



Hepburn
Shire Council



***HEPBURN SHIRE COUNCIL
ORDINARY MEETING OF COUNCIL***

***TUESDAY 18 AUGUST 2009
TRENTHAM MECHANICS INSTITUTE
HIGH STREET
TRENTHAM
7PM***

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MINUTES

TUESDAY 18 AUGUST 2009

Trentham Mechanics Institute
High Street, Trentham
Commencing 7PM

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LUCY ROFFEY
ACTING CHIEF EXECUTIVE OFFICER
18 AUGUST 2009

DRAFT

1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS:

We would like to acknowledge we are meeting on Jaara people country, of which members and elders of the Dja Dja Wurrung community and their forebears have been custodians for many centuries.

On this land the Jaara people have performed age old ceremonies of celebration, initiation and renewal.

We acknowledge their living culture and their unique role in the life of this region.

2. OPENING OF MEETING: The meeting opened at 7.07pm.

PRESENT: Mayor, Cr Bill McClenaghan; Deputy Mayor, Cr Janine Booth; Cr Jon Barrell; Cr Rod May; Cr Tim Hayes; Cr Sebastian Klein; Cr Don Henderson.

IN ATTENDANCE: Chief Executive Officer, Kaylene Conrick; Acting General Manager Infrastructure, Andrew Bourke; General Manager Sustainable Development, Robert Jennings; General Manager Corporate Services, Lucy Roffey; Acting Manager Governance, Merv Hair.

STATEMENT OF COMMITMENT

“WE THE COUNCILLORS OF HEPBURN SHIRE
DECLARE THAT WE WILL UNDERTAKE ON EVERY OCCASION
TO CARRY OUT OUR DUTIES IN THE BEST INTERESTS
OF THE COMMUNITY
AND THAT OUR CONDUCT SHALL MAINTAIN THE STANDARDS
OF THE CODE OF GOOD GOVERNANCE
SO THAT WE MAY FAITHFULLY REPRESENT
AND UPHOLD THE TRUST PLACED IN THIS COUNCIL BY THE
PEOPLE OF HEPBURN SHIRE”

3. APOLOGIES: Nil.

4. DECLARATION OF CONFLICTS OF INTEREST: Nil.

5. CONFIRMATION OF MINUTES:

5.1 *That the Minutes of the 29 June 2009 Special Meeting of Council, the 30 June Special Meeting of Council and the Ordinary Meeting of Council held on 21 July 2009 (as previously circulated to Councillors) be confirmed as required under Section 93 (2) of the Local Government Act 1989.*

Moved: Cr Janine Booth
Seconded: Cr Sebastian Klein
Carried.

DRAFT

6. NOTICES OF MOTION:

6.1 THE CLUNES HISTORIC MEDLYN COMPLEX (BOTTLE MUSEUM) – CHANGE OF NAME

Date: 12 August 2009

File Ref: 1/0320/00070

Background

The Clunes Historic Medlyn Complex and its bottle collection were bequeathed to the former Shire of Talbot and Clunes in 1995 and since its transfer to the Hepburn Shire Council has been managed by a committee of management appointed pursuant to Section 86 of the *Local Government Act* 1989. In addition to housing a most significant collection of bottles, the complex also serves as an information centre.

During the term of the last Council an amount of \$5000 was made available to the Committee of Management to undertake internal improvements to the building with a view to upgrading the display of the collection. In the course of the past 12 months the Hugh Williamson Foundation has donated \$20,000 to undertake further improvements and with the assistance of local volunteers and Conservation Volunteers Australia, the complex has now been transformed into a replica of a 19th century rural Australia 'gold town' streetscape with the 'shop front windows' being used to display the collection.

The project is a credit to the Committee of Management, the volunteers who worked on it and to committee member Clayton Edwards who designed and supervised the works.

The Committee of Management intends to launch the project on 13 December 2009 and is wishing to prepare new signage, advertising material and press releases. The committee is of the view that in order to pay appropriate tribute to the original donor and to make the complex 'more marketable' the name of the complex needs to be altered. This view is strongly supported by the Hugh Williamson Foundation which is assisting the committee in the arrangements for the launch and in its marketing strategy.

In a letter dated 7 August, the Committee of Management has requested Council's consent that the name of the complex be altered to *The Lee Medlyn Home of Bottles*. Normally this request would have been referred to the September Council meeting but to enable sufficient lead in time to the project launch in December, the matter is listed for consideration at the August Council meeting.

Councillor Name: **Cr Tim Hayes**

Councillor Signature:

A handwritten signature in black ink, appearing to read "Tim Hayes".

Acting CEO Signature:

A handwritten signature in black ink, appearing to read "Rafferty".

MOTION

That Council agree to the request from the Clunes Historic Medlyn Complex Committee of Management to alter the name of the complex to "The Lee Medlyn Home of Bottles"

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Carried.

7. PRESENTATION OF REPORTS:

Mayor's Report

Councillor Bill McClenaghan, Holcombe Ward

Another extremely busy month with much to report. I have attended the following events;

1. M.A.V. Future of Local Government Roadshow in Bendigo on 22 July.
2. Also on 22 July, a supply drop of $\frac{3}{4}$ tonne of spuds and 30 kg of sausages to Blaze Aid in Kilmore East. The "Mayoral ute" lugged a heavy load over the Lancefield Hills. I would like to thank Little Hampton farmer Ray Bruton and Hardwick's Wholesale Butchers of Kyneton for their generous donations. I table a postcard to Hepburn Shire received in thanks.
3. Annual dinner for the graduates of "Leadership Ballarat and Western Region in Ballarat on 23 Jul. Congratulations to our Adam McSwain who was amongst the successful participants.
4. Reception and Launch of the "Buddies for Wildlife" program as part of the Alannah & Madeline Foundation in the Daylesford Town Hall on 30 Jul.
5. V.L.G.A. Leading Edge Forum in Melbourne on 06 Aug where the topics were climate change, rooming houses and the impacts of the new conflict of interest legislation for Councillors.
6. Words in Winter Official Launch in Daylesford Town Hall on 07 Aug.
7. Tourism Victoria's new "Daylesford and Macedon Ranges" campaign launch at the Convent Gallery last Friday evening. This heralds the start of a massive \$7.3 million advertising and marketing campaign for the entire region with Daylesford as the "hero" or focal point. The theme is "Lead a Double Life – Daylesford" Needless to say all the local glitterati were there with the Hon Tim Holding, Minister for Tourism, campaign committee and new Regional Tourism Board members, local tourism operators and me. I have pleasure in tabling their marketing document and prospectus.
8. Last Saturday was another meeting of the Yandoit, Franklinford and Clydesdale Community Planning Committee in the Clydesdale Hall. Sue Moses is now facilitating our meetings and good things are still happening in this quiet yet vibrant rural corridor.

That was the more routine stuff. Now for the really interesting and productive events.

First was the M.A.V. Councillor Development Weekend, this year having a "tree change" at Novotel Forest Resort Creswick instead of "sea change" Lorne. Our new venue was very well received and record numbers of Councillors attended the events over the weekend from 24 – 26 July. As Mayor of the host Shire, I had pleasure in welcoming all delegates to the opening night dinner and I told them all about Hepburn Shire, our numerous historic towns and villages, our multicultural heritage, our many and varied festivals, our wonderful resilient communities, our special mineral water and our picturesque natural landscapes. The weekend offered many very interesting speakers and seminars offering a wealth of information and resources for enriching our role as local government as we work for our various towns and communities.

I also attended a meeting with Parliamentary Secretary, the Hon Bill Shorten M.P. in Melbourne with Christine Nixon of the Victorian Bushfire Recovery & Reconstruction Authority (VBRRA) and the various attendant minders, advisors and bureaucrats. I raised the issues of there being some loose ends that were finding their way into the “too hard basket” and it seems that there is a great pool of money available to fix what can be fixed, as well as some altruistic contractors available to perform works on behalf of bushfire victims. I quoted some of our “loose ends” with the plight of the tourist railway as the greatest single damaged enterprise in our Shire and asked that funding applications be followed up.

Last Wednesday, I attended a Summit workshop in Melbourne run by the City of Maribyrnong and the V.L.G.A. with the theme of “Piecing It Together – Community and Business Partnerships”. Partnerships with the business or private sector allow far more worthwhile things to be achieved than would normally be possible. For example, Council would never have been able to build the Daylesford ARC or Indoor Recreation Centre without a partnership with the State Government, particularly the Education Department and the wider and business community. We could do the same again at Victoria Park, Daylesford, if properly managed and the various opportunities are seized and exploited. The Summit gave examples of business partnerships with the Western Language School, the Maribyrnong Giving Centre, a program called “Second Bite” that recycles unsold South Melbourne Market food to the poor and needy, and “JAM for Kids” which is a community building program in Maribyrnong that targets young people in the community. Again, lots & lots of terrific ideas that may take decades to implement without the proper partnerships with business and community. Councillors, despite our meager \$20 million budget, we can do this too if we lead, inspire and empower our various communities. No Council can deliver it all !

I also table a Practical Guide for “Community Business Partnerships”.

Lastly, yesterday saw the release of the Interim Report from the Victorian Bushfire Royal Commission. I attended a session in Melbourne with other Mayors, Department heads and Government Ministers to hear and consider the 51 Recommendations and how they might be implemented in the seventy days before the start of the next fire season. Five of them specifically refer to local government bodies and the M.A.V. and we will all be very busy for the next four months preparing our communities for a possibly worse bushfire threat. Today, the State Government announced that many fire-prone towns will have new “Township Protection Plans” and I can announce that Creswick, Daylesford, Hepburn Springs and Trentham are all on the list in Hepburn Shire. Again I raised the spectre of various loose ends, yet to be dealt with, including burnt out bridges in the forest on strategic fire access roads, some residents’ difficulty in accessing their bushfire affected properties and the problem of aged and isolated people, who live alone, who may get left out of a rescue or recovery effort in a bushfire scenario. These matters are receiving attention as we speak but there is lots more work to do before we can say that everything possible has been done to protect our many Shire communities from the bushfire threat next summer.

I now table a full copy of the Royal Commission's Interim Report and an Executive Summary that allows one immediate access to the major points and recommendations. Another meeting later this week will help co-ordinate local government approach through the M.A.V. and then it is over to us and our various officers and committees to ensure that the communities of Hepburn Shire are well looked after this summer.

I close this report with a very sobering thought. We all know of the devastation caused in Victoria by the Black Saturday bushfires and we mourn the deaths of 173 fellow Victorians; men, women & children. But there is an even more alarming statistic involving the number of people who died in the heatwave in the week prior to Black Saturday. An alarming 360 people lost their lives at that time because of the heat and complications with their existing conditions. In our preparations for the next summer, we must not forget to consider the effects of prolonged heat in our thirteenth year of drought.

Councillor Reports

Councillor Don Henderson, Creswick Ward

Since my last report I have attended the Dean Spud Festival. Although termed a spud festival, apart from the great weigh in, there was little about potatoes. Rather this festival is great example of a small isolated community getting off its backside and doing some real community bonding and support work. Thanks to the council foresight and support the event was roundly appreciated by all who attended. Our funding allowed for kids circus, music and other activities and was very well and thankfully received. Moving around the room gave me a real opportunity to meet newcomers to the area as well as discuss some of the problems that have faced our rural folk over the last few years. I was able to take an international visitor to this event and the resulting photos and report are destined to travel back and be widely reported at a government level.

All of the councillors present did join in the puppetry at the launch of Buddies for Wildlife Crs. May, Klein, Mclenaghan as well as myself

Friends of Callembeen Park have been busy and I attended a very positive meeting with a consultant regarding developments at the park. Whilst some people are a little sceptical that something will finally eventuate they seemed focussed on the task. People involved were concerned at the loss of their large diving tower and this is understandable given the long history. Meetings are ongoing and the group have appreciated the chance to have an input.

As you are aware councillors took a tour of the New Depot where progress is well underway. Although I was impressed with the new amenity I was appalled at the lack of respect paid to safety and wellbeing at the site. The upside to this event was the way rectification was handled. Immediate action was undertaken by our CEO and General Managers as well as council staff to ensure that our obligations were met. The event has been referred to our Audit Committee for

consideration. I think that the wash up of this should send a message to those involved that a zero tolerance of actions that put workers at risk is now being put in place and systems strengthened to ensure this happens.

There is a renewed excitement among community groups in Creswick regarding progress of our new community and sporting facility at DLRR. I have not had one report of dissatisfaction from potential user groups about the process and the way consultation has taken place. Groups that were standing back waiting to see what was going to transpire are now involved and happy to be on board.

I must say that good work by our General Manager Mr Jennings has seen some action to rectify a very dangerous entry to the Forest resort at Creswick. Work is now underway and visitors and residents have commented that this will greatly improve safety.

I am looking forward to meeting people from the biking fraternity, push biking Mr Mayor, to see if there are opportunities to bring some organised cycling events to our Shire. This sort of activity fits well into our Council Plan as well as Creswick Ward community Plan and if there are opportunities then the whole Shire may benefit.

Councillor Rod May, Birch Ward

On July 30 I attended “A carbon accounting workshop for local governments” held in the South Melbourne Town Hall with approx 30 other council officers and industry participants.

An overview of the constraining effects of the CPRS on accounting for voluntary action was presented by Alan Pears of RMIT Environment and Planning.

Peter Shuey, of Ark Climate presented on Carbon Accounting and green power and the MAVs position was outlined by Ben Morris. The outcomes and resulting considerations were provided to key managers and staff but the messages were essentially the following.

Despite the deficiencies of the proposed CPRS the motivations and justifications for zero emissions or carbon neutral have not changed, only the way we get there.

Developing and maintaining a robust and transparent accounting system for voluntary abatement as well as developing a rigorous and transparent reporting protocol for voluntary abatement should accompany a continued focus on achieving energy efficiency

The challenge to be met is making an increasingly complex and somewhat irrational framework simple and easy for local communities to understand and to engage local communities to revisit community carbon reduction targets and priorities through providing an information and education campaign about energy efficiency and the financial and carbon impost on RECs/VEETs/offsets and report carbon reduction achievements regularly to local communities

Simple actions and work are valid.

These are to be put forward via advocacy for a through the MAV and VLGA. All work groups recognised that **there was a critical need for strong advocacy NOW** and a 'let's wait and see' approach was not appropriate.

I attended "Buddies for Wildlife" and heard about and observed the excellent wildlife educational packages provided with ChillOut funding to local primary schools.

I attended "honey bee Blues", a launch of the DVD explain the risks and hazards of the varoaha mite should it arrive in Australia. It should be noted that such an invasive pest could wreak havoc in the Hepburn apiary industry should it arrive. The Kyneton Town Hall was also used for the broadcast of an episode of Bush Telegraph which examined the potential threat to the \$2 billion food crop pollination industry with help of international bee expert Dr Dennis Anderson, VFF, Honey Industry and agribusiness leaders. The framework of the launch included the disturbing Colony collapse disorder, a malaise that is destroying honey bees and their critical role in food pollination in many developed countries. Industrial agricultural models are thought to be complicit in this disorder.

Councillor Tim Hayes, Cameron Ward

Cr Hayes did not deliver a report.

Councillor Sebastian Klein, Coliban Ward

August has been a busy month. Occupied largely with Climate change engagements. The Northern Alliance for Greenhouse Action presented on their Towards Zero Net Emissions program involving 12 urban councils and associated community groups. Through all manner of achievable realistic means they have predicted a 25% reduction in projected 2020 emissions, this is not taking into account the possible influence of an emissions trading scheme. It is a good model for our own CVGA to follow. These themes were also the focus of an MAV consultation on the State Climate Change Green Paper, which was a thoroughly exciting event. The lateral thinking, the rural applicability and the enthusiasm for the challenge ahead was refreshing, focusing on everything from stationary energy, local and municipal economics, transport, planning and design. A forum on Soil Carbon Sequestration in Geelong was a conservative look at what agricultures options for participating in the unfolding carbon economy, it was carefully focussed, organised by the newly formed G21 agribusiness forum which takes in the SW coast Municipalities.

Hands – an exhibition of photographs by Allison Pouliot, was an eloquent and striking portrait of our carers, and a testament to the work of our residents involved in caring for friends and relatives. This illustration of what is known as the sandwich generation, reinforcing the wisdom of the Positive Aging Strategy.

Trentham Bush Poetry – Great event. Words in Winter is good.

Trentham Farmers Market brought the main square of the town to life and it's an exciting prospect to think that this colourful event will continue to bring business and visitors to our town.

One thing marred the event, and that was the fact that if you looked down the high street from either end, it appeared to be totally deserted. For all the visitors to town, there was little in the way of displays or signs to draw them down the street. It is a difficult thing to see how council expects to support the economic growth and development of the town when it is difficult to see which businesses are open. The reason I am told emphatically and by nearly all of the store owners was a rather unfriendly visit from a council enforcement officer. We are asked by the people of Trentham how we can expect the businesses of the town to continue to pay for permits and rates, supporting the shire, when we fail to support them? It is clear that our support is needed, more than our regulation. I look forward to working with our new economic development manager to look at how council can help rather than hinder businesses.

Councillor Janine Booth, Creswick Ward

The past month has seen Councillors busy with briefing sessions, Top Team Councillor training, Code of conduct review as well as the usual weekly meetings.

I have also attended the State MAV conference that was held at Creswicks Novotel Forest Resort. The conference brought Mayors and Councillors from all over Victoria to Hepburn Shire for three days of workshops, guest speakers and networking. Many Councillors took the opportunity to stay a little longer and explore what the region had to offer. Organizers were delighted with the venue, support, accommodation and catering offered by Forest Resort and will definitely be booking further conferences at Creswick.

I have attended a number of AGMS this past month including the Creswick and District Development Association (CDDA) where Marcus Walsh was appointed President. His Committee with a number of new faces is looking forward to working closely with Council on a number of Community projects this coming year including the Magic Pudding Playground and the Creswick of the Lindsay Arts Trail. I would like to thank the guest speaker for the evening who was our new General Manager of Sustainable Development Mr. Rob Jennings. I know that the Community volunteers present were pleased to hear Mr. Jennings' future plans of strengthening Council and Community partnerships by effective engagement and active consultation.

I also attended the Sport and Recreation grant application assessments by our Recreation Advisory Committee. The Committee met with applicants to discuss their upcoming recreation projects and assist them with their applications. Those applications will be assessed by the Committee next week and recommendations put forward to Council. This is a rigorous program and one that will ensure the best quality of applications and recommendations being put up for Councils consideration.

Finally I was invited to speak recently on my business, community and local government experiences at a meeting of the Daylesford Rotary Club. The Rotary Club of Daylesford is Hepburn Shires only Rotary Club and they have been actively supporting this Community since 1953. The group unveiled signage and information boards which will be erected at the Lost

Childrens Park in September. Members asked me to convey their thanks to Council for the contribution of funds through the Shires Community Grant program that assisted with the purchase.

Councillor Jon Barrell, Birch Ward

A very brief report due to 2 weeks annual leave.

1. The Wombat Hill Botanical Gardens Advisory Committee Meeting met 11 August 2009.
 - a. Council has received a submission from the Friends of the WHBG requesting access to at least one shed for their purposes. With the relocation of Shire outdoor staff to the new depot shortly, up to 3 sheds may become surplus to Shire requirements. The Friends have a need to shelter in inclement weather, for visitors such as school groups to leave their bags, and for educational activities. The WHBGAC will monitor this matter.
 - b. It was noted that HSC maintains a subscription to Our Community.com for purposes including access to information regarding grant opportunities for projects in the Gardens. It is my intention to review this topic with our managers of Community Services, Economic Development & Tourism to investigate wider grant opportunities across Hepburn Shire as this is often raised with me by members of the community.
 - c. The gardens will celebrate their Sesquicentenary (150th birthday) in the near future. Some very detailed documents were tabled detailing the wide range of dates that could indicate the births of the Gardens. It is recommended that 21/05/1863 be nominated as the date when a large acreage was set aside for the gardens, a large bonfire was lit and there was a Ceremonial procession in Vincent St Daylesford.
2. The Destination Daylesford Campaign Committee - no recent meeting.
3. The ARC Advisory Committee - no recent meeting
4. Tonight Councillors met the Shire's new Economic Development & Tourism Officer Mr John Collins. As a Birch Ward Councillor I am thrilled with this appointment as this portfolio has been somewhat under-resourced in recent months.

Motion

7.1.1 That Council receives and notes the reports of the Mayor and Councillors.

Moved: Cr Rod May

Seconded: Cr Sebastian Klein

Carried.

8. PUBLIC PARTICIPATION TIME:

This part of the Ordinary Meeting of Council allows for the tabling of petitions by Councillors and Officers and 30 minutes for the purpose of:

- Responding to questions that have been submitted by members of the community
- Allowing members of the community to address Council.

Community members are invited to submit written questions to the CEO by 12 noon on the day of the Council meeting. If you wish to address Council you must provide a brief synopsis of your address in writing to the CEO by 12 noon on the day of the Council meeting.

Questions may be taken on notice and responded to later. Likewise, some questions of an operational nature may be responded to through usual administrative procedure. Separate forums and Council processes are provided for deputations or for making submissions to Council.

8.1. PETITIONS:

8.1.1 PETITION – RE: FORESHADOWED MOTION ON INTERNATIONAL WOMEN’S DAY HONOUR ROLL

(Action Officer – General Manager Corporate Services)

File Ref: 16/04/07

NOTE: This matter is being dealt with in conjunction with Agenda Item 10.1 Women’s Honour Roll.

8.2 QUESTIONS

Submitted by Colleen Jaeger, Trentham

Question 1

My business is off High Street and partly hidden by the public toilets. Enforcement of the footpath trading policy has had a serious effect on my business. My question is, could I be considered for an exemption which would allow me to place a sign at the corner of High and Market St?

Response by General Manager Sustainable Development, Robert Jennings:

Council officers have visited local business throughout the Shire, including Trentham, explaining the new policy (Policy No. 19 Signs and Goods on Road Reservations) following its introduction in February this year. This was conducted well in advance of any enforcement activity.

Businesses are permitted one sign outside the frontage of their premises unless the business can demonstrate special or different circumstances. These generally relate to corner establishments, widened footpaths and double frontages – none of which are relevant for the business in Market Street, Trentham.

Positioning of the sign must be in accordance with the policy, offset and type.

With regards to your request for an exemption, High Street is an arterial road controlled by VicRoads, and any sign placed on this road must comply with VicRoads signing policy. It is Council's understanding that VicRoads would not consent to the erection of a sign at the High Street/Market Street intersection.

Submitted by Gwenda Dickins, Trentham

Question 1

What are Council going to do about signage for businesses off the main street. If we don't have signs directing custom to our business, how do we survive?

Response by General Manager Sustainable Development, Robert Jennings:

Council does not currently provide signs for any business. We are however mindful of the economic and tourism development needs of our towns and hamlets, including the issue of signage for businesses. The matter of signage in Trentham in particular has been raised with both Councillors and Council Officers. There is a need for the development of a strategy around signage across the Shire and this should begin with an audit of what currently exists and an assessment of likely future needs. A town the size of Trentham would be a suitable place for such a project to be piloted.

This will one of the areas to be addressed by Council's new Economic and Tourism Development Manager, Mr John Collins, who commenced his employment with the Shire this week.

