



HEPBURN SHIRE COUNCIL
ORDINARY MEETING OF COUNCIL
MINUTES

TUESDAY 21 OCTOBER 2014

NEWLYN COMMUNITY COMPLEX
MIDLAND HIGHWAY
NEWLYN

6:00PM

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MINUTES

TUESDAY 21 OCTOBER 2014

Newlyn Community Complex
Midland Highway, Newlyn
Commencing 6:00PM

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AARON VAN EGMOND
CHIEF EXECUTIVE OFFICER
21 OCTOBER 2014

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.

The Mayor led a minute of silence as a mark of mourning and respect for the passing of The Honourable Edward Gough Whitlam AC QC, 21st Prime Minister of Australia (1972-75).

2. OPENING OF MEETING

PRESENT: Mayor Councillor Don Henderson, Deputy Mayor Councillor Kate Redwood AM, Coliban Ward Councillor Sebastian Klein, Birch Ward Councillor Pierre Niclas, Cameron Ward Councillor Neil Newitt, Creswick Ward Councillor Greg May, Holcombe Ward Councillor Bill McClenaghan.

IN ATTENDANCE: Chief Executive Officer Aaron van Egmond, General Manager Corporate Services Grant Schuster, General Manager Community Services Kathleen Brannigan, General Manager Infrastructure Bruce Lucas, Manager Planning Justin Fiddes, Manager Community and Economic Development Adam McSwain, Acting Manager Strategic Asset Management Steve Millard, Governance and Corporate Support Officer Mary Dancuk.

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. DECLARATIONS OF CONFLICTS OF INTEREST

Nil

5. CONFIRMATION OF MINUTES

RECOMMENDATION

- 5.1 That the Minutes of the Ordinary Meeting of Council held on 16 September 2014 (as previously circulated to Councillors) be confirmed as required under Section 93 (2) of the Local Government Act 1989.

MOTION

5.1. *That the Minutes of the Ordinary Meeting of Council held on 16 September 2014 (as previously circulated to Councillors) be confirmed as required under Section 93 (2) of the Local Government Act 1989.*

Moved: Councillor Neil Newitt

Seconded: Councillor Greg May

Carried.

6. NOTICES OF MOTION

6.1. FUNDING FOR MISS MUDDY EVENT - CRESWICK

Date: 10 October 2014

MOTION

- 6.1.1 That Council contributes up to five thousand dollars to the Miss Muddy event in Creswick. Funds shall be drawn from the budgeted amount set aside to fund the Creswick Four Seasons Festivals.

ALTERNATE MOTION

- 6.1.1. *That Council contributes up to \$5,000 to the Miss Muddy event in Creswick to support visible service elements of the event.*
- 6.1.2. *Hepburn Shire Council to be acknowledged as sponsor in all material; Hepburn Shire Council signage displayed prominently at the event and space be provided for an information stand for Council activities and initiatives.*
- 6.1.3. *Funds shall be drawn from the budgeted amount set aside to fund the Creswick Four Seasons Festivals and be directed towards securing the return of the event to Creswick in 2015.*

Moved: Councillor Kate Redwood

Seconded: Councillor Pierre Niclas

Carried.

BACKGROUND

Discussions have taken place with the CEO, Mayor and officers. This event is a national regional event and to date has attracted four thousand entries from around Australia. This is a female only event centred on women's health and fitness. It is regarded as a family event and there will be activities for children at the venue. Opportunity to expand this event is enormous. Already all local and Ballarat accommodation is virtually booked out. Local businesses and community groups will be able to participate in stall activities and events ancillary to the program. The event is supported by Ballarat Regional Tourism. The event has been a huge success in other states and has the potential to find a permanent home in Hepburn Shire. It complements the promotion of Creswick and the Shire as an outdoors tourist

attraction. The funds are needed because the event has exceeded expectations. The initial event is now estimated to attract more than 10,000 visitors.

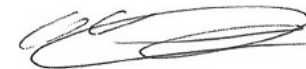
Councillor Name:

Don Henderson

Councillor Signature:



Chief Executive Officer Signature:



Aaron van Egmond

7. ITEMS OF URGENT BUSINESS

Nil

8. PRESENTATION OF COUNCILLOR REPORTS

MAYOR'S REPORT

Councillor Don Henderson, Creswick Ward

Many people turned out to the opening of the new bowling facility at Creswick. This was a good example of working together to get a great outcome. The club itself contributed around \$160,000 to add to Council and government contributions. Well done to our staff as well in the difficult but smooth delivery of the project.

I attended social enterprise meetings at Creswick and Daylesford and found a real desire by communities to save on landfill and reuse materials.

Good to see scouting on the rise and I was able to be present to see Padriag Doyle receive his Queen's Scout Award.

The State Government announced funding for the Gold Trail Route in Maryborough recently. This route will be from Ballarat to Bendigo and will pass through Creswick and Clunes.

Yet another funding announcement from the State Government at Creswick; this time the netballers were the recipients. This will bring their court up to competition standard.

Deputy Premier Peter Ryan attended a gathering recently to hear what Creswick folk thought should be the future of the area.

The unveiling of a sculpture of former Prime Minister Julia Gillard was attended by hundreds of people from across the political spectrum. Ms Gillard now joins all other such figures in the Prime Ministers' Avenue at the Ballarat Botanical Gardens.

On Saturday in the company of Professor Weston Bate we unveiled a monument to commemorate the start of a march by Creswick miners to the Eureka Stockade.

Earlier this month, I was involved in the opening of our Clunes Museum. I joined with one of the founders, Marny Fenton, in opening the doors to the refurbished museum at The Warehouse - Clunes. This will provide for the proper keeping and display of our wonderful collection.

This is just a snapshot of events. I must thank our Deputy Mayor Kate Redwood for her assistance when I was unable to attend events.

COUNCILLOR REPORTS

Councillor Pierre Niclas, Birch Ward

17/09/2014

My fellow Councillors, Cr Redwood and Cr McClenaghan, conducted a joint Birch Ward and Holcombe Ward - ward meeting out at the beautiful Yandoit Mechanics Institute.

As is always the case, ward meetings held in Yandoit are very well attended and Councillors can always be sure they will be reminded of any work or commitments not completed or still undelivered from the previous meeting.

Yandoit and its surrounds are definitely thriving and the population growing and with that in mind, must always be carefully considered by Council when important matters such as improvements to local amenities are considered and decided on.

23/09/2014

I attended the Support Small Business Forum held at Daylesford Town Hall. Although not attended in overwhelming numbers, there was a very good representation of many differing types of small business from all around the Shire.

The evening session designed to talk primarily to those smaller businesses we have throughout our Shire was focused on the need for a user friendly web site and the integration of other existing social media sites – such as Facebook, Twitter, Instagram, etc.

At the conclusion of the session, all attendees agreed it was worthwhile and beneficial to their business.

24/09/2014

I attended the September monthly Daylesford and Hepburn Springs Business and Tourism Association (BATA) networking meeting which was held jointly with the Rotary Club of Daylesford. It was a great meeting as both Cr Redwood and I were able to give these two great groups a full update on many issues, among them being the imminent commencement of the pedestrian crossing in Vincent Street, Daylesford. For those who have been into Daylesford in the last two weeks, you would have noticed the great work done so far by the contractors - under close supervision of the Shire.

From what work has been completed so far, I am certain this important and necessary part of Vincent Street will definitely deliver on the key issue of pedestrian safety when crossing while also delivering on the improved overall aesthetics of the crossing.

Also present was our Chief Executive Officer (CEO) who delivered a full presentation on what is under consideration as part of the possible Hepburn Hub development. At the end of the meeting CEO Van Egmond conducted a short tour on site and explained in more detail the various improvements being considered.

It would be reasonable to report that all who took the tour were very impressed with what is being considered and expressed support for the further development of plans for this facility to be continued.

24/09/2014

I attended the Social Enterprise session also held at Daylesford Town Hall which was extremely well attended. I was very interested in attending this session as I had never heard of Social Enterprise, nor understood what range of topics it covered and how it could benefit our Shire.

Not really knowing what this session would have to offer me or any other attendee, I did attend this session with a degree of scepticism only to be pleasantly pleased not only with the idea, but more so with the potential it proposed and offered to all businesses and groups to help grow their respective businesses and community groups via financially sustainable projects, etc.

I would like to congratulate the Community Services team for this great service to businesses and community groups in the shire and hope to see and participate in many more.

8/10/2014

I attended the reopening of the Excelsior Bridge in Shepherds Flat. What a fantastic event that was - not necessarily attended by thousands on the day, but certainly an event that everyone in the Shire can be satisfied and proud given everything achieved by the Shire staff and Contractors on this project.

The bridge works were completed in record time - nearly half the original estimated time planned and well within budget.

A great outcome of this project was that we were able to retain the old bridge structure under the new bridge, so that this important piece of engineering was able to be saved for future generations to study and research.

Councillor Kate Redwood AM, Birch Ward

Two years into our four year term and the pace has not slowed. This has been a very busy month as indicated by the list of Council commitments which is given at the end of this report. The backdrop to these events has been the continuing work of lobbying politicians of all persuasions for the funding required by the Shire for many

projects prior to the November state government elections. I commend the Mayor for the fine job he has done in this respect.

I have attended three significant openings during the month, and each celebrated achievements of which we should be inordinately proud:

1. Creswick Bowling Club
2. Clunes Museum
3. Excelsior Bridge

and the launch of Lighting the Regions – the LED streetlight initiative.

I have been involved in discussions to progress a number of key initiatives:

- Wombat Hill Botanic Gardens Masterplan Expression of Interest (EOI)
- Stanbridge Street traffic measures and heavy vehicles
- Daylesford Community Playground next components
- Victoria Park implementation planning for the rebuild of the multi-purpose facility
- Social Enterprise for Waste Management consultation in Daylesford
- Hepburn Springs streetscape
- Daylesford Community Hub walkabout with Daylesford and Hepburn Springs Business and Tourism Association (BATA).

And finally, among a diverse range of events attended, The Absolutely Fabulous Fresh Food Festival Lunch was a knockout, a project that was delivered jointly by Hepburn Shire Council and Hepburn Health. The Daylesford Town Hall was packed with residents coming and going over a couple of hours, trying out health food, obtaining recipes for the free soup and taking away free vegetable seedlings. I left with a cabbage seedling!

Chronological list of Council commitments for the month:

- | | |
|------------|--|
| 16/09/2014 | CEO/Mayors Meeting |
| | Councillor only Meeting |
| | Councillor/CEO Meeting |
| | Pre Council Briefing by Officers |
| | Council Meeting – Trentham |
| 17/09/2014 | All Staff Meeting |
| | Birch Ward meeting Yandoit |
| 18/09/2014 | International Women’s Day Advisory Committee meeting |
| 19/09/2014 | Wombat Hill Botanic Gardens Masterplan EOI meeting |

- 21/09/2014 Creswick Bowling Club opening
- 24/09/2014 BATA breakfast and tour
Daylesford Social Enterprise for Waste meeting
- 30/09/2014 Hepburn Springs Streetscape meeting
- 02/10/2014 CFA Cornish Hill burn off
- 04/10/2014 Clunes Museum opening
- 06/10/2014 Reception for delegation from Bozhou, China
- 07/10/2014 CEO/Mayor's meeting
Councillor briefing by Officers
- 08/10/2014 Opening Excelsior Bridge, Shepherds Flat
- 09/10/2014 U3A AGM
'Putting Locals First' lunch in Creswick with Deputy Premier
Unveiling of statue of Julia Gillard, Ballarat Botanical Gardens
- 16/10/2014 Constituents meeting re local concerns
The Absolutely Fabulous Fresh Food Festival Lunch
Lighting the Regions launch
- 18/10/2014 Clayspace members meeting

Councillor Neil Newitt, Cameron Ward

This past month has seen a diverse range of activities celebrating Clunes past and looking to the future. Activities also focused on the environment and economic development.

The weekend of 4 – 5 October saw a number of these activities.

The weekend started with the opening of the Clunes Museum. The large audience heard from Marny Fenton one of the original founders of the museum. Marny spoke about the history of the museum and entertained us with stories of the locals responsible. Many familiar names are still in the district. Marny hinted there is a book in the works, observing the history of the museum closely reflects the history of the town.

That night the Clunes CFA Fire Brigade celebrated 150 years of service with a dinner and presentation of awards. More than 170 attended with many past members returning for the weekend.

Author Robert Campbell launched the history of the Clunes Fire Brigade – ‘From buckets to pagers’. In his speech he spoke of how the history of the brigade closely follows the history of Clunes - similar to Marny Fenton’s remarks.

The following day saw a street parade along Fraser Street, with a number of historic and current fire service units taking part in the procession. The parade proceeded along Fraser Street before moving up to the Clunes CFA shed. Following the procession, the CFA hosted an open day well attended by the community.

Also that weekend, Frogtober kicked off in Clunes.

Many attended the talk by Craig Cleeland on the endangered Growling Grass Frog that lives in the creek. Many went on the creek walk to try and spot the platypuses and other fauna that has returned to the creek since the floods.

It is terrific to see the passion that is now directed toward the creek in Clunes.

Also this month, in support of Small Business Day, Council hosted businesses from across the shire as part of our commitment to local economic development. A busload of Clunes businesses attended the event with 13 attendees. As important as the session was, the bus trip also gave those Clunes businesses attending a chance to discuss the evening. Thanks to the Council officers who were involved in running the evening. I hope the strong showing shows support for similar events for small business.

Councillor Sebastian Klein, Coliban Ward

My past month, like some of my fellow councillors, was also concerned with our communities and food culture, beginning with the MAV Future of Local Food Summit where I had the honour of presenting after one of my heroes, Stephanie Alexander, the architect of the famous Kitchen Garden Foundation. I was surprised to learn of the role that local government can play in local food. I learnt that access to fresh food can shape things like levels of crime and susceptibility to learning difficulties and disorders such as attention deficit hyperactivity disorder (ADHD) and chronic fatigue syndrome (CFS). Local Government has a critical role in this as demonstrated in the City of Wyndham where there are over 200 fast food outlets, but only 70 fresh food outlets.

At the Victorian Indigenous Honour Roll awards, I was heartened to learn the names of some of our own freedom fighters for the rights of our indigenous people. It was great that our own Dja Dja Wurrung elder, Graham Atkinson, was recognised for his role in the pursuit of land rights and care and assistance for the Dja Dja Wurrung community throughout the Central Highlands.

I attended a Community Governance Workshop with Peter McKinlay, and Paul Leistner - Program Coordinator Neighbourhood Program, City of Portland Neighbourhood - Office of Neighbourhood Involvement. There they have actively pursued community involvement in the decision making processes of their municipality with a whole body of documentation that supports and sets out best practice for involving communities in local democracy.

It was back to local food and communities doing for themselves at the Trentham Food Hub – Growers, Cookers & Eaters Dinner, showcasing local producers and chefs and fundraising for a new approach to local food markets which makes it easier for producers to obtain fair prices for their product, as well as achieve sustainable production methods.

At the READYS youth service awards, I was glad to present an award to the Mornington Shire Council for a travelling youth hub, not unlike one suggested by Cr Niclas earlier in the evening.

And finally, I should mention that I received a packet of locally produced crisps in a consultation with a local potato farmer. I hope Mr Mayor you will ensure that is registered on the gift registry accordingly!

Other events I attended included:

- Victorian Local Governance Association (VLGA) Governance by Design event on Planning Melbourne and Governing
- Locally Trentham Streetscape Meeting
- Reception for the Bozhou Sister City delegation
- Social enterprise and waste consultation in Trentham
- Lighting the Regions Launch
- The least of the VLGA Local Government
- Elections (Georgiou) Review consultations
- and finally, the Trentham Forum AGM.

Councillor Greg May, Creswick Ward

The Newlyn Community and Sporting Complex was forged out of a public meeting held in September 1986 with the building officially opened in April 1991. The local community decided that the local hall, now the towns antique shop, and the football change rooms which were ex RAAF huts, were past their use by dates.

When opened, the building had cost approximately \$270,000 with all but \$70,000 of this amount being raised locally. Donations, debentures, potato grower contributions, countless hours of volunteer labour and many late nights catering for

weddings, all saw the project completed and paid for a few years after being opened.

Since the opening, the building has been extended to provide storage room and additional change rooms and more recently it has undergone a TV show makeover to upgrade change rooms and provide a gymnasium.

The complex is managed by an incorporated committee with several of the current committee members having served since the building opened. Over its 23 years of operation, the committee has enjoyed a co-operative relationship with the Newlyn Football Netball Club which is the main user group of the complex. During that time the club has contributed significantly to the upkeep and improvement of the building.

Since my last Councillor report, I have attended several events. One of these events was the opening of the new Creswick Bowling Club green and clubrooms at the Doug Lindsay Reserve. The establishment of this facility was a protracted affair but now the bowlers of Creswick enjoy spacious new clubrooms and a state of the art synthetic bowling green.

I have also had on site meetings with Council officers and members of the Newlyn Football Netball Club to discuss and progress the construction of the new netball change rooms to be built at the recreation reserve in Newlyn.

