

60.3 The power and duty to give reasonable notice of proposed action to drain water into land under Section 215(2) to the owner of the land – except in a case of urgency, pursuant to Section 215(4).

61. Power to Require Others to Carry out Work

61.1 The power, by order in writing to the owner of a private road, to require the owner to carry out specified road work to repair or improve the road, pursuant to Section 216(1).

61.2 The power to have the work carried out and recover the cost of the work as a debt from the owner, if the work is not carried out within a reasonable time fixed in the order, pursuant to Section 216(2).

61.3 The power 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:-

(a) to carry out specified work by way of maintenance or repair; or

(b) to move the structure or equipment in order to allow the Council to carry out road work,

pursuant to Section 217(1).

- 61.4 Where the order made pursuant to Section 217(1), is not complied with within a reasonable time fixed in the order, the power to take action required by the order and to recover the cost of doing so as a debt from the owner, pursuant to Section 217(2)(a).
- 61.5 The power by order in writing to the owner of land adjoining the road, to require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land, pursuant to Section 218(1).
- 61.6 If the work is not carried out within a reasonable time fixed in the order pursuant to Section 218(1), the CEO may have the work carried out and recover the cost of the work as a debt from the owner, pursuant to Section 218(2).

62. Names and Numbers

- 62.1 The power to assign a name to a public or private road, or to a public place, or change the name of a public or a private road, or other public place, pursuant to Section 219(1).
- 62.2 Where it is proposed to change the name of a public road that runs into the area of an adjoining council, the duty to:-
 - (a) give the adjoining council at least two (2) months notice of the proposed change; and
 - (b) consider any representations made by the adjoining council in response to that notice, pursuant to Section 219(2).
- 62.3 The power and duty to -
 - (a) 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; and
 - (b) on request by the Registrar General, the Survey General or the Valuer General, to provide information about the names of roads or public places in the Council's area;pursuant to Section 219(3).
- 62.4 The duty to give public notice of a resolution assigning or changing a name under Section 219, pursuant to Section 219(4).
- 62.5 The power to adopt a numbering system for buildings and allotments adjoining a road, pursuant to Section 220(1).
- 62.6 The power to alter a numbering system or substitute a new numbering system from time to time, pursuant to Section 220(2).
- 62.7 The duty to give public notice of the adoption, alteration or substitution of a numbering system for a particular road, pursuant to Section 220(3).
- 62.8 The power 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 CEO, pursuant to Section 220(6).

62.9 The duty to notify the Valuer General of the adoption, alteration or substitution of a numbering system, pursuant to Section 220(4).

63. Control of Work on Roads

63.1 The power 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:

- (a) alteration to the construction or arrangement of the road, to permit or facilitate access from an adjacent property; or
- (b) erection or installation of a structure (including pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over the road; or
- (c) change or interfere with the construction, arrangement or materials of the road; or
- (d) change, interfere with or remove a structure (including pipes, wires, cables, fixtures, fittings and other objects) associated with the road; or
- (e) planting of a tree or other vegetation on the road, interference with vegetation on the road or removal of vegetation from the road,

pursuant to Section to 221(1) and (2).

63.2 Before authorising the erection or installation of a structure under Section 221(2)(b) the duty to give consideration to whether the structure will:-

- (a) unduly obstruct the use of the road; or
- (b) unduly interfere with the construction of the road; or
- (c) have an adverse effect on road safety,

pursuant to Section 221(4).

63.3 The power to grant an authorisation under Section 221:-

- (f) for a particular act or occasion; or
- (g) 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 CEO at the time of the renewal, pursuant to Section 221(6).

64. Permits for Business Purposes

64.1 The power to authorise a person to use a public road for business purposes and to give a permit to do so pursuant to Section 222(1).

64.2 The power to issue a permit which grants rights of exclusive occupation in relation to part of a public road, pursuant to Section 222(2).

64.3 The power to issue a permit to use a public road for business purposes for a particular occasion or for a term stated in the permit, pursuant to Section 222(3).

65. Public Consultation

65.1 The duty, before granting the authorisation or permit to use a public road for business purposes, to follow the relevant steps set out in Council's public consultation policy, if the CEO proposes to grant an authorisation or permit:-

- (a) that confers a right of exclusive occupation; or
- (b) that would have the effect of restricting access to a road; or
- (c) in relation to a use or activity for which public consultation is required under the regulations,

pursuant to Section 223(1).

65.2 The duty to give written notice of the proposal to agencies that are, under the regulations, to be notified of the proposal to grant an authorisation or permit to use a public road for business purposes, pursuant to Section 223(2).