Question 2

How are small businesses that struggle to survive expected to now pay the exorbitant fees and charges for every chair, table, sign or display on the footpaths now? Perhaps a flat rate at a fair price for a shop front would be fairer, particularly for those small businesses (ie, \$100 - \$200 per shop – not something for each chair, etc.) (A quick look down the main street of Trentham would show you how this is hurting the town). At the end of the day it's not just about income for the Shire.

Response by General Manager Sustainable Development, Robert Jennings:

Council adopted Policy No. 19 Signs and Goods on Roads Reservations in February this year. The policy provides direction and requirements for signage on Council managed land.

Part of operating a business in the commercial areas of a town is to undertake the required business operations within the boundaries of the property. When a business seeks a permit for extended trading areas under 'Policy 19 – Signs and Goods on Road Reservations' then it is extending its area of commercial operations and Council will require payment of the designated fees.

At the end of the day, Council is required to set a fee for the extended trading areas to treat all commercial operations on Council managed land equally.

Submitted by Greg Wanklyn, Trentham:

Question 1

Has council breached its communications and consultation policy in regard to the proposed work in the Trentham shopping precinct, and if so, why? (Ref: Hepburn Shire Council Policy Number: 4 'communication & consultation').

What research study or evidence has Council used to determine that relocating rubbish bins away from food outlets will produce a better litter outcome?

(Both questions refer to the removal or relocation of rubbish bins in Trentham)

Response by Mayor, Cr Bill McClenaghan:

Council, as part of increasing the participation in recycling in the commercial centres throughout the Shire, has introduced a two bin system (rubbish and recycling) in lieu of the current single rubbish bin.

Bins have been located with consideration to:

- Location of current rubbish bins;
- Proximity of current businesses;
- Interaction with existing other streetscape structures;
- Location of new bins in consideration of current footpath trading policy;
- Spacing of bins for ease of operation by users; and
- Degree that bins were utilised previously after discussion with the litter bin contractor.

In Trentham, along High Street, there will be four sets (comprising 1 rubbish and 1 recycling bin) spaced approximately 50m apart whilst there will be 1 set of bins in Market street near the V-line bus stop.

Implementation of the new bins was adopted by Council as part of the budget process and installation of the bins was a replacement program under waste management operations.

Council undertakes numerous annual routine programs and projects where Policy No 4 is not undertaken and as such has not breached this policy.

This initiative provides a greater responsive service delivery to the Hepburn Shire community.

Sumbitted by Sharon van Rysewyk, Trentham:

Was our local community consulted about how we perceive our town and informed, as a result of this process as to what was planned and is now being actioned? eg bin removal, relocation and seat removals?

Response by A/General Manager Infrastructure, Andrew Bourke:

Current seats in Trentham will remain. New bins are being installed and current bins relocated.

9 EXECUTIVE SERVICES REPORT:

Nil reports this month.

DRAFT

10 CORPORATE SERVICES:

10.1 WOMEN'S HONOUR ROLL

(Action Officer – General Manager Corporate Services)

File Ref: 16/04/07

Introduction

This report was requested by Council at the June Ordinary Meeting and also responds to the petition put to Council at the July Ordinary Meeting of Council. The report outlines the history of the Hepburn Shire Women's Honour Roll and International Women's Day and provides a recommendation in regards the appropriate time to hold the Hepburn Shire Women's Honour Role event

Report

History of Hepburn Shire Honour Roll of Women

The Hepburn Shire Honour Roll of Women was introduced by Council in December 2004 with the stated purpose that:

"Council has agreed to play a more proactive role in celebrating and recognising International Women's Day".¹

The original recommendation adopted by Council stated:

That council:

- 1) *Agrees to the creation of a "Hepburn Shire Honour Roll of Women" to be launched on International Women's Day 2005*
- 2) *A special function be organised with a key note speaker to celebrate 'International Women's Day'*
- 3) *Councillor Mutimer be delegated to coordinate the activities for 'International Women's Day'*

A year later an advertisement calling for nominations for the 'International Women's Day Organising Committee' was placed with the following information contained in the advertisement:

"In March Hepburn Shire Council launched its International Women's Day (IWD) Honour Roll. . . The Council is calling for nominations to a committee to assist with organising IWD events"

¹ Minutes – Ordinary Meeting of Council: 21 December 2004

The Honour Roll was held on or in the week of IWD up until 2009 whereby the organising committee requested that the Honour Roll event be held in May due to *“time constraints involving Council elections, caretaker period and the induction of the new Council in December. It was not possible to make the usual preparations at that time...”*² The Council carried the motion at the February Council meeting to approve the change of date for 2009 to Sunday 24 May.

It should be noted that on the Council’s website the Hepburn Shire Council Women’s Honour Roll is described as follows: *“The Hepburn Shire Council holds an annual Civic Function to celebrate International Women’s Day” It also states that the Honour Roll “provides a forum to acknowledge women who have made a difference”.*

In the Nomination Guidelines the purpose of the Honour Roll is stated as *“...established in 2005 to acknowledge and celebrate the achievements of the many talented women, past and present, in our shire”.*

History of International Women’s Day (IWD)

IWD is a global day celebrating the economic, political and social achievements of women past, present and future.³

IWD was first run in 1911 and was first celebrated on 8 March in 1913. The United Nations has for many years held an annual IWD conference, and globally events are held on 8 March to celebrate IWD across the world.

The format and type of events held around the world are varied, some adopting the annual theme set by the United Nations, others provide a day of celebration, workshops and events supported by local communities, governments and other organisations to inspire women and celebrate achievements.

The themes for IWD are not restricted to equal pay and a right to vote, but cover a wide spectrum of women’s issues across economics, politics and human rights.

Other Women’s Day Honour Rolls

It appears that the only other currently active Women’s Honour Roll in Victoria is the Victorian Honour Roll of Women. The inductees to the Victorian Honour Roll for Women are announced each year on IWD as part of the IWD celebrations.

² Minutes, Ordinary Meeting of Council: February 17, 2009

³ www.internationalwomensday.com

Structure of the Committee

The purpose of the current Committee is to organise the annual Honour Roll event including calling for and assessing nominations.

The current committee has three members, comprising Councillor Janine Booth and volunteers Anne E Stewart and Faye McLeod. It is also supported by Council administration and communications staff.

The inaugural committee consisted of a Councillor and three volunteers, also supported by Council and Administration staff. Community nominations have not been formally sought since the establishment of the committee in 2005, although membership has been encouraged informally over the years including through the event itself.

Given current membership numbers are down slightly consideration could be given to formally encouraging increased membership through appropriate communications channels prior to any subsequent event.

Council has established a number of Advisory Committees that provide advice on specific areas such as tourism, youth affairs, culture and arts. These committees are established with terms of reference which specify the matters the committee will advise Council on and how the committee will operate. Advisory Committees do not have delegated powers to act on behalf of Council, but provide Council with advice for Council action.

To give greater clarity to the Women's Honour Roll Committee, it may be beneficial to establish it formally as an Advisory Committee of Council with Terms of Reference specifying the role of the Committee as:

- to advise Council on the Women's Honour Roll nomination process,
- to oversee the Women's Honour Roll nomination process,
- to provide recommendations to Council as to who to induct onto the Honour Roll
- to advise Council as to when to hold the Honour Roll event, and
- to organise the Honour Roll event.

Additional benefits of establishing the Committee as an Advisory Committee include greater transparency through the requirement to provide minutes of meetings to Council, an annual report disclosing meeting attendance records, and the holding of an Annual General Meeting which is advertised to the public. This would address the concern of the petitioners noted below in regard a "properly constituted committee".

However, establishing the Committee as an Advisory Committee would add a level of complexity to the committee that is unnecessarily cumbersome given the narrow scope of the terms of reference. Consequently, the current structure as a less formal Organising Committee is recommended, but with greater clarity of purpose through the adoption of the above terms of reference.

Petition

A petition entitled “Re: Foreshadowed motion on International Women’s Day and Honor Roll” carrying 475 signatures was presented to the July Ordinary Meeting of Council calling on the Hepburn Shire Mayor and Councillors to:

- Retain the established arrangements for the annual celebration of International Women’s Day, including the keynote event the Women’s Honour Roll.
- Take steps to ensure that the IWD Committee is properly constituted on democratic principles and that a commitment to the advancement of Women’s status be a mandatory requirement for committee membership.

A further three parts to the petition were lodged with the Council after the meeting taking the total number of signatures to 493. All parts of the petition have been previously circulated to Councillors.

The first point on the petition relates directly to matters explored in this report, particularly the relationship between the Women’s Honour Roll and International Women’s Day.

The second point relates to the structure of the committee which is also explored in this report. As has been noted above it is recommended that the Committee continue as an organising committee with membership including both community and council representatives, backed by Council administrative and communications support.

Options

While the main reason stated for moving the Hepburn Shire Women’s Honour Roll away from the IWD was due to time constraints as noted above, the organising committee has noted a number of benefits derived from this change of date as follows:

- Greater focus on recipients and their stories
- Better attendance by families of the recipients by holding the event on a Sunday;
- Smaller event to organise as opposed to the broader IWD event
- Avoided clash with Chillout Festival activities impacting on space availability and attendances.

Similar benefits to those outlined above which were seen to benefit the 2009 event could also be derived by considering other options such as:

- Holding the event on the nearest Sunday to IWD – many communities around the world hold IWD events over a week rather than just on IWD
- Ensuring that the event organised for IWD is the Hepburn Shire Women’s Honour Roll event and not a broader IWD event
- Rotate the event to other Wards in the Shire to avoid the clash in Daylesford with the Chillout Festival.

Conclusion

From the above information, it can be concluded that:

- The Hepburn Shire Women's Honour Roll event has always been intrinsically linked to the IWD
- The decision to move the IWD was a result of timing constraints only
- The structure of the committee as an Organising Committee constituting community and council representatives, with clear terms of reference and backed by Council administrative and communications support is appropriate
- The Committee could benefit from a membership drive, and
- Benefits derived from separating the event from IWD could be achieved through implementation of other strategies

Relevant Policies

Council Plan 2009-2013:

17. Embracing community knowledge and expertise to help guide its decision making and implementation.

Community Engagement

The Women's Honour Roll event is a formal civic reception of the Hepburn Shire Council to which all interested members of the public are invited.

Financial Implications

The annual cost of the Hepburn Shire Women's Honour Roll event is \$3,000 per annum.

Motion

That Council:

- 10.1.1 *Agrees that the Hepburn Shire Women's Honour Roll continue to be held on or in the week of International Women's Day;*
- 10.1.2 *Acknowledges that the event to award the Honour Roll inductees is an event to celebrate International Women's Day and the advancement of the status of women.*
- 10.1.3 *Agrees that the organising committee be formally recognised as being the International Women's Day Women's Honour Roll Organising Committee with membership comprising 6 community members and a Councillor supported by Council staff*
- 10.1.4 *Agrees that the terms of reference for the Hepburn Shire Council International Women's Day Women's Honour Roll Organising Committee be as follows:*
- *to advise Council on the Women's Honour Roll nomination process,*
 - *to oversee the Women's Honour Roll nomination process,*
 - *to provide recommendations to Council as to who to induct onto the Honour Roll*
 - *to advise Council as to when to hold the Honour Roll event, and*
 - *to organise the Honour Roll event.*
- 10.1.5 *To advertise inviting interested community members to nominate to the Hepburn Shire Council International Women's Day Women's Honour Roll Organising Committee.*

Moved: Cr Don Henderson

Seconded: Cr Jon Barrell

Carried.

10.2 DELEGATION OF POWERS, DUTIES AND FUNCTIONS TO CHIEF EXECUTIVE OFFICER AND OTHER COUNCIL STAFF

(Action Officer – Acting Manager Governance)

File Ref:

Introduction

Under the Local Government Act 1989, all delegations made by Council to Council staff are required to be reviewed within twelve months of each General Election. This report represents the formal presentation of this review process to Council.

This review uses the 'Maddocks' model delegation package which involves every power, duty and function that has been identified and specifically delegated to Council. Under this regime delegations are dealt with in three ways:

1. Delegations from the Council to the Chief Executive Officer.
2. Delegations from Council to Council staff under specific provisions of various Acts and Regulations including the Health Act 1958, Food Act 1984, Planning and Environment Act 1987 and Road Management Act 2004, etc, and
3. Delegation from the Chief Executive Officer to staff

The report before Council:

- Explains the purpose of delegation in the context of Council's operations, including the types of delegation and the essential features of delegations.
- Reviews the existing delegations.
- Presents a comprehensive schedule of proposed delegations that identifies every power, duty and function to be delegated and links each of these to specific positions in the organisation.

Section 98(6) of the Local Government Act 1989 requires each Council to review all delegations made by the Council to Council staff within twelve months of any General Election, i.e. November 29th 2008.

The review of the relevant delegations has been completed in consultation with relevant staff and a series of updated *Instruments of Delegation* have been prepared.

Report

General

Many Council decisions are not made at Council meetings, it is simply not practicable. Effective functioning of local government would not be possible if delegation of decision-making power is, or should be, was not allocated by formal delegations.

There are two forms of delegation which occur in Victorian local government:

- delegation to special committees;
- delegation to members of staff.

Delegations are different in nature from authorisations. The decision of a delegate of Council is "deemed" to be a decision by Council. The decision by a person appointed by Council to a statutory position - for example, an authorised officer - is not. An authorised officer's powers and responsibilities are quite distinct from Council's.

Sources of Council power

A Council is a statutory entity. The authority of Council is therefore defined by statutory prescriptions. The sources of council authority can be summarised as:

- power to do things which a "natural person" can do - in particular, the power to enter into contracts;
- powers conferred by provisions of acts and regulations, such as the *Local Government Act 1989* and the *Planning and Environment Act 1987*;
- powers conferred by other forms of statutory instrument.

The powers of a "natural person"

Section 5 of the *Local Government Act* enables Council to deal with property and, more generally, the capacity to do anything which bodies corporate may by law do "which are necessary or expedient" for performing its functions and exercising its powers.

Decisions by the Council

The Council is a legal entity composed of its members (ie, Councillors). Because it is not a "natural" person, it can act in only one of two ways: by resolution or through others acting on its behalf.

The power of a Council to act by resolution is set out in section 3(5) of the Act -

"(5) Where a Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council."

Types of delegation

Alternatively, a Council can act through others. Where this is to occur, it is recommended that the appointment be formalised through written "instruments of delegation" wherever practicable. The *Local Government Act 1989*, as well as other legislation, makes express provision for the appointment of delegates to act on behalf of Councils. There are two basic forms of delegation under the *Local Government Act 1989* -

- **To a special committee**

Although a special committee is not a separate legal entity (being only a "committee" of persons) as a body it can act as a "delegate" of the Council. This applies to special committees comprising councillors as well as to special committees which include officers and/or other persons;

- **To an officer of the Council**

If the delegation is to the Chief Executive Officer that person has power to "sub-delegate" some or all of those powers to other officers. If the delegation is to any other officer, there is no power of "sub-delegation".

The delegation power under the *Local Government Act* applies to powers under any Act. However, some other Acts also include provisions dealing with delegations relating to particular issues. There is a problem of interpretation when those Acts confer the delegation power more restrictively than the *Local Government Act*. For example, a delegation under section 188 of the *Planning and Environment Act* cannot authorise a delegate to acquire land on behalf of the Council in its capacity as responsible authority. The prudent approach is to comply with the more restrictive and specific delegation rules under the specific purpose legislation.

The essential features of a delegation

Most statutory bodies have a power of delegation - delegation of power is generally considered essential to enable day-to-day decisions to be made. Because it is a common feature of legislation, not all details about delegations are set out in the empowering Act - some general features of delegation are set out in the *Interpretation of Legislation Act* 1984. In particular -

- the decision, once made, is for all legal purposes a decision of the Council itself (section 42A of the *Interpretation of Legislation Act*);
- the "delegate" is in much the same position as the Council itself in terms of making the decision - for example, where the decision requires that opinion be formed, the delegate's opinion can be the basis for the decision (section 42 of the *Interpretation of Legislation Act*);
- the fact that a delegation has been made does not affect the Council's powers in relation to the issue concerned (section 42A of the *Interpretation of Legislation Act*). This is subject, of course, to the rule that the delegate's decision (once made) is taken to be the decision of the Council itself.
- For this reason, it is important that the Council have in place appropriate policies and guidelines under which delegation should be exercised.

Delegation to the Chief Executive Officer

Most statutes impose limitations on the powers which may be delegated. Usually one of the powers which may not be delegated is the delegation power itself.

This limitation does not apply in respect of a delegation to the Chief Executive Officer. Under section 98 of the *Local Government Act* 1989 -

"(3) The instrument of delegation to the Chief Executive Officer may empower the Chief Executive Officer to delegate a power of the Council other than the power of delegation to a member of Council staff."

Thus the instrument of delegation to the Chief Executive Officer may empower the Chief Executive Officer to exercise various powers of the Council, including the power to delegate powers to council officers.

Delegations to Officers

The power of delegation under section 98 is a power to delegate Council's powers under the *Local Government Act* or any other Act (with specific exceptions).

The delegation power does not apply to statutory appointments - these are not delegations of Council powers. Persons who are appointed to positions are acting as holders of statutory powers, and are not acting as delegates. Examples are:

- an authorised officer appointed under section 224 of the *Local Government Act*,
- a person appointed to institute proceedings on behalf of the Council (section 232 of the *Local Government Act*).

A recurring problem with delegations to Council officers is that changes occur in personnel - if delegations are to named officers, each time a new officer is appointed a further instrument of delegation must be made.

The solution to this problem is to delegate to the person who, for the time being, occupies a specified office - for example, to the "Manager Planning and Development".

Documentation

Whatever reporting requirements are imposed on each delegate, it is important that decisions and actions taken under delegations be properly documented.

If the delegations were not in place, the exercise of functions, powers and duties of Council would be recorded in the minute book of the Council.

It is possible that decisions taken under delegation will be reviewed in other spheres (i.e internal or management review, Council review, Ombudsman, Victorian Civil and Administrative Tribunal, Magistrates' (or higher) Court).

Therefore a proper record of delegated action must be kept to ensure that the decision or action can be substantiated at a later date.

The detail and method of recording will depend on the nature of the power duty or function. However, the need for proper documentation should be uppermost in the minds of all delegates.

The Register of Delegations

Under sections 87 and 98 of the *Local Government Act* the Council is required to keep a register of delegations to special committees and under section 98, a register of delegations to members of Council staff must be kept. These registers of delegations, including the date when delegations were last reviewed under section 86(6) and 98(6), must be made available for public inspection (regulation 11(j) of the *Local Government (General) Regulations 2004*).

The Review Process

Council's existing delegation framework was adopted prior to November 2008 and subsequently reviewed and incorporated in letters of or Instruments of Delegation.

The Proposed Delegation Framework

The Instruments of Delegation that are presented to the August Ordinary Council meeting for adoption by Council are as follows:

- **Attachment 1** - Instrument of Delegation from Council to Chief Executive Officer.
- **Attachment 2** - Instrument of Delegation from Council to Members of Council staff relating to various Acts and Regulations (or specific parts of those Acts or Regulations), which contain a specific power of delegation.

These Acts include the *Domestic (Feral & Nuisance) Animals Act 1994*, *Environment Protection Act 1970*, *Food Act 1984*, *Health Act 1958*, *Heritage Act 1995*, *Planning and Environment Act 1987*, *Planning and Environment Regulations 2005*, *Planning and Environment (Fees) Regulations 2000*, *Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 1999*, *Residential Tenancies Act 1997*, *Road Management Act 2004*, *Road Management (General) Regulations 2005*, *Road Management (Works And Infrastructure) Regulations 2005*, and

Sub-Delegation

These two instruments of delegation depend on the source of the powers of delegation.

Section 98(1) of the *Local Government Act* provides that a Council may, by instrument of delegation, delegate to a member of its staff any power, duty or function of a Council under the *Local Government Act* or any other Act, other than certain specified powers.

Section 98(2) provides that the Chief Executive Officer may, by instrument of delegation, delegate to a member of the Council staff any power, duty or function of his or her office other than the power of delegation, except the power of delegation itself.

Other Acts also empower a Council to delegate certain powers, duties or functions. For example, section 188 of the *Planning and Environment Act 1987* and section 58A of the *Food*

Act 1984, empower Councils to delegate their powers under those Acts to members of Council staff. There is a presumption that a power of delegation cannot be sub-delegated in the absence of express authority to do so.

The *Planning and Environment Act*, the *Food Act*, Part 9B of the *Environment Protection Act* and Part III of the *Health Act* contain specific powers of delegation, but do not contain an express power of sub-delegation. Therefore, it is assumed that the power of delegation cannot be sub-delegated. This means it is necessary for the delegation to come from Council to the staff members directly.

By contrast, the *Local Government Act* provides that the powers of delegation under that Act can be either delegated to its staff members or to the CEO, who may then sub-delegate his or her powers (provided that the delegation to the CEO specifically authorises him or her to sub-delegate). Therefore, the CEO is able to sub-delegate to Council staff without infringing the presumption.

While it could be argued that Councils could simply rely on the general delegation powers in the *Local Government Act* to delegate matters under these other Acts and ignore the specific delegation powers in these other Acts, there is an appreciable risk in so doing. This would be to ignore a rule of statutory interpretation which dictates that the specific takes priority over the general.

Progressive Updating of the Delegations Register

The 'Maddocks' Model Delegations package is a subscription service that ensures that as changes to legislation occur they are addressed in the bi annual updates. In this regard it is recommended that in conjunction with Council's adoption of this delegation framework it;

- Authorise the Chief Executive Officer to update the delegation register as and when any relevant legislation is amended or introduced.

Relevant Policies

The Local Government Act 1989 and various other Acts.

Community Engagement

Council is delegating general powers to staff positions delegated to it under specific legislation set out above and in this instance is not required to undertake a public consultation program. The preparation of this report and the associated delegation schedules has involved consultation with all Directorates

Financial Implications

There are no financial implications in Council adopting these Instruments of delegation.

Motion

That Council:

10.2.1 In the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 (“the Act”) and other legislation referred to in the attached Instrument of Delegation, resolves that:

- a) There be delegated to the person holding the position, acting in or performing duties of Chief Executive Officer the powers, duties and functions set out in the Instrument of Delegation to the Chief Executive Officer attached as Appendix 1, subject to the conditions and limitations specified in that instrument.*
- b) The Instrument comes into force immediately the common seal of Council is affixed to the Instruments of Delegation.*
- c) The duties and functions set out in the Instrument must be performed and the powers set out in the Instrument must be executed in accordance with any guidelines or policies of Council that it may from time to time adopt.*
- d) It is noted that the Instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.*

10.2.2 In the exercise of the powers conferred by section 98(1) of the Local Government Act 1989 (“the Act”) and the other legislation referred to in the attached Instrument of Delegation, resolves that:

- a) There be delegated to the members of Council staff holding, acting or performing the duties of the offices or positions referred to in the attached Instrument of Delegation to members to the Council staff, the powers, duties and functions set out in that Instrument attached as Appendix 2, subject to the conditions and limitations specified in that Instrument.*
- b) The Instrument comes into force immediately the common seal of Council is affixed to the Instruments of Delegation.*
- c) The duties and functions set out in the Instrument must be performed and the powers set in the Instrument must be executed in accordance with any guideline or policies of Council that it may from time to time adopt.*

10.2.3 Resolves that the following Instruments of Delegation, that is

Appendix 1 – Instrument of Delegation to Chief Executive Officer

Appendix 2 – Instrument of Delegation Council to Staff

be affixed with Council’s Common Seal.