Along with other Councillors, I attended an afternoon tea in Daylesford as part of hosting a delegation of community and business leaders from Bozhou City in China. Discussions were held on potential co-operation around tourism, student exchange, infrastructure, forestry and agriculture. The Bozhou region of China is a major medicinal and herb growing area of the country. Possibilities might exist for the growing of herbs here for this ever increasing market as there are climatic similarities with this part of Victoria.

Another meeting I attended was that of the Friends of the Kingston Avenue of Honour. The Kingston Avenue of Honour is, I think, the largest in the Hepburn Shire, containing just over 280 trees. This small group of hard working volunteers are to be congratulated for their efforts in maintaining the trees in such good condition. Most of the trees are nearing 100 years of age and as such require constant and ongoing maintenance work. The volunteer committee undertakes some of those works but some need to be carried out by qualified arborists and are very expensive to have done.

Also I recently attended the AGM of what was previously the Central Highlands Agribusiness forum or CHAF. CHAF has undergone a name change and is now known as Cultivate Agribusiness Central Highlands. The work and objectives remain the same; it's only the name which has changed. Partner members of the

organisation are the City of Ballarat, Hepburn Shire, Pyrenees Shire and Moorabool Shire and recently the Ararat Rural City has come on board.

On October 9, I also attended a meeting arranged by Regional Development Victoria with the Deputy Premier Peter Ryan in attendance. Many local community and business people were invited to the meeting to ask questions of the Deputy Premier and to voice their opinions on a variety of local issues.

On a completely different subject, Council officer Kevin Clohesy and I have been asked and have agreed to become involved in the Movember challenge. Movember is a fundraiser for Men's Health, in particular prostate cancer, testicular cancer and mental health. Our challenge, however, is a little different. Rather than growing a moustache during November, Kevin and I have agreed to shave our long term moustaches off, provided of course the \$1,000 target is met. To donate visit MY MOSPACE at MOBRO.CO/HEPBURNSHIRECOUNCIL

Councillor Bill McClenaghan, Holcombe Ward

It's that time of the year with summer and the fire season approaching and Council's Municipal Emergency Management Planning Committee met again on 18th September. This year the Committee will meet an extra time and the major task will be update and revision of the Municipal Emergency Management Plan.

Two Ward Meetings this month: one at Yandoit to meet up with local people from Franklinford and Yandoit as well as some from Clydesdale in Holcombe Ward. My regular monthly Ward Meeting went ahead last evening.

On Monday 6th October saw Council meet with a Chinese delegation from Bozhou. Again Hepburn Shire demonstrated that it has much to offer as a clean food producer and a destination for visitors.

Council's most notable engineering achievement for the year was celebrated on 8th October with the official opening of Excelsior Bridge at Shepherds Flat. I attended with Cr Niclas and we assisted Deputy Mayor Redwood in cutting the ribbon. Traffic had been flowing for some days since operational completion and it is an exceptional achievement in both reducing inconvenience to the community and saving the historic Monash bridge for posterity. Truly a win-win situation.

Yesterday I attended the Municipal Association of Victoria (MAV) South Central Rural and Regional Forum at Bungaree in Moorabool Shire. Good discussion was had on the Victorian State–Local Government Agreement that is a big improvement on previous agreements. Also, the Local Government Finance Vehicle is now established that makes cheaper finance available to Councils. There will now be \$100 million sector savings over ten years. More good news is that 60 out of 79 Councils, including Hepburn Shire, have signed up for cheaper group Workcover insurance, offering additional cost savings to our ratepayers.

This coming Friday is the second MAV State Council for 2014. Matters of high importance to the Local Government sector will be raised and debated. Not all motions moved are carried and considerable debate can take place on controversial items. All 79 Victorian Councils are members of the MAV. Co-operation as described above results in very tangible benefits for all Councils and their residents and ratepayers.

Lastly Mr. Mayor, I learned today that a local small business, Daylesford Engineering, has been contracted to build a large shed in Humpty Doo, Northern Territory, showing that our businesses can achieve great things.

Cr McClenaghan presented a signed copy of the Victorian State–Local Government Agreement for Council records.

RECOMMENDATION

8.1 That Council receives and notes the Mayor's and Councillors reports.

MOTION

8.1. *That Council receives and notes the Mayor's and Councillors' reports.*

Moved: Councillor Sebastian Klein

Seconded: Councillor Kate Redwood

Carried.

9. 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 Chief Executive Officer or 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 Chief Executive Officer by 12 noon on the day of the Council meeting.

Questions received 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.

9.1. PETITION – CLIMATE CHANGE

SUMMARY

Council has received a Petition with 16 signatures from local residents and ratepayers which states:

'Climate change is the biggest threat humanity is facing!

The UN knows this, and is bringing world leaders to New York for a major summit this month on this global emergency.

100% clean energy is a realistic goal. Already, 20% of the world's electricity comes from clean energy, and solar power is cheaper than coal in many countries!

Because climate change threatens all of us, it brings all of us together in a shared cause. We as residents of Yandoit, Franklinford and Clydesdale in the Shires of Hepburn and Mt Alexander call on you as our community representatives to take our concern and urgent request to our heads of Government and world leaders.

Mobilise the world to shift to 100% clean energy. The only solution!'

RECOMMENDATION

That Council:

- 9.1.1 Receives the Climate Change petition requesting Council to take the community concern and urgent request to heads of Government and world leaders and that the petition lay on the table for one month.
- 9.1.2 Refers the petition to the General Manager Community Services and Sustainability Officer for preparation of a report for consideration at the November 2014 Council Meeting.
- 9.1.3 Advises the head Petitioner of the above process.

MOTION

That Council:

- 9.1.1. *Receives the Climate Change petition requesting Council to take the community concern and urgent request to heads of Government and world leaders and that the petition lay on the table for one month.*
- 9.1.2. *Refers the petition to the General Manager Community Services and Sustainability Officer for preparation of a report for consideration at the November 2014 Council Meeting.*
- 9.1.3. *Advises the head Petitioner of the above process.*

Moved: Councillor Kate Redwood
Seconded: Councillor Sebastian Klein
Carried.

9.2. QUESTIONS

Council received no questions from the public for the October Council Meeting.

9.3. REQUESTS TO ADDRESS COUNCIL

Council received no Requests to Address Council for the October Council Meeting

10. STATUTORY PLANNING REPORTS

10.1. PLANNING APPLICATION 519 - SUBDIVISION OF THE LAND INTO TWO LOW DENSITY RESIDENTIAL LOTS AT 10 LANGDON COURT, DAYLESFORD

CHIEF EXECUTIVE OFFICER

In providing this advice to Council as the Statutory Planning Officer, I Carolyn Harriott have no interests to disclose in this report.

PURPOSE

The purpose of this report is for Council to determine the application to subdivide the land into two low density residential lots at 10 Langdon Court, Daylesford.

BACKGROUND

The application was received on 17 June 2014 for the subdivision of the land into two lots. The land is zoned Low Density Residential Zone (LDRZ) and is subject to an Environmental Significance Overlay - Schedule 1& 2 (ESO1 & 2).

The subject site has a 27.22m frontage along Langdon Court and is 4001m² in size. The site abuts the court bowl and widens to the west with a rear boundary of 78.69m. The proposed vacant lots would be 2001m² and 2000m² and contain a building envelope. There is no significant vegetation on the site. The land slopes from the east (highest point) to the west (lowest point). The land has existing accesses along both the north and south boundaries for access to the two allotments at the rear.

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. Five objections have been received.

The application was not required to be referred to external authorities, subject to mandatory conditions for subdivision permits being applied if a permit is granted. The application was referred to Council's engineers who gave conditional consent to the proposed subdivision.

The subject site has been created by a three lot subdivision in 2005 which introduced the sewer main to Langdon Court.

ISSUE/DISCUSSION

State and Local Policy

State and Local Planning Policy encourages new development within township areas where infrastructure and services are available. The Municipal Strategic Statement (MSS) seeks to consolidate development in existing urban areas while ensuring new development contributes to the neighbourhood character.

The subject site falls within the Daylesford Neighbourhood Character Precinct at Clause 22.08 Precinct 3 of the Hepburn Planning Scheme. The proposed subdivision is considered to achieve the objectives contained within this policy at Clause 22.08.

The subject site is located within the urban growth boundary on the Daylesford Structure Plan where development is encouraged (Clause 21.05 Settlement and Housing).

The subject site is serviced with reticulated water, sewer, power and telecommunications. The site is located approximately 1km north west of the main Daylesford Township and is serviced by a sealed road.

The subdivision provides for sizes to suit a variety of dwelling and household types in accordance with Clause 15.01-3 Neighbourhood and Subdivision Design.

Clause 22.01, Catchment and Land Protection and Clause 21.09, Environment and Heritage includes in its key issues the protection of water quality and significant vegetation in any development proposals. The proposal achieves these key issues as the subdivision site has access to reticulated water and sewerage and does not contain any vegetation. Vegetation screening along all boundaries would be applied to any permit issued, to reduce visual impact of any future developments within the newly created lots.

Zoning and Overlay Provisions

The decision guidelines of the LDRZ, apart from those contained in Clause 65, are to consider:

- The State Planning Policy framework and the Local Planning Policy framework, including the Municipal Statement and local planning policies.
- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- In the absence of reticulated sewerage, the capability of land to treat and retain waste water.

Clause 32.03-3 of the LDRZ allows for subdivision down to 2000 sq metres where lots can be connected to reticulated sewerage, these changes to the zone were incorporated into the Planning Scheme on the 15/07/2013.

The proposal is exempt from assessment under the provisions of ESO1, for subdivision where reticulated sewer is available. There are no exemptions from assessment under the ESO2. The environmental objectives this schedule seeks to

achieve are to protect the mineral springs, their aquifers and their environs from the impacts of effluent and drainage, to protect water bores that provide town water supply. The proposal can satisfy the objectives of the ESO2 through permit conditions.

Council's Infrastructure department has approved the proposal subject to conditions that relate to stormwater drainage which will include requiring the applicant preparing a stormwater management plan which will identify the manner by which the quantity and quality of stormwater will be managed.

Particular Provisions

The application is exempt from a public open space contribution of 5% in accordance with Clause 52.01 of the Hepburn Planning Scheme and Section 18(1) of the Subdivision Act 1988 if the application seeks to subdivide land into two lots and the council considers it unlikely that each lot will be further subdivided. Given the proposal will see the subdivision create the minimum size lot currently allowed within the zone (LDRZ), it would be seen that no further subdivision of the site would be supported.

Objections

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* by placing a notice on the site and by sending letters to adjoining and adjacent owners and occupiers. As a result, five objections have been received which can be summarised below. Each point is addressed in italics:

- The lots sizes are too small and the subdivision does not reflect or respect the neighbourhood character and amenity of the area.

The proposed subdivision meets the minimum lot size in the LDRZ. While the lots sizes would be smaller than those immediately adjoining the subject site, it is considered that the proposed lots have responded to the layout of the site by maintaining the subdivision pattern along the Langdon Court frontage. Screening and vegetation planting along all boundaries will protect the amenity of the area.

- Approval of the application would create precedents for an increased number of dwellings and subdivision. Smaller block sizes will lose country, rural feel.

The zoning allows for development of up to two dwellings on the site. This could be achieved whether the land is subdivided or a single title. Further development within this area is encouraged due to existing infrastructure, such as reticulated sewer and water, and proximity to town and services.

The zoning allows for consideration of land to be subdivided down to 2000 m². Langdon Court is an established low density residential area comprising open paddocks on the western side of the court bowl, with unprotected, unscreened

established dwellings. On the eastern side of the court bowl, dwellings are built lower down than the road frontage, due to the topography of the land and well screened from surrounding properties and the road. There is a clear separation of the dwellings by the road. Any new dwelling on the western side of Langdon Court would be visually prominent given the existing context of this landscape.

- Concerns raised regarding existing and future drainage infrastructure and water run off.

The proposal was referred to Council's Infrastructure department who has given conditional consent to the development. A stormwater management plan will be required to be submitted and approved prior to Statement of Compliance being issued as part of permit conditions should a planning permit be issued.

- We pay higher rates in this area for the choice of low density living.

This is not a planning consideration in regards to assessing an application for a planning permit.

- Concerns raised regarding Bushfire zoning and fire risk.

There is no Bushfire Management Overlay on the site and therefore the application has not been/cannot be assessed under these provisions.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

This application meets Council's obligations as Responsible Authority under the *Planning and Environment Act 1987*.

FINANCIAL IMPLICATIONS

Any application determined by Council or under delegation of Council and which is subject to appeal rights, may incur costs.

RISK IMPLICATIONS

Not applicable

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

Not applicable

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*.

CONCLUSION

The proposed subdivision supports the objectives and outcomes of infill development as stated in the State and Local policies of the Hepburn Planning Scheme whilst not adversely affecting the amenity of the area. The subject site is located within the defined urban growth boundary on the Daylesford Structure Plan where development is encouraged to achieve a more compact township form. The subject site can be serviced with minimal impact on existing infrastructure and provides for a subdivision that provides a diversity of lot sizes within this zoning.

The following objectors addressed Council to object to the application:

Mr Gary Lawrence

Ms Sharyn Salter on behalf of Ms Robyn Lawrence

Mr David Frost

Mr John Salter.

OFFICER'S RECOMMENDATION

That Council having caused notice of planning application PA 519 to be given under Section 52 of the Planning and Environment Act 1987, and having considered all the matters required under Section 60 of the Act decides to issue a **Notice of Decision to Grant a Permit** under the provisions of Clauses 32.03-3 and 42.01-2 of the Hepburn Planning Scheme in respect of the land known as and described as 10 Langdon Court, Daylesford for the subdivision of the land into 2 Low Density Residential Lots, with the application dated 17/06/2014 subject to the following conditions:

10.1.1 No Change – Subdivision

The subdivision as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.

Council's Infrastructure Department

10.1.2 Stormwater Drainage

- It is the responsibility of the developer, to prepare a Stormwater Strategy Plan to identify and record the manner by which the quantity and quality of stormwater shall be managed for the catchment including proposed easements. Construction shall not commence until the plans have been approved by Council. All drainage construction shall be

carried out in accordance with the approved plans. All works must be completed prior to the issue of the statement of compliance.

- Prior to certification, all drainage easements deemed necessary by the responsible authority must be provided by the Applicant to protect existing and future drainage infrastructure within the proposed development site. Easements shall also be provided through properties between the development site and the nominated point of discharge.

10.1.3 Access

- Vehicle access/crossings to the lots are to be located and constructed of all weather surfaces to the satisfaction of the Responsible Authority.
- A minimum clear distance of 9.0m shall be maintained from the intersections, bends and between any adjacent driveways as practicable.

All costs incurred in complying with the above conditions shall be borne by the applicant/developer.

10.1.4 The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.

10.1.5 All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

10.1.6 The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

10.1.7 Telecommunications Conditions

- The owner of the land must enter into an agreement with:
 - a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed

plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

- Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
 - a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

10.1.8 Landscape Plan Required

Before the subdivision is certified, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The plan must show:

- (a) The plants must provide screening on all boundaries around the site.
- (b) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.

All species selected must be to the satisfaction of the Responsible Authority.

10.1.9 Completion of Landscaping

Before the Statement of Compliance is issued the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

10.1.10 Landscaping Maintenance

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES:

This permit will expire if the plan of subdivision is not certified within two years of the date of this permit.

The responsible authority may extend this period if a request is made in writing before the permit expires, or within six months afterwards.

Under section 7 of the Subdivision Act 1988, the plan of subdivision must be registered within five years of the date of certification.

MOTION

*That Council having caused notice of planning application PA 519 to be given under Section 52 of the Planning and Environment Act 1987, and having considered all the matters required under Section 60 of the Act decides to issue a **Notice of Decision to Grant a Permit** under the provisions of Clauses 32.03-3 and 42.01-2 of the Hepburn Planning Scheme in respect of the land known as and described as 10 Langdon Court, Daylesford for the subdivision of the land into 2 Low Density Residential Lots, with the application dated 17/06/2014 subject to the following conditions:*

10.1.1. No Change – Subdivision

The subdivision as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.

Council's Infrastructure Department

10.1.2. Stormwater Drainage

- *It is the responsibility of the developer, to prepare a Stormwater Strategy Plan to identify and record the manner by which the quantity and quality of stormwater shall be managed for the catchment including proposed easements. Construction shall not commence until the plans have been approved by Council. All drainage construction shall be carried out in accordance with the approved plans. All works must be completed prior to the issue of the statement of compliance.*
- *Prior to certification, all drainage easements deemed necessary by the responsible authority must be provided by the Applicant to protect existing and future drainage infrastructure within the proposed development site. Easements shall also be provided through properties between the development site and the nominated point of discharge.*

10.1.3. Access

- *Vehicle access/crossings to the lots are to be located and constructed of all weather surfaces to the satisfaction of the Responsible Authority.*
- *A minimum clear distance of 9.0m shall be maintained from the intersections, bends and between any adjacent driveways as practicable.*

All costs incurred in complying with the above conditions shall be borne by the applicant/developer.