66. Conditions of Authorisation/Permit

The power to grant an authorisation or permit under Chapter 11 Part 2 Division 6 on conditions the CEO considers appropriate, pursuant to Section 224.

67. Cancellation of Authorisation/Permit

67.1 The power, by notice in writing to the holder of an authorisation or permit, to cancel the authorisation or permit for breach of a condition, pursuant to Section 225(1).

67.2 The power and duty, before cancelling an authorisation or permit, to -

- (a) give the holder of the authorisation or permit a written notice of the proposed cancellation stating the grounds on which the CEO proposes to act and allowing the holder a reasonable period to make written representations to the CEO on the proposed cancellation; and
- (b) consider any representations made in response to the notice,

pursuant to Section 225(2).

67.3 The power to determine if a shorter period of notice should apply under Section 225(2), to protect the health or safety of the public, or otherwise to protect the public interest, pursuant to Section 225(3).

68. Moveable Signs

68.1 The power to order the owner of a sign to remove the sign from the road if -

- (a) the design or construction of a moveable sign that has been placed on a road does not comply with the requirement of Council's by-laws; or

- (b) the positioning of the sign does not comply with a requirement of the Council's by-laws; or
- (c) any other relevant requirement of the Council's by-laws is not complied with; or
- (d) the sign unreasonably -
 - (i) restricts the use of the road; or
 - (ii) endangers the safety of members of the public,

pursuant to Section 227(1).

68.2 The power to remove and dispose of a moveable sign, if the owner cannot be bound or the owner fails to comply immediately with an order to remove the sign, pursuant to Section 227(2).

69. Register of Roads

69.1 The power and duty to keep a register of public roads in the Council's area, which -

- (a) includes the information required by regulation; and
- (b) may consist (if the CEO so decides) of a computer record of the relevant information,

pursuant to Section 231(1) and (2).

69.2 The duty 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, pursuant to Section 231(3).

70. Planting Trees and Vegetation

The power to authorise or permit the planting of vegetation, on a road, only after complying with the following matters (in addition to complying with any other statutory requirement) –

- (a) giving consideration to whether the vegetation is, on balance, appropriate to the proposed site taking into account -
 - (i) environmental and aesthetic issues; and
 - (ii) 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
 - (iii) road safety matters; and
 - (iv) other matters (if any) considered relevant by the delegate; and

- (b) where the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, to follow the relevant steps set out in its public consultation policy,

pursuant to Section 232.

71. Road Damage

The power 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, pursuant to Section 223(1) and (2).

72. Council's Power to Remove Objects from Roads

72.1 The power to remove and dispose of any structure, object or substance from a road if -

- (a) it has been erected, placed or deposited on the road without the authorisation or permit required under Part 2, Chapter 11 of the Act; or
- (b) an authorisation or permit has been granted but has later expired or been cancelled,

pursuant to Section 234(1).

72.2 The power to recover the cost of acting under this Section, as a debt from the person who erected, placed or deposited the structure, object or substance of the road, pursuant to Section 234(2).

72.3 Where, as a result of an accident involving a vehicle or vehicles, any wreckage, objects or materials are left on the road, the power 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, pursuant to Section 234(3).

73. Deposit of Rubbish

The power to authorise or permit the following -

- (a) the deposit of rubbish on a public road or public place; or
- (b) the deposit of goods, materials, earth, stone, gravel, or any other substance on a public road or public place,

pursuant to Section 235(1).

74. Abandonment of Vehicles and Farm Implements

The power to seek an order from the court by which a person is convicted of an offence against Section 236(1), that the convicted person pay to the Council any costs incurred by the Council in removing or disposing of a vehicle or farm implement abandoned on a public road or public place, pursuant to Section 236(2).

75. Removal of Vehicles

- 75.1 The power to authorise a person to remove to an appropriate place, a vehicle which is left on a public road or public place or on local government land for not less than 24 hours, pursuant to Section 237(1).
- 75.2 The duty to give to the owner of the vehicle written notice of the removal of the vehicle and the place to which it has been removed, as soon as practicable after its removal, pursuant to Section 237(2).
- 75.3 The power to serve a notice of removal on the owner of the vehicle personally, but if the owner is unknown or cannot be found, the power to give notice of the removal by advertisement in a newspaper circulating generally in the State, pursuant to Section 237(3).
- 75.4 If the owner of a removed vehicle does not, within 14 days after the service or advertisement of notice, pay all expenses in connection with the removal, custody and maintenance of the vehicle, and of serving or advertising the notice, and take possession of the vehicle, the power and duty to sell the vehicle and apply the proceeds as follows:
- (a) firstly - in payment of the expenses of the sale;
 - (b) secondly - in payment of the costs of removal, custody and maintenance of the vehicle, and of the notice served or advertised under this Section;
 - (c) thirdly - in payment of the balance to the owner or if, after reasonable enquiry, an owner cannot be found, to the general funds of the Council, pursuant to Section 237(4).
- 75.5 If, in the CEO's opinion it is not practicable or convenient to sell the vehicle which has been removed, the power to dispose of the vehicle in any way the CEO thinks fit, pursuant to Section 237(5).
- 75.6 The power to recover so much of the expenses as have not been satisfied by proceeds from the sale of the vehicle as a debt due to the Council, where expenses have been incurred by the Council in the removal, custody, maintenance, sale or attempted sale, or otherwise in the disposal of the removed vehicle, pursuant to Section 237(6).