10.2.4 Authorises the Chief Executive Officer to update the delegation register as and when any relevant legislation is amended or introduced.

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Carried.

Cr Rod May left the Chamber at 8.22pm and returned at 8.24pm.

DRAFT

ATTACHMENT 1
ITEM 10.2

DRAFT

Hepburn Shire Council

Instrument of Delegation

to

The Chief Executive Officer

S5. Instrument of Delegation, Council to CEO

Instrument of Delegation

In exercise of the power conferred by section 98(1) of the *Local Government Act 1989 (the Act)* and all other powers enabling it, the Hepburn Shire Council (**Council**) delegates to the member of Council staff holding, acting in or performing the position of Chief Executive Officer, the powers, duties and functions set out in the Schedule to this Instrument of Delegation,

AND declares that

1. this Instrument of Delegation is authorised by a Resolution of Council passed on 18th August 2009;
2. the delegation
 - 2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 is subject to any conditions and limitations set out in the Schedule;
 - 2.3 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
 - 2.4 remains in force until Council resolves to vary or revoke it.
3. The member of Council staff occupying the position or title of or acting in the position of Chief Executive Officer may delegate to a member of Council staff any of the powers (other than the power of delegation conferred by section 98(3) of the Act or any other powers not capable of sub-delegation) which this Instrument of Delegation delegates to him or her.

**The Common Seal
of the Hepburn Shire Council
was affixed in the presence of**

..... **Mayor**

..... **Chief Executive Office**

This.....day of..... 2009

SCHEDULE

The power to

1. determine any issue;
2. take any action; or
3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing

4. if the issue, action, act or thing is an issue, action, act or thing which involves
 - 4.1 awarding a contract exceeding the value of \$150,000 for goods and services or \$200,000 for goods and services under contract..
 - 4.2 making a local law under Part 5 of the Act;
 - 4.3 approval of the Council Plan under s.125 of the Act;
 - 4.4 adoption of the Strategic Resource Plan under s.126 of the Act;
 - 4.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act;
 - 4.6 adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;
 - 4.7 noting Declarations of Impartiality by Valuers pursuant to section 13DH(2) of the Valuation of Land Act 1960;
 - 4.8 determining pursuant to s.37 of the Act that an extraordinary vacancy on Council not be filled;
 - 4.9 exempting a member of a special committee who is not a Councillor from submitting a return under s.81 of the Act;
 - 4.10 appointment of councillor or community delegates or representatives to external organisations; or
 - 4.11 the return of the general valuation and any supplementary valuations;
5. if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
6. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a

S5. Instrument of Delegation, Council to CEO

4

6.1 policy; or

6.2 strategy

adopted by Council; or

7. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 98(1)(a)-(f) (inclusive) of the Act or otherwise; or
8. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

S5. Instrument of Delegation, Council to CEO

ATTACHMENT 2
ITEM 10.2

DRAFT



Hepburn Shire Council

Instrument of Delegation

to

Members of Council Staff



Instrument of Delegation

In exercise of the power conferred by section 98(1) of the *Local Government Act 1989* and the other legislation referred to in the attached Schedule, the Council:

1. delegates each duty and/or function and/or power described in column headed "Provision" of the Schedule (and summarised in column headed "Thing Delegated" of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column headed "Delegates" of the Schedule;
2. records a reference in the Schedule to Delegates by abbreviation
3. declares that:
 - 3.1 this Instrument of Delegation is authorised by a resolution of Council passed on 18th August 2009; and
 - 3.2 the delegation:
 - 3.2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 3.2.2 remains in force until varied or revoked;
 - 3.2.3 is subject to any conditions and limitations set out in the Schedule; and
 - 3.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts.

The Common Seal
of the Hepburn Shire Council
was affixed in the presence of

..... Mayor

..... Chief Executive Officer

Thisday of.....2009

SCHEDULE

GMI	means General Manager Infrastructure
GMCS	means General Manager Corporate Services
GMCD	means General Manager Community Development
GMSD	means General Manager Sustainable Development
MRP	means Manager Risk and Property
MF	means Manager Finance
EE	means Executive Engineer
AE	means Asset Engineer
MERO	means Municipal Emergency Resource Officer
MFPO	means Municipal Fire Prevention Officer
MP	means Manager Planning
PCO	means Planning Compliance Officer
SO	means Subdivision Officer
SP	means Statutory Planner
SSP	means Senior Statutory Planner
PLO	means Planning Liaison Officer
PAO	means Planning Administrative Officer
CC	means Compliance Co-Ordinator
CO	means Compliance Officer
SEHO	means Senior Environmental Health Officer
EHO	means Environmental Health Officer
BI	means Building Inspector
MBS	means Municipal Building Surveyor

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Provision	Thing Delegated	Conditions	Delegate(s)
s.41A(1)	power to declare a dog to be a menacing dog	The delegate must be an authorised officer. If there are any objections, Council will consider Written and oral submissions and make the final determination.	CEO GMSD CC
s.41A(3)	power to revoke a declaration made under s.41A(1)		CEO CO GMSD CC
s.41B(1)	duty to notify the owner		CEO CO GMSD CC
s.41C	duty to give notice of a menacing dog declaration to owner		CEO CO GMSD CC

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Schedule

ENVIRONMENT PROTECTION ACT 1970

Provision	Thing Delegated	Conditions	Delegate(s)
s.53M(3)	power to require further information		CEO GMSD SEHO EHO
s.53M(4)	duty to advise applicant that application is not to be dealt with		CEO GMSD SEHO EHO
s.53M(5)	duty to approve plans, issue permit or refuse permit	refusal must be ratified by Council or it is of no effect	CEO GMSD SEHO EHO
s.53M(6)	power to refuse to issue septic tank permit	refusal must be ratified by Council or it is of no effect	CEO GMSD SEHO EHO

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Schedule			
FOOD ACT 1984			
Provision	Thing Delegated	Conditions	Delegate(s)
s.19(1)	power to make an order in writing, upon receipt of a report from an authorised officer, directing that food premises be cleaned, etc.		SEHO EHO
s.19(6)(a)	duty to revoke any order under s.19 where the subject of the order has been attended to		SEHO EHO
s.19(6)(b)	duty to give written notice of revocation under s.19(6)(a)		SEHO EHO
s.19F(1)(a)	power to issue directive to comply with any specified requirement in the food safety program		SEHO EHO
s.19F(1)(b)	power to issue directive, if Division 3A applies, to have the food safety program for the premises audited		SEHO EHO
s.19GB	power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor		SEHO EHO
s.19HA	power to inspect a food premises to determine whether the food business is operating in accordance with the food safety program		SEHO EHO
s.19HB	duty, where of the opinion that the food safety program has not been implemented or complied with, to advise the proprietor of this opinion, reasons for the opinion, what needs to be remedied and the period within which this must occur		SEHO EHO
s.20(3)	power to issue certificate to authorised officer		SEHO EHO
s.26(4)	duty to destroy or dispose of article		SEHO EHO
s.35	function of registering food premises		SEHO EHO

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Schedule

FOOD ACT 1984

Provision	Thing Delegated	Conditions	Delegate(s)
---	power to register, renew or transfer registration	refusal to grant/renew/transfer registration must be ratified by Council	SEHO EHO
s.39(1)	duty to inspect		SEHO EHO
s.39(2)(a)	duty to ensure that, if the premises is a declared premises, there is a food safety program for the premises that complies with section 19DC		SEHO EHO
s.39(2)(b)	duty to ensure that if the premises is a declared premises, there is a food safety program for the premises that complies with section 19D		SEHO EHO
s.39(2)(c)	duty to ensure that, if the premises is a declared premises, no other ground for the refusal of registration, renewal of registration or the transfer of registration exists under Part IIIB		SEHO EHO
s.39A	power to register food premises despite minor defects		SEHO EHO
s.40(1)	duty to issue a certificate of registration in the prescribed form		SEHO EHO
s.40(2)	power to incorporate the certificate of registration in one document with any certificate of registration under the Health Act 1958		SEHO EHO
s.40D(1)	power to suspend or revoke the registration of food premises		SEHO
s.40D(2)	duty to specify how long a suspension is to last under s.40D(1)		SEHO
s.43(1)	duty to keep register of all registrations, renewals or transfers of registration		SEHO EHO
s.43(5)	duty to cause a copy of any entry under s.43(1) to be certified as correct and supply it to any person who requests it free of charge		SEHO EHO

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Schedule

FOOD ACT 1984

Provision	Thing Delegated	Conditions	Delegate(s)
s.46(5)	power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution, without proceedings first being instituted against the person first charged		SEHO EHO
s.54(3)	duty to notify the Secretary where authority is given under s.54(2)		SEHO
s.58(1)	duty to notify the Director of Liquor Licensing where an order is made under s.19 of the Act and a licence/permit under the Liquor Control Reform Act 1998 is in force		SEHO EHO
s.58(2)	duty to notify the Director of Liquor Licensing when a holder of a permit/licence under the Liquor Control Reform Act 1998 is found guilty or pleads guilty and in respect of which no conviction is recorded		SEHO EHO

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Schedule

HEALTH ACT 1958

Provision	Thing Delegated	Conditions	Delegate(s)
s.41	duty to remedy all nuisances in the municipal district		SEHO EHO
s.43(2)	duty to investigate any notification of nuisance		SEHO EHO
s.43(3)	duty to either take action to abate the nuisance or take steps to settle the matter privately		SEHO EHO
s.44(1)	power to serve a notice to abate the nuisance		SEHO EHO
s.44(3)	power to issue proceedings where non-compliance with the notice to abate		SEHO EHO
s.44(9)	power to enter the land and abate the nuisance, and recover costs where a court orders that nuisance be abated		SEHO EHO
s.47B	power to investigate a nuisance occurring outside the municipal district		SEHO EHO
s.47C	power to enter vacant/unoccupied land and abate the nuisance		SEHO EHO
s.366C	function of receiving an application for registration of premises		SEHO EHO
s.367	function of registration and renewal of registration		SEHO EHO
s.368(1)	power to specify for what period registration will remain in force		SEHO EHO
s.368(1A)	power to grant temporary registration		SEHO EHO

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Schedule
HEALTH ACT 1958

Provision	Thing Delegated	Conditions	Delegate(s)
s.369(2)	power to refuse granting or renewal of registration	action must be ratified by Council	SEHO EHO
s.369(3)	power to suspend or revoke registration where second or subsequent offence under the Act	action must be ratified by Council	SEHO
s.370	power to transfer registration during the currency of the registration	refusal to transfer must be ratified by Council	SEHO EHO
s.371(1)	duty to keep a register of all registrations, renewals and transfers		SEHO EHO
s.372	power to cause inspection to be made before registration and to require alterations or improvements and to grant temporary conditional registration or renewal		SEHO EHO

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Schedule
HERITAGE ACT 1995

Provision	Thing Delegated	Conditions	Delegate(s)
s.84(2)	power to sub-delegate Executive Director's functions	must obtain Executive director's written consent first.	CEO GMSD
s.84(2)	power to sub-delegate Executive Director's functions	must obtain Executive Director's written consent first.	CEO GMSD

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Schedule

PLANNING AND ENVIRONMENT (FEES) REGULATIONS 2000

Provision	Thing Delegated	Conditions	Delegate(s)
r.13(1)	power to waive or rebate fee in prescribed circumstances		CEO GMSD MP
r.13(2)	power to waive or rebate fee for amendment to a planning scheme in prescribed circumstances		CEO GMSD MP
r.13(3)	duty if fee waived or rebated to record the matters taken into account and which formed the basis of the decision		CEO GMSD MP
r.13(1)	power to waive or rebate fee in prescribed circumstances		CEO GMSD MP
r.13(2)	power to waive or rebate fee for amendment to a planning scheme in prescribed circumstances		CEO GMSD MP
r.13(3)	duty if fee waived or rebated to record the matters taken into account and which formed the basis of the decision		CEO GMSD MP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.4B	power to prepare an amendment to the Victoria Planning Provisions		CEO GMSD MP SSP
s.4H	duty to make amendment etc available		CEO GMSD MP SSP
s.4I	duty to keep Victoria Planning Provisions and other documents available		CEO GMSD MP SSP SP
s. 8A(3)	power to apply to Minister to prepare an amendment to the planning scheme		CEO GMSD MP SSP
s.11(3)(b)	duty to submit amendment to planning scheme to Minister for approval if the Minister withdraws authorisation		CEO GMSD MP SSP
s 12A (1)	duty to prepare a municipal strategic statement (including power to prepare a municipal strategic statement under s 19 of the Planning and Environment (Planning Schemes) Act 1996)		CEO GMSD MP SSP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.12(3)	power to carry out studies and do things to ensure proper use of land in which Council is the planning authority and consult with other persons to ensure co-ordination of planning scheme with these persons		CEO GMSD MP SSP
s.12B(1)	duty to review planning scheme		CEO GMSD MP SSP
s.12B(2)	duty to review planning scheme at direction of Minister		CEO GMSD MP SSP
s.12B(5)	duty to report findings of review of planning scheme to Minister without delay		CEO GMSD MP SSP
s.14	duties of a Responsible Authority as set out in subsections (a) to (d)		CEO GMSD MP SSP SP PCO

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.17(1)	duty of giving copy amendment to the planning scheme		CEO GMSD MP SSP PLO
s.17(2)	duty of giving copy s.173 agreement		CEO GMSD MP SSP PLO
s.18	duty to make amendment etc. available		CEO GMSD MP SSP PLO
s.19	power to give notice, to decide not to give notice, to publish notice of amendment to a planning scheme and to exercise any other power under s 19 to a planning scheme		CEO GMSD MP
s.20(1)	power to apply to Minister for exemption from the requirements of s 19		CEO GMSD MP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.21 (2)	duty to make submissions available		CEO GMSD MP SSP PLO
s.22	duty to consider all submissions		CEO GMSD MP SSP
s.23(2)	power to refer submissions to a panel		CEO GMSD MP SSP
s.24	function to represent Council and present a submission at a panel hearing (including a hearing referred to in s 96D)		CEO GMSD MP SSP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.26	duty to keep report of panel available for inspection		CEO GMSD MP SSP PLO PAO
s.27 (2)	power to apply for exemption if panel's report not received		CEO GMSD MP SSP
s.30(4)(a)	duty to say if amendment has lapsed		CEO GMSD MP
s.30(4)(b)	duty to provide information in writing upon request		CEO GMSD MP SSP
s.31	duty to submit adopted amendment to Minister and, if applicable, details under s.19(1B)		CEO GMSD MP SSP SP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.32(2)	duty to give more notice if required		CEO GMSD MP SSP
s.33(1)	duty to give more notice of changes to an amendment		CEO GMSD MP SSP
s.35A(2)	duty to not approve an amendment under s.35B unless the amendment has been certified by the Secretary		CEO GMSD MP
s.35B(1)	power to approve amendment in form certified under s.35A		CEO GMSD MP
s.35B(2)	duty to give to Minister notice of approval, copy of approved amendment and other documents		CEO GMSD MP SSP
s.36(2)	duty to give notice of approval of amendment		CEO GMSD MP SSP SP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.38(5)	duty to give notice of revocation of an amendment		CEO GMSD MP SSP
s.39	function of being a party to a proceeding commenced under s.39 and duty to comply with determination by VCAT		CEO GMSD MP
s.40(1)	function of lodging copy of approved amendment		CEO GMSD MP SSP
s.40(1A)	duty to lodge prescribed documents and copy of approved amendment with the relevant authorities		CEO SSP MP GMSD
s.41	duty to make approved amendment available		CEO GMSD MP SSP FLO PAO

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.42	duty to make copy of planning scheme available		CEO GMSD MP SSP SP PAO PLO
s.46N(1)	duty to include condition in permit regarding payment of development infrastructure levy		CEO GMSD MP SSP SP
s.46N(2)(c)	function of determining time and manner for receipt of development contributions levy		CEO GMSD MP SSP SP
s.46N(2)(d)	power to enter into an agreement with the applicant regarding payment of development infrastructure levy		CEO GMSD MP SSP SP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.46O(1)(a) & (2)(a)	power to ensure that community infrastructure levy is paid, or agreement is in place, prior to issuing building permit		CEO GMSD MP SSP SP
s.46O(1)(d) & (2)(d)	power to enter into agreement with the applicant regarding payment of community infrastructure levy		CEO GMSD MP SSP
s.46P(1)	power to require payment of amount of levy under s.46N or s.46O to be satisfactorily secured		CEO GMSD MP SSP SP
s.46P(2)	power to accept provision of land, works, services or facilities in part or full payment of levy payable		CEO GMSD MP SSP SP
s.46Q(1)	duty to keep proper accounts of levies paid		CEO GMCS MFP GMSD MP SSP SP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.46Q(1A)	duty to forward to development agency part of levy imposed for carrying out works, services, or facilities on behalf of development agency		CEO GMSD MP GMCS MFP
s.46Q(2)	duty to apply levy only for a purpose relating to the provision of the works, services and facilities in respect of which the levy was paid etc.		CEO GMSD MFP MP SSP SP
s.46Q(3)	power to refund any amount of levy paid if it is satisfied the development is not to proceed		CEO GMSD MFP MP
s.46Q(4)(c)	duty to pay amount to current owners of land in the area	must be done within six months of the end of the period required by the development contributions plan and with the consent of, and in the manner approved by, the Minister	CEO GMSD MFP MP
s.46Q(4)(d)	duty to submit to the Minister an amendment to the approved development contributions plan	must be done in accordance with Part 3	CEO GMSD MP SSP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s46Q(4)(e)	duty to expend that amount on other works etc.	with the consent of, and in the manner approved by, the Minister	CEO GMSD MP
s.46QC	power to recover any amount of levy payable under Part 3B		CEO GMSD MP
s.46V(3)	duty to make a copy of the approved strategy plan (being the Melbourne Airport Environs Strategy Plan) and any documents lodged with it available		NOT
s.46Y	duty to carry out works in conformity with the approved strategy plan		MP
s.47	power to decide that an application for a planning permit does not comply with that Act		CEO GMSD MP
s.49(1)	duty to keep a register of all applications for permits and determinations relating to permits		CEO GMSD PLO MP SSP SP SO PAO

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.49(2)	duty to make register available for inspection		CEO GMSD PLO MP SP SO PAO PLO
s.50(4)	duty to amend application		CEO GMSD MP SSP
s.50(5)	power to refuse to amend application		CEO GMSD MP
s.50(6)	duty to make note of amendment to application in register		CEO GMSD PLO MP SP SO PAO
s.50A(1)	power to make amendment to application		CEO GMSD MP SP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.50A(3)	power to require applicant to notify owner and make a declaration that notice has been given		CEO GMSD MP SP
s.50A(4)	duty to note amendment to application in register		CEO GMSD PLO MP SP SO PAO
s.51	duty to make copy of application available for inspection		CEO GMSD MP SSP SP SO PLO
s.52(1)(a)	duty to give notice of the application to owners/occupiers of adjoining allotments unless satisfied that the grant of permit would not cause material detriment to any person		CEO GMSD MP SSP SP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.52(1)(b)	duty to give notice of the application to other municipal councils where appropriate		CEO GMSD MP SSP SP
s.52(1)(c)	duty to give notice of the application to all persons required by the planning scheme		CEO GMSD MP SSP SP
s.52(1)(ca)	duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if may result in breach of covenant		CEO GMSD MP SSP SP
s.52(1)(cb)	duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if application is to remove or vary the covenant		CEO GMSD MP SSP SP
s.52(1)(d)	duty to give notice of the application to other persons who may be detrimentally effected		CEO GMSD MP SSP SP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.52(1A)	power to refuse an application	Only when the use is prohibited under Planning Scheme or does not comply with the Planning Scheme or application refused by Referral Authority under Sec.55	CEO GMSD MP SSP SP
s.52(3)	power to give any further notice of an application where appropriate		CEO GMSD MP SSP SP
s.53(1)	power to require the applicant to give notice under section 52(1) to persons specified by it		CEO GMSD MP SSP SP
s.53(1A)	power to require the applicant to give the notice under section 52(1AA)		CEO GMSD MP SSP SP
s.54(1)	power to require the applicant to provide more information		CEO GMSD MP SSP SP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.54(1A)	duty to give notice in writing of information required under s.54(1)		CEO GMSD MP SSP SP
s.54(1B)	duty to specify the lapse date for an application		CEO GMSD MP SSP SP
s.54A(3)	power to decide to extend time or refuse to extend time to give required information		CEO GMSD MP SSP SP
s.54A(4)	duty to give written notice of decision to extend or refuse to extend time under s.54A(3)		CEO GMSD MP SSP SP
s.55(1)	duty to give copy application to every referral authority specified in the planning scheme		CEO GMSD MP SSP SP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.57(2A)	power to reject objections considered made primarily for commercial advantage for the objector		CEO GMSD MP SSP SP
s.57(3)	function of receiving name and address of persons to whom notice of decision is to go		CHO GMSD MP SSP SP
s.57(5)	duty to make available for inspection copy of all objections		CEO GMSD MP SSP SP PAO PLO
s.57A(4)	duty to amend application in accordance with applicant's request, subject to s.57A(5)		CEO GMSD MP
s.57A(5)	power to refuse to amend application		CEO GMSD MP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.57A(6)	duty to note amendments to application in register		CEO GMSD PLO MP SSP SP PAO
s.57B(1)	duty to determine whether and to whom notice should be given		CEO GMSD MP SP
s.57B(2)	duty to consider certain matters in determining whether notice should be given		CEO GMSD MP SP
s.57C(1)	duty to give copy of amended application to referral authority		CEO GMSD SP
s.58	duty to consider every application for a permit		CEO GMSD MP SSP SP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.60	duty to consider certain matters		CEO GMSD MP SSP SP
s60(1A)	power to consider certain matters before deciding on application		CEO GMSD MP SP
s.61(1)(a)	power to decide to grant a permit	the permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006	CEO GMSD MP SSP SP
s.61(1)(b)	power to decide to grant a permit with conditions	the permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006	CEO GMSD MP SSP SP
s.61(1)(c)	power to refuse the permit	Only when the use is prohibited under Planning Scheme or does not comply with the Planning Scheme or application is refused by Referral Authority under Sec.55	CEO GMSD MP SSP SP