- 10.1.4. *The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.*
- 10.1.5. *All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
- 10.1.6. *The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*
- 10.1.7. *Telecommunications Conditions*
- *The owner of the land must enter into an agreement with:*
 - *a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and*
 - *a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.*
 - *Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:*
 - *a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and*
 - *a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry*

specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

10.1.8. *Landscape Plan Required*

Before the subdivision is certified, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The plan must show:

(c) The plants must provide screening on all boundaries around the site.

(d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.

All species selected must be to the satisfaction of the Responsible Authority.

10.1.9. *Completion of Landscaping*

Before the Statement of Compliance is issued the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

10.1.10. *Landscaping Maintenance*

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

NOTES:

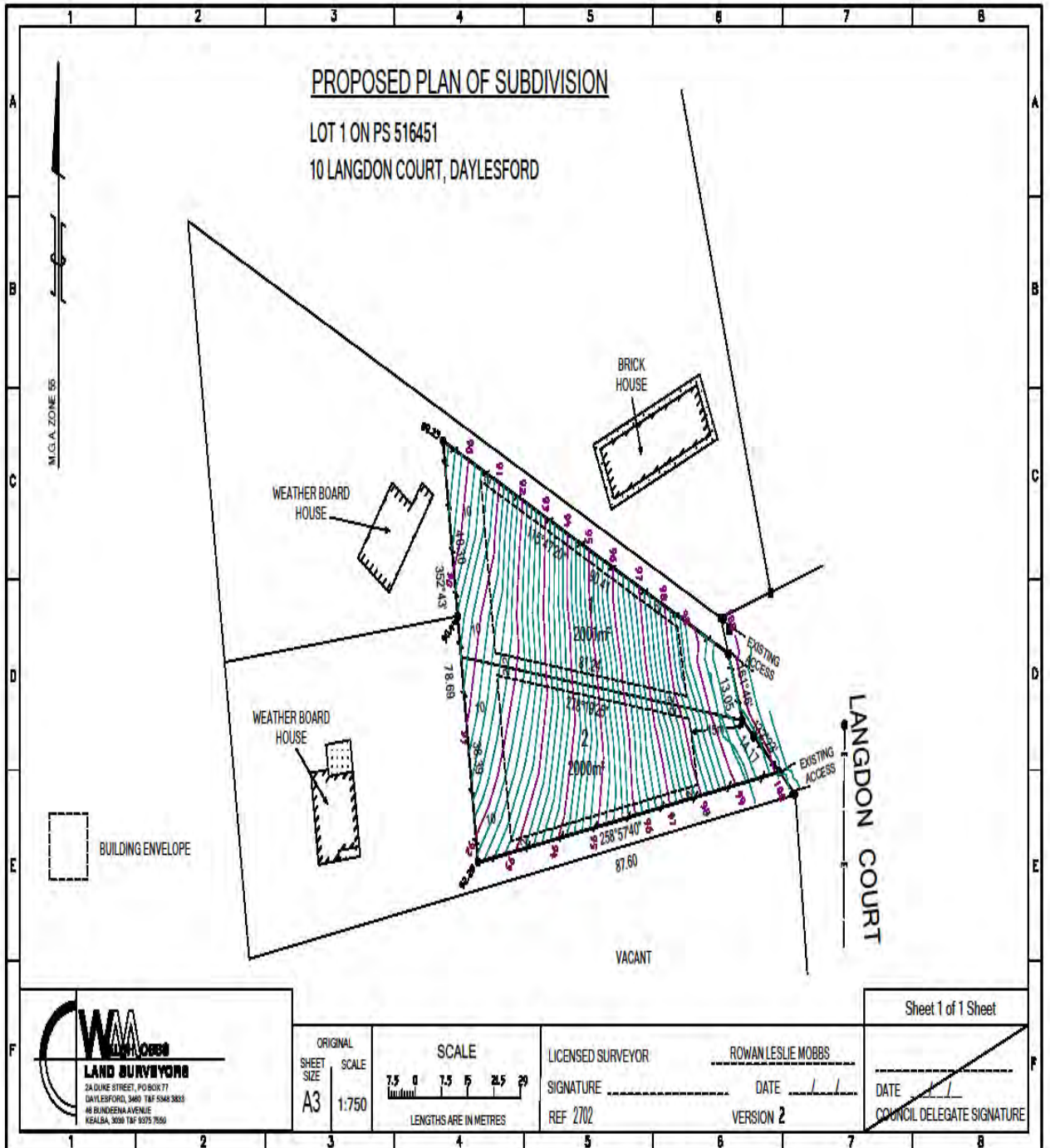
This permit will expire if the plan of subdivision is not certified within two years of the date of this permit.

The responsible authority may extend this period if a request is made in writing before the permit expires, or within six months afterwards.

Under section 7 of the Subdivision Act 1988, the plan of subdivision must be registered within five years of the date of certification.

Moved: Councillor Pierre Niclas
Seconded: Councillor Kate Redwood
Carried.

ATTACHMENT 1 - PROPOSED PLAN OF SUBDIVISION =-
10 LANGDON COURT, DAYLESFORD



ATTACHMENT 2 - DAYLESFORD STRUCTURE PLAN

HEPBURN PLANNING SCHEME

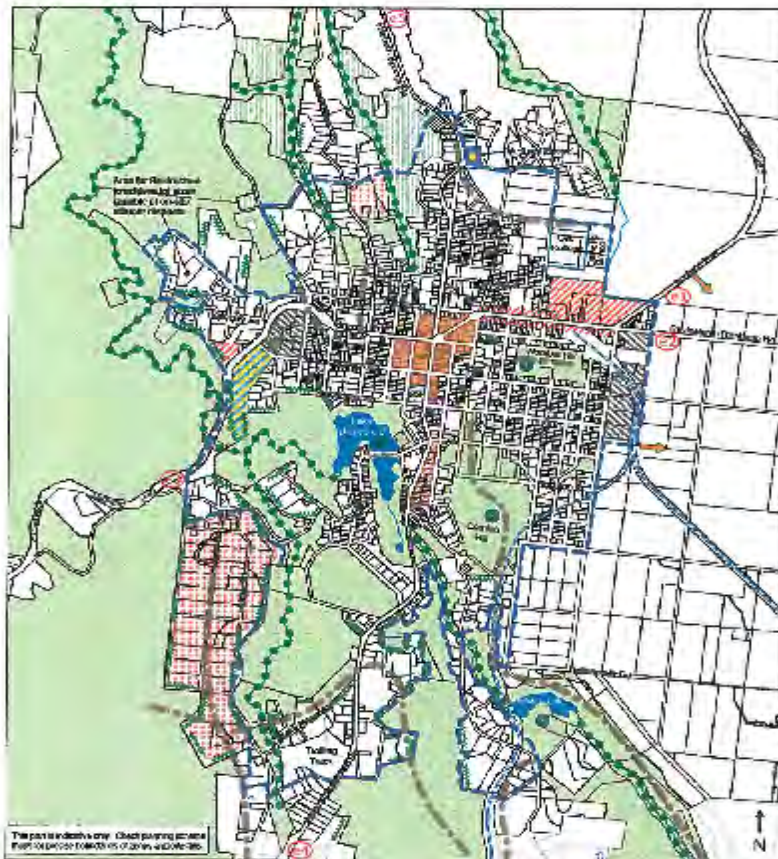


Fig.1 DAYLESFORD STRUCTURE PLAN Hepburn Structure Plan Review 2007

- | | |
|--|--|
| <ul style="list-style-type: none"> Gross growth boundary
Control boundary against urban boundary
On-site consolidation of boundary within boundary Low density residential (LDR)
Parts of Winton (lots of 1 - 21a) Town Centre (Business 1 Zone)
Develop and encourage existing built & retail change to low scale
Encourage development to regenerate residential character Residential Change to Address Town Centre Unwanted
Investigate use of Design and Development Overlay to visually separate residential
20040-040-040-10, 20040-040-10 Areas of Medium Density residential landscape Skyline view
Marshall Hill, Cornish Hill, Lake Daylesford, Lakeside Hills
Part of high viewshed to significant landscape
20040-040-040-10, 20040-040-10, 20040-040-10, 20040-040-10 Green Wedge (low density residential)
20040-040-10, 20040-040-10 | <ul style="list-style-type: none"> Removal of vegetation
Protect vegetation and fill gaps from visually intrusive development Protection of Significant Views and Views
Maintain and protect significant views of rural landscape view of township Green space network
Create green network based on existing open and major drainage lines
Encourage development to integrate with existing green space
Protect and create wildlife corridors Urban Public Transit Incentive
Develop the area around the station, encourage public transit use and
encourage local business Existing residential zones
Protect and encourage existing and future use Town of 2000s - medium and medium density residential zone and perimeter
20040-040-10, 20040-040-10, 20040-040-10, 20040-040-10
20040-040-10, 20040-040-10, 20040-040-10, 20040-040-10
20040-040-10, 20040-040-10, 20040-040-10, 20040-040-10 Green Wedge (medium density residential)
20040-040-10, 20040-040-10, 20040-040-10, 20040-040-10 Public Conservation Area |
|--|--|

11. OFFICERS' REPORTS

11.1. 2013/14 ANNUAL REPORT

GENERAL MANAGER CORPORATE SERVICES

In providing this advice to Council as the General Manager Corporate Services, I Grant Schuster have no interests to disclose in this report.

PURPOSE

The purpose of this report is for Council to receive and note the 2013/14 Annual Report.

BACKGROUND

Under the *Local Government Act 1989* (the Act), Council is required to receive the Annual Report at a meeting of Council as soon as practicable after the Council has sent the Annual Report to the Minister for Local Government (s134). The 2013/14 Annual Report was sent to the Minister on 26 September 2014, as required under the Act.

ISSUE/DISCUSSION

The 2013/14 Annual Report contains the following information as required by the *Local Government (Finance and Reporting) Regulations 2004* (the Regulations):

- A report of operations for the financial year;
- Audited standard statements;
- Audited financial statements; and
- Audited performance statement.

The audited standard statements and financial statements were adopted in principle by Council at its Ordinary Meeting held on Tuesday 16 September 2014.

Key elements of the Annual Report are as follows:

- Review of performance against the Council Plan;
- Major changes that have taken place during the year;
- Other major operations, achievements and future directions;
- Legislative, economic or other factors which have had an impact on the Council's performance;
- Major policy initiatives undertaken by the Council;
- Major works undertaken or completed;
- List of names of all Councillors and their dates of election and retirement;
- Names of senior staff (executive) with brief description of their area of responsibility;

- Organisation Chart;
- Audited Performance Statement;
- Contact details of Council offices;
- Places where prescribed information can be inspected and copied;
- Victorian Local Government Indicators;
- Freedom of Information;
- Information Privacy;
- Compliance with the National Competition Policy;
- Protected disclosures compliance;
- All local laws current at end of financial year;
- Specify the number, classification and types of jobs of members of Council staff; and
- Statement in relation to equal opportunity program.

The 2013/14 Annual Report will be available for viewing at Council's offices, libraries and on its website once received by Council.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

The requirements to prepare an Annual Report are contained in Section 131 of the Act and Part 4 of the Regulations.

FINANCIAL IMPLICATIONS

There are no unbudgeted financial implications applicable to this report.

RISK IMPLICATIONS

As lodgement has occurred within required timeframes, the legislative risks have been managed.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

The public availability of the Annual Report ensures transparency and allows the public to evaluate how Council is progressing towards the objectives identified in its 2013 – 2017 Council Plan and the financial results of Council for the year ended 30 June 2014.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

As required by the Act, a public notice has been placed in The Advocate and The Courier advertising Council's intention to consider the 2013/14 Annual Report at the Ordinary Meeting of Council in October.

CONCLUSION

Having met the legislative requirements for the 2013/14 Annual Report, it is presented for Council to receive it.

OFFICER'S RECOMMENDATION

That Council:

- 11.1.1 Receives and notes the Hepburn Shire Council 2013/14 Annual Report.
- 11.1.2 Makes the 2013/14 Annual Report available on Council's website and at Council's offices and libraries.

MOTION

That Council

- 11.1.1. *Receives and notes the Hepburn Shire Council 2013/14 Annual Report.*
- 11.1.2. *Makes the 2013/14 Annual Report available on Council's website and at Council's offices and libraries.*

Moved: Councillor Sebastian Klein

Seconded: Councillor Kate Redwood

Carried.

ATTACHMENT 3 - HEPBURN SHIRE COUNCIL
2013/14 ANNUAL REPORT
(ISSUED UNDER SEPARATE COVER)

11.2. FINANCIAL REPORT - AS AT 30 SEPTEMBER 2014

GENERAL MANAGER CORPORATE SERVICES

In providing this advice to Council as the Acting Manager Finance, I Kathie Attwood have no interests to disclose in this report.

PURPOSE

The purpose of this report is to present a summary of Council's financial performance for the 2014/15 financial year up to 30 September 2014.

BACKGROUND

This report provides information on Council's operating performance for the period 1 July 2014 to 30 September 2014 and compares it to the budget adopted by Council in June 2014.

ISSUE/DISCUSSION

Income Statement

The year-to-date (YTD) operating result is a \$14.9 million surplus. This surplus is \$2.4 million more than the YTD budget.

This favourable variance is partially a timing issue due to grant income being received in advance. Grant income received in advance includes an amount of \$1.0 million from the Local Government Infrastructure Fund.

The other key driver of the operating surplus being greater than budget is YTD spending which is \$1 million under budget (employee benefits \$0.2 million and materials \$0.8 million).

Please refer to the Income Statement attached for full details.

Balance Sheet

Cash at 30 September 2014 totals \$14.9 million.

Total debtors are \$16.3 million comprising \$1.1 million in non-rate debtors and \$15.2 million in rate debtors. Of the \$15.2 million in rate debtors, \$0.9 million relates to rates and charges from prior years. This arrears balance has reduced by \$0.3 million since 30 June 2014 due to debt collection activities.

Compared to a year ago, Council's loan balances have reduced by \$0.8 million and are down to a total of \$4.0 million. This change includes the additional \$400,000 in loan repayments that Council made from savings in the 2013/14 financial year.

Please refer to the Balance Sheet attached for full details.

Capital Works & Projects

To date \$0.8 million of the \$8 million capital works budget for 2014/15 has been spent. In addition, \$1.9 million has been committed to be spent via the purchasing process.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Under Section 138 of the *Local Government Act 1989* a report comparing actual expenditure and revenue to budget must be presented at least quarterly to the Council in a meeting which is open to the public.

FINANCIAL IMPLICATIONS

The reports attached provide the opportunity for review of Council's financial position.

RISK IMPLICATIONS

The internal financial report is required to assist in decision making and ensure departments do not exceed their budget.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

None noted.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

As per the Hepburn Shire Community Engagement Framework, level 1 engagement has been undertaken. This information will be made available to the public via the minutes published on the Council's website.

CONCLUSION

The report on the financial performance of Council for the three months from 1 July 2014 to 30 September 2014 is presented.

OFFICER'S RECOMMENDATION

11.2.1 That Council receives and notes the Financial Report for the three months from 1 July 2014 to 30 September 2014.

MOTION

11.2.1. *That Council receives and notes the Financial Report for the three months from 1 July 2014 to 30 September 2014.*

Moved: Councillor Bill McClenaghan

Seconded: Councillor Pierre Niclas

Carried.

ATTACHMENT 4 - FINANCIAL REPORT AS AT 30 SEPTEMBER 2014

Income Statement
For the period 1 July 2014 to 30 September 2014

	YTD Budget 2014/15 \$'000	YTD Actual 2014/15 \$'000	Variance YTD Budget to YTD Actual \$'000	
Revenues from ordinary activities				
Rates & charges	16,968	17,101	133	1%
User Fees, Statutory fees & fines	352	289	(63)	-18%
Grants - Recurrent	1,436	1,612	176	12% 1
Grants - Non recurrent	647	1,617	969	150% 2
Contributions	11	69	58	543% 3
Other revenue	468	585	117	25% 4
Total revenue	19,882	21,272	1,389	7%
Expenses from ordinary activities				
Employee benefits	2,587	2,402	(185)	-7%
Materials and services	2,491	1,689	(802)	-32% 5
Bad and doubtful debts	26	23	(4)	-14%
Depreciation/amortisation	1,674	1,674	0	0%
Finance costs	72	73	0	0%
Other expenses	470	472	1	0%
Total expenses	7,321	6,331	(990)	-14%
Surplus (deficit) for the year	12,561	14,940	(2,379)	-19%

1. This recurrent grants variance is mostly due to receipt of the library grant of \$143k earlier than budgeted.

2. Non-recurrent grants received is greater than budget due to receipt of Local Government Infrastructure Funding (LGIF) of \$1M earlier than budgeted.

3. Contributions is greater than budget due to contributions for the Biodiversity Mapping and Land-use Strategy project of \$50k being received earlier than expected.

4. Other revenue is greater than budget due to Valuation Reimbursement from the State Revenue Office for valuation costs, originally budgeted for last financial year, being received this financial year.