76. Time Limits for Dealing with Certain Applications

- 76.1 Where the power to decide upon certain applications has been delegated, the application must be decided within two months after the relevant date and, if not so decided, it is taken to have been refused; those applications being -
- (a) an application for approval of a proposed use of community land for a business purpose; or
 - (b) an application for authorisation to use a road for a business purpose; or
 - (c) an application of a kind declared by regulation to be an application to which this Section applies,
- pursuant to Section 242(1) and (2).

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

77. Issue of Certificate of Title by Registrar General

77.1 The power and duty 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, pursuant to Section 243(1).

77.2 The duty to make such application to the Registrar General for the issue of a Certificate of Title as follows:

(a) in a manner and form approved by the Registrar General; and

(b) accompanied by -

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

(ii) any surveys of the land and other materials that the Registrar General may reasonably require; and

(iii) a fee fixed by the Registrar General,

pursuant to Section 243(2).

78. Liability for Damage to Property

The power and duty to take reasonable action in response to a written request by an owner or occupier of property adjacent to the 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) pursuant to Section 245.

79. Certain Matters in Relation to Passing By-Laws

79.1 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 power and duty to -

(a) 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

(b) by notice in a newspaper circulating in the area of the Council -

(i) inform the public of the availability of the proposed by-law; and

(ii) set out the terms of the by-law, or describe in general terms the by-law's nature and effect,

pursuant to Section 249(1).

- 79.2 Before the Council makes a by-law, the power and duty to obtain a certificate, in the prescribed form, signed by a legal practitioner certifying that, in the opinion of the legal practitioner -
- (a) the Council has power to make the by-law by virtue of a statutory power specified in the certificate; and
 - (b) the by-law is not in conflict with the Local Government Act 1999, pursuant to Section 249(4).
- 79.3 The duty to publish a by-law in the *Gazette*, pursuant to Section 249(5).
- 79.4 The duty to publish a notice of the making of a by-law under Section 249 in a newspaper circulating in the area of the Council, pursuant to Section 249(7).
- 79.5 The duty to publish the resolution adopting a model by-law or alteration in the *Gazette*, pursuant to Section 250(5).
- 79.6 The duty to publish a notice of the adoption of a model by-law or alteration in a newspaper circulating in the area of the Council, pursuant to Section 250(7).
- 79.7 The duty 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, pursuant to Section 252(1) and (2).
- 79.8 The duty to make available the register of by-laws at the principal office of the Council during ordinary office hours, pursuant to Section 252(3).
80. Power to Make Orders
- 80.1 The power to order a person to do or to refrain from doing a thing specified in Column 1 of the Table in Part 2 of Chapter 12 if in the opinion of the CEO, the circumstances specified in Column 2 of the Table exist and the person is within the description in Column 3 of the Table, pursuant to Section 254.
- 80.2 The power, 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 -
- (a) stating the proposed action, including the terms of the proposed order and the period within which compliance with the order will be required; and
 - (b) stating the reasons for the proposed action; and
 - (c) 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 CEO) pursuant to Section 255(1).
- 80.3 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 to take reasonable steps to serve a copy of the notice on the owner, pursuant to Section 255(2).