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Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.61(2)	duty to decide to refuse to grant a permit if referral authority objects to grant of permit		CEO GMSD MP
s.61(3)(a)	duty not to decide to grant a permit to use coastal Crown land without Minister's consent		NOT
s.61(3)(b)	duty to refuse to grant the permit without the Minister's consent		CEO GMSD MP SSP
s.62(1)	duty to include certain conditions in deciding to grant a permit		CEO GMSD SP MP
s.62(2)	power to include other conditions		CEO GMSD MP
s.62(5)(a)	power to include a permit condition to implement an approved development contributions plan		CEO GMSD SP MP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.62(5)(b)	power to include a permit condition that specified works be provided on or to the land or paid for in accordance with section 173 agreement		CEO GMSD SP MP
s.62(5)(c)	power to include a permit condition that specified works be provided or paid for by the applicant		CEO GMSD MP
s.62(6)(a)	duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with .62(5) or s.46N		CEO GMSD MP
s.62(6)(b)	duty not to include a permit condition requiring a person to pay an amount for or provide works except a condition that a planning scheme requires to be included as referred to in s.62(1)(a)		CEO GMSD MP
s.63	duty to issue the permit where made a decision in favour of the application (if no one has objected)		CEO GMSD MP SP
s.64(1)	duty to give notice of decision to grant a permit to applicant and objectors		CEO GMSD MP SSP SP
s.64(3)	duty not to issue a permit until after the specified period		CEO GMSD MP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.65(1)	duty to give notice of refusal to grant permit to applicant and objector		CEO GMSD MP SSP SP
s.66	duty to give notice under s.64 or s.65 and copy permit to referral authorities		CEO GMSD MP SSP SP
s.69(1)	function of receiving application for extension of time of permit		CEO GMSD MP SSP SP PLO
s.69(2)	power to extend time		CEO GMSD SP MP

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.70	duty to make copy permit available for inspection		CEO GMSD MP SSP SP SO
s.71(1)	power to correct certain mistakes		CEO GMSD MP
s.71(2)	duty to note corrections in register		CEO GMSD PLO MP SSP SP SO PAO
s.73	power to decide to grant amendment subject to conditions		CEO GMSD SP MP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.74	duty to issue amended permit to applicant if no objectors		CEO GMSD SP MP
s.76	duty to give applicant and objectors notice of decision to refuse to grant amendment to permit		CEO GMSD SP MP
s.76A	duty to give referral authorities copy of amended permit and copy of notice		CEO GMSD MP SP SSP PAO
s.76D	duty to comply with direction of Minister to issue amended permit		CEO GMSD MP SP SO PLO
s.83	function of being respondent to an appeal		CEO GMSD MP SSP SP PCO

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.83B	duty to give or publish notice of application for review		CEO GMSD MP SSP SP
s.84(1)	power to decide on an application at any time after an appeal is lodged against failure to grant a permit		CEO GMSD MP
s.84(2)	duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit		CEO GMSD MP
s.84(3)	duty to tell principal registrar if decide to grant a permit after an application is made for review of its failure to grant a permit		CEO GMSD MP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.84(6)	duty to issue permit on receipt of advice within 3 working days		CEO GMSD MP SSP SP SO PCO
s.86	duty to issue a permit at order of Tribunal within 3 working days		CEO GMSD MP SSP SP SO
s.87(3)	power to apply to VCAT for the cancellation or amendment of a permit		CEO GMSD MP
s.90(1)	function of being heard at hearing of request for cancellation or amendment of a permit		CEO GMSD MP SSP SP PCO

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Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.91(2)	duty to comply with the directions of VCAT		CBO GMSD MP SSP SP PCO
s.91(2A)	Duty to issue amended permit to owner if Tribunal so directs		CBO GMSD MP SSP SP
s.92	duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s.90		CEO GMSD MP SSP SP SO

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.93(2)	duty to give notice of VCAT order to stop development		CEO GMSD MP SSP PCO
s.95(3)	function of referring certain applications to the Minister		CEO GMSD MP
s.95(4)	duty to comply with an order or direction		CEO GMSD MP
s.96(1)	duty to obtain a permit from the Minister to use and develop its land	Only when the use is prohibited under the Planning Scheme or does not comply with the provisions of the Planning Scheme	CEO GMSD MP
s.96(2)	function of giving consent to other persons to apply to the Minister for a permit to use and develop Council land		CEO GMSD MP SSP
s.96A(2)	power to agree to consider an application for permit concurrently with preparation of proposed amendment		CEO GMSD MP SSP

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Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.96C	power to give notice, to decide not to give notice, to publish notice and to exercise any other power under s 96C		CEO GMSD MP SSP
s.96G	power to determine to recommend that a permit be granted or to refuse to recommend that a permit be granted and power to notify applicant of the determination (including power to give notice under s 23 of the Planning and Environment (Planning Schemes) Act 1996)		CEO GMSD MP SSP
s.96H	power to give notice in compliance with Minister's direction		CEO GMSD MP SSP
s.96J	power to issue permit as directed by the Minister		CEO GMSD MP SSP
s.96K	duty to comply with direction of the Minister to give notice of refusal		CEO GMSD MP SSP

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PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.97C	power to request Minister to decide the application		CEO GMSD MP SSP
s.97D(1)	duty to comply with directions of Minister to supply any document or assistance relating to application		CEO GMSD MP SSP SP
s.97G(3)	function of receiving from Minister copy of notice of refusal to grant permit or copy of any permit granted by the Minister		CEO GMSD MP SSP
s.97G(6)	duty to make a copy of permits issued under s.97F available for inspection		CEO GMSD MP SSP SP SO

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**Schedule
PLANNING AND ENVIRONMENT ACT 1987**

Provision	Thing Delegated	Conditions	Delegate(s)
s.97L	duty to include Ministerial decisions in a register kept under s.49		CEO GMSD MP SSP SP
s.97O	duty to consider application and issue or refuse to issue certificate of compliance		CEO GMSD MP
s.97P(3)	duty to comply with directions of VCAT following an application for review of a failure or refusal to issue a certificate		CEO GMSD MP SSP
s.97Q(2)	function of being heard by VCAT at hearing of request for amendment or cancellation of certificate		CEO GMSD MP SSP

DRAFT

Schedule			
PLANNING AND ENVIRONMENT ACT 1987			
Provision	Thing Delegated	Conditions	Delegate(s)
s.97Q(4)	duty to comply with directions of VCAT		CEO GMSD MP SSP
s.97R	duty to keep register of all applications for certificate of compliance and related decisions		CEO GMSD MP SSP
s.98(1)&(2)	function of receiving claim for compensation in certain circumstances		CEO GMSD MP
s.98(4)	duty to inform any person of the name of the person from whom compensation can be claimed		CEO GMSD MP
s.101	function of receiving claim for expenses in conjunction with claim		CEO GMSD MP

DRAFT

Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.103	power to reject a claim for compensation in certain circumstances		CEO GMSD MP
s.107	function of receiving claim for compensation		CEO GMSD MP SSP SO
s.114(1)	power to apply to the VCAT for an enforcement order		CEO SO MP
s.117(1)(a)	function of making a submission to the VCAT where objections are received		CEO GMSD MP SSP PCO
s.120(1)	power to apply for an interim enforcement order where s.114 application has been made		CEO GMSD MP
s.123(1)	power to carry out work required by enforcement order and recover costs		CEO GMSD MP

DRAFT

Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.123(2)	power to sell buildings, materials, etc salvaged in carrying out work under s.123(1)	Except Crown Land	CEO GMSD MP
s.129	function of recovering penalties		CEO GMSD MP MFP PCO
s.130(5)	power to allow person served with an infringement notice further time		CEO GMSD MP
s.149A(1)	power to refer a matter to the VCAT for determination		CEO GMSD MP
s.156	duty to pay fees and allowances (including a payment to the Crown under subsection (2A)), and payment or reimbursement for reasonable costs and expenses incurred by the panel in carrying out its functions unless the Minister directs otherwise under subsection (2B) power to ask for contribution under subsection (3) and power to abandon amendment or part of it under subsection (4)	where council is the relevant planning authority	CEO GMSD MP SSP
s.171(2)(f)	power to carry out studies and commission reports		CEO GMSD MP SSP

DRAFT

Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.171(2)(g)	power to grant and reserve easements		CEO GMSD MP SSP
s.173	power to enter into agreement covering matters set out in s.174		CEO GMSD MP
---	power to decide whether something is to the satisfaction of Council, where an agreement made under section 173 of the Planning and Environment Act 1987 requires something to be to the satisfaction of Council or Responsible Authority		CEO GMSD MP
---	power to give consent on behalf of Council, where an agreement made under section 173 of the Planning and Environment Act 1987 requires that something may not be done without the consent of Council or Responsible Authority		CEO GMSD MP
s.178	power to amend a s.173 agreement		CEO GMSD MP MGI
s.179(1)	duty to lodge agreement with Minister		CEO GMSD MP MGI
s.179(2)	duty to make available for inspection copy agreement		CEO GMSD MP MGI

DRAFT

Schedule
PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.181	power to apply to the Registrar of Titles for registration of the agreement and to deliver a memorial to Registrar-General		CEO GMSD MP
s.182	power to enforce an agreement		CEO GMSD MP PCO
s.183	duty to tell Registrar of Titles of ending/amendment of agreement		CEO GMSD MP
s.198(1)	function to receive application for planning certificate		CEO GMSD PLO SSP SP
s.199(1)	duty to give planning certificate to applicant		CEO GMSD PAO PLO SSP SP

DRAFT

Schedule

PLANNING AND ENVIRONMENT ACT 1987

Provision	Thing Delegated	Conditions	Delegate(s)
s.201(1)	function of receiving application for declaration of underlying zoning		CEO GMSD MP SSP SP
s.201(3)	duty to make declaration		CEO GMSD MP SSP
	power to decide, in relation to any planning scheme or permit, that a specified thing has or has not been done to the satisfaction of Council		CEO GMSD MP PCO
	power, in relation to any planning scheme or permit, to consent or refuse to consent to any matter which requires the consent or approval of Council		CEO GMSD MP
	power to approve any plan or any amendment to a plan or other document in accordance with a provision of a planning scheme or condition in a permit		CFO GMSD MP
	power to give written authorisation in accordance with a provision of a planning scheme		CEO GMSD MP

DRAFT

Schedule
PLANNING AND ENVIRONMENT REGULATIONS 2005

Provision	Thing Delegated	Conditions	Delegate(s)
r 6	duty of responsible authority to provide copy of matter considered under section 60(1A)(g) for inspection free of charge		CEO GMSD MP SSP SP PLO SO
r7	duty of responsible authority to provide copy information or report requested by Minister		CEO GMSD MP SSP SP PLO SO
r22	power of responsible authority to require verification of information (by statutory declaration or other written confirmation satisfactory to the responsible authority) in application for permit or to amend a permit or any information provided under section 54 of the Act		CEO GMSD MP SSP SP PCO SO
r 55	duty of responsible authority to tell Registrar of Titles under r 183 of the Act of the cancellation or amendment of an agreement		CEO GMSD MP

DRAFT

Schedule

**RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS
REGISTRATION AND STANDARDS) REGULATIONS 1999**

Provision	Thing Delegated	Conditions	Delegate(s)
r.8(a)	power to: grant registration or renewal of registration issue a certificate of registration or renewal of registration		CEO GMSD SEHO EHO
r.11	power to grant transfer of registration and duty to cause current certificate of registration to be endorsed		CEO GMSD SEHO EHO
r.13	keep a register of caravan parks		CEO GMSD SEHO EHO
r.14(3)	approve place for display of certificate and other documents		CEO GMSD SEHO EHO
r.20	determine a lesser time for notification of details of intended installation		CEO GMSD SEHO EHO
r.33	power to form view that refuse receptacles are sufficient and clean		CEO GMSD SEHO EHO

DRAFT

Schedule

**RESIDENTIAL TENANCIES (CARAVAN PARKS AND MOVABLE DWELLINGS
REGISTRATION AND STANDARDS) REGULATIONS 1999**

Provision	Thing Delegated	Conditions	Delegate(s)
r.34	power to form view that refuse is disposed of adequately		CEO GMSD SEHO EHO
r.35	duty to consult with the relevant fire authority and determine: the fire fighting facilities to be provided space for firefighter access		CEO GMSD SEHO EHO
r.36	duty to consult with the relevant fire authority and determine an emergency management plan		CEO GMSD SEHO EHO
r.38	power to approve the installation of a rigid annexe in a caravan park		CEO GMSD SEHO EHO
r.39	power to approve lighting		CEO GMSD SEHO EHO

DRAFT

Schedule

RESIDENTIAL TENANCIES ACT 1997

Provision	Thing Delegated	Conditions	Delegate(s)
s.522	give a compliance notice to a person		CEO GMSD SEHO BHO
s.525(2)	power to authorise an officer to exercise powers in s.526 (either generally or in a particular case)		CEO GMSD
s.525(4)	duty to issue identity card to authorised officers		CEO GMSD MGI
s.526(5)	duty to keep record of entry by authorised officer under section 526		CEO GMSD SEHO EHO
s.527	power to authorise a person to institute proceedings (either generally or in a particular case)		CEO GMSD SEHO

DRAFT

Schedule			
ROAD MANAGEMENT (GENERAL) REGULATIONS 2005			
Provision	Thing Delegated	Conditions	Delegate(s)
r.301	duty to conduct reviews of road management plan		CEO GMI EE
r.302(2)	duty to give notice of review of road management plan		CEO GMI EE
r.302(5)	duty to produce written report of review of road management plan and make report available		CEO GMI EE
r.303	duty to give notice of amendment which relates to standard of construction, inspection, maintenance or repair under section 41 of the Act		CEO GMI EE
r.306(2)	duty to record on road management plan the substance and date of effect of amendment		CEO GMI EE
r.501(1)	power to issue permit	power of coordinating road authority	CEO GMI EE

DRAFT

Schedule
ROAD MANAGEMENT (GENERAL) REGULATIONS 2005

Provision	Thing Delegated	Conditions	Delegate(s)
r.501(4)	power to charge fee for issuing permit under r.501(1)	power of coordinating road authority	CEO GMI EE
r.503(1)	power to give written consent to person to drive on road a vehicle which is likely to cause damage to road	power of coordinating road authority	CEO GMI BE
r.508(3)	power to make submission to Tribunal	power of coordinating road authority	CEO GMI BE CC
r.509(1)	power to remove objects, refuse, rubbish or other material deposited or left on road	power of responsible road authority	CEO GMI CC BE
r.509(2)	power to sell or destroy things removed from road or part of road (after first complying with r.509(3))	power of responsible road authority	CEO GMI BE CC
r.509(4)	power to recover in the Magistrates' Court, expenses from person responsible		CEO GMI EE CC

DRAFT

Schedule

ROAD MANAGEMENT (WORKS AND INFRASTRUCTURE) REGULATIONS 2005

Provision	Thing Delegated	Conditions	Delegate(s)
r.10	power, where consent given under s.63(1) of the Act, to exempt a person from requirement under clause 13(1) of Schedule 7 to that Act to give notice as to the completion of those work	power of coordinating road authority	CEO EE GMI
r.18(2)	power to waive whole or part of fee in certain circumstances	power of coordinating road authority	CEO GMI EE

DRAFT

Schedule

ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s11(1)	power to declare a road by publishing a notice in the Government Gazette	obtain consent in circumstances specified in s11(2)	CEO GMI GMCS EE MRP
s11(8)	power to name a road or change the name of a road by publishing notice in Government Gazette		CEO GMCS GMI MRP EE
s11(9)(b)	duty to advise Registrar		CEO GMCS GMI MRP EE
s11(10)	duty to inform Secretary to Department of Sustainability and Environment of declaration etc.		CEO GMI GMCS MRP EE

DRAFT

Schedule
ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s12(4)	power to publish, and provide copy, notice of proposed discontinuance	power of coordinating road authority	CEO GMI GMCS MRP EE
s12(10)	duty to notify of decision made	power of coordinating road authority	CEO GMCS GMI MRP EE
s13(1)	power to fix a boundary road by publishing notice in Government Gazette	power of coordinating road authority and obtain consent under s13(3) and s13(4) as appropriate	CEO GMI GMCS MRP EE
s14(7)	power to appeal against decision of VicRoads		CEO GMI
s15(1)	power to enter into arrangement with another road authority or a utility to transfer a road management function of the road authority to the other road authority or to the utility		CEO GMI EE

DRAFT

Schedule

ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s15(1A)	power to enter into arrangement with a utility to transfer a road management function of the utility to the road authority		CEO GMI EE
s15(2)	duty to include details of arrangement in public roads register		CEO GMI EE
s16(7)	power to enter into an arrangement under s15		CEO GMI EE
s16(8)	duty to enter details of determination in public roads register		CEO GMI EE
s17(2)	duty to register public road in public roads register	power of coordinating road authority	CEO GMI EE
s17(3)	power to decide that a road is reasonably required for general public use	power of coordinating road authority	CEO GMI EE

DRAFT

Schedule
ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s17(3)	duty to register a road reasonably required for general public use in public roads register	power of coordinating road authority	CEO GMI EE
s17(4)	power to decide that a road is no longer reasonably required for general public use	power of coordinating road authority	CEO GMI EE
s17(4)	duty to remove road no longer reasonably required for general public use from public roads register	power of coordinating road authority	CEO GMI EE
s18(1)	power to designate ancillary area	power of coordinating road authority, and obtain consent in circumstances specified in s18(2)	CEO GMI EE
s18(3)	duty to record designation in public roads register	power of coordinating road authority	CEO GMI EE
s19(1)	duty to keep register of public roads in respect of which it is the coordinating road authority		CEO GMI EE
s19(4)	duty to specify details of discontinuance in public roads register		CEO GMI EE

DRAFT

Schedule

ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s19(5)	duty to ensure public roads register is available for public inspection		CEO GMI EE
s.21	power to reply to request for information or advice	obtain consent in circumstances specified in s11(2)	CEO GMI
s.22(2)	power to comment on proposed direction		CEO GMI
s.40(1)	duty to inspect, maintain and repair a public road.		CEO GMI EE
s42(1)	power to declare a public road as a controlled access road	power of coordinating road authority and Schedule 2 also applies	CEO GMI EE
s42(2)	power to amend or revoke declaration by notice published in Government Gazette	power of coordinating road authority and Schedule 2 also applies	CEO GMI EE
s.53(2)	power to cause notice to be published in Government Gazette of amendment etc of document in road management plan		CEO GMI EE

DRAFT

Schedule
ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s.54(2)	duty to give notice of proposal to make a road management plan		CEO GMI EE
s.55(1)	duty to cause notice of road management plan to be published in Government Gazette and newspaper		CBO GMI EE MRP
s.63(1)	power to consent to conduct of works on road	power of coordinating road authority	CEO GMI EE
s.63(2)(e)	power to conduct or to authorise the conduct of works in, on, under or over a road in an emergency	power of infrastructure manager	CBO GMI EE
s.64(1)	duty to comply with clause 13 of Schedule 7	duty of infrastructure manager or works manager	CBO GMI EE
s.66(1)	power to consent to structure etc	power of coordinating road authority	CBO GMI EE

DRAFT

Schedule
ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
s.67(3)	power to request information	power of coordinating road authority	EE CEO GMI CC
s.68(2)	power to request information	power of coordinating road authority	EE CEO GMI CC
s71(3)	power to appoint an authorised officer		EE CEO GMI CC
s86	duty to keep register re s85 matters		EE CEO GMI CC
s87(2)	power to investigate complaint and provide report		EE CEO GMI CC
s116	power to cause or carry out inspection		CEO GMI EE CC

DRAFT

Schedule			
ROAD MANAGEMENT ACT 2004			
Provision	Thing Delegated	Conditions	Delegate(s)
s120(2)	power to seek consent of VicRoads		CEO GMI EE
s121(1)	power to enter into an agreement re works		CEO GMI EE
Schedule 2 Clause 2(1)	power to make a decision re controlled access roads		CEO GMI EE
Schedule 2 Clause 3(1)	power to make policy about controlled access roads		CEO GMI EE
Schedule 2 Clause 3(2)	power to amend, revoke or substitute policy about controlled access roads		CEO GMI EE
Schedule 2 Clause 5	duty to publish notice of declaration		CEO GMI MRP EE
Schedule 5A Clause 15(3)	duty to provide a certificate under clause 15(2)(d)(ii) of schedule 5A on the written request of VicRoads		CEO GMI EE

DRAFT

Schedule

ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
Schedule 5A Clause 26	duty to surrender land to the Crown following an order of the Governor in Council		CEO
Schedule 5A Clause 27	duty to surrender Council's interest in any Crown land to the Crown following an order of the Governor in Council		CEO
Schedule 5A Clause 51	power to claim from VicRoads an amount for loss or expense incurred as a result of an order under Division 2 Part 5 of the Act		CEO GMI BE
Schedule 7, Clause 7(1)	duty to give notice to relevant coordinating road authority of proposed installation of non-road infrastructure or related works on a road reserve	duty of infrastructure manager or works manager	CEO GMI BE
Schedule 7, Clause 8(1)	duty to give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area, that could be affected by any proposed installation of infrastructure or related works on a road or road reserve of any road	duty of infrastructure manager or works manager	CEO GMI EE
Schedule 7, Clause 9(1)	duty to comply with request for information from a coordinating road authority, an infrastructure manager or a works manager responsible for existing or proposed infrastructure in relation to the location of any non-road infrastructure and technical advice or assistance in conduct of works	duty of infrastructure manager or works manager responsible for non-road infrastructure	CEO GMI EE
Schedule 7, Clause 9(2)	duty to give information to another infrastructure manager or works manager where becomes aware any infrastructure or works are not in the location shown on records, appear to be in an unsafe condition or appear to need maintenance	duty of infrastructure manager or works manager	CEO GMI EE
Schedule 7, Clause 10(2)	where Schedule 7 Clause 10(1) applies, duty to, where possible, conduct appropriate consultation with persons likely to be significantly affected	duty of infrastructure manager or works manager	CEO GMI EE

DRAFT

Schedule			
ROAD MANAGEMENT ACT 2004			
Provision	Thing Delegated	Conditions	Delegate(s)
Schedule 7 Clause 12(2)	power to direct infrastructure manager or works manager to conduct reinstatement works	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 12(3)	power to take measures to ensure reinstatement works are completed	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 12(4)	duty to ensure that works are conducted by an appropriately qualified person	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 12(5)	power to recover costs	power of coordinating road authority	CEO GMI EE
Schedule 7, Clause 13(1)	duty to notify relevant coordinating road authority within 7 days that works have been completed, subject to Schedule 7, Clause 13(2)	duty of works manager	CEO GMI EE
Schedule 7 Clause 13(2)	power to vary notice period	power of coordinating road authority	CEO GMI EE

DRAFT

Schedule
ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
Schedule 7, Clause 13(3)	duty to ensure works manager has complied with obligation to give notice under Schedule 7, Clause 13(1)	duty of infrastructure manager	CEO GMI EE
Schedule 7 Clause 16	power to consent to proposed works	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 17(2)	power to refuse to give consent	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 18(1)	power to enter into an agreement	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 19(1)	power to give notice requiring rectification of works	power of coordinating road authority	CEO GMI EE
Schedule 7 Clause 20(1)	power to require removal, relocation, replacement or upgrade of existing non-road infrastructure	power of coordinating road authority	CEO GMI EE

DRAFT

Schedule

ROAD MANAGEMENT ACT 2004

Provision	Thing Delegated	Conditions	Delegate(s)
Schedule 7A Clause 2	power to cause street lights to be installed on roads	power of responsible road authority where it is the coordinating road authority or responsible road authority in respect of the road	CEO GMI EE
Schedule 7A Clause 3(1)(d)	duty to pay installation and operation costs of street lighting - where road is not an arterial road	where council is the responsible road authority for the road	CEO GMI RF
Schedule 7A Clause 3(1)(e)	duty to pay installation and operation costs of street lighting - where road is a service road on an arterial road and adjacent areas	where council is the responsible road authority	CEO GMI RF
Schedule 7A Clause 3(1)(f),	duty to pay installation and percentage of operation costs of street lighting - for arterial roads in accordance with clauses 3(2) and 4	where council is responsible road authority that installed the light (re: installation costs) and where council is relevant municipal council (re: operating costs)	CEO GMI EE

DRAFT

10.3 SECTION 86 COMMITTEES AND DELEGATION REVIEW

(Action Officer – Acting Governance Manager)

File Ref:

Introduction

This report will inform Council of its obligations under the Local Government Act 1989 with regards to the reviewing of delegations which are in place under Sec 98(1) and Section 86 of the Local Government Act 1989 (the 'Act'). This report also contains various recommendations relating to the administration and appointment of Special Committees of Council (Section 86 Committees).