5. Materials expense under budget due to no accruals being processed for Waste Contractors & Community Services Contractors as at September month end (\$234k) and expenditure being less than budget for various non-capital projects.

Balance Sheet as at 30 September 2014

	30/09/2014 Actual \$000's	30/09/2013 Actual \$000's	Movement year on year		
Assets					
Current assets					
Cash and cash equivalents	14,869	15,533	(664)	-4%	
Trade and other receivables	16,263	15,413	850	6%	1
Other Assets	28	40	(12)	-29%	2
Total current assets	31,161	30,987	174	1%	
Non-current assets					
Financial assets	-	250	(250)	-100%	3
Investments in associates accounted for using the equity method	-	-	-	0%	
Property, plant and equipment, infrastructure	212,579	203,203	9,376	5%	4
Total non-current assets	212,579	203,453	9,126	4%	
Total assets	243,740	234,440	9,300	4%	
Liabilities					
Current liabilities					
Trade and other payables	(3,439)	(2,588)	(851)	33%	5
Trust funds and deposits	(926)	(1,045)	119	-11%	
Provisions	(1,916)	(1,839)	(77)	4%	
Interest-bearing loans and borrowings	(1,724)	(1,818)	94	-5%	6
Total current liabilities	(8,005)	(7,290)	(715)	10%	
Non-current liabilities					
Provisions	(496)	(525)	29	-5%	
Interest-bearing loans and borrowings	(2,293)	(3,048)	755	-25%	6
Other Liabilities	(152)	(188)	36	-19%	
Total non-current liabilities	(2,941)	(3,761)	820	-22%	
Total liabilities	(10,946)	(11,052)	106	-1%	
Net Assets	232,794	223,388	9,406	4%	
Equity					
Accumulated surplus	(132,463)	(132,612)	149	0%	
Surplus YTD	(14,940)	(13,179)	(1,761)	13%	7
Reserves	(85,391)	(77,598)	(7,793)	10%	8
Total Equity	(232,794)	(223,388)	(9,406)	4%	

1. Trade and other receivables higher than this time last year mainly due to rate and FSL % increase.

2. Inventory on hand (diesel) lower than at the same time last year.

3. Financial asset (bank bill) matured August 2014, at which time it transferred to a current asset.

4. The increase is mainly due to a revaluation of Land, Buildings and Bridges being applied at 30 June 2014, which increased their overall value by \$7.8 million. In addition, capital works undertaken in 2013-14, which included significant flood recovery works, exceeded depreciation by \$1.5 million.

5. Trade and other payables is higher as a result of \$989,784 grant income being refundable to NDRRA and taken up as a liability at 30 June 2014. This has subsequently been paid back in early October 2014.

6. Loan balances decreased because of repayments and an additional \$400,000 paid by Council to reduce debt from savings in the 2013-2014 financial year.

Balance Sheet as at 30 September 2014

7. Refer to comments in the income statement.

8. The increase is a result of adjustments at 30 June 2014 including the revaluation of some of Council's assets \$7.8

Cashflow Statement
For the period 1 July 2014 to 30 September 2014

	30/09/2014	30/09/2013	
	Actual	Actual	
	\$'000	\$'000	
Cash flows from operating activities			
<i>Receipts</i>			
Rates & charges	3,357	3,499	
Statutory & user fees and fines	289	332	
Grants	3,138	2,130	1
Other revenue	552	525	
Interest	70	82	
	7,405	6,568	
<i>Payments</i>			
Employee costs	(2,249)	(4,045)	2
Materials & consumables	(1,197)	(1,501)	3
Finance costs	(73)	(80)	
Other expenses	(472)	(396)	
	(3,991)	(6,022)	
Net cash provided by operating activities	3,414	546	
Cash flows from investing activities			
Proceeds from property, plant and equipment	32	41	
Payments for property, plant and equipment	(797)	(2,645)	4
Net cash used in investing activities	(765)	(2,605)	
Cash flows from financing activities			
Proceeds from borrowings	-	1,230	5
Repayment of borrowings	(99)	-	
Net cash provided by (used in) financing activities	(99)	1,230	
Net decrease in cash & cash equivalents	2,549	(829)	
Cash & cash equivalents at beginning of year	12,320	16,285	
Cash & cash equivalents at end of period	14,869	15,533	

1. The increase this year is due to Grants Commission funding being received in this quarter (Q1 2014/15) for 2014/15 compared to being received in advance (Q4 2012/13) for the 2013/14 financial year. In addition, the Creswick Hub \$450,000 and Lyonville Hall \$81,000 grant payments were received.

2. Employee costs are down compared to last year due to employee cost savings from restructures (approx. \$0.4M) and the Defined Benefits Superannuation top-up payment (\$1.4M) being made in the same period last financial year.

3. Material expenses are down due to Flood Office operational costs in the same period last financial year not being incurred this year.

4. Payments for capital works are less than last year due to significant flood recovery works in the same period last financial year.

5. Whilst Council has budgeted to borrow \$500,000 this financial year, this will not occur until later in the year.

11.3. CHILLOUT FESTIVAL – MEMORANDUM OF UNDERSTANDING GENERAL MANAGER COMMUNITY SERVICES

In providing this advice to Council as the Events Coordinator, I Rebecca Pedretti have no interests to disclose in this report.

PURPOSE

The purpose of this report is to recommend that Council enters into a three year Memorandum of Understanding (MOU) with ChillOut Daylesford Inc for the ChillOut Festival.

BACKGROUND

The ChillOut Festival was first staged in 1997 and has become the largest gay and lesbian festival held in regional Australia. It attracts over 25,000 visitors. A wide range of events are held including Carnival Day, and a street parade. The event has grown in size and scale and now includes a number of umbrella events taking place within the Daylesford region.

For the past five years (2010 - 2014) Council has had an MOU in place for the ChillOut Festival. This MOU has clarified the support Council will provide to the event and the requirements ChillOut Daylesford Inc must meet. The last three year MOU adopted by Council in 2011 has expired.

ISSUE/DISCUSSION

Following a review of funding across all Council supported events, an Events Strategy (including a new framework for funding events) was adopted by Council at the August 2014 Council meeting.

Utilising the assessment criteria in the Events Strategy, the ChillOut Festival has been categorised as a major event. A major event is eligible for the following support:

- Funding up to \$20,000
- 3 Year Funding Agreement
- Maximum operational Council contribution of \$10,000.

In order to assist ChillOut Festival to transition from its previous funding amount of \$30,000, it is recommended that a transition period of 3 years is put in place. This will allow ChillOut Daylesford Inc to plan and budget for a reduction of funding from Council.

In line with the Events Strategy, it is recommended that Council introduce a new set of Key Performance Indicators (KPIs) for ChillOut Festival that ensure the event is

continuing to grow, is attracting additional overnight visitors, is enhancing its economic impact and is attracting national media coverage to encourage visitation from inter and intra state visitors. These KPIs include:

- Strengthen partnerships with Daylesford Macedon Ranges Regional Tourism Board and Tourism Victoria to enhance their support and investment in the event;
- Attract national media coverage to increase visitation from inter and intra state visitors to ensure over 60% of visitors are from outside the region;
- Increase the percentage of overnight visitors attending the event and their length of stay; and
- Continue significant engagement of local community groups and business

If these KPIs are not met then consideration will be given to a reduction in the amount of funding provided to ChillOut Daylesford Inc.

ChillOut Daylesford Inc must also provide a report to Council within eight weeks of the conclusion of the event using a template provided by Council which will include a formula for calculating the economic impact of the festival.

In the final year of the MOU, the festival must be independently assessed to determine its economic impact, the level of support from community and business and media coverage achieved.

A copy of the draft Memorandum of Understanding is attached (Attachment 5).

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Council Plan 2013-2017:

Strategic Objective - Sustainable Environment and a Vibrant Economy

Key Strategic Activity:

12. Support and develop existing businesses within Hepburn Shire and continue to explore opportunities to diversify Hepburn Shire's economic base.

FINANCIAL IMPLICATIONS

Given Council has previously provided the ChillOut Festival with \$30,000 per annum, it is proposed that during this transitional period a sliding funding scale is put in place to reduce the amount over four years. Operational support to the value of \$7,000 per year has been provided and it is proposed that this is increased based on actual costs.

For the term of this MOU, the following funding arrangements are proposed:

- 2015 event: \$30,000 funding and \$7,470 operational support
- 2016 event: \$27,500 funding and operational support based on actual costs
- 2017 event: \$25,000 funding and operational support based on actual costs.

Any future MOU with ChillOut Daylesford Inc (e.g. to fund the 2018 event) would begin at \$20,000 in the first year, in line with the Events Strategy.

RISK IMPLICATIONS

As part of the MOU agreement, ChillOut is required to provide Council a three year event business plan, annual risk management plan and emergency management plan. Additionally, ChillOut Daylesford Inc is required to provide to Council copies of its public liability insurance prior to the event.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

The ChillOut Festival attracts approximately 25,000 people to Daylesford and region across the length of the event. Based on the latest research figures provided by Tourism Research Australia, average spend per visitor per night in Hepburn Shire is \$203, while a day tripper spends on average \$74. Utilising the ChillOut Festival's 2014 event report, 68% of event attendees stayed at least one night in the Shire, with the remainder choosing a day trip. This equates to a contribution in excess of \$4 million annually to the local economy.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

ChillOut Daylesford Inc has been involved in the development of this MOU, through a series of meetings with Council officers where feedback was sought.

CONCLUSION

The ChillOut Festival is a celebration that is quite unique to the area and the State. The economic benefit of this festival, to the Daylesford/Hepburn Springs region is in excess of \$4 million annually. The proposed MOU helps to secure the financial sustainability of this event and ensures that the event continues to grow over the length of the MOU by providing annual KPIs for the event to meet.

OFFICER'S RECOMMENDATION

- 11.3.1 That Council authorises the Chief Executive Officer to sign the 2015 - 2017 Memorandum of Understanding between ChillOut Daylesford Inc and Hepburn Shire Council.

MOTION

11.3.1. *That Council authorises the Chief Executive Officer to sign the 2015 - 2017 Memorandum of Understanding between ChillOut Daylesford Inc and Hepburn Shire Council.*

Moved: Councillor Kate Redwood
Seconded: Councillor Pierre Niclas
Carried.

ATTACHMENT 5 - MEMORANDUM OF UNDERSTANDING – HEPBURN SHIRE
COUNCIL AND CHILLOUT DAYLESFORD INC

Memorandum of Understanding

between

Hepburn Shire Council and ChillOut Daylesford Inc

Purpose: This Memorandum of Understanding (MOU) is intended to clarify the roles and responsibilities and to create a working relationship between the Hepburn Shire Council (Council) and ChillOut Daylesford Inc (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 Council and ChillOut.

Term: This MOU is for a three year period (2015, 2016 and 2017 Festivals) to be reviewed on an annual basis.

Parties: ChillOut – refers to ChillOut Daylesford Inc
Council – refers to Hepburn Shire Council

1. Hepburn Shire Sponsorship Support

The Council will provide sponsorship to the amount of \$30,000 for the 2015 event, \$27,500 for the 2016 event and \$25,000 for the 2017 event. Council will also provide an annual operational contribution of \$7,870 towards the 2015, 2016 and 2017 ChillOut events, subject to the requirements and provisions of this MOU.

The ChillOut Festival 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, 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 area of event management. 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 2015 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 2015 event), and within 14 days of receipt of invoice from Chill Out within the 2015/2016, 2016/2017 financial years.
- 1.2 Payment 2 – of \$3,000 (10%) (Plus GST) to be paid upon approval by Council of traffic and risk plans required within this MOU.
- 1.3 Payment 3 – of \$3,000 (10%) (Plus GST) to be paid when ChillOut has fulfilled all obligations contained in this MOU, including the provision of a post event report.

2. Operational Support provided by Council

The Hepburn Shire Council will provide the following operational 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

ChillOut will develop a Waste Management Plan in conjunction with Council, outlining the type and amount of wastes generated, waste management strategies and responsibilities.

- a. Council will provide up to 50 bins (combination of rubbish and recycling) for Carnival Day. The bins 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).
- b. ChillOut agrees to work with Council to conduct of a Waste Wise event at Victoria Park.
- c. Council will fund and supply eight skips (a combination of both rubbish and recycling) for use during Carnival Day. ChillOut must ensure waste from the smaller bins is emptied into the skips throughout the event.

- d. 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.
- e. A review of the Waste Management Plan will be conducted annually within 6 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 road closures required for the Street Parade conducted on the Sunday of the Festival.
- b. ChillOut must participate in event planning meetings 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 6 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. This plan can also be incorporated into the Traffic Management Plan.
- 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. Council reserves the right to prevent the use of Oval 2 for car parking if it believes this will cause damage to the surface, however sufficient notice will be given and assistance will be provided to locate another suitable parking venue.
- 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.
- j. ChillOut will investigate expanding the shuttle bus service to outlying communities such as Creswick, Clunes and Trentham in 2015 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 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. ChillOut must still confirm this booking annually with Council's Customer Service department. 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
 - No hay/straw bales to be used either inside or outside the hall.
- 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 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.
- e. 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.
- f. Council will provide ChillOut with the use of the storage shed at Victoria Park for secure, dry storage of ChillOut-owned chattels.
- g. 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.visitdaylesford.com including free display space. This will be on-going as assessed by the Visitor Services Officers.
- b. ChillOut can direct all visitor enquiries/ticket sales from ChillOut visitors to the Daylesford Regional Visitor Information Centre, as the designated info hub. ChillOut will provide volunteer staff to work in the visitor centre at least 2 weeks prior to the festival, subject to volunteer availability and/or as agreed to by the Visitor Services Officers.
- c. Council will allocate ChillOut the events signage frames at key entry points to Daylesford (4 signs) from the first Monday of February each year, until the end of

- ChillOut. ChillOut will supply, install and remove the signs during the approved period.
- d. Council will provide links to ChillOut's website on Council's website and will include ChillOut in event calendar listings.
 - e. Where possible, Council will support the marketing activities of ChillOut.
 - f. 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 Council.
 - 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. Tickets must be provided at least one month prior to the event.
 - 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 4 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.
- b. The parties agree that ChillOut will pursue a model less financially dependant upon Council.

6. Key Performance Indicators

ChillOut must aim to meet the following KPI's, which have a focus on developing tourism and economic impacts within Hepburn Shire:

- Strengthen partnerships with Daylesford Macedon Ranges Regional Tourism Board and Tourism Victoria to enhance their support and investment in the event
- Attract state and national media coverage to encourage visitation from inter and intra state visitors to ensure over 60% of visitors are from outside the region;
- Increase the percentage of overnight visitors attending the event (68% in 2014) and length of stay
- Continue significant engagement of local community groups and business

7. Review and Evaluation

- a. Council will assess the achievements against the outcomes within this MOU including the KPI's, 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, using a template provided by Council, 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.

- viii. In the final year of the MOU an independent assessor must be engaged by ChillOut (as approved by Council), to assess economic impact, media coverage, level of support from community and local business.

8. 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.

Memorandum of Understanding between Hepburn Shire Council and ChillOut Daylesford Inc.

Signed for and on behalf of the Hepburn Shire Council:

_____	_____	_____
Signature of CEO	Print Name	Date

_____	_____	_____
Witness signature	Witness Name	Date

Signed for and on behalf of ChillOut Daylesford Inc.

_____	_____	_____
Signature of President	Print Name	Date

_____	_____	_____
Witness Signature	Witness Name	Date

Appendix A:

Estimate of Hepburn Shire Council's Operational Support

Support provided	Details	Estimated Cost to Council
Waste Management	Hire and transportation of 8 skips	\$1,500
	Supply, delivery, collection of rubbish bins and lids – Victoria Park and Town Hall	\$1,360
Road Closures	Provision of equipment and signage for Parade Road closure	\$970
Victoria Park – Site establishment	Ground preparation, provision of bunting for pedestrian plan, disabled access and signage	\$2,500
Daylesford Town Hall	Use of Town Hall and Senior Citizen's Centre	\$630 (\$500 bond)
		\$210 (Senior Citizens)
Visitor Services	Provision of Visitor Information Centre Cube display	\$300
	Total estimated in-kind support value	\$7,470

11.4. LOCAL LAW NO 1 – MEETING PROCEDURES 2014

GENERAL MANAGER CORPORATE SERVICES

In providing this advice to Council as the Governance and Corporate Administration Officer, I Mary Dancuk have no interests to disclose in this report.

PURPOSE

The purpose of this report is for Council to adopt Local Law No 1 – Meeting Procedures 2014 (Local Law) following the public exhibition period.

BACKGROUND

Council resolved at its meeting on 19 August 2014 to place the proposed Local Law on public exhibition and invite submissions in accordance with section 223 of the *Local Government Act 1989* (the Act).

ISSUE/DISCUSSION

The public exhibition period closed at 5 pm on Tuesday 23 September 2014. No submissions were received.