- 80.4 The power, after considering representations made within the time specified under Section 255(1) -
- (a) to make an order in accordance with the terms of the original proposal; or
 - (b) to make an order with modifications from the terms of the original proposal; or
 - (c) to determine not to proceed with an order,
- pursuant to Section 255(3).
- 80.5 The power to -
- (a) include two or more orders in the same instrument;
 - (b) direct two or more persons to do something specified in the order jointly;
- pursuant to Section 255(5).
- 80.6 The duty to ensure that the order -
- (a) subject to Section 255, specifies a reasonable period within which compliance with the order is required; and
 - (b) states the reasons for the order,
- pursuant to Section 255(6).
- 80.7 The duty to serve an order on the person to whom it is addressed, pursuant to Section 255(7).
- 80.8 If an order is directed to a person who is not the owner of the relevant land, the duty to take reasonable steps to serve a copy of the order on the owner, pursuant to Section 255(8).
- 80.9 The power, at the request, or with the agreement, of the person to whom an order is directed, to vary the order on the CEO's own initiative, or to revoke an order if satisfied that it is appropriate to do so, pursuant to Section 255(11).
- 80.10 If the CEO, in the circumstances of a particular case, considers -
- (c) that an activity constitutes, or is likely to constitute, a threat to life or an immediate threat to public health or public safety; or
 - (d) that an emergency situation otherwise exists, the power to -
 - (i) proceed immediately to make an order under this Section without giving notice under Section 255(1); and
 - (ii) require immediate compliance with an order despite Section 255(6)(a),
- pursuant to Section 255(12).

81. Rights of Review of an Order

The duty to ensure that an order includes a statement setting out the rights of the person to appeal against the order under the Local Government Act 1999, and to include the information specified by the regulations to that Act, pursuant to Section 256(1) and (2).

82. Action on Non-Compliance with an Order

82.1 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, the power to (subject to the outcome of any review) take the action required by the order, pursuant to Section 257(1).

82.2 The power to authorise an employee or another person to take action under Section 257(1) pursuant to Section 257(2).

82.3 The power to recover the reasonable costs and expenses incurred by the Council in taking action on non-compliance with an order, as a debt from the person who failed to comply with the requirements of the order, pursuant to Section 257(3).

82.4 Where an amount is recoverable from a person by the Council for action on non-compliance with an order, the power, 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 -

- (a) the person is liable to pay interest charged at the prescribed rate per annum on the amount unpaid; and
- (b) 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,

pursuant to Section 257(5).

83. Policies Concerning Orders

83.1 The power and duty to take reasonable steps to prepare for adoption policies concerning order making, pursuant to Section 259(1).

83.2 The power and duty to -

- (a) prepare a draft of an Orders Policy; and
- (b) by notice in a newspaper circulating in the area of the Council, to give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the CEO (being at least four weeks),

pursuant to Section 259(2).

83.3 The power and duty to consider any submission made on the proposed Orders Policy in response to an invitation under Section 259(2), pursuant to Section 259(3).

- 83.4 The power to amend the Orders Policy at any time, pursuant to Section 259(4).
- 83.5 The power and duty, before adopting an amendment to the Orders Policy, to take the steps specified in Section 259(2) and (3) (as if the amendment were a new policy), unless the CEO determines the amendment is only of minor significance, pursuant to Section 259(5).
- 83.6 The duty to make available for inspection (without charge) and purchase (upon payment of a fee fixed by the Council) the Orders Policy at the principal office of the Council during ordinary office hours, pursuant to Section 259(6).
- 83.7 The power, in considering whether to make an order under Part 2 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 Part 2 Chapter 12 of the Act, pursuant to Section 259(8).
84. Appointment of Authorised Persons
- 84.1 The power, by instrument in writing, to appoint a person (other than a member of the Council) as an authorised person, pursuant to Section 260(1).
- 84.2 The power to make an appointment of an authorised person subject to conditions or limitations specified in the instrument of appointment, pursuant to Section 260(2).
- 84.3 The power and duty to issue to an authorised person an identity card -
- (a) containing a photograph of the authorised person; and
 - (b) identifying any conditions or limitations imposed under Section 260(2),
- pursuant to Section 260(3).
- 84.4 The power, at any time, to revoke an appointment under section 260, or to vary or revoke a condition or limitation, or impose a further condition or limitation, pursuant to Section 260(5).
85. Internal Review of Council Actions
- 85.1 The power and duty to establish procedures for the review of decisions of -
- (a) the Council;
 - (b) employees of the Council;
 - (c) other persons acting on behalf of the Council,
- pursuant to Section 270(1).
- 85.2 The duty to ensure that the internal review procedures address the following matters (and any other matters) -
- (d) the manner in which an application for review may be made;
 - (e) the assignment of a suitable person to reconsider a decision under review;

- (f) the matters that must be referred to the Council itself for consideration or further consideration;
- (g) the notification of the progress and outcome of an application for review;
- (h) the timeframes within which notifications will be made and procedures on a review will be completed,

pursuant to Section 270(2).

85.3 The power to refuse to consider an application for review of a decision under Section 270, if -

- (i) the application was made by an employee of the Council and relates to an issue concerning his or her employment; or
- (j) it appears that the application is frivolous or vexatious; or
- (k) the applicant does not have a sufficient interest in the matter;

pursuant to Section 270(4).