Report

Hepburn Shire Council is required to review all delegations which are in place under Section 98(1) and Section 86 of the Local Government Act 1989 within 12 months of a general election.

In order to do so, it is being recommended that Council consider use of the Maddocks best practice templates for all delegations, which includes the Council delegation to the CEO, Council delegation to staff and Council delegation to Special Committees.

The Maddocks templates are widely used across local government in Victoria and have been previously distributed to Councillors for background information. Currently, the Council to CEO delegation which is used by Hepburn Shire is the only one which is based on the Maddocks templates.

It is recommended that Council, resolve that all new delegations will be based on the Maddocks Delegations and Authorisations service best practice templates.

For committees established under Section 86 of the Act, this will replace the previous template which was adopted by Council in December 2004. When a committee is reviewed, Council will be presented with a delegation in the new format for consideration.

For Council to staff delegations under Section 98(1) of the Act, Council is presented with a completed template delegation at this Meeting of Council. This will, if adopted, replace all individual staff delegations. The CEO delegation is also being presented to Council for consideration as part of this review process.

As part of the review of the delegations for committees, it has been discovered that several committees had their memberships appointed in either 1997 or 1998, and there has been no attempt to renew or advertise for fresh interest in membership for these committees. Some of these committees still have strong memberships, some don't, these however will be dealt with in the coming months. Firstly we will deal with the committees whose membership has lapsed, and whom Council reappointed in February for a further six months to allow for advertising for new members. The interim reappointment of these committees expires in August 2009, so it is important that Council advertise for new appointments now.

Council is asked to call for members for the following committees:

- Clunes Community Housing Committee (Cameron Court Homes)
- Clunes Municipal Purposes Reserve Committee (Town Hall Committee)
- Clunes Museum Committee
- Dean Recreation Reserve Committee

It is anticipated that if Council resolves to call for members for the above committees now, that it will be in a position to reappoint these committees in September/October, and in doing so can also re-delegate to the committee using the Maddocks template.

It is recommended that these Committees be appointed for the period ending 31st July 2013 to coincide with the review period of the Council to be elected in 2012.

Council is also asked to consider whether or not it will exempt members of special committees (who are not Councillors or nominated Officers) from completing Interest Returns in accordance with Section 81 of the Act. Councillors and Senior (and nominated) Officers are required to complete primary and ordinary returns which are stored in a Register of Interests. Members or special committees also are bound by this requirement; however Council does have the authority to exempt committee members from completing returns.

Exempting committee members from completing returns does not mean that committee members are not subject to the conflict of interest provisions of the Act, it simply means that the administrative processes to ensure that over 100 interest returns are completed every six months will not be required. In small communities such as ours, it is hard to expect so many community minded volunteers to reveal the level of information which is requested in the interest returns, and for that information to be made publicly available. It is however necessary to clearly emphasise the importance of them revealing this information at the appropriate time, in accordance with the conflict of interest provisions, should a conflict arise in issues considered by the committee.

Relevant Policies

Local Government Act 1989

Council Plan 2009-2013:

17. Embracing community knowledge and expertise to help guide its decision making and implementation.

Community Engagement

Delegations are of a procedural nature and are necessary for the functioning of everyday Council business. The use of a best practice model as per the Maddocks templates ensures that Council is effectively standardising its delegations in line with other Local Government Authorities across the state.

There will however be notices published in local newspapers calling for nominations for members of the various committees listed above.

Financial Implications

There are no significant financial implications resulting from the recommendations contained in this report, other than the cost of advertising for members of the various committees.

Motion

That Council:

- 10.3.1 Endorse and approve the use of Maddocks Delegations and Authorisations service templates for all Council Delegations, which will be presented to Council as each review is conducted.*
- 10.3.2 Call for members for the:*
Clunes Community Housing
Dean Recreation Reserve
Clunes Municipal Purposes Reserve
Clunes Museum;
Section 86 Special Committees of Council with a view to appointing the membership of the Committees for a period ending 31st July 2013.
- 10.3.3 Determine that community members of all Hepburn Shire Council Section 86 Committees be regularly reminded of their conflict of interest duties but be exempt from the requirement to complete Interest returns in exercise of power granted to Council in Section 81 (2A) of the Local Government Act 1989.*

Moved: Cr Jon Barrell

Seconded: Cr Janine Booth

Carried.

11 COMMUNITY DEVELOPMENT:

11.1 CHILLOUT MEMORANDUM OF UNDERSTANDING

(Action Officer – Acting General Manager Community Development

File Ref:

Introduction

Council recently allocated \$30,000 funding to Chillout in the 09/10 budget. Tied to Chillout receiving this funding is a Memorandum of Understanding (MOU) which creates a working partnership between Hepburn Shire Council and Chillout. The MOU (refer Attachment 3) sets out the support provided to Chillout by Hepburn Shire Council and what is expected by Hepburn Shire Council of Chillout.

Report

This MOU has now reached a final draft after much consultation between Chillout and Hepburn Shire Council. The MOU clearly sets out responsibilities for Council and Chillout both in the lead up to the event and as the event is taking place. The MOU also establishes greater reporting requirements from Chillout to Hepburn Shire Council providing Council with in depth data on the growth of the event.

The MOU states that Chillout receive 80% (\$24,000) of the funding up front, a further 10% (\$3,000) upon Council receiving their traffic, risk and other pre-event plans and the final 10% (\$3,000) when they have fulfilled all obligations listed in the MOU.

Relevant Policies and Community Engagement

Council Plan 2009-2013:

31. Supporting various drawcard events like Chillout and Booktown which draw large numbers of visitors to Hepburn Shire.

Financial Implications

\$30,000 to Chillout to be used for implementing an event management company to coordinate the event and marketing. Chillout receive 80% (\$24,000) of the funding up front a further 10% (\$3,000) upon Council receiving their traffic, risk and other pre-event plans and the final 10% (\$3,000) when they have fulfilled all obligations listed in the MOU

Motion

That Council:

11.1.1 approve the Memorandum of Understanding between Chillout and Council.

11.1.2 authorise the CEO to sign the Memorandum of Understanding on behalf of the Council.

Moved: Cr Jon Barrell

Seconded: Cr Janine Booth

Carried.

ATTACHMENT 3
ITEM 11.1

DRAFT

Memorandum of Understanding between Hepburn Shire Council and ChillOut Daylesford Inc

- Purpose:** The Memorandum of Understanding is intended to clarify the roles and responsibilities and to create a working relationship between the Hepburn Shire Council (Council) and Chillout, to ensure the future sustainability and growth of the ChillOut Festival in the Hepburn Shire.
- It seeks to ensure that a transparent and accountable agreement is in place between the Hepburn Shire and ChillOut Daylesford Inc.
- Term:** This MOU is for a 2 year period (2010 and 2011 Festivals) to be reviewed on an annual basis.
- Parties:** ChillOut – refers to ChillOut Daylesford Inc (ChillOut)
Council – refers to Hepburn Shire Council

1. Hepburn Shire Sponsorship Support

The Council will provide an annual sponsorship sum of \$30,000 (funding) and up to \$7,870 of in-kind contribution towards the 2010 and 2011 ChillOut events, subject to the requirements and provisions of this Memorandum of Understanding (MOU).

ChillOut is an annual festival conducted in Daylesford. It was first staged in 1997 and has become the largest gay and lesbian festival in regional Australia. It attracts over 25,000 people and consists of Carnival Day (nearly 100 stallholders, music, and entertainment), a street parade and a wide range of umbrella events taking place within Daylesford and the Hepburn region.

The funding will be provided by the Council for ChillOut to contract or employ professional management expertise in the areas of event management and administration. The process to appoint the professional event management expertise must be in accordance with good governance standards, including transparent and professional recruitment and contract procedures. A proportion of the funding may also be used for marketing purposes, particularly to attract additional visitation to the event from visitors outside of the region.

Subject to the receipt of a tax invoice from ChillOut at least 14 days prior to the due date, Council will make the sponsorship payments for the 2010 event as follows:

- 1.1 Payment 1 – of \$ 24,000 (80%) (plus GST) to be paid within 2 weeks of the signing of this MOU (*for 2010 event*), and *not before July 28th, 2010 (for 2011 event)*.
- 1.2 Payment 2 – of \$3,000 (10%) (plus GST) to be paid upon approval by Council of traffic, risk and other pre-event plans required within this MOU.
- 1.3 Payment 3: - of \$ 3,000 (10%) (plus GST) when ChillOut has fulfilled all obligations contained in this MOU, including the provision of a post event report.

2. In-kind Support provided by Council

The Hepburn Shire Council will provide the following in-kind support and services (summarised maximum costings detailed in Appendix A) for the term of the MOU, subject to the outcome of annual evaluations and reviews.

2.1 Waste Management

- a. ChillOut will develop a Waste Management Plan in conjunction with Council, outlining the type and amount of wastes generated, waste management strategies and responsibilities.
- b. Council will provide up to 50 bins and as many bin caps as are available from Council for Carnival Day. The bins and bin caps will be delivered to Victoria Park, Daylesford on the Friday prior to the Carnival Day and collected on the Monday following the event by Council. Up to 20 bins will be provided at the Town Hall (final number to be determined in Waste Management Plan).

Additional recycling bins and bin caps for Carnival Day will be sourced from Central Highlands Waste Management Group (CHWMG) if they are available (the Council cannot guarantee they will be available). The cost of transporting any additional bin caps and bins from CHWMG to and from the venue will be met by ChillOut.

- c. ChillOut agrees to work with Council to conduct a Waste Wise event at Victoria Park.
- d. Council will fund and supply eight rubbish skips for use during Carnival Day. ChillOut must ensure waste from the smaller bins is emptied into the skips throughout the event.
- e. ChillOut is responsible to ensure Victoria Park Daylesford and other event locations are left in a clean and tidy condition as per the Waste Management Plan. At Victoria Park all bins are to be located in agreed location for collection.
- f. A review of the Waste Management Plan will be conducted annually within 4 weeks of the conclusion of the Festival.

2.2 Traffic, Parking, Signage, Pedestrian and Transport Management Plans

- a. ChillOut is responsible for developing a Traffic Management Plan (TMP) incorporating parking, pedestrian management and the road closures required for the Street Parade conducted on the Sunday of the Festival.
- b. ChillOut must participate in event planning meetings including with Council and relevant emergency authorities to assist in reviewing and developing the plan. Planning must commence by the second week of November, with the Traffic Management Plan to be completed at least 3 weeks prior to the event.
- c. Road closure signs and equipment for the Street Parade will be provided by Council, including their delivery and collection in accordance with the time schedule as outlined in the TMP.
- d. Suitably qualified and experienced personnel (including Traffic Controllers where indicated in the TMP) to implement the Street Parade TMP must be provided by ChillOut. All event marshals and traffic controllers must be familiar with the TMP and implement it

- in accordance with the Plan and instructions from relevant authorities (including Victoria Police).
- e. ChillOut must develop a Parking and Pedestrian Plan for Carnival Day and the Street Parade. It is ChillOut's responsibility to provide suitably qualified and experienced personnel to implement the Parking and Pedestrian Plans. Council will provide advice to ChillOut in the development of the Plans.
 - f. Parade Marshals for the Street Parade must be provided by ChillOut and will be responsible for ensuring the appropriate management of pedestrians and vehicles on the Parade route (in conjunction with Victoria Police).
 - g. Council will provide and deliver agreed signage (portable parking signs including disabled parking) for the Carnival Day Parking at Victoria Park. Directional and other signs required for the Parking Plan will be provided by ChillOut (or Council where available and negotiated in advance).
 - h. Council will allocate the carpark area (known as Oval 2 at Victoria Park) on Carnival Day and provide barrier fencing marking out a pedestrian pathway from the carpark to the ticket gate. Chillout will be responsible for ensuring the parking area is fully supervised with competent personnel.
 - i. Chillout will operate a shuttle bus service and is responsible to market, schedule and provide bus/buses and driver/drivers for this service. Bus routes and bus stop locations will be determined by Chillout in consultation with Council as part of the TMP. Council will provide and install sign posts and Chillout must provide the bus stop signage. Posts and signage to be installed and removed by Council.
 - j. ChillOut will investigate expanding the shuttle bus service to outlying communities such as Creswick, Clunes and Trentham in 2010 and beyond.

2.3 Venue and Venue Infrastructure

- a. Council will provide Victoria Park, Daylesford to ChillOut for the March Labour Day weekend (event weekend) for the purposes of conducting Carnival Day.

Council will provide the ChillOut President with one set of keys for all access gates to Victoria Park one week before the event. Access to Victoria Park must take into consideration the needs of other users at all times, and where necessary ChillOut must communicate with other users. ChillOut must ensure all opened gates are locked when departing the Park or when it is likely that other people may enter the Park.

- b. Council will provide a booking and a key for the Daylesford Town Hall and Senior Citizen's Centre for the Friday, Saturday and Sunday (and cleanup on Monday) of the event weekend at a time to be negotiated each year. Out of Hours access to the Hall will be detailed in the Hall Hire Agreement. The booking will be subject to a security deposit, the Terms and Conditions of Council's standard Hall Hire Agreement and the following conditions for the dance party event as previously agreed to by both parties:
 - Event admittance via pre sold tickets only (No tickets purchased at door)
 - ChillOut to provide adequate security by supplying crowd controllers at the hall entrance, at the back of the building and inside the venue
 - ChillOut will liaise with local restaurants to offer coffee/light refreshments throughout the evening for departing patrons
 - Patrons will not be admitted to the premises after 1.00 am
 - External refrigeration to be shut down by 2.00 am

- The event will finish at 3.00 am or earlier
- ChillOut will engage a cleaning service to clean up after the event
- c. Council consents to ChillOut installing façade rainbow lighting on Daylesford Town Hall for the event weekend. Installation of the lighting will be provided by ChillOut and be undertaken by suitably qualified and experienced personnel at its cost.
- d. Council will, subject to acceptable manual handling procedures being able to be implemented, provide the human resources required to set up and dismantle the Highland Gathering stage at Victoria Park, subject to the prior approval of the Highland Gathering for ChillOut to use the stage. The stage will be set up on the Friday before the event and dismantled on the following Monday.
- e. Council will work with ChillOut to ensure Victoria Park is presented in the best possible manner which is suitable for use during Carnival Day. Note: Watering will depend on water restrictions and the weather conditions. If Council deem a watering exemption is needed Council will make the appropriate application to allow adequate time for grounds watering (Council is unable to commit that the exemption will be granted). Implementation of the watering plan is ChillOut's responsibility.
- f. Council will not impose a charge on ChillOut for the use of the power supplies at Victoria Park over the event weekend. Chill Out must ensure the power supply is used safely and in accordance with electrical safety regulations and standards.
- g. Council will provide ChillOut with the use of the storage shed at Victoria Park for secure, dry storage of ChillOut-owned chattels.
- h. ChillOut will provide adequate toilet and wash room facilities (including accessible toilets) in accordance with the requirements of the relevant section of Council (Environmental Health and/or Building).

2.4 Marketing and Communications

- a. Council will provide promotion of ChillOut at the Daylesford Regional Visitor Information Centre and on www.daylesford.com including one free display cube. This will be for the period *(insert)*.
- b. Council will allocate ChillOut the events signage frames at key entry points to Daylesford (4 signs) and Creswick (1 sign) from February 1 to the end of ChillOut. ChillOut will supply, install and remove the signs during the approved period.
- c. Council will provide links to ChillOut's website on Council's website and will include ChillOut in event calendar listings.
- d. Where possible, Council will support the marketing activities of ChillOut.
- e. ChillOut agrees to provide recognition to Council via the following mechanism:
 - Recognition of the Hepburn Shire Council as a Major and/or Government Partner (or equivalent) in all information relating to ChillOut including its website, marketing material, media releases and communications. The usage of Council's logo must be in accordance with the directions provided by the Hepburn Shire.
 - Provide Councillors and Council officer's invitations to official ChillOut functions, events and launches. Council will receive up to 10 tickets free of charge to the Chillout carnival day event on Sunday at Victoria Park, Daylesford. Tickets to be

used for Councillors and Council officers involved in the implementation of Chillout only.

- Provision of a market stall at Chillout Carnival (Council to pay cost of equipment hire only).
- Half page advertisement in the Festival Guide, if a guide is produced (art work to be supplied by Council at its expense according to production deadlines and graphical standards).

3. Occupational Health and Safety, Risk and Compliance

- a. ChillOut must comply with all of Council and other authority's requirements in relation to occupational health and safety, local laws, legislation, regulations, standards and codes, and the conditions of use as outlined in facility booking forms.
- b. ChillOut must obtain and pay all fees associated with all the necessary permits, permissions and licenses required to conduct the event from Council and other authorities. These include, but are not limited to liquor licensing, temporary food premises permits, traffic related permits/permissions, fire safety requirements, plant and equipment use and temporary building permits.
- c. ChillOut must participate in Councils Event Management Planning process including risk and safety planning meetings with Council and other authorities, and provide a detailed Risk, Safety and Emergency Management Plan to Council in accordance with Council guidelines and pro-forma plans where available, at least 3 weeks prior to the event. Plans must be updated continuously as the event date nears, and must be reviewed as soon as practical following the event.
- d. ChillOut must notify the Council in writing of any incident or accident occurring on Council land or property including any road, reserve or building as soon as possible after the incident or accident has occurred.

4. Indemnity and Insurance

- a. ChillOut must indemnify and keep indemnified and hold harmless the Hepburn Shire Council, its servants and agents from and against all actions, costs, damages, loss or claims from any activities or decisions arising from the conduct of ChillOut.
- b. ChillOut must maintain up to date insurances applicable to the event, including Public Liability Insurance for a minimum of \$20 million. The insurance policy must be maintained for the duration of the event (including the planning stages) and a copy of the certificate of compliance must be provided at least one month in advance of the event date. Stallholders and contractors involved with the event should also have Public Liability Insurance.
- c. ChillOut agrees that if there is any loss or damage to Council land or property as a result of the event, ChillOut will immediately notify Council by making contact with the Events Officer (or other Council officer if Events Officer is not available) and cover restoration, replacement or repair costs of the loss or damage.

- d. ChillOut agrees to maintain a legal status during the term of this MOU as an Association registered under the Incorporations Act 1981 or another suitably status.

5. Strategic and Business Planning

- a. ChillOut agrees to develop a Business Plan and an operational Event Management Plan to be reviewed and updated annually. The Business Plan will include the key objectives for the Festival and specific performance indicators. It must be provided to Council at least four months prior to the event date.

6. Review and Evaluation

- a. Council will assess the achievements against the outcomes within this MOU, and the key objectives contained in ChillOut's Business Plan with input from Chillout.
- b. ChillOut will attend a post event evaluation meeting with Council and other authorities following the conduct of the event.
- c. ChillOut will provide a report to Council within 8 weeks of the conclusion of the event detailing the following information:
 - i. Attendance numbers for ChillOut Carnival Day and other events within the Festival program.
 - ii. Details of the origin and estimated length of stay of visitors to ChillOut.
 - iii. Estimates of the economic and tourism impact of the festival applying a jointly agreed methodology used to produce results.
 - iv. Impact assessment on the Hepburn community (positive and negative impacts).
 - v. Media and marketing obtained for the Hepburn Shire region as a result of the event.
 - vi. Detailed event budget, including estimates of direct spend and fundraising contribution to the local community.
 - vii. Details of specific event operational and other issues associated with the event including recommendations for improvements in future years.

7. Dispute resolution

- a. In the event of a dispute arising out of a failure to meet any of the obligations required by this MOU, either party may give the other party written notice specifying the details of the dispute. Within 7 days, a representative of both parties will agree to meet to resolve the issue.
- b. If a dispute occurs within two weeks of the event date, both parties will agree to meet to resolve the issue within 2 working days of the notice.
- c. If the dispute is unable to be resolved, the matter will be referred to any form of alternative dispute resolution procedure on which the parties agree. Where a mediator is involved, the parties must agree to comply with the mediators instructions.
- d. The charges for the mediation will be paid equally by the parties.

e. Council will not enter into a dispute resolution procedure for the following issues:

1. The level of Council's financial and in-kind contribution
2. The requirement for ChillOut to comply with Council's local laws, and other regulations and legislation relating to the conduct of the event.

8. Termination of MOU

- a. If ChillOut is unable to deliver the outcomes specified in this MOU, Council may review the level of sponsorship and in-kind support provided to the event.
- b. If Council or ChillOut is in breach of the terms of this MOU this MOU may be terminated in writing by the Chief Executive Officer of Council.

MOU between Hepburn Shire Council and ChillOut

Signed for and on behalf of the **Hepburn Shire Council**:

_____	_____	_____
Signature of authorised officer	Title of authorised officer	Date

_____	_____	_____
Witness signature	Witness name	Date

Signed for and on behalf of **ChillOut**

_____	_____	_____
Signature of authorised officer	Title of authorised officer	Date

_____	_____	_____
Witness signature	Witness name	Date

Appendix A: Estimate of Hepburn Shire Council's In-Kind Support

Support provided	Details	Estimated Cost to Council
Waste Management	Hire and transportation of 8 skips	\$1,600
	Supply, delivery, collection of rubbish bins and lids – Victoria Park and Town Hall	\$1,000
Bus Stops	Provision of sign poles and signage for temporary bus stops (NB: Corflute signs to be made for 2010 and re-used in 2011)	\$700
Road Closures	Provision of equipment and signage for Parade Road closure	\$400
Victoria Park – Site establishment	Ground preparation, provision of bunting for pedestrian plan, disabled access signage and stages	\$2,900
Town Hall	Use of Town Hall and Senior Citizen's Centre	\$630 (\$500 bond)
	Hire of screens for Dance Party	\$210 (Senior Citizens) \$130
Visitor Services	Provision of Visitor Information Centre Cube display	\$300
	Total estimated in-kind support value	\$7,870

Additional in-kind support provided by Council's Recreation Officer, Council's Tourism/Events consultant and other officers (details below). The value of this support has not been costed.

- Development of event memorandum of understanding (not implemented for 2009 event).
- Development of Traffic Management Plan for Parade.
- Development of Risk Management Plan for Parade and Carnival event.
- Advice on development of an Emergency Management Plan.
- Placement of signs on bus stops.
- Advice on event evaluation procedures and surveys.
- Submission writing and research for Victoria Park – Small Towns funding submission.
- Assistance with ChillOut's chosen fundraiser.