As advised at the August Council Meeting, the following clauses were reviewed and updated:

- Improved Index
- Commencement Date
- Revocation Date
- Deferring Confirmation of Minutes of a Meeting
- Leave of Absence
- Urgent Business
- Mayor and Councillor Reports
- Public Participation Time
 - Petitions
 - Questions
 - Requests to Address Council
- Addressing the Meeting
- Motions and Debate
 - Chair moving or seconding a motion
 - Withdrawal of Motions
- Procedural Motions
- Rescission Motions
- Voting

- Special, Advisory and Other Committees.

The proposed Local Law was reviewed by Council's legal advisors, Maddocks Lawyers, which resulted in changes to the following clauses:

Clause 1.6 - Application of the Local Law

The Local Law will apply to all meetings of:

- (b) Special Committees of Council *with any necessary modifications or adaptations.*

Sub-Clause 2.6.2 – Cancellation or Postponement of a Meeting – sub-clause deleted and 2.6.3 renumbered to 2.6.2

Addition of Clause 8.4.11 – Chair moving or seconding a motion

If the Chair wishes to move or second a motion, then the Mayor (if the Chair is not the Mayor) or Deputy Mayor must take the Chair or, if there is no such Councillor in a position to take the Chair, a temporary Chairperson must take the Chair in whereupon the Chair must vacate the Chair and not return to it until the motion has been resolved upon.

Clause 8.14.2 – Withdrawal of motion

Notwithstanding sub-clause 8.14.1, if Council resolves that the motion may not be withdrawn then the motion becomes incapable of being withdrawn.

Some clauses have been deleted as they replicate what is already in the Act.

Some clauses have been deleted in anticipation of the *Local Government (Governance and Conduct) Bill 2014* becoming law. This will confer on the Mayor a power to address misbehaviour by a Councillor during a meeting, and set out the consequences if a Councillor misbehaves.

Minor changes have also been made to the Local Law following an internal review.

The Local Law will be amended, as required, due to legislative changes.

COUNCIL PLAN/LEGISLATIVE COMPLIANCE

Under section 91 of the *Local Government Act 1989*, Council is required to make a local law which governs the conduct of meetings of Council, and its Special Committees.

FINANCIAL IMPLICATIONS

Making this new Local Law has the following minor costs:

1. Legal fees for review of Draft Local Law No 1 – Meeting Procedures 2014 by Council's legal advisors.

2. Advertising costs – public notice in local newspapers and the Victoria Government Gazette.

RISK IMPLICATIONS

Adopting the Local Law contributes to managing the risks associated with good governance during meetings of Council.

ENVIRONMENTAL/SOCIAL/ECONOMIC IMPLICATIONS

Not applicable.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The proposed Local Law was advertised in the Victoria Government Gazette and in local newspapers seeking public submissions in accordance with section 223 of the *Local Government Act 1989*. No public submissions were received.

Copies of the proposed Local Law were available for inspection from Thursday 21 August 2014 at Council's offices in Daylesford and Creswick, at all Hepburn Library branches and from Council's website www.hepburn.vic.gov.au.

As required under section 119(3) of the *Local Government Act 1989*, once the Local Law is adopted, a public notice will be placed in the *Victoria Government Gazette* and local newspapers advertising the making of the Local Law.

Council will also brief special committees on using the updated Local Law for their meetings.

CONCLUSION

The updated Local Law removes ambiguity from the previous Local Law. It reflects contemporary practices in formal meeting procedures to facilitate good governance in Council decisions.

OFFICER'S RECOMMENDATION

That Council:

- 11.4.1 Adopts Local Law No 1 – Meeting Procedures 2014.
- 11.4.2 Authorises the Chief Executive Officer and Mayor to sign and seal Local Law No 1 – Meeting Procedures 2014
- 11.4.3 Places a public notice in the Victoria Government Gazette and local newspapers advertising the making of Local Law No 1 – Meeting

Procedures 2014, as required under section 119(3) of the Local Government Act 1989.

- 11.4.4 Sends a copy of the adopted Local Law No 1 – Meeting Procedures 2014 to the Minister for Local Government, as required under section 119(4) of the Local Government Act 1989.
- 11.4.5 Makes Local Law No 1 – Meeting Procedures 2014 available for public inspection on Council’s website.

MOTION

That Council:

- 11.4.1. *Adopts Local Law No 1 – Meeting Procedures 2014.*
- 11.4.2. *Authorises the Chief Executive Officer and Mayor to sign and seal Local Law No 1 – Meeting Procedures 2014.*
- 11.4.3. *Places a public notice in the Victoria Government Gazette and local newspapers advertising the making of Local Law No 1 – Meeting Procedures 2014, as required under section 119(3) of the Local Government Act 1989.*
- 11.4.4. *Sends a copy of the adopted Local Law No 1 – Meeting Procedures 2014 to the Minister for Local Government, as required under section 119(4) of the Local Government Act 1989.*
- 11.4.5. *Makes Local Law No 1 – Meeting Procedures 2014 available for public inspection on Council’s website.*

Moved: Councillor Kate Redwood

Seconded: Councillor Sebastian Klein

Carried.

Due to an administrative error, a superseded copy of the Local Law was inadvertently inserted as an attachment to this report.

To ensure Council adopts the correct version of the Local Law, this report will be relisted for consideration at the November Council Meeting.

ATTACHMENT 6 - LOCAL LAW NO 1 – MEETING PROCEDURES 2014



LOCAL LAW NO 1

MEETING PROCEDURES 2014

OCTOBER 2014

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1. INTRODUCTION

1.1 TITLE

This Local Law will be known as ‘Local Law No 1 – Meeting Procedures 2014’ and is referred to below as ‘this Local Law’.

1.2 PURPOSE OF THIS LOCAL LAW

The purpose of this Local Law is to:

- (a) provide a mechanism to facilitate the good governance of Council through its formal meeting procedure to ensure open, efficient and effective Council decisions are made in a manner which acknowledges the role of local government within the Australian system of Government;
 - (b) regulate proceedings and provide for orderly and fair conduct at all Council Meetings, Special Committee Meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of this Local Law are to apply;
 - (c) regulate and control the procedures governing the conduct of meetings including:
 - (1) the notice required for meetings; and
 - (2) the keeping of minutes;
 - (d) promote and encourage community engagement and participation in the system of local government by providing mechanisms for the community members to express their views and expectations;
 - (e) regulate proceedings for the election of the Mayor and the chairperson of various committees; and
 - (f) regulate the use and prohibit unauthorised use of Council’s Common Seal.
-

1.3 THE POWER TO MAKE THIS LOCAL LAW

This Local Law is made under sections 91 and 111(1) of the *Local Government Act 1989*.

1.4 COMMENCEMENT DATE

This Local Law comes into operation on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette.

1.5 REVOCATION

This Local Law ceases to operate on the tenth anniversary of the day on which it commenced operation, unless revoked earlier.

1.6 APPLICATION OF THE LOCAL LAW

This Local Law will apply to all meetings of:

- (a) Council; and
 - (b) Special Committees of Council, with any necessary modifications or adaptations.
-

2. NOTICES AND AGENDAS

2.1 DATE, TIME AND PLACE OF MEETINGS

The date, time and place for all Council Meetings must be determined by Council each year. Council will, to the maximum extent practicable, provide at least 7 days notice to the public of any meetings in accordance with section 89(4) of the Act.

2.2 COUNCIL MAY ALTER MEETING DATES

Council may change the date, time and place of any Council Meeting which has been fixed and will, to the maximum extent practicable, provide at least 7 days notice to the public of the changes. If it is not practicable to provide 7 days notice, then Council will specify the urgent or extraordinary circumstances which prevented it from providing such notice in accordance with section 89(4) of the Act.

2.3 NOTICE OF MEETINGS – PUBLIC

The Chief Executive Officer must give notice to the public of any Council Meetings through Council's website, customer service centres/municipal offices, libraries, and in newspapers generally circulating in the municipal district, or as appropriate in accordance with section 89(4) of the Act.

Advertising can be done as a schedule of meetings annually or at various times of the year, or just prior to each Council Meeting unless extraordinary circumstances exist.

2.4 NOTICE OF SPECIAL COMMITTEE MEETINGS TO THE PUBLIC

Reasonable notice of the time, date and place of meetings of Committees:

2.4.1 established pursuant to section 86 of the Act; and

2.4.2 which do not consist entirely of Councillors

must be given to the public by the Chairperson of the Committee in accordance with section 89(5) of the Act. In addition, the Chief Executive Officer must ensure that the time, dates and place of meetings of Committees are available on Council's website.

2.5 NOTICE OF MEETINGS – COUNCILLORS

A notice of an Ordinary Meeting of Council, incorporating or accompanied by an Agenda, must be delivered to every Councillor at least 48 hours before the Ordinary Meeting.

It will not be necessary for a notice of meeting or Agenda to be served on any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting to be held during the period of his or her absence.

2.6 CANCELLATION OR POSTPONEMENT OF A MEETING

- 2.6.1 In the case of an emergency or other justifiable circumstances the Chief Executive Officer may call or postpone a Council Meeting without the necessity to comply with sub-clauses 2.3 and 2.5, provided reasonable attempts have been made to notify every Councillor and that the requirements of section 89(4) of the Act are fulfilled.
- 2.6.2 An emergency for the purpose of calling or postponing a meeting pursuant to this clause may include:
- (a) a natural disaster within or in close proximity to the municipal district;
 - (b) the death of or the occurrence of a serious injury to any Councillor, senior officer or other significant person, which would be likely to affect the normal operation of Council or the organisation as a whole; or
 - (c) an emergency event occasioned by any other reason, such as the need to call a meeting where time is of the essence or because delay in convening a meeting may have a major impact on Council or the organisation because consideration of an issue cannot wait until the next scheduled Council Meeting.
-

2.7 MEETINGS OPEN TO THE PUBLIC

In accordance with section 89(1) of the Act, all meetings of Council and Committees must be open to the public unless a resolution is made to close the meetings to members of the public pursuant to section 89(2) of the Act.

2.8 MEETINGS CLOSED TO THE PUBLIC

Council may resolve that a Council Meeting, and a Committee may resolve that a meeting of the Committee, be closed to the public if the meeting is discussing:

- (a) personnel matters;
 - (b) the personal hardship of any resident or ratepayer;
 - (c) industrial matters;
 - (d) contractual matters;
 - (e) proposed developments;
 - (f) legal advice;
 - (g) matters affecting the security of Council property; or
 - (h) any other matter which Council or the Committee considers would prejudice Council or the Committee (as the case may be) or any person.
-

3. QUORUMS

3.1 QUORUM

The quorum for a Council Meeting or meeting of a Committee will be at least the majority of the total number of Councillors or Committee Members.

3.2 INABILITY TO GAIN A QUORUM

If a quorum is not present within thirty (30) minutes of the scheduled commencement of any Council Meeting, those Councillors present or, if no Councillors are present, the Chief Executive Officer or (in the absence of the Chief Executive Officer) a senior officer, may adjourn the meeting for a period not exceeding seven (7) days from the date of the adjournment.

3.3 INABILITY TO MAINTAIN A QUORUM

If during any Council Meeting a quorum cannot be achieved and maintained, those Councillors present, the Chief Executive Officer or (in the absence of the Chief Executive Officer) a senior officer may adjourn the meeting for a period not exceeding seven (7) days from the date of the adjournment.

3.4 INABILITY TO MAINTAIN A QUORUM DUE TO CONFLICTS OF INTEREST

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by Councillors, the Chairperson, the Chief Executive Officer or (in the absence of the Chief Executive Officer) a senior officer must adjourn the Council Meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister.

3.5 NOTICE OF ADJOURNED MEETING

3.5.1 The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the Council Meeting stands adjourned and of the business remaining to be considered.

3.5.2 If it is impracticable for the notice given under sub-clause 12.2 to be in writing, the Chief Executive officer must give notice to each Councillor by telephone or in person.

3.6 LIMIT ON ADJOURNED MEETINGS

There is no limit on the number of times that a meeting can be adjourned under this Part 3.

4. MINUTES

4.1 KEEPING OF MINUTES

- 4.1.1 The Chief Executive Officer is responsible for arranging the keeping of minutes of each Council Meeting.
- 4.1.2 The Chairperson of a Special Committee is responsible, in accordance with section 93(3) of the Act, to ensure that minutes for the meetings of that Committee are kept.
-

4.2 CIRCULATION OF MINUTES TO COUNCILLORS

A copy of the minutes of each Council Meeting which are awaiting confirmation must be delivered or sent electronically to each Councillor at least 48 hours prior to the Council Meeting at which those minutes are to be confirmed.

4.3 CONFIRMATION OF MINUTES

At every Council Meeting, the minutes of the previous Council Meeting are to be listed in the Agenda for confirmation. Minutes are to be confirmed by resolution of Council.

The Chairperson of the Council Meeting at which the minutes were confirmed, with or without amendment, must subsequently sign the confirmed minutes.

4.4 OBJECTION TO CONFIRMATION OF MINUTES

- 4.4.1 If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:
- (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- 4.4.2 The item(s) objected to must be considered separately in the order in which it (or they) appears in the minutes.
- 4.4.3 No discussion or debate on the confirmation of minutes will be permitted, except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.
-

4.5 DEFERRING CONFIRMATION OF MINUTES

Council may defer the confirmation of minutes until later in the meeting or until the next Ordinary Meeting of Council, as appropriate.

4.6 CONTENT OF MINUTES

The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each Council Meeting and those minutes must record:

- (a) the date, and time the meeting commenced, adjourned, resumed and concluded;
 - (b) the names of Councillors and whether they are present, an apology or on leave of absence;
 - (c) the names of Officers in attendance, with their organisational titles;
 - (d) disclosure of conflicts of interest made under sections 77B, 78, 78A, 78B, 78C, 78D, and 78E of the Act;
 - (e) questions asked in Public Participation Time and any answer given;
 - (f) details of any deputations made to Council;
 - (g) the arrival and departure times (including any temporary departures arrivals) of Councillors during the course of the meeting;
 - (h) each motion and amendment moved including the mover and seconder of any motion or amendment;
 - (i) the outcome of every motion, whether it was put to the vote and the result to indicate whether the motion was Carried, Lost, Withdrawn, Lapsed, Amended, etc;
 - (j) procedural motions;
 - (k) where a division is called, the names of every Councillor and the way their vote was cast (either for or against) or whether they abstained from voting;
 - (l) when requested by a Councillor, a record of that Councillor's support or opposition for any motion;
 - (m) details of any failure to achieve or maintain a quorum and any adjournment (whether as a result or otherwise);
 - (n) the time and reason for any adjournment of the meeting or suspension of standing orders; and
 - (o) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.
-

5. BUSINESS OF MEETING

5.1 ORDER OF BUSINESS

5.1.1 The order of business at any Council Meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective process of government.

In determining the Agenda, the Chief Executive Officer must consider:

- (a) the general attitude of Council;
- (b) convenience to the community and interested community groups particularly in relation to the administration of the municipal district;
- (c) the sensitivity of issues;
- (d) the interest of the community and community groups; and
- (e) any other relevant factor which may impact on the fluent and open processes of the government of Council.

5.1.2 The Chief Executive Officer may include any matter on the Agenda that he or she believes should be considered by Council.

5.2 CHANGE TO ORDER OF BUSINESS

Once an agenda has been prepared and sent to Councillors, the order of business for that meeting may only be altered by resolution of Council.

5.3 CHAIRPERSON

The Mayor must preside at all Council Meetings at which he or she is present, in the role of Chairperson.

5.4 ABSENCE OF THE CHAIRPERSON

5.4.1 In the absence of the Mayor, the Deputy Mayor must preside at any Council Meeting at which he or she is present in the role of Chairperson.

5.4.2 In the event that both the Mayor and the Deputy Mayor are absent, Council must elect a Chairperson to preside at that Council Meeting.

5.5 CONFLICTS OF INTEREST

5.5.1 A Councillor must disclose any conflict of interest as outlined in section 77A of the Act.

5.5.2 If a Councillor has a conflict of interest in a matter which Council is to consider at a Council Meeting, the Councillor must fill in a Disclosure of Conflict of Interest form setting out relevant

details of the conflict of interest and lodge it with the Chief Executive Officer prior to the commencement of the meeting

5.5.3 A Councillor who has a conflict of interest in a matter before Council must:

- (a) disclose the nature of the conflict of interest immediately before consideration of the matter;
- (b) leave the meeting for the duration of Council's deliberation, voting and resolution of the matter; and
- (c) remain beyond the view or hearing of the meeting until recalled to the meeting.

5.5.4 The Councillor must be called back into the Council Chamber or room in which the Council Meeting is being held before the meeting can advance to the next item of business.

Section 77A of the Act defines when a Councillor will have a conflict of interest. Any Councillor who has a conflict of interest must comply with the requirements of sections 77B, 78, 78B, 78C, 78D, 78E and 79 of the Act.

Among these requirements is the requirement to disclose the existence, nature and class of the conflict of interest. This must be done immediately before the consideration or discussion of the item in which the Councillor has a conflict of interest.

Even if the Councillor has disclosed the conflict of interest earlier in the meeting, the existence and nature of the conflict of interest must again be disclosed immediately before any consideration or discussion of the agenda item occurs.