85.4 The duty to ensure that copies of a document concerning the procedures for internal review of Council decisions are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) by the public at the principal office of the Council, pursuant to Section 270(5).

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

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

86. Special Jurisdiction

86.1 The power to defend or participate in the following proceedings before the District Court, on behalf of the Council -

- (a) proceedings to try the title of a member to an office;
- (b) proceedings to try the right of a person to be admitted or restored to an office;
- (c) proceedings to compel restoration or admission;
- (d) proceedings to compel the Council to proceed to an election, poll or appointment;
- (e) proceedings to try the validity of a rate or service charge;
- (f) proceedings to try the validity of a by-law,

pursuant to Section 276(1) and (2)

- (g) 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;

pursuant to Section 276(1) and (2).

87. Service of Documents

87.1 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.

87.2 The power to indicate the means available for service of documents on the Council and the power to authorise a person to accept documents on the Council's behalf, pursuant to Section 280(1)(c) and (d).

88. Recovery of Amounts from Lessees or Licensees

Where an owner of land is liable to pay an amount to the Council, the power, 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, pursuant to Section 281(1).

89. Ability of Occupiers to Carry out Works

Where an owner of land fails to carry out work which the Council has required the owner to carry out under an Act, the power to give approval to the occupier of the land to cause the work to be carried out, pursuant to Section 282(1).

90. Power to Enter and Occupy Land

90.1 The power to authorise an employee or contractor of the Council, insofar as may be reasonably necessary for carrying out a function or responsibility of the Council, to -

- (a) enter land at any reasonable time;
- (b) occupy the land on behalf of Council;
- (c) to do the following:
 - (i) obtain earth, minerals or timber from land;
 - (ii) deposit soil on land;
 - (iii) construct temporary roads and structures on land;
 - (iv) deposit or store materials on land;
 - (v) carry out any other incidental activity on land;

pursuant to Section 294(1).

90.2 The duty to pay to the owner or occupier of the land -

- (d) rent on a quarterly or half yearly basis, at a rate to be determined by agreement with the owner or occupier or, in default of agreement, by the Land and Valuation Court; and
- (e) within one month after occupying the land - reasonable compensation for damage caused to any crops on the land; and
- (f) within six months of ceasing to occupy the land - reasonable compensation for any other loss or damage caused, including the full value of any earth, minerals or resources taken from the land;

pursuant to Section 294(3).

90.3 The duty, 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, pursuant to Section 294(5).

91. Power to Carry out Surveys etc

The power to authorise an employee or contractor of the Council, insofar as may be reasonably necessary for carrying out a function or responsibility of the Council -

- (a) to enter land at any reasonable time for the purpose of conducting surveys, inspections, examinations or tests, or carrying out work; and
- (b) to conduct surveys, inspections, examinations and tests and carry out work;

pursuant to Section 295(1) and (2).

92. Reclamation of Land

92.1 Where the Council raises, fills in, improves, drains, levels or reclaims land in the area of the Council, the power 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, pursuant to Section 296(1).

92.2 The power to appoint a valuer to determine the additional value added to the land by Council's activities, pursuant to Section 296(1) and (2).

92.3 The duty to give notice of a valuation to the relevant owner under this Section pursuant to Section 296(3).

92.4 The power and duty to conduct an objection or appeal in the same manner as an objection to or appeal against a valuation under Chapter 10 Part 1 Division 6 of the Act pursuant to Section 296(5).

93. Property in Rubbish

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

94. Power to Act in an Emergency

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

94.2 The power and duty to pay reasonable compensation where a person suffers loss in consequence of action taken under this Section pursuant to and in accordance with Section 298(3) and (4).

95. Vegetation Clearance

95.1 The power, on application of the owner or occupier of the land (the “relevant land”), to make an order under this Section requiring the owner or occupier of adjoining land to remove or cut back vegetation encroaching on the relevant land, pursuant to Section 299(1).

95.2 If there is a proposal to make an order or an order is made, the power and duty to act in accordance with Divisions 2 and 3 of Part 2 of Chapter 12, pursuant to Section 299(2).

96. Costs of Advertisements

The power and duty to pay the cost of an advertisement required by the Local Government Act, or where the Council or an employee of the Council takes any action which immediately necessitates the advertisement, pursuant to Section 300(1).

97. Annual Report

The power and duty to produce for adoption by the Council, the annual report of the Council including the material specified in Schedule 4 of the Local Government Act.

98. Documents to be Made Available by Council

The power and duty to make documents available to the public in accordance with Schedule 5 of the Local Government Act.