12 SUSTAINABLE DEVELOPMENT:

12. LOCAL LAW NO.2 (FORMERLY KNOWN AS LOCAL LAW NO. 6)

(Action Officer – General Manager Sustainable Development)

File Ref: 44/06/06

Introduction

As part of the creation of a new Local Law No.2, a draft version has been prepared for this Ordinary Meeting of Council. To progress the adoption of the Local Law, Council will need to declare their intention to make a Local Law and commence the advertisement of this draft document.

Report

Local Law No. 2 (previously identified as Local Law No. 6) deals with the control and provision for reserves and council land, safety, the environment, animals, amenity, enforcement, waste and roads.

The Local Law forms part of a suite of compliance legislation, which includes the Domestic Animals Act 1994, Impounding of Livestock Act 1994, the Local Government Act 1989, the Summary Offences Act and the Health Act. These state acts deal with the significant majority of the Hepburn Shire's compliance issues.

The key aspect being addressed with the revision of the Local Law is the provision of a functional document that will effectively address the issues of compliance for the next 10 years. It needs to incorporate all relevant aspects of the community, environment and economics.

A draft document has been prepared for this Ordinary Meeting of Council (Refer Attachment 4). The steps that are to be taken in adopting Local Law No. 2:

- Prepare draft of Local Law No. 2
- Council to declare their intention to make a local law and commence public advertisement
- Advertising Period
- Council to consider all submissions and determine their response
- Draft Local Law No. 2 adjusted for Public Comments if appropriate
- Local Law No. 2 submitted to Council for consideration and approval
- Public Notice and Gazettal.

Relevant Policies

Council Plan 2009-2013:

17. Embracing community knowledge and expertise to help guide its decision making and implementation.
51. Reviewing the Shire's Local Laws to improve community safety and amenity.

Community Engagement

Public consultation requesting submissions on proposed Draft Local Law No 2.

Financial Implications

Preparation of draft Local Law No 2 by consultant lawyer.

Internal preparation and checking of documentation by Council staff.

Advertising costs

Motion

That Council:

12.1.1 *Declare its intention to make a local law and commence public advertising.*

12.1.2 *Receive a further report to consider public submissions following the public advertising period.*

Moved: Cr Rod May

Seconded: Cr Sebastian Klein

Carried.

ATTACHMENT 4

ITEM 12.1

DRAFT



GENERAL LOCAL LAW NO. 2

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CERTIFICATION OF LOCAL LAW

Part 1 – PRELIMINARY

Title

- 1.1 This local law is known as the "General Local Law No. 2".

Objectives

- 1.2 This local law is made for the purposes of:
- (1) controlling and protecting *public places*;
 - (2) controlling matters which may adversely affect the amenity and environment of the *municipal district* and the safety, health and quality of life of *persons* within it.
 - (3) securing the safe and equitable use and enjoyment of *public places* and private land;
 - (4) minimising nuisances;
 - (5) enhancing and preserving urban character;
 - (6) generally preserving the peace, order and good government of the *municipal district*.

Commencement

- 1.3 This local law commences on.....

Cessation of Local Law

- 1.4 Unless this local law is earlier revoked, its operation will cease on.....

Application

- 1.5 This local law applies throughout the whole of the *municipal district*.

Exemptions

- 1.6
- (1) This local law does not apply to any *person* employed or engaged in any authorised activity or duty being undertaken by or on behalf of the *Council* while so actually employed or engaged.
 - (2) A provision of this local law requiring a *permit* to be obtained does not apply to a *person* employed or engaged in an authorised activity or duty being undertaken by or on behalf of:
 - (a) a government body; or
 - (b) a *public body*

while so employed or engaged if notice of the carrying out of the activity or duty has been given to the *Council* beforehand or, if that is impracticable, as soon as possible after it has been carried out.

- (3) The *Council* may, subject to any conditions, *prescribe* a *specified* activity, *area*, *premises* or *person* or a class of any of them to be exempt from a provision of this local law for a specified time.
- (4) Anything in this local law relating to an *animal* in general or a dog in particular does not prevent:
 - (a) a blind or deaf *person* being entitled at all times and all places to be accompanied by a guide dog; or
 - (b) a *member of the police* in charge of a police dog or horse from carrying out police duties.

Definitions

- 1.7 (1) In this local law, unless the contrary intention appears:

"Act" means the Local Government Act 1989.

"Advertisement" or "Advertising sign" includes any letter, figure, symbol, device, poster, sign, board, notice, banner, structure or message used for or capable of notifying or promoting:

- (a) (i) the existence of; or
- (ii) the sale or use of;

any *goods* or *services*;

- (b) the holding of an event or function; or

"Allow" includes cause, permit or suffer.

"Animal" includes bird and reptile but does not include a fish, turtle, tortoise or frog.

"Applicant" means the person who applies for a permit under this local law.

"Authorised Officer" means a *person* appointed by the *Council* to be an authorised officer under Section 224 of the Act or treated by Section 224A of that Act to have been so appointed.

"Barbecue" means a structure, device or contraption:

- (a) designed or constructed for the primary purpose of cooking food in the open air for human consumption; and
- (b) which is being used for the purposes of cooking food or preparatory or subsequent to cooking food.

"Battery cage" includes a type of wire and metal mesh *poultry* cage divided into compartments whether standing on wheels or not and comprising one or more tiers and whether mobile or not capable of being moved or carried from one position to another.

Definitions cont

"Bird" includes *poultry*.

"Bird enclosure" means an immobile enclosed structure used for the purpose of keeping *birds* (including any fowl run or fowl pen which may be attached to such structure) and includes a *battery cage*.

1.7 (1) "Building" includes a part of a building.

"Built up area" means an area in which there is urban development or where street lighting is provided on roads.

"Bulk rubbish container" means a bin, container or other structure designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, other than a container used in connection with the *Council's regular domestic and trade waste* collections.

"Busk" or "Busking" means providing entertainment in a *public place, Council land or road* by playing a musical instrument, singing, conjuring, juggling, mime, mimicking, dancing, puppetry, recitation, performance art or other theatrical or visual activities conducted or which appear to be conducted for the purpose of attracting money donations rather than for a set fee.

"Carriageway" has the same meaning as in the Road Safety (Traffic) Regulations 1988.

"Cattle" means any bull, cow, ox, steer, heifer, calf, or buffalo.

"Chief Executive Officer" means the chief executive officer of Council.

"Council" means the Hepburn Shire Council.

"Daylight hours" means the hours between sunrise and sunset.

"Declared Road" has the same meaning as in the Transport Act 1983.

"Delegate" means:

- (a) any member of the *Council's staff* to whom a delegation has been made pursuant to Section 98 of the Act; or
- (b) a committee to which a delegation has been made under Section 86 of the Act

for the purposes of this local law.

"Disease" means any contagious or infectious disease or any condition to which *livestock* is subject, or an exotic disease as declared by the Governor-in-Council for the purposes of the Livestock Diseases Control Act 1994.

"Domestic birds" means small birds such as canaries, finches, budgerigars and the like.

Definitions cont

1.7 (1) "Domestic waste" means normal household garbage and *waste* generated from a residence but does not include sewage, *trade waste*, hard garbage, *building waste* or recyclable material.

"Drover" includes the *person* responsible for the droving of *livestock*, the *owner* of those *livestock* and an employee or contractor of a *person* engaged for the purposes of supervising the droving of those *livestock* or taking them from or to a market.

"Droving of livestock" means the driving of *livestock*, from one location to another for the purpose of changing their grazing area or moving *livestock* from their grazing areas to a location for purposes of sale or from a sale location to a grazing area but does not include movement of *livestock*. It includes the driving of *livestock* in or through a *municipal district* for the purpose of or including supplementing their feeding or taking them from or to a market.

"Effective Control" means control by *person* or *persons* alone or using dogs, devices, fences or other equipment so as to ensure that *livestock* are not trespassing or endangering persons or objects.

"Environmental Health Officer" means the *person* for the time being in charge of the *Council's* environmental health activities.

"Exemption" means an exemption issued by or under the authority of *Council* under this local law.

"Festival" means an organized recreational, cultural, commercial or social gathering or people which is held on a road or Council land.

"Footpath" has the same meaning as "footway" in the Road Safety (Traffic Regulations 1988).

"Goods" includes food.

"Grazing of livestock" means causing livestock to enter and remain on a *road* or *roads* within the municipal district for the purposes of grazing rather than the purposes of *droving* or *movement* of *livestock*. It relates to grazing a particular or designated area and not to indiscriminate droving for the purposes of or including supplemental feeding.

"Incinerator" means a structure, device or contraption (not enclosed in a *building*) which is:

- (a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning anything;
- (b) not licensed or otherwise subject to control under the provisions of any *legislation*; and
- (c) not a *barbecue*.

"Large birds" means any cockatoo, parrot and other similar sized or larger bird but does not include *poultry*, or *domestic birds*.

"Large cattle" means *cattle* over nine months of age.

Definitions cont

1.7 (1) "Legislation" includes subordinate legislation as defined in the Interpretation of Legislation Act 1984.

"Leave standing" has the same meaning as in the Road Safety (Traffic) Regulations 1988.

"Livestock" has the same meaning as in Section 3 of the Impounding of Livestock Act 1994.

"Material for recycling" means newspaper, magazines, promotional flyers, office paper, envelopes, unwaxed cardboard, unbroken glass bottles and jars, Code 1(PET), Code 2 (HDP) or Code 3(PVC) plastic bottles, aluminum cans, foil and trays, steel cans and tins, and paperboard containers such as milk and juice cartons, or other material prescribed to be material for recycling for the purposes of this local law.

"Member of the police" or "police member" means a sworn member of the Victoria Police.

"Minor road" means a road which averages less than one hundred vehicle journeys per day.

"Movement of livestock" means individual or regular movement of livestock;

- (a) as part of normal farm management operations of one farming enterprise but not for purposes of grazing;
- (b) from one property within the municipal district to another property within the municipal district or from or to a property in the municipal district to or from a property within an adjacent municipal district;
- (c) at the rate of not less than one kilometre per hour in the direction of movement between the two properties:
 - (i) where the properties concerned are occupied by the one farming enterprise; and
 - (ii) the movement is completed on the day of commencement.

"Municipal district" means the municipal district of Council.

"Notice to Comply" means a notice to comply given under this local law.

"Obstruction" means an object which hinders or blocks access or progress.

"Occupier" includes a *person* having control or management of *premises* whether alone or with other people.

"One farming enterprise" is used only in the context of *movement of livestock* and means a business farming livestock run by one or more *persons* as one business.

"Open fire" means a fire in a place other than in a permanent structure, *barbecue* or *incinerator*.

Definitions cont

- 1.7 (1) "Owner" in relation to *premises* means:
- (a) the *person* rated or liable to be rated in respect of those *premises* under the Act; or
 - (b) if the *premises* are not rated or liable to be rated, the *person* who is the owner as defined in Section 3 of the Act.
- "Park" when used as a verb has the same meaning as in the Road Safety (Traffic) Regulations 1988.
- "Penalty Unit" means the unit to describe the amount of the fine. The penalty units are set and calculated in the Monetary Units Act 2004.
- "Permit" when used as a noun means a permit granted under the provisions of this local law.
- "Permit holder" means the *person* to whom Clause 2.5 applies.
- "Person" includes a body corporate, an association incorporated under the Associations Incorporation Act 1981, a partnership and an unincorporated association.
- "Place" when used as a verb includes *allow* to remain.
- "Planning Scheme" means:
- (a) the Hepburn Shire Planning Scheme; and
 - (b) any town planning scheme operating in a part of the area in which this local law operates and in the part in which the particular activity in question takes place
- "Poultry" includes a fowl, duck, goose, turkey, quail and pigeon and any other class of poultry.
- "Pound" has the same meaning as in the Impounding of Livestock Act 1994.
- "Pound keeper" means the person for the time being appointed by *Council* to manage a pound.
- "Premises" means the whole or part of any:
- (a) land;
 - (b) *building*; or
 - (c) *building* under construction;
- other than a *public* place.

Definitions cont

1.7 (1) "Prescribed" includes decided or specified:

- (a) by resolution of the *Council*; or
- (b) by a *delegate* if the relevant matter is the subject of delegation.

"Procession" and "street festival" mean an organised group of people gathering on or proceeding along a *road* or *public place* for the purposes of a ceremony or function and includes a fun run and bicycle event.

"Proprietor" when used in relation to a *vehicle* or thing means the *owner, occupier, lessee, licensee, manager* or any other *person* in control or charge of the *vehicle* or thing.

"Public body" has the same meaning as in the Act.

"Public place" means any land owned, leased, vested in, managed or occupied by Council and includes:

- (a) roads and road reserves;
- (b) reserves for recreational purposes; and
- (c) any place prescribed to be a public place

for the purposes of this local law.

"Residentially zoned" means zoned for residential purposes under the *planning scheme*.

"Road" has the same meaning as in the Act.

"Schedule" means a schedule to this local law.

"Sell" includes:

- (a) barter, offer or attempt to sell, receive for sale, have in possession for sale, expose for sale, send, forward or deliver for sale, or *allow* to be sold or offered for sale; and
- (b) sell for re-sale.

"Senior officer" has the same meaning as in the Act.

"Service Authority" includes the *Council*, Police, State Emergency Service or any government or semi-government or non profit agency involved in remedying a problem associated with *livestock* on a road.

Definitions cont

1.7 (1) "Service provider" means:

- (a) a *public body*; or
- (b) a corporation;

authorised by *legislation* to provide telecommunications, gas, electricity or water or facilities for any of them or sewage and drainage facilities.

"Shopping trolley" means a receptacle on wheels usually supplied by a retailer of *goods* to enable customers to transport those *goods* either inside or outside its *premises*.

"Stock crossing" means a location on a road used regularly for the purpose of livestock crossing that road and to which the requirements of the Road Safety (Traffic) Regulations 1988 apply.

"Street party" means an organised social gathering which is held in a *public place*.

"Trade waste" means *waste* (other than sewage) generated from a trade or business *premises* and may include *domestic waste*.

"Toy vehicle" means a *vehicle* (other than a bicycle) designed to be propelled by human power and includes a tricycle, scooter, pedal car, skate-board, roller skates, roller blades and similar equipment.

"Township zoned" means zoned as such under the planning scheme.

"Trolley" includes a *shopping trolley*.

"Vehicle" means a conveyance which is designed to be or is propelled or drawn by any means, but does not include a train, tram, wheelbarrow, *shopping trolley*, *toy vehicle* or wheelchair and as described in the Road Safety Act 1986.

"VicRoads" means the Roads Corporation established by Section 15 of the Transport Act 1983.

"Waste" when used as a noun includes any discarded, rejected, or abandoned matter (whether solid or liquid).

Definitions cont

- 1.7 (2) A reference to a *person* by way of that *person's* position with the *Council* includes a *person*:
- (a) authorised to carry out the powers, duties and functions of that position at the *Council*;
 - (b) acting in the capacity of that position; or
 - (c) if that position in the *Council* ceases to exist, any *person* exercising any power, duty or function which was previously a power, duty or function of the position as it previously existed.

Part 2 – Procedural

Permits and Applications for Permits

- 2.1 Wherever in this local law a *permit* is required, the *Council* may grant or refuse to grant the *permit* or grant it subject to conditions.
- 2.2 (1) An application for a *permit* must be:
- (a) in the form prescribed by Council and must be accompanied by the appropriate fee as prescribed by Council, or
- (2) The *Council* may require an applicant to:
- (a) provide additional information; or
 - (b) give notice of that application or invite any *person* to make a submission or do both;
- before the *Council* processes an application for a *permit*.
- 2.3 In considering an application for a *permit*, the *Council* must consider:
- (1) any policy or guideline adopted by the *Council* relating to the subject matter of the application for the *permit*;
 - (2) any written objection or written submission received in respect of the application;
 - (3) any written comment made in respect of the application by any *public body* or community organisation; and
 - (4) any other relevant matter.
- 2.4 A *permit* may include any condition which the *Council* considers to be reasonable and appropriate having regard to the activity to be authorised by the *permit* and the effects or anticipated effects of that activity, including but not necessarily limited to:
- (1) a requirement that a security deposit or bond or a release, indemnity or guarantee (in a form specified) be lodged with the *Council* to secure the proper performance of the *permit*;
 - (2) a requirement that notice be given to the *Council* as to when the activity authorised by the *permit* will be carried out or will occur;
 - (3) a time limit on the *permit* and on the activity authorised by it;
 - (4) provision for extension of the *permit*;
 - (5) a condition that the *permit* runs with or attaches to the *premises* in respect of which the activity is authorised by the *permit*;
 - (6) the payment of a fee or charge;
 - (7) a standard to be applied;
 - (8) that the *permit* is conditional on the happening of a certain event or prerequisite;

- (9) that the *permit* is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
- (10) where the applicant is not the *owner* of the relevant *premises*, the consent of the *owner* is obtained.

2.5 Unless otherwise stated in the *permit*, a *permit*:

- (1) is personal and authorises only the *person* named in the *permit*; and
- (2) is not transferable.

Compliance with Permits

2.6 Every *person* to whom a *permit* is granted must do every act and thing as may be necessary to ensure compliance with the *permit* and its conditions.

Correction, Amendment, Cancellation and Suspension

- 2.7 (1) The *Council* may correct a *permit* if the *permit* contains:
- (a) clerical mistake or an error arising from any accident, slip or omission; or
 - (b) a material miscalculation of figures or a material mistake in the description or any *person*, *premises*, thing or property referred to in the *permit*.
- (2) The *Council* may cancel, suspend or amend any *permit* at any time if:
- (a) it is requested to do so by the *permit-holder*; or
 - (b) it considers that there has been:
 - (i) a material mis-statement or concealment of fact in relation to the application for the *permit*;
 - (ii) any material mistake in relation to the issue of the *permit*;
 - (iii) any material change of circumstances which has occurred since the grant of the *permit*; or
 - (iv) there has been a substantial failure to comply with the *permit* or a *notice to comply*.
- (3) The *Council* must give written notice to a *permit-holder* of any correction, cancellation, suspension or amendment of a *permit*.

General Permit Provisions

- 2.8 The holding of a *permit* or compliance with a condition included in a *permit* does not of itself relieve the *permit-holder* from:
- (1) compliance with any other *legislation* with respect to the subject matter of the *permit*; or

- (2) liability for any damage sustained by any other *person* as a result of an activity undertaken by or on behalf of the *permit-holder* pursuant to the *permit*.
- 2.9 A *person* applying for a *permit* or amendment of a *permit* must not make or *allow* to be made any false representation or declaration in or in relation to that application.
- 2.10 Unless otherwise stated in this local law or in a *permit*, the *permit* will operate from the date it is granted and will expire twelve months from the date of issue.

Powers of Council

- 2.11 Without affecting the operation of any particular provision of this local law, everything an *authorised officer* or any other specified *person* is capable of doing under this local law is also capable of being done by the *Council* or its *delegate*.

Impounding

- 2.12 (1) An *authorised officer* may impound any item or thing connected with the provisions or objectives of this local law.
- (2) Where any item or thing is impounded pursuant to this local law, notice of the impounding is to be given.
- (3) Any item or thing impounded in accordance with this local law may be held until any fee or charge for its release is paid.
- (4) If after the specified time for retrieval of an impounded item or thing has expired and it has not been claimed then it may be disposed of according to the following principles:
 - (a) if it has no saleable value, in the most economical and appropriate way as determined by an *authorised officer*; or
 - (b) if it has a saleable value, by public auction, tender or private sale as determined by an *authorised officer*, and failing sale may be treated as in sub paragraph (a).
- (5) The monies realised from the sale of any impounded item or thing must be disbursed as follows:
 - (a) in payment of any expenses incurred by the *Council*; then
 - (b) to the *owner or person* who in the opinion of the *Chief Executive Officer* appears to be authorised to receive the money.
- (6) If no *person* can be identified for payment of any money then any excess must be treated in accordance with *legislation* dealing with unclaimed money or failing this, taken into the *Council's* revenue.

Fees

- 2.13 (1) The *Council* may by resolution determine fees and charges for the purposes of this local law.

- (2) A resolution may *allow* the waiver, reduction or deferral of a fee in whole or in part with or without conditions.
- (3) Permit fees are as per Council resolution.
- (4) Despite this clause or any resolution, the *Council* may waive, reduce or alter the fee for a *permit* in a particular case.

Declarations

- 2.14 Wherever it is provided in this local law that the *Council* may declare days, times, *Council land*, any *road*, *building*, *premises* or *public place* to prohibit, *allow*, regulate, control or limit an activity or something related to an activity within that area, the declaration must be by resolution of the *Council* and the following procedure must be used:
- (1) the area or place must be clearly described and defined, using a map if necessary;
 - (2) any days or times during which the activity is to be prohibited, allowed, regulated, controlled or limited must be determined and specified.
- 2.15 After making a declaration the *Council*:
- (1) must publish a public notice; and
 - (2) must cause such signs to be erected at the area to which the declaration applies as the Council considers appropriate.
- 2.16
- (1) The *Chief Executive Officer* must maintain a register and record in it details of all declarations made under this local law.
 - (2) The register must be open for inspection during office hours.

Part 3 – Reserves and Council Land

Private Access to Reserves

- 3.1 Unless in accordance with a *permit*, an *owner* or *occupier* of any *premises* abutting a *public* place other than a road must not install:
- (1) a gateway which services; or
 - (2) other means of access to or from the *public place*.
- Penalty: 5 penalty units

Motorised Vehicles

- 3.2 Unless in accordance with a permit or within a defined *carriageway* area, a *person* must not ride, drive, park, leave standing or otherwise use any motorised *vehicle* on any public land.
- Penalty: 5 Penalty units

Games and Sport

- 3.3 Unless in accordance with a permit, a *person* must not in a *public place* engage in, play or practice any game, activity or sport which may interfere with the use or enjoyment of that place by any other person or the safety of other persons or which may cause damage to the public place.
- Penalty: 5 Penalty units

Damage to Public Places

- 3.4 A *person* must not damage, interfere with, remove a sign from, or disfigure a *public place*.
- Penalty: 5 Penalty units

Protection of Council Trees

- 3.5 Unless in accordance with a permit, a *person* must not in a *public place*:
- (1) interfere with a naturestrip or parkland trees, or
 - (2) plant trees or shrubs.
- Penalty: 2 Penalty units

Generally

- 3.6 A *person* must not in a public place :
- (1) use volatile, explosive or flammable matter; ;

- (2) act in a way which endangers any other *person*;
- (3) carry or use firearms; or
- (4) shoot, trap, injure or harm in any way any *animal*.

Penalty: 5 Penalty units

Festivals, Carnivals and Circuses

- 3.7 Unless in accordance with a permit, a person must not conduct a festival, carnival, circus, parade or other similar activity in a *public place*.

Penalty: 10 penalty units

Part 4 – Safety

Incinerators and Open Fires

- 4.1 A *person* must not light or *allow* to be lit or remain alight any *incinerator* or *open fire* on such days or at such times as are declared by the *Council*.