5.6 LEAVE OF ABSENCE

5.6.1 If a Councillor is absent from a Council Meeting, the Councillor should request a leave of absence.

5.6.2 Councillors may request a leave of absence at a prior Council Meeting or, if this is not practicable, the Councillor must give the Chief Executive officer written notice of an apology prior to the Council Meeting.

5.6.3 If a Councillor leaves a Council Meeting, the Councillor must request a leave of absence from the Chairperson before leaving the meeting.

5.6.4 Unless there is an emergency, a leave of absence requested during a Council Meeting will only be granted at the conclusion of an item of business.

5.6.5 Unless there is an emergency, a leave of absence requested must not be requested or granted during a debate.

5.6.6 The Chairperson may call a comfort break at any time during a meeting on a request from a Councillor.

5.7 NOTICE OF MOTION

- 5.7.1 Councillors may ensure that an issue is listed on the Agenda by submitting a Notice of Motion, on a Councillor's Notice of Motion form.
- 5.7.2 A Notice of Motion must be in writing, dated and signed by a Councillor and received by the Chief Executive Officer not less than five Business Days prior to the next Council Meeting at which the Notice of Motion may be considered.
- 5.7.3 A Notice of Motion may be withdrawn by a request in writing received prior to the publication of the Agenda for which the Notice of Motion was intended. Otherwise, the item must be dealt with at a Council Meeting.
- 5.7.4 The Chief Executive Officer may reject any Notice of Motion which is vague or unclear in intention but must:
- (a) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - (b) notify the Councillor who lodged it of the rejection and the reasons for the rejection.
- 5.7.5 The full text of any Notice of Motion must be included in the Agenda papers.
- 5.7.6 Except by leave of Council, Notices of Motion before any meeting must be considered in the order in which they were entered in the Notice of Motion register.
- 5.7.7 If a Councillor who has given a Notice of Motion is absent from the meeting or fails to move the motion when called upon by the Chairperson, any other Councillor may move the motion.
- 5.7.8 If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.
-

5.8. URGENT BUSINESS

Urgent business can only be admitted by resolution of Council and only then if it:

- 5.8.1 relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- 5.8.2 cannot reasonably be deferred until the next Ordinary Meeting of Council.
-

5.9 MAYOR AND COUNCILLOR REPORTS

- 5.9.1 At an Ordinary Meeting, the Mayor and Councillors may report to the meeting on issues of importance to Council, notwithstanding that the report is not listed on the Agenda.
- 5.9.2 The Mayor or Councillor who presents a report to a Council Meeting under sub-clause 5.9.1 must submit a copy of that report in writing to the Governance Officer before the close of the Council Meeting or no later than close of business the day after the Council Meeting for inclusion in the minutes.
- 5.9.3 If Councillor reports are not submitted within the timeframes set out in clause 5.9.2, the minutes will be distributed without inclusion of the report.
- 5.9.4 A Councillor report not tabled or presented at the Council Meeting will not be included in the minutes.

- 5.9.5 No motion, except a motion to receive any such report, can be accepted by the Chairperson unless there is a matter raised in it which is resolved in the manner prescribed by clause 5.8 to be urgent business.
- 5.9.6 The presentation of a report by a Councillor must not exceed three (3) minutes unless the Chairperson allows an extension in any case.

5.10 PETITIONS AND JOINT LETTERS

- 5.10.1 Petitions or joint letters received by Councillors and/or Officers can be lodged with the Chief Executive Officer one week prior to the next Ordinary Meeting to be included in the Agenda, unless the matter which is the subject of the petition has already been acted upon.
- 5.10.2 A petition must be signed by at least 20 people to be presented at a Council Meeting. In the case of a petition containing:
 - (a) fewer than 20 signatures, it will not be presented at a Council Meeting but rather will be forwarded to the relevant General Manager for response; and
 - (b) 20 or more signatures, it will be presented by a Councillor at the Council Meeting.
- 5.10.3 Councillors may table a petition or joint letter received directly by them at any Council Meeting during Public Participation Time.
- 5.10.4 Council may resolve to receive the petition or joint letter and to refer the matter for a report or appropriate action as required to the next appropriate Council Meeting, unless Council agrees to deal with it earlier.
- 5.10.5 When a petition relates to an item already on the Agenda at the meeting at which the petition is tabled the matter may be dealt with at that meeting.
- 5.10.6 A petition or joint letter must:
 - (a) be in legible and permanent writing (other than pencil);
 - (b) not be defamatory, indecent, abusive or objectionable in language or content;
 - (c) not relate to matters beyond the powers of Council;
 - (d) bear the wording of the whole of the petition or request upon each page of the petition;
 - (e) include the name, address and signature of petitioners; and
 - (f) consist of single pages of paper and must not be pasted, stapled, pinned or otherwise affixed to any other piece of paper.

See Appendix 3 for Petition Form.

- 5.10.7 Any petitions or joint letters that do not comply with this Local Law will not be tabled at a Council Meeting.
- 5.10.8 A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated or is the obvious contact person Council may reply to the first signatory which appears on the petition.

5.10.9 Any person who fraudulently signs a petition or joint letter which is presented to Council is guilty of an offence.

5.11 PUBLIC PARTICIPATION/QUESTION TIME

- 5.11.1 A Public Participation/Question Time of up to 30 minutes will be available at every Ordinary Meeting to enable members of the public to submit questions and/or request to address Council.
- 5.11.2 All questions and answers must be as brief as possible, and no debate or discussion will be allowed other than for the purposes of clarification.
- 5.11.3 All questions submitted to Council must be in writing, state the name and address of the person submitting the question and generally be in a form in accordance with *Appendix 2*.
- 5.11.4 All questions must be submitted to the Chief Executive Officer by noon on the day of the Council Meeting:
- (a) electronically; or
 - (b) by being lodged at Council's offices.
- 5.11.5 Any member of the public wishing to address Council must submit a brief synopsis of the address in writing to the Chief Executive Officer by noon on the day of the Council Meeting.
- 5.11.6 A time limit of three minutes for each address will apply but the time may be extended at the discretion of the Chairperson.
- 5.11.7 The number of questions that any person may ask at each meeting is limited to two.
- 5.11.8 A question may include an introduction of no more than 200 words.
- 5.11.9 An answer must only be given, or a person permitted to address Council, if the Chairperson has determined that the relevant question or address:
- (a) does not relate to a matter beyond or outside the duties, functions and powers of Council;
 - (b) is not defamatory, indecent, abusive, offensive, irrelevant or objectionable in language or content;
 - (c) is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
 - (d) is not asked to embarrass a Councillor or a member of Council staff or member of the public.
- 5.11.10 The Chairperson or an Officer may:
- (a) immediately answer the question asked; or
 - (b) require the question to be taken on notice. If a question is taken on notice, a written copy of the answer will be sent to the person who asked the question.
- 5.11.11 Council may decide to defer an answer or address until a later date.
- 5.11.12 Questions and addresses will only be heard at a meeting if the person who submitted the question or synopsis, or their nominated representative, is present at the meeting.

5.11.13 A single 15 minutes extension of the time permitted in sub-clause 5.11.1 may be allowed subject to approval from a majority of the Councillors present for the purpose of hearing questions and addresses from community members which have been received in accordance with sub-clauses 5.11.3 and 5.11.4.

5.12 PUBLIC SUBMISSIONS UNDER SECTION 223 OF THE ACT

5.12.1 Where a person is given a right to make a submission under section 223 of the Act and requests to appear in person (or be represented by a person specified in the submission) at a Council Meeting to be heard in support of the submission, the time limit for such hearing will be three minutes.

5.12.2 The Chairperson may allow the hearing to exceed three minutes.

5.13 STATUTORY PLANNING REPORTS

During consideration of Statutory Planning Reports, the Applicant (or Applicant's representative) will be provided with an opportunity to speak in support of a Planning Application.

Objectors to a Planning Application will be provided with an opportunity to speak against the Planning Application.

A time limit of three minutes will apply but the time may be extended at the discretion of the Chairperson.

The Applicant and Objectors must advise the Planning Department of their intention to speak prior to the Ordinary Meeting.

Addressing Council in support of or against a Planning Application is a separate process from Public Participation Time.

5.14 PRESENTATION OF OFFICER REPORTS

Officer reports are to be summarised for the purposes of verbal public presentation, unless otherwise directed by a resolution of Council.

5.15 CONFIDENTIAL BUSINESS

See clause 2.8.

6. ADDRESSING THE MEETING

- 6.1 Any Councillor or person who addresses a Council Meeting must direct all remarks through the Chairperson.
 - 6.2 The Chairperson may address a meeting, however if the Chairperson wishes to debate a particular motion or move any motion or amendment, or address any matter under discussion, the Chairperson must advise Council of that intention and vacate the Chair on such occasions for the duration of the item under discussion.
 - 6.3 If the Chairperson vacates the Chair, the Deputy Mayor will fill the position of Chairperson. If the Deputy Mayor wishes to address the motion or move a motion, Councillors will appoint a Councillor to act as temporary Chairperson until the item has been voted on.
 - 6.4 Any person addressing the Chair should refer to the Chairperson as:
Madam Mayor; or
Mr Mayor; or
Madam Chairperson; or
Mr Chairperson,
as the case may be.
 - 6.5 All Councillors, other than the Mayor, must be addressed as Councillor (name).
 - 6.6 All Officers should be addressed as Ms or Mr (name), as appropriate, or by their official title.
 - 6.7 Except for the Chairperson, any Councillor or person who addresses the meeting must stand and direct all remarks through the Chair.
 - 6.8 Any member of the public addressing Council must extend due courtesy and respect to Council and processes under which it operates and must take direction from the Chairperson whenever called on to do so.
-

7. BEHAVIOUR AT MEETINGS

- 7.1 Councillors must have regard to the Councillor Code of Conduct in their participation in any Council Meeting.

A copy of the Councillor Code of Conduct is available on Council's website.

- 7.2 Members of the public present at a Council Meeting must not interject or take part in the debate.
- 7.3 The Chairperson must call to order any person who is disruptive or unruly during any meeting.
- 7.4 If any member of the public is called to order for any improper or disorderly conduct by the Chairperson and thereafter again acts in breach of this Local Law, the Chairperson may order him or her to leave the Council Chamber, meeting room or building.
- 7.5 If the Chairperson is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks appropriate up to seven days later than the time stated in the Agenda for the commencement of the meeting.
- 7.6 The Chairperson may ask any Authorised Officer or member of the proper authority to remove from the Council Chamber, meeting room or building any person who acts in breach of this Local Law or whom the Chairperson has ordered to be removed from the gallery under this Part.
-

8. MOTIONS AND DEBATE

8.1 NOTICES OF MOTION

See clause 5.7.

8.2 FORM OF MOTION

A motion or amendment proposed by a Councillor at a Council Meeting must:

- 8.1 relate to the powers or functions of Council; and
 - 8.2 be relevant to an item of business on the Agenda, except in the case of urgent business.
-

8.3 CHAIRPERSON'S DUTY

- 8.3.1 Motions and amendments must be clear and unambiguous and not be defamatory or objectionable in language or content.
 - 8.3.2 The Chairperson may refuse to accept any motion or amendment which contravenes this clause.
-

8.4 MOVING A MOTION OR AMENDMENT

The procedure for moving a motion or amendment is as follows:

- 8.4.1 A Councillor who is proposing a motion or amendment must first state briefly the nature of the motion or amendment and then move it, without speaking to it;
- 8.4.2 The Chairperson must then call for the motion or amendment to be seconded and after it is seconded (by any Councillor other than the mover), the mover may then speak to it, or may with the consent of the Chairperson, defer speaking on it until later in the debate (reserving the right of reply);
- 8.4.3 Any motion or amendment which is not seconded lapses.
- 8.4.4 If a motion or amendment is moved and seconded, the Chairperson must ask:
"Is the motion or amendment opposed?"
- 8.4.5 If no Councillor indicates opposition, the Chairperson must give each Councillor an opportunity to speak to the motion. Each Councillor may only speak once and for not more than three minutes. At the conclusion of Councillor contributions to the debate, the Chairperson must declare the motion or amendment carried.
- 8.4.6 If a Councillor indicates opposition, then the Chairperson must call on the mover to address the Council Meeting.
- 8.4.7 After the mover has addressed the Council Meeting, the seconder may address the Council Meeting.

- 8.4.8 After the seconder has addressed the Council Meeting (or after the mover has addressed the meeting if the seconder does not address the Council Meeting), the Chairperson must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion.
- 8.4.9 If after the mover has addressed the Council Meeting, the Chairperson has invited debate and no Councillor speaks to the motion, then the Chairperson must put the motion to the vote.
- 8.4.10 The Chairperson will first call for those in favour of the motion and then those against to the motion and will declare the result to the meeting.
- 8.4.11 If the Chair wishes to move or second a motion, then the Mayor (if the Chair is not the Mayor) or Deputy Mayor must take the Chair or, if there is no such Councillor in a position to take the Chair, a temporary Chairperson must take the Chair whereupon the Chair must vacate the Chair and not return to it until the motion has been resolved upon.

8.5 AGREED ALTERATIONS TO A MOTION

With the leave of the Chairperson, both the mover and the seconder of a motion may agree to an alteration to the original motion proposed by any other Councillor. This does not require the recording of an amendment into the minutes of the meeting as the alteration then forms part of the substantive motion.

8.6 RIGHT OF REPLY OR CLOSING STATEMENT

- 8.6.1 The mover of an original motion which has not been amended may, once debate has been exhausted, have a right of reply to matters raised during debate.
- 8.6.2 After the right of reply has been taken, the motion must be immediately put to the vote without further discussion or debate.

8.7 MOVING AN AMENDMENT

A motion having been moved and seconded may be amended by leaving out, inserting or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole.

8.8 PROPOSING AN AMENDMENT

Any Councillor, other than the mover or seconder of the motion, may move or second an amendment to the motion.

8.9 WHO MAY DEBATE AN AMENDMENT

A Councillor may address the meeting once on any amendment (whether or not they have spoken to the original motion) but debate must be confined to the terms of the amendment.

8.10 NO RIGHT OF REPLY FOR AMENDMENTS

The mover of the amendment has no right of reply.

8.11 HOW MANY AMENDMENTS MAY BE PROPOSED

- 8.11.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chairperson at any one time.
 - 8.11.2 No second or subsequent amendment, whether the original motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.
-

8.12 AN AMENDMENT TO A MOTION CARRIED

- 8.12.1 If an amendment to a motion is carried, the motion as amended then becomes the substantive motion before the Council Meeting.
 - 8.12.2 Subject to sub-clause 8.12.3, once the amended motion is before Council the debate can resume where it left off.
 - 8.12.3 A Councillor who has already spoken on the original motion must not speak again on the amended motion unless to continue the debate as if the amended motion had not been put, unless the amended motion is so substantially different to the original motion so as to change the debate.
-

8.13 FORESHADOWING MOTIONS

- 8.13.1 At any time during debate, a Councillor may foreshadow a motion to inform Council of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
 - 18.13.2 A motion foreshadowed may be prefaced with a statement that, in the event that a particular motion before the Chair is resolved in a certain way, a Councillor intends to move an alternative or additional motion.
 - 18.13.3 A foreshadowed motion has no procedural standing and is merely a means to assist the flow of the meeting.
-

8.14 WITHDRAWAL OF MOTIONS

- 8.14.1 Before any motion is put to the vote it, may be withdrawn by the mover and seconder.
 - 8.14.2 Notwithstanding sub-clause 18.14.1, if Council resolves that the motion may not be withdrawn, then the motion becomes incapable of being withdrawn.
-

8.15 SEPARATION OF MOTIONS

Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in several parts.

8.16 CHAIRPERSON MAY SEPARATE MOTIONS

The Chairperson may decide to put any motion to the vote in several parts.

8.17 MOTIONS IN WRITING

8.17.1 The Chairperson may require that a complex or detailed motion be submitted in writing.

8.17.2 Council may adjourn the Council meeting while the motion is being written or Council may defer the matter until the motion has been written allowing the Council Meeting to proceed uninterrupted.

8.18 REPEATING MOTION AND OR AMENDMENT OF MOTION

The Chairperson may request the person taking the minutes of the Council Meeting to read the motion or amendment to the Council Meeting before the vote is taken

8.19 DEBATE MUST BE RELEVANT TO THE MOTION

8.19.1 Debate must always be relevant to the motion before the Chair, and if not, the Chairperson must request the speaker to confine debate to the subject motion.

8.19.2 If, after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chairperson may require the speaker to be seated and not speak further in respect of the matter before the Chair.

8.19.3 A speaker to whom a direction has been given under clause must comply with this direction.

8.20 TIME LIMITS ON SPEAKING TO MOTIONS

A Councillor must not speak on any one motion or amendment or other matter before a meeting for a time longer than that stated below unless granted an extension by the Chairperson:

8.20.1 the mover of a motion or an amendment: 3 minutes;

8.20.2 the seconder of the motion: 3 minutes;

8.20.3 any other Councillor: 3 minutes; and

8.20.4 the mover of a motion exercising a right of reply: 3 minutes.

8.21 EXTENSION OF SPEAKING TIME BY RESOLUTION OF COUNCIL

An extension of speaking time not exceeding three (3) minutes may be granted by resolution of Council but only one extension is permitted for each speaker on any question.

8.22 WHEN AN EXTENSION CAN BE PROPOSED

8.22.1 A motion for an extension of speaking time must be proposed:

- (a) immediately before the speaker commences his or her contribution to the debate;
- (b) during the speaker's contribution to the debate; or
- (c) immediately after the speaker has concluded his or her contribution to the debate.

8.22.2 A motion for an extension of speaking time cannot be accepted by the Chairperson if another speaker has commenced his or her contribution to the debate.

8.23 PRIORITY OF ADDRESS

In the case of competition for the right to speak, the Chairperson must decide the order in which the Councillors concerned will be heard.

9. PROCEDURAL MOTIONS

- 9.1 A Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- 9.2 Procedural Motions require a seconder.
- 9.3 The mover of a Procedural Motion must not have moved, seconded or spoken to the matter before the Chair or any amendment of it.
- 9.4 A Procedural Motion cannot be moved by the Chairperson.
- 9.5 Debate on a Procedural Motion is not permitted and the mover does not have a right of reply.
- 9.6 Unless otherwise provided, a Procedural Motion cannot be amended.
- 9.7 Examples of Procedural Motions include motions that:
- (a) Urgent business be considered;
 - (b) Debate be adjourned to a later hour and/or date or indefinitely;
 - (c) Debate be closed;
 - (d) An item of business lay on the table;
 - (e) An item of business be deferred;
 - (f) The meeting be closed to members of the public for consideration of confidential business;
 - (g) The meeting be re-opened to members of the public following consideration of confidential business; and
 - (h) The meeting be closed.
-

10. RESCISSION MOTIONS

10.1 RESCISSION MOTION

- 10.1.1 A Councillor may propose a motion to rescind or to vary a previous resolution of Council by a Notice of Rescission.
- 10.1.2 A Councillor may propose a Notice of Rescission provided:
- 10.2.1 the resolution proposed to be rescinded has not been acted on; and
 - 10.2.2 the Notice of Rescission is delivered to the Chief Executive Officer setting out:
 - (a) the resolution to be rescinded; and
 - (b) the meeting and date when the resolution was carried.
- 10.1.3 The Chief Executive Officer or an appropriate member of Council staff may implement a resolution at any time after the close of the meeting at which it was made. A resolution will therefore be deemed to have been acted on if:
- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
 - (b) a statutory process has been commenced,
- so as to vest enforceable rights in or obligations on Council or any other person.

A **Notice of Rescission** is a form of Notice of Motion.
Accordingly, all provisions in this Local Law regulating Notices of Motion equally apply to Notices of Rescission.

10.2 MAJORITY TO RESCIND A RESOLUTION

For a resolution of Council to be rescinded, the motion for rescission must be carried by a majority of the votes cast.

10.3 IF LOST

If a motion for rescission is lost, a similar motion may not be put before Council for at least on month from the date if was last lost, unless Council resolves that the Notice of Motion be re-listed at a future meeting.

10.4 IF NOT MOVED

If a Notice of Rescission is not moved at the meeting for which it is listed, it lapses.

10.5 MAY BE MOVED BY ANY COUNCILLOR

A Notice of Rescission listed on an Agenda may be moved by any Councillor present but may not be amended.

10.6 WHEN NOT REQUIRED

10.6.1 A Notice of Rescission is not required where Council wishes to change policy.

10.6.2 Notwithstanding sub-clause 10.6.1, the following standards should generally apply if Council wishes to change policy:

- (a) if the policy has been in force in its original or amended form for less than 12 months, a notice of rescission should be presented to Council; and
- (b) any intention to change a Council policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

Council may determine the extent to which these standards should be followed, which will depend on the circumstance of each case.

11. POINTS OR ORDER

A **point of order** is taken when a Councillor formally draws the attention of the Chairperson of a Council Meeting to an alleged irregularity in proceedings.

11.1 PROCEDURE FOR A POINT OF ORDER

11.1.2 A Councillor who is addressing the meeting must not be interrupted unless a point of order is called, at which time he or she must remain silent until the Councillor raising the point of order has been heard and the matter resolved.

11.2.1 A Councillor raising a point of order must:

- (a) state the matter which is the subject of the point of order: and
- (b) state any section, clause, paragraph or provision relevant to the point of order, before resuming his or her seat.

11.2 VALID POINTS OF ORDER

A point of order may be raised in relation to anything which:

- 11.2.1 is contrary to this Local Law;
- 11.2.2 is outside the powers of Council;
- 11.2.3 is a procedural matter;
- 11.2.4 is irrelevant to the matter under consideration;
- 11.2.5 constitutes improper behaviour;
- 11.2.6 constitutes a tedious repetition of something already said; or
- 11.2.4 is an act of disorder.

Expressing a difference of opinion or contradicting a speaker is not a point of order.

11.3 CHAIRPERSON TO DECIDE

The Chairperson must decide all points of order by stating the provision of this Local Law or other legislation, rule, practice or precedent which he or she considers applicable to the point of order raised without entering into any discussion or comment.

11.4 CHAIRPERSON MAY ADJOURN TO CONSIDER

11.4.1 The Chairperson may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

11.4.2 All other business before Council is suspended until the point of order is decided.

11.5 EFFECT OF RULING

If the Chair:

11.5.1 rules in favour of the point of order, the speaker may continue and no Councillor must do or say anything which would cause another like point of order to be raised; or

11.5.2 rules against the point of order, the speaker may continue.

11.6 CHAIRPERSON'S RULING

The decision of the Chairperson in respect of a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present vote in favour of a motion of dissent.

11.7 DISSENT FROM CHAIRPERSON'S RULING

11.7.1 A Councillor may move that the meeting disagree with the Chairpersons ruling on a point of order, by moving a motion of dissent.

11.7.2. When a motion is, in accordance with this clause, moved and seconded, the Chair must preside over the election of a temporary Chair before leaving the Chair.

11.7.3 The temporary Chairperson must then take the Chair and invite the mover to state the reasons for his or her dissent. The Chairperson may then reply.

11.7.4 The temporary Chairperson must put the motion of dissent.

11.7.5 If the vote is in the negative, the Chairperson resumes the Chair and the meeting proceeds.

11.7.6 If the vote is in the affirmative, the Chairperson must then resume the Chair, reverse or vary (as they case may be) his or her previous ruling and proceed.

11.7.7 The defeat of the Chairperson's ruling is in no way a motion of censure or vote of no-confidence in the Chairperson, and should not be so regarded by the meeting.

12. VOTING

12.1 HOW MOTION DETERMINED

12.1.1 To determine a motion before a meeting, the Chairperson must:

- (a) first call for those in favour of the motion; and
 - (b) then call for those opposed to the motion; and
 - (c) if required, identify any Councillor who has abstained from voting,
- and must then declare the result to the meeting.

12.1.2 In accordance with section 90(1)(d) of the Act, a motion is determined in the affirmative by a majority of the Councillors present at a Council Meeting at the time the vote is taken voting in favour.

12.1.3 A Councillor who has disclosed a conflict of interest and has left the Council Meeting prior to consideration and voting on a matter is taken not to be present at the meeting for the purpose of determining the motion.

12.2. CASTING VOTE

Subject to section 90 of the Act, in the event of a tied vote, the Chairperson has a casting vote.

12.3 BY SHOW OF HANDS

12.3.1 Unless Council resolves otherwise, voting on any matter is by show of hands.

12.3.2 Voting at a meeting that is open to members of the public must not be in secret.

12.4 PROCEDURE FOR A DIVISION

12.4.1 Immediately after any motion is put to a meeting and before the next item of business has commenced, a Councillor may call for a division

12.4.2 When a division is called for, the vote already taken must be treated as set aside and the division will decide the motion, amendment or question.

12.4.3 When a division is called for, the Chairperson must:

- (a) first ask each Councillor wishing to vote in the affirmative to raise a hand, and upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands.

The Chairperson will then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record in the minutes, the names of the Councillors voting in the affirmative; and

- (b) then ask each Councillor wishing to vote in the negative to raise a hand, and upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands.

The Chairperson will then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record in the minutes, the names of the Councillors voting in the negative; and

- (c) then ask each Councillor wishing to abstain from the vote to raise a hand, and upon such request being made, each Councillor wishing to abstain from the vote must raise one of his or her hands.

The Chairperson will then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record in the minutes, the names of those Councillors who abstained from voting.

12.4.4 The Chairperson must declare the result of the vote or division as soon as it is taken.

12.5. CHANGE BETWEEN ORIGINAL VOTE AND THE DIVISION

No Councillor is prevented from changing his or her original vote when voting on the division.

12.6 NO DISCUSSION ONCE DECLARED

Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion involves a Councillor:

- 12.6.1 requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes;
- 12.6.2 foreshadowing a Notice of Rescission, where a resolution has just been made and/or a positive motion where a resolution has just been rescinded; or
- 12.6.3 foreshadowing a Notice of Rescission (in which case what is foreshadowed must be noted in the minutes of the Council Meeting).
-

12.7 APPLICATION TO ALL MEETINGS

The voting provisions apply to meetings of Special and Advisory Committees of Council to the extent that they are relevant to the proceedings of any Special and Advisory Committee meeting.

13. RECORDING OF MEETINGS

- 13.1 The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may conduct electronic broadcasting (webcasting) of a Council Meeting by any means.
 - 13.2 A person, including any representative of the media, must not operate photographic, audio or video recording equipment or any other recording device at any Council Meeting without first obtaining the consent of Council or the Chairperson. Such consent may at any time during the course of such meeting be revoked by Council or the Chairperson (as the case may be).
 - 13.3 The Chief Executive Officer must advise the Chairperson before the commencement of the meeting of any approval to record the meeting that has been given and the Chairperson must inform those in attendance at the meeting that, subject to any relevant legislative provisions, proceedings will be recorded.
 - 13.4 The approval to record a meeting is subject to the business of the meeting being able to continue in an orderly and lawful manner and in a way that the rights and responsibilities of all attendees can be appropriately managed.
 - 13.5 This clause does not apply to any member of Council staff operating any recording device for the purpose of preparing draft minutes of the meeting.
 - 13.6 Recordings made by a member of Council staff for the purpose of preparing draft minutes of a meeting will be retained for a period of three months from the date of the meeting.
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14. SPECIAL, ADVISORY AND OTHER COMMITTEES

14.1 APPLICATION TO SPECIAL, ADVISORY AND OTHER COMMITTEES

This Local Law applies to Special and Advisory Committee meetings and other meetings where Council has resolved the provisions of this Local Law must apply with any necessary modifications.

14.2 REPORTS FROM COMMITTEES

Reports from Committees may be addressed either in:

14.2.1 Reports from delegates appointed by Council to Committees; or

14.2.2 Presentation of Officer reports.

15. ELECTION OF THE MAYOR

15.1 ELECTION OF MAYOR

- 15.1.1 Councillors must elect a Councillor to be the Mayor.
- 15.1.2 The Mayor is to be elected at the annual Statutory Meeting, which is to be held:
- (a) as soon as practicable after the declaration of the results of a general election of Councillors;
 - (b) after the fourth Saturday in October but not later than 30 November in each year, as set out under section 71 of the Act; or
 - (c) as soon as possible after any vacancy occurs in the office of the Mayor.
- 15.1.3 The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.
- 15.1.4 Any Councillor is eligible for election or re-election to the office of Mayor.

15.2 PROCEDURE FOR ELECTION OF MAYOR

- 15.2.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected and invite nominations for a temporary Chairperson.
- 15.2.2 At any meeting to elect the Mayor, any Councillor may be appointed as a temporary Chairperson to deal with:
- (a) the fixing of allowances for the Mayor and Councillors under section 72 of the Act, when such allowances need to be fixed;
 - (b) the receipt of nominations for the election of Mayor; and
 - (c) the election of Mayor; and
- 15.2.3 The temporary Chairperson must invite nominations for the office of Mayor.
- 15.2.4 Any nomination for the office of mayor must be seconded.
- 15.1.5 The election of Mayor will be carried out by a show of hands.
- 15.1.7 Once nominations for the office of Mayor have been received, the following will apply:
- (a) where only one nomination is received, that Councillor must be declared elected; or
 - (b) where two nominations are received, the Councillor with the majority of votes cast must be declared elected; or
 - (c) where there are two or more nominations and all votes cast are equally divided between two or more nominees, the election must be determined by lot; or
 - (d) Where there are more than two nominations received and no candidate has a majority of votes cast, the candidate with the fewest number of votes must be eliminated (and if more than one of them, the candidate determined by lot) and the names of the remaining candidates must be put to the vote again. This procedure must continue until there are

only two candidates remaining and when only two candidates remain, sub-clauses 15.1.7(b) and 15.1.7(c) apply.

15.2 MAYOR TO TAKE CHAIR

15.2.1 After the election of the Mayor is determined, the Mayor must take the Chair.

15.2.2 The Mayor must take the Chair at all Ordinary and Special Meetings at which he or she is present.

15.3 DEPUTY MAYOR

If Council resolves to elect a Deputy Mayor, the provisions for the election of the Mayor will apply to the election of the Deputy Mayor with all necessary adaptations.

16. OFFENCES AND PENALTIES

Council has the authority to prescribe penalties and issue infringement notices for acts in contravention of its Local Laws. This authority is conferred by sections 115 and 117 of the Act.

16.1 OFFENCES AND PENALTIES

It is an offence for:

16.1.1 a Councillor to not withdraw a remark or expression which is considered by the Chairperson to be offensive or disorderly and to not apologise when called upon twice by the Chairperson to do so;

Penalty Units: 2

16.1.2 any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chairperson to do so;

Penalty Units: 2

16.1.3 any person to fail to obey a direction of the Chairperson relating to the conduct of the meeting and the maintenance of order;

Penalty Units: 2

16.1.4 any person to fraudulently sign a petition or joint letter which is presented to Council;

Penalty Units: 3

16.1.5 any person to use the common seal or any device resembling the common seal without authority.

Penalty Units: 10

16.2 SERVICE OF INFRINGEMENT NOTICE

16.2.1 As an alternative to prosecution, an Authorised Officer may serve an infringement notice on a person whom the Authorised Officer believes has committed an offence referred to in clause 16.1.

16.2.2 The amount fixed as payable in respect of an infringement notice is 1 Penalty Unit.

17. SUSPENSION OF LOCAL LAW

17.1 SUSPENSION OF STANDING ORDERS

The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedures.

Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while a matter is discussed.

17.1.1 To facilitate full discussion on a matter, Council may, by resolution, suspend standing orders.

17.1.2 Any provision of this meeting procedure, except that relating to a quorum, may by resolution be suspended for any part of a meeting.

17.1.3 Standing orders can only be suspended upon a duly moved and seconded motion being carried.

Suggested motion:

“That standing orders be suspended to enable discussion on....”

17.1.3 No motion may be accepted by the Chairperson during any suspension of standing orders.

17.1.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders must occur.

Suggested motion:

“That standing orders be resumed.”

18. PROCEDURE NOT PROVIDED IN LOCAL LAW

- 18.1 In all cases not specifically provided for under this Local Law, Council may determine the matter by resolution
 - 18.2 Council may adopt any policies or guidelines from time to time for the purpose of exercising any discretion conferred by this Local Law.
-

19. COMMON SEAL

The purpose of this Section is to regulate the use of the common seal and prohibit unauthorised use of the common seal or any device resembling the common seal as required by Section 5 of the Act.

19.1 USE OF COMMON SEAL

The common seal may be affixed to a document for the purpose of giving effect to a decision:

- 19.1.1 made by Council resolution; or
- 19.1.2 made by the Chief Executive Officer under delegation.

19.2 SECURITY OF THE COMMON SEAL

A General Manager nominated by the Chief Executive Officer must keep the common seal in safe custody.

19.3 SIGNATURES TO ACCOMPANY SEAL

Every document to which the common seal is affixed must be signed by:

- 19.3.1 the Mayor and the Chief Executive Officer; or
- 19.3.2 in the absence of the Mayor, by two Councillors and the Chief Executive Officer; or
- 19.3.3 the Chief Executive Officer if the document is being sealed under delegation.