Penalty: 2 penalty units

Burning of Offensive Material

- 4.2 A *person* must not burn or *allow* to burn any substance which contains:

- (1) food waste, fish or other offensive or noxious matter;
- (2) any rubber or plastic;
- (3) any petroleum or oil;
- (4) any paint or receptacle which contains or which contained paint; or
- (5) any manufactured chemical.

Penalty: 5 Penalty units

Part 5 – The Environment

Camping and Caravan Occupation

- 5.1 Unless in accordance with a *permit*, a *person* must not:
- (1) camp in a tent, caravan, mobile home or other temporary or makeshift structure in a *public place*; or
 - (2) use a caravan, mobile home or other temporary or makeshift structure for the purpose of habitation.
- 5.2 Clause 5.1 does not apply to camping or the use of a caravan or mobile home in a *Council* registered caravan park or an area determined by the *Council* to be available for camping.
- Penalty: 5 Penalty units

Unightly Land

- 5.3 The *owner* or *occupier* of *premises* must not *allow* the *premises* to be unsightly. In this clause, "unsightly" means any land which harbours unconstrained rubbish or waste material and results in the detriment to the general amenity of the neighbourhood.
- Penalty: 5 Penalty units

Damage Caused by Trees or Plants

- 5.4 A *person* must not *allow* a tree or plant or any other matter on *premises* owned or occupied by that *person* to cause damage to or interfere with a *public place* or any person or or using a *public place*.
- Penalty: 2 Penalty units

Wasp Nests

- 5.5 The *owner* and *occupier* of *premises* must not *allow* an English or European wasp nest to remain on the *premises* and must take action to have it removed and destroyed.
- Penalty: 2 Penalty units

Bee Hives

- 5.6 The *owner* and *occupier* of *premises* must not keep or allow to be kept any bee hive on the *premises* unless the *person* or one of them or another person permitted to use the *premises* is a registered beekeeper and the bees and hive are kept in accordance with the Beekeeping Code of Practice.
- Penalty: 2 Penalty units

Part 6 – Animals

Keeping Animals

- 6.1 (1) Unless in accordance with a *permit*, the *owner* and *occupier* of *premises* must not keep or *allow* to be kept more than four different types of *animals* on those *premises* at any time and must not keep or *allow* to be kept any more in number of each type of *animal* than as set out in the following table:

Type of adult <i>animal</i>	Maximum number allowed in built-up areas	Maximum number allowed in non-built up areas
Dogs	2	4
Cats	2	4
Pigeons	50	No maximum limit
<i>Poultry</i>	(Refer to Part 7)	20
<i>Domestic birds</i>	50	100
<i>Large birds</i>	5	10
Domestic rabbits	6	6
Horses/donkeys	2	No maximum limit
<i>Cattle</i>	2	No maximum limit
Sheep	2	No maximum limit
Goats	2	No maximum limit
Pigs	Not permitted	No maximum limit
Other agricultural <i>animals</i>	2	No maximum limit

- (2) Sub-clause (1) does not apply where a planning permit under the *planning scheme* has been issued for *animal* keeping as that term is defined in the *planning scheme*.
- (3) Sub-clause (1) does not apply to the keeping of dogs actively used in farming on properties entitled to the farm rate for the Shire of Hepburn.

Keeping Animals cont

- 6.1 (4) Despite the provisions of sub-clause (1), an *authorised officer* may *allow* a greater number of *animals* to be kept on *premises*.
- (5) For the purpose of calculating the maximum limit of the numbers of *animals* kept, the progeny of any dog or cat lawfully kept will be exempt for a period of twelve weeks after their birth.

Penalty: 2 Penalty units

Animal Excrement

- 6.2 A *person* in charge of an *animal* must not *allow* any of the *animal's* excrement to remain in a *public place* within a built-up area.

Penalty: 2 Penalty units

Part 7 – Birds

Numbers

- 7.1 (1) Unless in accordance with a permit, a *person* must not keep or *allow* to be kept on any *premises in a residentially zoned area*:
- (a) any live *poultry* except in a *bird enclosure*; or
 - (b) more than two:
 - (i) ducks; or
 - (ii) turkeys; or
 - (iii) geese; or
 - (c) more than ten head of *poultry*.
- (2) For the purpose of sub-clause (1), three pigeons or three quail or one pigeon and two quail or two pigeons and two quail equal two head of *poultry*.

Penalty: 2 Penalty units

Siting of Bird Enclosures

- 7.2 Unless in accordance with a permit, a *bird enclosure* on any *premises* must be at least three metres from the boundary of any adjoining *premises*.

Penalty: 2 Penalty units

Construction of Bird Enclosures

- 7.3 Unless in accordance with a *permit*, every *bird enclosure* must not exceed 2.4 metres in height

Penalty: 2 Penalty units

Part 8 – Public Safety and Waste Disposal

Scavenging

- 8.1 Unless in accordance with a permit, a *person* must not search through or remove any articles of rubbish, recyclables or items from the municipal tip or left for collection on a *public place*.

Penalty: 5 Penalty units

Use of Tip or Transfer Station

- 8.2 A person must not use a municipal tip except in accordance with the directions of an *authorised officer* or tip attendant and any signs.

Penalty: 2 Penalty units

Domestic Waste

- 8.3
- (1) All *domestic waste* must be placed in an approved container.
 - (2) Containers must be placed outside the *premises* for collection in accordance with any directions given by the *Council* and returned to the *premises* by the *owner* or *occupier* when emptied.
 - (3) Containers must be maintained by the *owner* and *occupier* of *premises* in a clean, tidy and safe condition.
- 8.3
- (4) A person must not place the following material in a container for collection by the *Council*:
 - (a) liquid *waste* or offensive material; and
 - (b) ashes, hair or other similar matter or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape; and
 - (c) ashes or other like matter unless they have been mixed with water to form a consistency of a stiff paste before being wrapped and placed in the bin; and
 - (d) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive; and
 - (e) oil, paint, solvents or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness; and
 - (f) disposable napkins unless they have been cleaned of solids and securely wrapped in impervious material prior to being placed in the bin; and
 - (g) *trade waste* of any kind.

Penalty: 2 Penalty units

Material for Recycling

8.4

- (1) All *material for recycling* for collection by Council shall be placed in an approved container with the exception of newsprint and cardboard which are to be bundled separately and tied with string.
- (2) Containers must be placed outside the *premises* for collection of in accordance with directions given by the *Council* and returned to the *premises* by the *owner* or *occupier* when emptied.

Penalty: 2 Penalty units

Trade Waste

8.5

- (1) The *owner* and *occupier* of *premises* where *trade waste* is generated, whether or not a service for the collection and disposal of *domestic* or *trade waste* is provided must ensure that the *trade waste* is placed in an approved bin, *waste* hopper or recycling bin ready for collection.
- (2) All containers used for the collection of *trade waste* must:
 - (a) be constructed of impervious material to prevent leakage, absorption or escape of *waste*.
 - (b) be water tight, fly and vermin proof with a lid which is continuously kept closed when the container is not being used or emptied; and
 - (c) if not a mobile bin, must have a drain and plug for cleaning purposes.
- (3) *Trade waste* containers, must be located on the *premises* to *allow* for easy access and weekly collection of contents or more regular collection if the contents are likely to become offensive.
- (4) *Trade waste* containers must be:
 - (a) maintained by the *owner* and *occupier* of the *premises* in a clean, tidy and safe condition; and
 - (b) thoroughly cleaned after each emptying.
- (5) *trade waste* containers must display a sign which indicates:
 - (a) the type of *waste* permitted to be deposited in it; and
 - (b) that it is an offence to deposit material contrary to the sign.
- (6) A person must not deposit any *waste* in a *trade waste* container contrary to a sign on the container.

Penalty: 5 Penalty units

Part 9 – Use of Public Places

Clothing Bins

- 9.1 A *person* must not *place* or *allow* the placement of a clothing bin on a *public place* unless:
- (1)
 - (a) in accordance with a *permit*; or
 - (b) the site of the bin is *prescribed* by the *Council* for such use generally or is allocated to that bin; and
 - (2) the *bin* has clearly indicated on at least two sides, the name of the *person* on whose behalf the bin is *placed* and items that are sought for depositing in it.

Penalty: 2 Penalty units

Bulk Rubbish Containers

- 9.2 A *person* must not *place* or *allow* the placement of a *bulk rubbish container* on a *public place* unless:
- (1) in accordance with a *permit*; or
 - (2) a *bulk rubbish container* will only be in place for no more than twenty-four hours and is adequately protected and lit for any night time period.

Penalty: 2 Penalty units

Entertainment and Busking

- 9.3 Unless in accordance with a *permit*, a *person* must not *busk* on a *public place*.

Penalty: 2 Penalty units

Part 10 – Management of Traffic and Roads

Protrusions and Overhanging Branches

- 10.1 (1) The *owner* and *occupier* of *premises* must not:
- (a) *allow* any vegetation, sign, support or structure to extend over a *footpath* at a height of less than three metres; or
 - (b) *allow* any vegetation, sign, support or structure to cause a *road interference*.
- (2) In this clause, the phrase “road interference” means interference with the unobstructed, safe and fair use of roads by people and includes interference with:
- (a) traffic, including pedestrians and *vehicles*;
 - (b) traffic control items; or
 - (c) street lighting.

Penalty: 2 Penalty units

Property Numbers to be Displayed

- 10.2 (1) For each *premises* that has been allocated a property number by the *Council*, the *owner* and *occupier* must ensure that the *premises* display the number.
- (2) The number must be of sufficient size, positioned, made of material and kept in good repair for it to be clearly read from a *road* at all times, and where a property is situated on a corner, the number must be displayed on the side that the property is addressed.

Penalty: 2 Penalty units

Vehicle Crossings

- 10.3 (1) The *owner* of *premises* must ensure that each point of *vehicle* access from a *carriage-way* on a *road* to the *premises* has a properly constructed *vehicle* crossing that is not within ten metres of an intersection.
- (2) For the purposes of this clause, a *vehicle* crossing is properly constructed if:
- (a) it was constructed by or in accordance with the terms of an approval by the *Council*; or
 - (b) the *Council* has approved in writing the method of construction of the *vehicle* crossing.
- (3) The *owner* or *occupier* of *premises* must ensure that each *vehicle* crossing to the *premises* from any adjacent *carriageway* or *road* and any channel or pipe under or forming part of the crossing is maintained and repaired to the satisfaction of an *authorised officer*.

Penalty: 2 Penalty units

Permit Required for Vehicle Crossings

- 10.4 Unless in accordance with a *permit*, a *person* must not construct, install, remove or alter a *vehicle* crossing whether temporarily or permanently.

Penalty: 2 Penalty units

Temporary Vehicle Crossing

- 10.5 (1) Where:
- (a) because of the nature, size or weight of a *vehicle* or material which may travel or be carried across a kerb, gutter, naturestrip, *footpath* or *vehicle crossing* in the course of access or egress between *premises* and the *carriageway* or a *road* it is likely that damage may be caused to the kerb, gutter, naturestrip, *footpath* or *vehicle* crossing; or
 - (b) an activity is intended or expected to take place on *premises* making likely an occurrence of the type described in paragraph (a);
- the *owner* of *premises* must give written notice to the *Council* of that expected activity or occurrence before it occurs.
- (2) Unless in accordance with a *permit*, a *person* must not *allow* entry to or exit from *premises* by any *vehicle* or material referred to in sub-clause (1).
 - (3) The *owner* and *occupier* must take all reasonable steps to protect the existing kerb, gutter, naturestrip, *footpath*, *carriageway* and *vehicle* crossing at all times during any activity or occurrence referred to in sub-clause (1).
 - (4) The *person* responsible for an activity or occurrence must maintain the *road* adjacent to the *premises* in a safe and trafficable condition at all times.
 - (5) The *owner* of the *premises* must immediately and to the satisfaction of an *authorised officer* repair any damage caused to the kerb, gutter, naturestrip, *footpath*, *carriageway* or *vehicle crossing* or, at the discretion of the *Council*, pay to the *Council* the cost of the *Council* doing so.
 - (6) Where in the opinion of an *authorised officer* a kerb, gutter, naturestrip, *footpath*, *carriageway* or *vehicle* crossing may be or is likely to be damaged in circumstances referred to in the preceding sub-clauses, the *owner* of the *premises* must, when requested to do so by the *authorised officer*, pay or give to the *Council* a *bond* in an amount specified by the officer, but relative to the likely cost of repairing any damage or reinstating the item.
 - (7) The bond required under sub-clause (6) may be retained by the *Council* and used to pay for repairing any damage or to reinstate the item, and if the cost to repair any damage or reinstate the item is greater than the bond paid under sub-clause (6), the additional cost must be paid by the *person* who gave the bond to the *Council* when demanded by the *Council*.
 - (8) Any bond or portion of it not required by the *Council* fourteen days after completion of the repairs necessitated by the activity or occurrence must be refunded or released to the *person* who paid it or lodged it.

Penalty: 2 Penalty units

Redundant Vehicle Crossings

- 10.6 (1) Where works on *premises* involve the relocation or closure of a point of *vehicle* access, making, in the opinion of an *authorised officer*, the *vehicle* crossing or any part of it redundant, the *vehicle* crossing or part of it must be removed by the *owner* of the *premises* and the kerb, drain, *footpath*, naturestrip or other part of the road must be reinstated to the satisfaction of the *authorised officer*.
- (2) The *owner* must undertake the work referred to in sub-clause (1) in accordance with a notice given to the *owner* by the *authorised officer*.

Penalty: 2 Penalty units

Obstructions

- 10.7 (1) Unless in accordance with a permit, a *person* must not make or *place* an *obstruction* or *allow* one to be made, placed or exist on public land.
- (2) For the purpose of this clause "obstruction" includes:
- (a) a hedge, heap or fence;
 - (b) a ditch, hole or drain;
 - (c) *building* material;
 - (d) *goods* for sale;
 - (e) a box or other container;
 - (f) a table or chair;
 - (g) a board, sign, sandwich board or *advertisement*;
 - (h) a bicycle (except in a rank or stand provided by the *Council*) or *vehicle*;
 - (i) a pole, post or basketball ring;
 - (j) scaffolding or a stage, crane, awning, hoarding or hoist, or
 - (k) any other thing
- likely to hinder access to any part of the *public place* if left on a *road* or *premises*.
- (3) Any *obstruction* contrary to sub-clause (1) may be removed and impounded by the *Council* or an *authorised officer*, whether or not a *Notice to Comply* has been given.
- (4) Without affecting Section 225 of the Act and Clause 16.8, a *person* who has *allowed* an *obstruction* to be made, placed or exist and which has been removed by the *Council* or an *authorised officer* must immediately pay the cost of the removal to the *Council*.

Penalty: 5 Penalty units

Part 11 – Control of Animals, Shopping Trolleys and Vehicles on Roads and Elsewhere

Livestock Control

- 11.1 (1) Unless in accordance with a permit, a person must not drive *livestock* for a distance greater than two kilometres along any road.

Penalty: 2 Penalty units

- (2) Unless in accordance with a permit, a person in charge of *livestock* must not allow the *livestock* to graze on a road.

Penalty: 2 Penalty units

- (3) Any local regular movement of *livestock* must be in accordance with Council's policy, Road Safety (Road Rule) Regulations 1999 – Give Way to Stock Regulations 1997 No. 153 and warning light guidelines prepared by VicRoads.

Penalty: 2 Penalty units

Shopping Trolleys

- 11.2 (1) A person must not leave a *shopping trolley* on any *public place* or *premises* except in an area designated for the purpose.

- (2) An *authorised officer* may impound any *trolley* found on any place where sub-clause (1) does not permit it to be left.

Penalty: 2 Penalty units

Use of Toy Vehicles

- 11.3 (1) Any person who uses or allows another person to use a *toy vehicle* on a *public place* must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the *public place* whether in or on another *vehicle* or not.

- (2) The Council may declare any *road*, *Council land*, *reserve* or *public place* to be an area where *toy vehicles* must not be used or may only be used during specified times.

- (3) The following designated roads and areas are declared areas where the use of toy vehicles must not be used at any time:

- Vincent Street, Daylesford between Raglan Street & Stanbridge Street.
- Albert Street, Daylesford between Vincent Street & Bridport Street.
- Howe Street, Daylesford between Vincent Street & Camp Street.

Penalty: 2 Penalty units

Riding Horses on Reservations

- 11.4 (1) Unless in accordance with a permit, a *person* must not ride or lead a horse or *allow* another *person* to ride or lead a horse upon a *reservation* between *carriageways* on a *road* or *naturestrip* unless outside a *built up area*.
- (2) A *person* must not ride or lead a horse or *allow* another *person* to ride or lead a horse on a *public place* if the place has been signposted as being not available for horses.

Penalty: 2 Penalty units

Storage and dismantling of vehicles

- 11.5 A *person* must not *allow more than two unregistered vehicles to be parked in the open or dismantled or repaired on a property in a residential zoned area and four unregistered vehicles to be parked in the open or dismantled or repaired on a property in a rural zoned area unless:*

- (1) in accordance with a *permit*;
- (2) to do so is specifically authorised by the *planning scheme* or a planning permit issued under it; or

Penalty: 5 Penalty units

Sale of Vehicles

- 11.6 A *person* must not *park a vehicle* in a *public place* for the purposes of promoting the *vehicle* for sale.

Penalty: 2 Penalty units

Vehicle Repair

- 11.7 Unless in accordance with a *permit* or it is necessary for removal of a *vehicle*, a *person* must not dismantle, repair or carry out maintenance on a *vehicle* in a *public place*.

Penalty: 2 Penalty units

Part 12 – Secondary Activities on Roads

Outdoor Eating Facilities

- 12.1 Unless in accordance with a *permit*, a *person* must not establish or *allow* the establishment of an outdoor eating facility on a *road*.

Penalty: 2 Penalty units

Removal of Equipment

- 12.2 Any table, chair, umbrella or other equipment in an outdoor eating facility used in contravention of this Part or of any condition of a *permit* may be removed by an *authorised officer* and impounded.

Occupation of Road for Works

- 12.3 Unless in accordance with a *permit*, a *person* must not on a *road* under the control of the *Council*:

- (1) carry out works involving or from that *road*; or
- (2) do anything in relation to works, which affects or is likely to affect the use of the *road*.

Penalty: 5 Penalty units

Street Parties, Festivals and Processions

- 12.4 (1) Unless in accordance with a *permit*, a *person* must not hold a *street party*, *street festival* or *procession* on a *road*.

Penalty: 5 Penalty units

Collections

- 12.5 A *person* must not solicit or collect a subscription or gift of money or *goods* or *sell* a raffle ticket in a *public place* or from *building* to *building* or to or from a *person* in a *public place* unless:

- (1) in accordance with a *permit*; or
- (2) to do so is specifically authorised by and in accordance with any *legislation*.

Penalty: 2 Penalty units

Part 13 – Display and Sale of Goods and Services

Road Trading

13.1 Unless in accordance with a *permit*, a *person* must not:

- (1) *sell* or offer for sale any goods or services from a *public place*; or
- (2) erect, place or in any other way, leave any structure or physical thing on a *public place* for the purposes of selling, displaying or offering for sale any *goods* or services.

Penalty: 2 Penalty units

Soliciting Trade and Similar Activities

13.2 Unless in accordance with a *permit*, a *person* must not:

- (1) in a *public place*, solicit or try to attract trade or business or tout or spruik; or
- (2) in *premises* adjacent to a *public place*, solicit or try to attract trade or business or tout or spruik unless the activity cannot be heard or seen by or does not have an influence on a *person* on or in that *public place* except by way of a written *advertisement* or a display or *goods* in or on those adjacent *premises*.

Penalty: 2 Penalty units

Advertising Signs

13.3 Unless in accordance with a *permit*, a *person* must not *place* a portable *advertising sign* in, on or over a *public place* or *allow* that to occur.

Penalty: 2 Penalty units

Part 14 – Consumption of Alcoholic Beverages

Declaration of Places and Exemptions

- 14.1 (1) The *Council* may declare any *public place* to be an area where *alcoholic beverage* must not be consumed or *held* in open containers or may only be consumed or *held* during specified times or in accordance with a permit.
- (2) Sub-clause 14.1 (1) does not apply to any place subject to control or license under the Liquor Control Reform Act 1998.

Alcoholic Beverages Banned

- 14.2 A *person* must not consume or *hold* any *alcoholic beverage* in an open container in any area or place which is subject to a declaration under sub-clause 14.1.

Penalty: 5 Penalty units

Definitions

- 14.3 In the context of this part:

'hold' or 'held' means to have in possession or control any alcoholic beverage; '

Part 15 – Enforcement

Enforcement

- 15.1 Without affecting any provision entitling any other *person* to do so, this local law may be enforced by an *authorised officer*.

Penalties

- 15.2 A *person* who:

- (1) does not do anything required to be done or does anything forbidden to be done by or under this local law;
- (2) *allows* any act or omission which is a contravention of this local law;
- (3) contravenes a *permit* or a condition included in a *permit*; or
- (4) is the *owner* or *occupier* of any premises upon or in relation to which or the *proprietor* of a *vehicle* in or in relation to which a contravention of this local law occurs;

is guilty of an offence and is liable to a penalty of one penalty unit for that offence and in the case of a continuing offence is liable to a penalty not exceeding the prescribed amount for each day after conviction for the offence during which the contravention continues.

Notices to Comply and Directions

- 15.3 (1) The *Council* or an *authorised officers* may by *Notice to Comply*, direct a *person* to comply with any clause of this local law or a permit issued under this local law where the *Council* or *authorised officer* believes there has been a non-compliance by that *person* or in respect to any *premises*, things or property of which that *person* is the *owner*, *occupier* or *proprietor*.
- (2) A *person* must comply with any *Notice to Comply* directed to him or her by the *Council* or by an *authorised officer*.

Infringement Notices

- 15.4 Where an *authorised officer*, believes that a *person* has committed an offence against this local law, an *authorised officer* may:
- (1) as an alternative to a prosecution for the offence, issue an infringement notice specifying the penalty; and
 - (2) serve or cause the infringement notice to be served on that *person*.

Expiation of Fine Avoids Prosecution

- 15.5 In order to avoid prosecution, the *person* who is served with an infringement notice must pay the penalty to the *Chief Executive Officer* of the *Council* at the Town Hall, 76 Vincent Street, Daylesford 3460 within twenty-eight days after the date of the infringement notice.

Serving Infringement Notices

- 15.6 (1) Without limiting Section 234 of the Act, any infringement notice to be served on a *person* under this local law, may be served on the *person* by:
- (a) delivering the notice to the *person*;
 - (b) leaving the notice at that *person's* usual or last known place of residence or business with a *person* apparently not less than sixteen years old and apparently residing or employed at that place;
 - (c) sending the document by post addressed to the *person* at that *person's* last known place of residence or business; or
 - (d) where the offence involves a *vehicle*, placing it on or attaching it to the *vehicle*.
- (2) Where an infringement notice is directed to a *person* who is the *owner* or *occupier* of *premises* or the *proprietor* of a *vehicle* and that *person's* name is not known, the notice issued under this local law may be addressed to "*the owner*", "*the occupier*" or the "*person in control*" as the case may be.
- (3) An *authorised officer* may withdraw an infringement notice within twenty-eight days after its date by sending a notice to the *person* on whom the infringement notice was served. The notice may be sent or given in the same way as the infringement notice was serviced.
- (4) If an infringement notice is withdrawn, after the *person* pays the penalty, the *person* is entitled to a refund of the penalty.
- (5) If the *person* pays the penalty within the time specified in the notice and the infringement notice is not withdrawn before a charge is laid in respect of the offence, the following provisions apply:
- (a) further proceedings for an offence will not be taken against the *person*; and
 - (b) there is to be no conviction recorded against that *person* for the offence.
- (6) If:
- (a) a *person* served with an infringement notice has not paid the penalty within the time specified in the notice; or
 - (b) an infringement notice is withdrawn;
- proceedings may be taken or continued for the offence.

Evidence of Service

- 15.7 A statutory declaration by an *authorised officer* or a *person* who has served or given a notice or direction in accordance with this local law stating the manner, place, date and time the notice or direction was served or given, is evidence of the notice or direction having been served or given as described in that declaration.

Compliance with Directions and Notices

- 15.8 (1) Where:
- (a) a *Notice to Comply* or other notice or direction is served or given pursuant to this local law.
 - (b) Section 225 of the Act does not apply; and
 - (c) the *person* served with or given the *Notice to Comply* or other notice or direction fails to give effect to it;
- the *Council*, or any other *person* with the approval of the *Chief Executive Officer*, may cause the obligation to be complied with.
- (2) The *Council* or the *person* who complies with the obligation, may recover the cost of doing so from the *person* who failed to do it.

Direction of Traffic

- 15.9 (1) For the purpose of enforcing:
- (a) the Road Safety Act 1986 or any Regulation made under that Act; or
 - (b) this local law,
- or if special circumstances so require, an *authorised officer* may give directions for the passage of traffic.
- (2) A *person* must comply with any directions given under sub-clause (1) unless contrary directions are given by a *police member*.

Delegation

- 15.10 In accordance with Section 114 of the Act, the *Council*:
- (1) delegates to the *Chief Executive Officer*, the General Manager Sustainable Development and the General Manager Corporate Services, all the powers, discretions, authorities and considerations of *Council* under this local law including the powers, discretions and authority to issue or refuse *permits*, fix conditions and durations relevant to *permits*, cancel *permits*, require additional information, apply guidelines or policies of *Council*, waive the need for any *permit*, waive, fix or reduce fees or charges or to do any act, matter or thing necessary or incidental to the exercise of any function or power by the *Council*; and
 - (2) delegates to the Environmental Health Officer and the Compliance Officer to, the power to issue or refuse *permits* and apply conditions, exercise discretions and require additional information.

Urgent Circumstances

- 15.11 (1) Where in the opinion of an *authorised officer* or a *delegate*, circumstances arise as a result of a failure to comply with this local law or a *permit* which may place a *person*, *animal* or property or thing at risk or in danger and there is not time or it is impractical to serve a *Notice to Comply*, then the *authorised officer* or *delegate* may take reasonable action to immediately abate or minimise the risk or danger involved.

- (2) As soon as practicable, the *authorised officer* or *delegate* must contact:
- (a) the *person* by whose fault, permission or decision the situation has arisen; or
 - (b) the *owner* or *occupier* of the *premises, animal, property, thing* involved;
- and advise them of the action taken.

DRAFT

CERTIFICATION OF LOCAL LAW

This local law was made and issued by the Hepburn Shire Council.

THE COMMON SEAL of)
HEPBURN SHIRE COUNCIL)
 was affixed on authority of the Council)
 Pursuant of Local Law No. 1 in the)
 presence of:)

..... CHIEF EXECUTIVE OFFICER

DATE

GENERAL LOCAL LAW NO. 2

The Public Notice required to be given by Section 119(2) of the Local Government Act 1989 appeared in the Government Gazette No. and in the Hepburn Shire Advocate Newspaper on

The Public Notice required to be given by Section 119(3) of the Local Government Act 1989 appeared in the Government Gazette No. and in the Hepburn Shire Advocate Newspaper on

A copy of this local law was sent to the Minister for Local Government on to conform with Section 119(4) of the Local Government Act 1989.

This local law commenced operation on and will expire on.

I certify that this document pages 1-1 to 21-1 is a true copy of the General Local Law No. 2. made by the Hepburn Shire Council on, in accordance with the requirements of the Local Government Act 1989.

.....
 (CHIEF EXECUTIVE OFFICER)

History of Local Law

Date Made	Amended	Operation Date	Gazettal Date	Title	Council File
				General Local Law No. 2	

13 INFRASTRUCTURE:

13.1 ROAD CLOSURE – DOXA YOUTH FOUNDATION, DRUMMOND NORTH

(Action Officer – Acting General Manager Infrastructure)

File Ref: 5/7255/01900

Introduction

The DOXA Youth Foundation located at Drummond North, has occupation on part of an unnamed and unmade Government road abutting this complex.

The section of the Government road needs to be closed to allow current land and buildings occupation to continue.

Report

The Department of Sustainability and Environment (DSE) has provided written notification to Council that the land tenure occupation at the DOXA Youth Foundation at Drummond North has:

- 1) Occupancy on areas of un-reserved crown(DSE controlled) and part of a government road (Council controlled);
- 2) Constructed the fencing on the premises on a line of convenience rather than along the title boundaries;
- 3) Recently constructed an accommodation complex that encroaches over the lease boundary.

DSE requests that Council close part of the Government Road containing the encroaching manager residence referred to as CA 2023 (Refer Attachment 5 G.P. 2728).

The Government Road abutting the DOXA allotment at its eastern boundary is an unmade and un-named road not maintained under the Road Management Act by Council and not listed on Councils Road Register.

On this basis, the road is not required for public traffic and therefore can be closed.

Council will need to advertise its intent to close this section of road and call for public submissions to the proposal.

Relevant Policies

Council Plan 2009-2013:

7. Disposal of poorly utilised, inefficient or surplus assets in consultation with the community where appropriate

Community Engagement

Notification of proposed road closure through local newspaper circulating in area of Daylesford be advertised and receive any submissions under Section 223 of the Local Government Act 1989.

Financial Implications

Advertising cost to be in order of \$100.

Motion

That Council:

- 13.1.1 *Declare its intention to proceed under S206 and clause 3 of Schedule 10 of the Local Government Act 1989 to close the road reservation comprising 163m² on Crown Allotment 2023 abutting Crown Allotment 24 and 25 Section 1 and commence public advertising.*
- 13.1.2 *Receive a further report to consider public submissions following the public advertising period.*

Moved: Cr Don Henderson

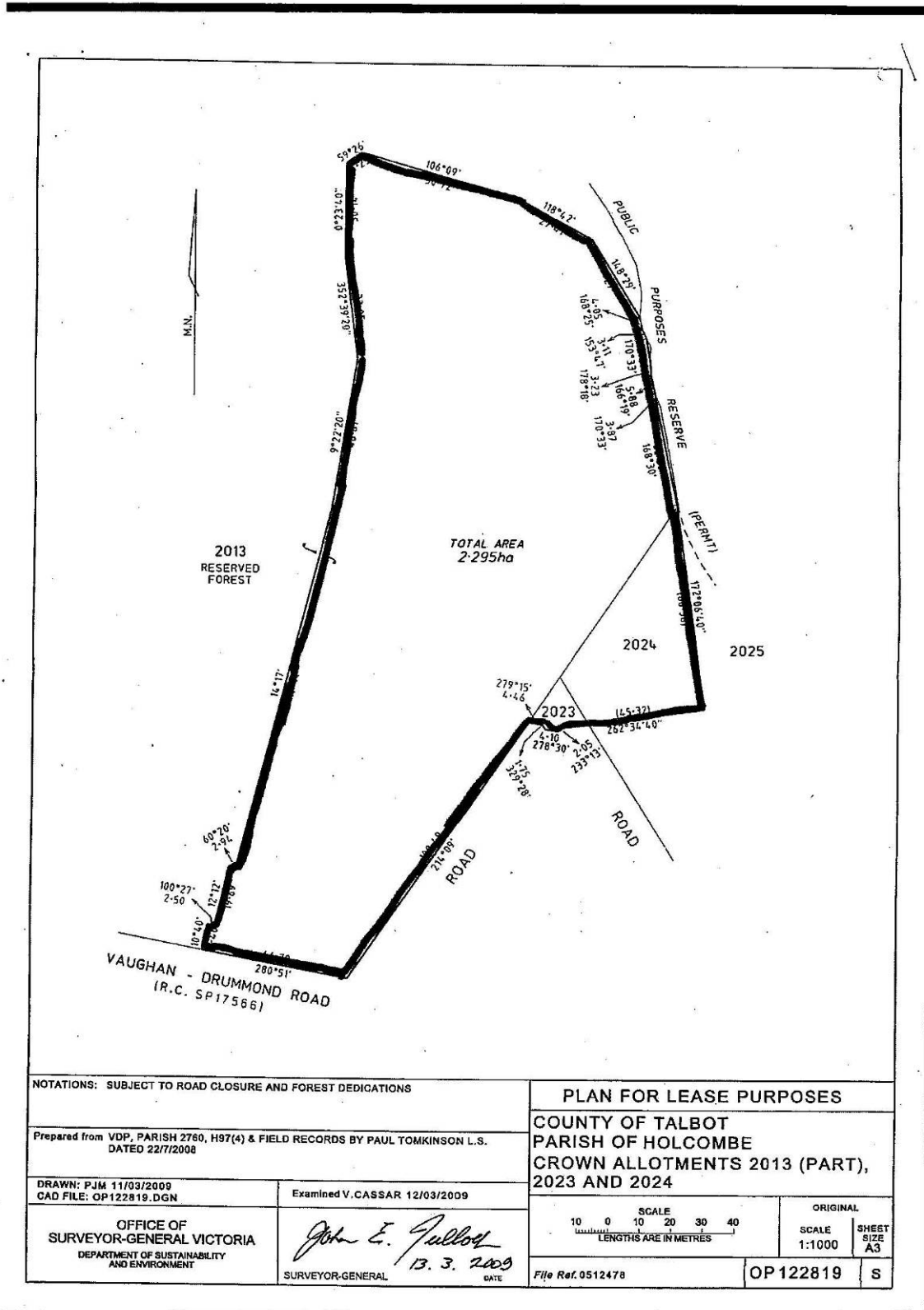
Seconded: Cr Sebastian Klein

Carried.

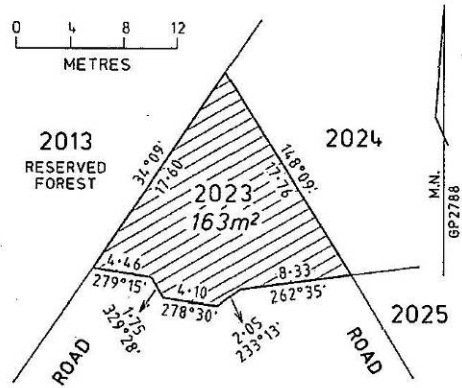
ATTACHMENT 5

ITEM 13.1

DRAFT



LAND VICTORIA



CROWN ALLOTMENT 2023 PARISH OF HOLCOMBE COUNTY OF TALBOT		
<i>Prepared from</i> VDP, PARISH 2760, H97(4) & OP122819		V.CASSAR 12/03/2009 for JOHN E. TULLOCH SURVEYOR-GENERAL VICTORIA
<i>File Ref.</i> 0512478	<i>Drawn</i> PJM 11/03/2009	GP 2788

13.2 AGRICULTURE ADVISORY COMMITTEE

(Action Officer – Acting General Manager Infrastructure)

File Ref: 22/04/03

Introduction

Council would be aware that an Agricultural Advisory Committee was set up and the second meeting was held in March 2009 (Minutes attached – refer Attachment 6).

The Terms of Reference for the Committee (refer Attachment 7) specify the number of representatives on that committee.

At the March 2009 meeting, the Committee requested that Terms of Reference be amended to include an additional member on that committee.

Report

The agricultural Advisory Committee at the March meeting and also the following June meeting voted that additional members be requested to participate on this Committee.

Members currently participating in the committee are as follows:-

Cr Rod May(Chair), Joy Durston, Elizabeth Hak, Stephen Glen, David Holmgren/Su Dennett, Paul Righetti, Norm Suckling, Damien Leonard and David Smith (visitor).

Discussions with the committee and their recommendations to allow one (1) additional farming representative and one(1) member with organic farming certification be considered by Council.

Terms of reference for the committee would need to be amended if additional members were to join the committee.

The purpose of this request is to allow greater participation from community members who currently are attending the Advisory Group meetings, such as the current visitor David Smith.

Therefore it is requested that Council consider this recommendation for additional Agriculture Advisory Committee members and call for expressions of interest for the two (2) members to represent either the farming and organic farming groups.

Relevant Policies and Community Engagement

Council Plan 2009-2013:

17. Embracing community knowledge and expertise to help guide its decision making and implementation.
19. Working with the community to determine the usefulness and potential benefits of developing a community vision for the Hepburn Shire.

Financial Implications

Advertising costs of \$30 seeking expressions of interest from additional community members.

Formal Motion

That Council defer the motion.

Moved: Cr Don Henderson

MOTION LOST

Motion

That Council:

13.2.1 *Note the report and no further action be taken until 2010*

13.2.2 *That the Committee be informed of Council's decision.*

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Carried.

ATTACHMENT 6
ITEM 13.2

DRAFT

**Hepburn Shire Agriculture Advisory Committee
Meeting Minutes
Monday 30 March 2009 at 8 pm
Council Chambers, Daylesford Town Hall**

Present: Cr Rod May (Chair), Joy Durston, Elizabeth Hak, Stephen Glen, David Holmgren, Paul Righetti, Andrew Bourke
8.15pm Norm Suckling, Damian Leonard, visitor David Smith

Mintues: *Moved:* Joy Durston *Seconded:* Elizabeth Hak
Carried No issues arising

1. Membership

Stephen Glen provided an overview. Victorian Farmers' Federation (VFF) believes that further specialised representation should be sought for committee meetings. David Holmgren also provided his view on committee representation. Cr May also requested further discussion on composition of the Committee.

2. Terms of Reference

Needs to be amended to reflect the composition.

Motion 1:

That David Smith and Tom Walsh be invited to make application as a member of the Committee. *Carried*

David Holmgren wanted his dissent registered.

Motion 2:

- a) Terms of reference needs to be amended to reflect the composition of the committee to include an additional member over an above the current composition.

That following a verbal request from David Smith and discussion with the committee, that an invitation be extended to apply for the position based on his previous involvement as the Councillor representative and his interest to continue with this advisory committee.

Motion 2 – Both a) and b) *Carried*

3. Agriculture and Climate Change

Invitation be extended to Laurie Norman from CHAF (Central Highlands Agribusiness Forum) to brief the committee on issues that the forum is involved in. Committee members agreed that a consultative arrangement be established with other partners seeking information on factors that will influence agriculture via climate change.

Item to remain on the Agenda for future discussions.

Invitation to Laurie Noman to be held over until end of August Meeting.

-2-

4. Water in Agriculture

Education on water use for Agriculture to those who purchase the products. Further data and information to be provided to committee members for further dissemination and discussion.

5. Rates

Payment of Rates – Discussion on rates

Motion:

That consideration be given to different payment options for rates either being :-

1. Payment up front at a discounted rate;

Or

2. Payment options at 6 monthly;

Or

3. Payment at mid February in the financial year. **Carried**

6. Procedures for Rate objections

Material to be provided by valuer, to assist landowners when they wish to contest their valuations. Information to be distributed to advisory committee members. Information to be forthcoming from valuer.

Action:

Finance Department to provide information.

Committee are questioning why is this so complicated now?

Finance Manager to be invited to attend next meeting.

7. Planning

Committee members are interested to invite the Manager of Planning to provide an overview on planning matters affecting agriculture through the Hepburn Planning Scheme.

Action:

Manager of Planning to be invited to next meeting to brief the Agriculture Advisory Committee members on the Hepburn Planning Scheme.

8. Landholder Responsibilities

Discussion on provision of information by Council to assist landowners on their obligation to maintain their properties as well as their relationship with abutting properties particularly when associated with agriculture. Elizabeth Hak to provide a draft information flyer for distribution to the next or following committee meeting.

Action:

Elizabeth to notify committee on progress for production of Draft booklet/flyer.

9. Next Meeting

Monday, 1 June 2009 at 7 pm.

Meeting Closed at 10.06 pm

ATTACHMENT 7
ITEM 13.2

DRAFT

**Terms of Reference
Hepburn Shire
Agriculture Advisory Committee**

Introduction

Agriculture is one of the key economic forces within the Hepburn Shire. It has significant impact on the local community.

Council through its Agriculture Advisory Committee wishes to maintain a partnership with the Agriculture Industry, which is based on co-operation and two way communication.

Definition

Agriculture includes farming, grazing, cropping, forest plantations and farm gate business.

Aim

Provide Council with general advice regarding matters relating to Agriculture including transport, pricing, climate change, sustainability, pollution, water, drought, potatoes, farm gate production and genetically modified or manipulated crops. Council may then choose to advocate on the industries behalf, facilitate appropriate industry development, or address industry needs in its development of policy and strategic plans.

Principles

The Committee will act as the advisory body to Council on issues and make recommendations to Council for consideration with Council making final decisions.

The Committee will provide a forum to address issues which concern any part of the Shire.

Operating Principles

The Hepburn Shire Council is committed to maintaining a co-operative relationship with the community through open, two-way communication with the Advisory Committee.

The Advisory Committee will:

- Provide opportunities for community discussion analysis and education on issues which affect the agricultural industry.
- Ensure the Council is fully informed as to industry needs and priorities.

The Hepburn Shire Council will:

- Receive guidance and advice from the Advisory Committee.
- Seek specific advice on policy and strategic issues.
- Refer issues to the Advisory Committee.

Operations

The Committee will be a community-based advisory committee appointed by Council.

Terms of Office

Appointment will be for two years. Council will review the future of the committee after two years.

Casual vacancies that occur are to be ratified by Council.

Selection Criteria for Nominations

Nominees need to meet at least one criterion from 2 or 3 with 1, 4 & 5 being mandatory. The committee needs to be a mix of community and skills based members reflecting various age groups.

1. Experience and knowledge of agriculture in the Shire
2. Broad understanding of community needs, concerns and issues on a Shire wide basis.
3. Specific expertise in agriculture planning and management, environmental planning and product development,
4. Be able to objectively consider community and agricultural issues.
5. Demonstrated ability to work as a part of a team and be solution focused.

Meetings

At least 2 meetings will be held annually.
Community forums as required.

Chair

Appointed annually by Council and nominated by the committee.

Members

Membership of the Committee will be made up of:

- One Councillors representing Hepburn Shire
- Two representatives from the Victorian Farmers Federation
- Five representatives from but not limited to the following industry sectors:
General farming, organic farming, permaculture, potato farming, vigneron, cropping, livestock, viticulture,

Quorum

Five voting members of the committee must be present for a meeting to be held.

The Chair in conjunction with the Manager of Tourism Economic Development and Recreation will be responsible for calling meetings and preparing agendas. At least three weeks notice will be given for each meeting.

The committee will be supported by the Tourism Economic Development and Recreation Unit for preparation of agendas and minutes and Council officers from across the organization may be available to provide advice to the committee on an as needed basis.

Reporting

The Committee will forward minutes of all meetings to the Council.

The Committee will make at least one formal presentation to Council annually.

The committee is appointed by Council to provide advice to Council on Agriculture issues. Council is responsible to determine the outcomes on any recommendations made by the committee.

13.3 NEW DAYLESFORD DEPOT – MONTHLY REPORT

(Action Officer – Acting General Manager Infrastructure)

File Ref: 4/1930/09650

Introduction

A progress report on the construction of the New Daylesford Depot located on the Daylesford-Trentham Road is provided.

Works continue to progress on the Depot works and a revised completion date is October 2009.

Report

Council commenced works for the New Daylesford Depot project in August 2008.

Briefing report was provided to Councillors at the September briefing session and further works have progressed since, which are as listed below:-

Project works that have been completed are:

- Earthworks and vegetation management on site;
- Erection of Two sheds and minor shedding;
- Erection of Security fencing and farm fencing;
- Concreting for Shed 1;
- Main electrical supply;
- Internal stormwater drainage and services for Depot operation;
- Access road, intersection entrance and internal access ways;
- Water service, Fire service and telecommunication cabling;
- Septic and water storage facilities;
- Additional boundary fences and tree clearance as the result of the Muskvale fires;
- Storage facilities for general administration, building parks and mechanic

Works in progress and to be completed this month:

- Office and meeting room fitout;
- Electrical installation

Relevant Policies

Council Plan 2009-2013:

Objective 7: Disposing of poorly utilised, inefficient or surplus assets

Community Engagement

Wide community consultation and engagement has occurred with this project.

Financial Implications

As at 30 July 2009

NEW DAYLESFORD DEPOT COST SCHEDULE RECONCILIATION			
Expenditure 9510700	Actual 2008-2009	Budget 2008-2009	Total Projections
Building Permit	\$3,122.65	2,500.00	3,200.00
Mechanical Services		6,500.00	1,500.00
Buildings Shed 1 & 2	\$376,200.33	356,500.00	376,500.00
Earthworks	\$106,133.73	91,000.00	107,500.00
Arterial Road Access	\$113,531.34	129,500.00	125,000.00
Service Authority	\$59,165.36	67,000.00	60,000.00
Fencing	\$40,617.06	45,000.00	40,500.00
Electricity	\$66,947.41	105,000.00	105,000.00
Concreting	\$100,754.80	91,500.00	110,000.00
Water and Fire Service	\$19,933.30	17,000.00	25,000.00
Septic and Stormwater	\$104,490.02	96,000.00	110,000.00
Internal Fitout	\$33,635.97	131,000.00	131,000.00
Incidental Services	\$27,476.41	155,000.00	120,000.00
Internal Access	\$50,652.18	110,000.00	90,000.00
Washdown Bay		20,000.00	20,000.00
Office Fitout		16,500.00	16,500.00
Relocation		10,000.00	10,000.00
Totals	1,102,660.56	1,450,000.00	1,451,700.00
Income 9510928	Actual 2008-2009	Budget 2008-2009	Total Projections
		-1,450,000	1,451,700.00

Motion

13.3.1 That Council note and receive the report.

Moved: Cr Janine Booth

Seconded: Cr Tim Hayes

Carried.

Councillors McClenaghan and Henderson wish their dissent to be recorded.

14. COUNCIL SECTION 86 AND ADVISORY COMMITTEES:

14.1 SECTION 86 MINUTES

(Action Officer – Acting Manager Governance)

File Ref: Various

Introduction

Section 86 Committee minutes for noting.

Report

Please see listed below the minutes from Section 86 Committees for your information:

- Minutes of the Clunes Historic Medlyn Complex date 1 June 2009 (File Ref: 1/0320/00070).

Relevant Policies

Council Plan 2009-2013:

17. Embracing community knowledge and expertise to help guide its decision making and implementation.

Community Engagement

Members of the community are represented on this committee.

Financial Implications

Nil.

Motion

14.1.1 *That Council note the Minutes of the Committee listed above which have been distributed under separate cover.*

Moved: Cr Janine Booth

Seconded: Cr Don Henderson

Carried.

15 CLOSE OF MEETING: The Meeting closed at 10.30pm.