19.4 COMMON SEAL REGISTER

The Chief Executive Officer must ensure that a common seal register is maintained which records the following information each time the common seal is affixed to a document:

- 19.4.1 a description of the document to which the seal was affixed; and
 - 19.4.2 the date on which the common seal was affixed.
-

19.5 COMMON SEAL – SEALING CLAUSE

The following wording applies to any document to which the common seal is affixed:

The COMMON SEAL of the
HEPBURN SHIRE COUNCIL

was affixed on this

.....day of.....20XX

on the authority of the Council and signed by:

..... Mayor

..... Chief Executive Officer

20. CERTIFICATION OF LOCAL LAW

Local Law No 1 – Meeting Procedures and Common Seal (2014) was made by resolution of the Hepburn Shire Council on *[Insert Date]* 2014

The COMMON SEAL of the
HEPBURN SHIRE COUNCIL
was affixed on this
.....day of.....2014
on the authority of the Council and signed by:

..... Mayor

..... Chief Executive Officer

Council resolved to give notice of its intention to make this Local Law at its meeting held on *[Insert Date]* 2014 and this was duly advertised as follows:

Victoria Government Gazette – *[Insert Date]*
The Courier, Ballarat Courier – *[Insert Date]*
The Advocate – *[Insert Date]*
Council website – *[Insert Date]*

Council resolved to adopt this Local Law at its meeting held on *[Insert Date]* 2014 and this was duly advertised as follows:

Victoria Government Gazette – *[Insert Date]*
The Courier, Ballarat Courier – *[Insert Date]*
The Advocate – *[Insert Date]*
Council website – *[Insert Date]*

21. DEFINITIONS

Unless inconsistent with the subject matter, the following words and phrases having the meaning indicated:

Words	Meaning
Act	<i>Local Government Act 1989</i>
Advisory Committee	an Advisory committee established by Council pursuant to section 86(1) of the Act
Agenda	a notice of a meeting setting out the business to be transacted at the meeting
Assembly of Councillors	as defined in section 3(1) of the Act: A meeting of an Advisory Committee where at least one (1) Councillor is present; or A planned or scheduled meeting at which at least half the Councillors and at least one Officer is present, and at which matters are considered that are intended or are likely to be the subject of a Council decision or the exercise of a delegated authority.
Authorised Officer:	a person appointed by Council under section 224 of the Act
Business Days	Monday to Friday of each week except for Public Holidays
Chair	refers to the Chairperson
Chairperson	refers to the Chairperson of a meeting and includes an acting, a temporary and a substitute Chairperson
Chief Executive Officer	Chief Executive Officer of Council or any person acting in that position
Clause	clause of this Local Law
Committee	a Special Committee
common seal	common seal of Council
conflict of interest	direct or indirect interest of the kind described in section 77A of the Act
Council	Hepburn Shire Council

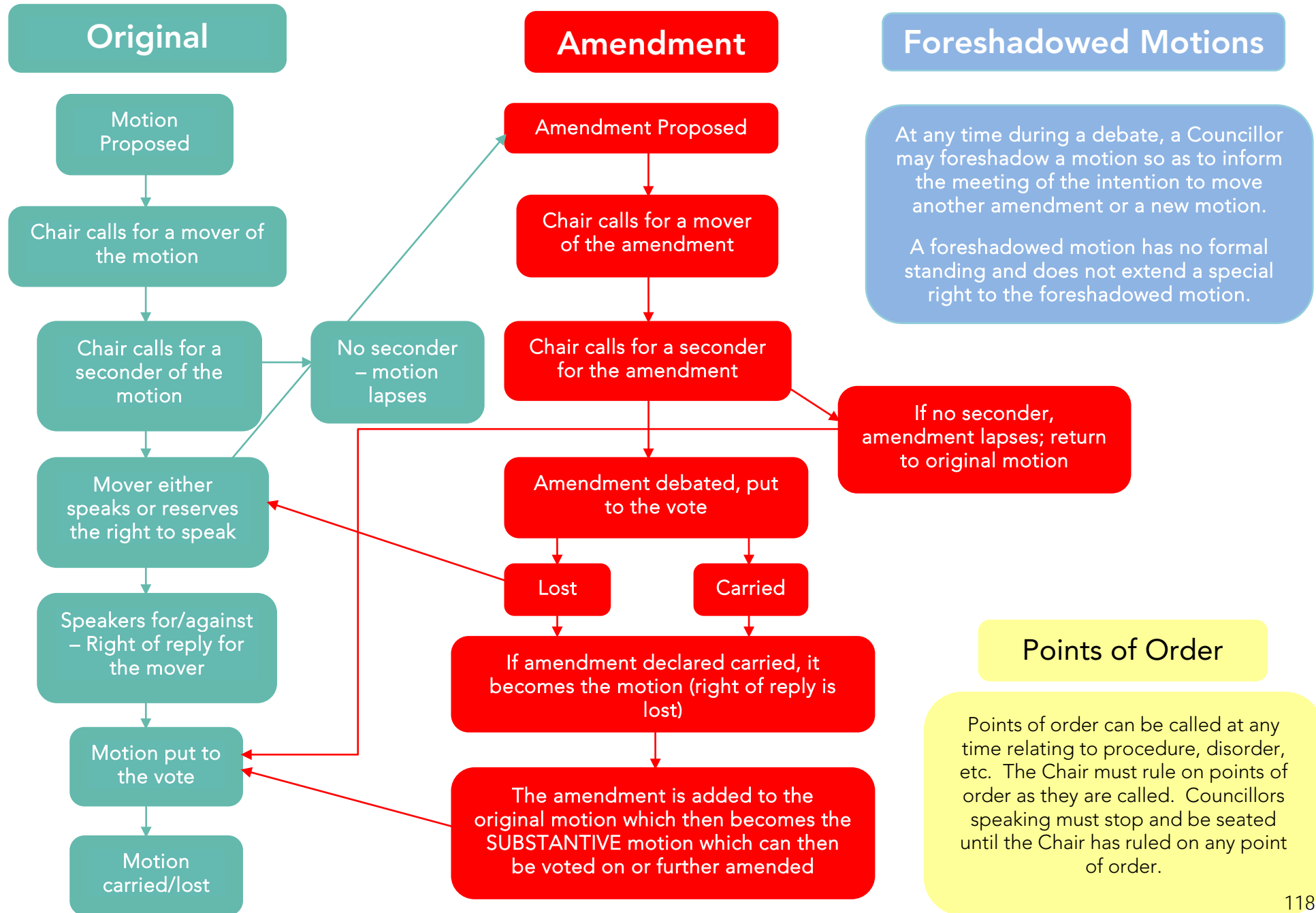
Words	Meaning
Councillor	a Councillor of Council who has taken the oath of office in accordance with section 63 of the Act
Council Meeting	Includes a meeting at which the Mayor is elected, an Ordinary Meeting and Special Meeting of Council but does not include an Assembly of Councillors
Deputy Mayor	a Councillor who has been elected to the position of Deputy Mayor to act on behalf of the Mayor in his or her absence
division	a formal count of those for and against a motion
Mayor	the Mayor of Council and any other Councillor acting as Mayor.
meeting	an Ordinary or Special Meeting of Council
Member	a Councillor or a member of a Committee who is entitled to vote on motions (other than on matters which he or she has a conflict of interest) that are dealt with at the meeting
Minister	Minister responsible for the administration of the Act.
minutes	record of proceedings of a meeting
motion	a proposal framed in a way that will result in the opinion of Council being expressed or a Council decision being made
Notice of Motion	a notice setting out the text of a motion which a member proposes to move at a meeting
Notice of Rescission	a Notice of Motion to rescind a resolution made by Council
Procedural Motion	a motion which relates to a procedural matter only and which is not designed to produce any substantive result but used merely as a formal procedural measure
Officer	employee of Council
offence	an act or default contrary to this Local Law
Penalty Unit	as prescribed in the <i>Sentencing Act 1992</i>

Words	Meaning
petition	A formal written application headed 'Petition', typed or printed without erasure, signed by at least 12 people whose names and physical addresses also appear and on which each page of the petition bears the wording of the whole of the petition
senior officer	as prescribed in the Act: the Chief Executive Officer, any officer who has management responsibilities and reports directly to the Chief Executive Officer and any other member of Council staff whose total annual remuneration exceeds \$100,000
Special Committee	a Special Committee established by Council under section 86 of the Act
Statutory Meeting	a meeting of Council held for the election of the Mayor and Deputy Mayor, and where necessary, for the taking of the Oath or Affirmation of Office by Councillors
Written or in writing	includes duplicated, lithographed, photocopied, photographed, transmitted by facsimile, transmitted electronically by email, printed or typed

Headings and explanatory notes do not form part of this Local Law. They are provided to assist understanding of the Local Law.

22. APPENDICES

APPENDIX 1 – MOTIONS AND AMENDMENTS – PROCESS CHART



PPENDIX 2 – PUBLIC QUESTION TIME FORM

PUBLIC QUESTION TIME FORM

During Public Participation Time 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 public;
- Allowing members of the public to address Council.

Members of the public are invited to submit written questions on this form to the Chief Executive Officer by 12 noon on the day of the Ordinary Meeting of Council.

If you wish to address Council you must provide a brief synopsis of your address in writing to the Chief Executive Officer by 12 noon on the day of the Ordinary Meeting of Council.

Completed Public Question Time Forms can be submitted at your nearest Customer Service Centre or by emailing shire@hepburn.vic.gov.au with the words 'Public Question' in the subject line.

Public Question Time Forms received after 12 noon will be held over to the next Ordinary Meeting of Council.

DATE OF MEETING	
NAME	
ADDRESS	
TELEPHONE	
ORGANISATION (if applicable)	

SUBJECT OF QUESTION _____

Please note the number of questions that any person may ask at each meeting is limited to two. You need to be present in the public gallery at the meeting in order to ask your question.

QUESTION 1	
QUESTION 2	

Please note: Your name and suburb will be included in Council's minutes which are available on Council's website.

Privacy Statement

Hepburn Shire Council acknowledges and respects the privacy of individuals. Personal information collected by Council is used for municipal purposes as specified in the *Local Government Act 1989*. The information provided on this form will be used for the production of Council minutes, which are public documents.

**11.5. OPTION TO EXTEND CONTRACT H265-2011 FOR THE PROVISION OF MEALS ON WHEELS FOR A FURTHER ONE YEAR
GENERAL MANAGER COMMUNITY SERVICES**

In providing this advice to Council as the General Manager Community Services, I Kathleen Brannigan have no interests to disclose in this report.

PURPOSE

The purpose of this report is to recommend that Council exercises the option to extend the provision of meals on wheels across Hepburn Shire for a further one year in accordance with the current Contract H265-2011 to Hepburn Health Service.

BACKGROUND

At the August 2011 Council meeting and following a competitive tender process, Council resolved to award the Contract for the provision of meals on wheels across Hepburn Shire to Hepburn Health Services for a three year period ending on June 30 2014 with the option of two further one year contract extensions.

ISSUE/DISCUSSION

At its September 2014 meeting, Council resolved not to approve the transfer of Department of Health funding for Meals on Wheels to Hepburn Health Service. To ensure that the Meals on Wheels program continues, it is proposed that the option to extend the contract for a further one year be exercised.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Not applicable

FINANCIAL IMPLICATIONS

The cost of the Meals and Wheels contract is fully funded by the Department of Health and fees charged to clients.

RISK IMPLICATIONS

The current contract provisions are compliant with Council's requirements for insurances and reporting. Quality standards are contained within the agreed contract specifications.

The original quotation process has been conducted in accordance with Hepburn Shire Council's Procurement Policy.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

The provision of Meals on Wheels assists older people to remain living at home.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Both Hepburn Health Service and the Department of Health had endorsed the transfer of program funds to Hepburn Health Service.

CONCLUSION

Approval of the option to extend the contract for one year will ensure continued provision of Meals on Wheels to Home and Community Care clients.

OFFICER'S RECOMMENDATION

That Council:

- 11.5.1 Exercises the option of contract extension for a further twelve months for Contract H265-2011 – Delivered Meals to Hepburn Health Services, within the existing contract provisions.
- 11.5.2 Authorises the Chief Executive Officer and the Mayor to sign and seal the contract extension documents.

MOTION

That Council:

- 11.5.1. *Exercises the option of contract extension for a further twelve months for Contract No H265-2011 – Delivered Meals to Hepburn Health Services, within the existing contract provisions.*
- 11.5.2. *Authorises the Chief Executive Officer and the Mayor to sign and seal the contract extension documents.*

Moved: Councillor Bill McClenaghan

Seconded: Councillor Neil Newitt

Carried.

11.6. PUBLIC HOLIDAY ARRANGEMENTS 2014-2015

GENERAL MANAGER CORPORATE SERVICES

In providing this advice to Council as the Manager Human Resources, I Kerrie Addison have no interests to disclose in this report.

PURPOSE

The purpose of this report is to seek Council's endorsement of the closure of the Hepburn Shire Council offices during the holiday period 2014-2015.

The report also seeks endorsement for an early closure of the offices on Friday 12 December 2014 to facilitate a staff end of year celebration.

BACKGROUND

It has been the practice of Hepburn Shire Council to close during the holiday period.

The holiday period closure enables staff to take a break with very little impact on service delivery and at the same time provides the opportunity for staff to reduce outstanding annual leave and rostered day off balances. This has been the practice over the past few years as there is limited demand placed on municipal services over this period and the closure is generally accepted by the community.

ISSUE/DISCUSSION

It is proposed that the Hepburn Shire municipal offices be closed from 3.00pm on Wednesday 24 December 2014, and reopen on Monday 5 January 2015.

The period comprises 4 work days and 3 public holidays. Public holidays have been assigned, under the *Public Holidays Act*, to Thursday 25 December 2014, Friday 26 December 2014 and Thursday 1 January 2015, as Christmas Day, Boxing Day and New Year's Day respectively. It is proposed that the four days (Monday 29 December, Tuesday 30 December, Wednesday 31 December and Friday 2 January) will be taken by staff as leave during this period.

A skeleton staff will continue to operate during the closure period to ensure that essential services continue. Staff involved in Emergency Management will undertake their roles and responsibilities in accordance with the Emergency Management procedures. On declared Code Red days, Hepburn Shire Council Emergency Management staff will be stationed in the Municipal Emergency Coordination Centre (MECC) in readiness for any incidents. Council will have a roster for Emergency Management Staff over the holiday period closure.

Further, each year Hepburn Shire Council holds an end of year break-up function to thank staff for their contribution to the organisation over the past 12 months. In

order to facilitate this celebration, it is proposed that the municipal offices close early on Friday 12 December 2014 at 1.30 pm.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Nil

FINANCIAL IMPLICATIONS

There is no financial impact as a result of closing the offices and depots between Christmas and New Year. The closure provides the organisation with the opportunity to decrease its annual leave liability.

RISK IMPLICATIONS

Nil

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

Nil

COMMUNITY AND STAKEHOLDER ENGAGEMENT

It is proposed that the office and depot closures will be advertised in *The Advocate* and *The Courier* newspapers.

Public advertisements will indicate the arrangements for service provision and emergency response over the Christmas/New Year period

CONCLUSION

It is appropriate that the Hepburn Shire Council offices close during the Christmas/New Year holiday period 2014-2015.

OFFICER'S RECOMMENDATION

That Council:

- 11.6.1 Closes the Hepburn Shire Council offices and depots for the period from 3.00pm on Wednesday 24 December 2014 to return of business on Monday 5 January 2015 and closes the municipal offices at 1.30pm on Friday 12 December 2014 to facilitate a staff end of year function.
- 11.6.2 Places advertisements in *The Advocate* and *The Courier* advising of the closure arrangements, indicating service delivery and emergency response arrangements during the 2014-2015 holiday period.

MOTION

That Council:

- 11.6.1. *Closes the Hepburn Shire Council offices and depots for the period from 3.00pm on Wednesday 24 December 2014 to return of business on Monday 5 January 2015 and closes the municipal offices at 1.30pm on Friday 12 December 2014 to facilitate a staff end of year function.*
- 11.6.2. *Places advertisements in The Advocate and The Courier advising of the closure arrangements, indicating service delivery and emergency response arrangements during the 2014-2015 holiday period.*

Moved: Councillor Kate Redwood

Seconded: Councillor Greg May

Carried.

11.7. APPLICATION FOR APPROVAL TO OPERATE B-DOUBLE AND HIGHER MASS LIMIT VEHICLES ON LOCAL COUNCIL ROADS

GENERAL MANAGER INFRASTRUCTURE

In providing this advice to Council as the General Manager Infrastructure, I Bruce Lucas have no interests to disclose in this report.

PURPOSE

The purpose of this report is for Council to consider applications for consent to use B-Double and/or Higher Mass Limit (HML) vehicles on local Council roads.

BACKGROUND

The following new and renewal referrals for consent to use B-Double and/or HML vehicles on local Council roads have been received from the National Heavy Vehicle Regulator (NHVR).

Ref	Organisation	Vehicles	Roads	Time Frame
New Requests				
22113	a) Mentone Premix Pty Ltd	B-Doubles at HML	Creswick-Lawrence Road, Creswick North	Until 17/09/2017
Renewal Requests				
20995	a) R & M Diesel Pty Ltd	Hook and Underlift Tow Truck	Various	Until 30/09/2015
22708	b) Inroads Pty Ltd	Over Size Vehicle	Various	Until 15/10/2017

ISSUE/DISCUSSION

Council officers have assessed the applications considering the following:

- Community Safety
- Local Amenity
- Physical Limitations of the network
- Economic benefits
- Alternative access
- Cost implications to Council.

The results of the assessment are provided below along with any recommended conditions to be applied to any consent granted by Council.

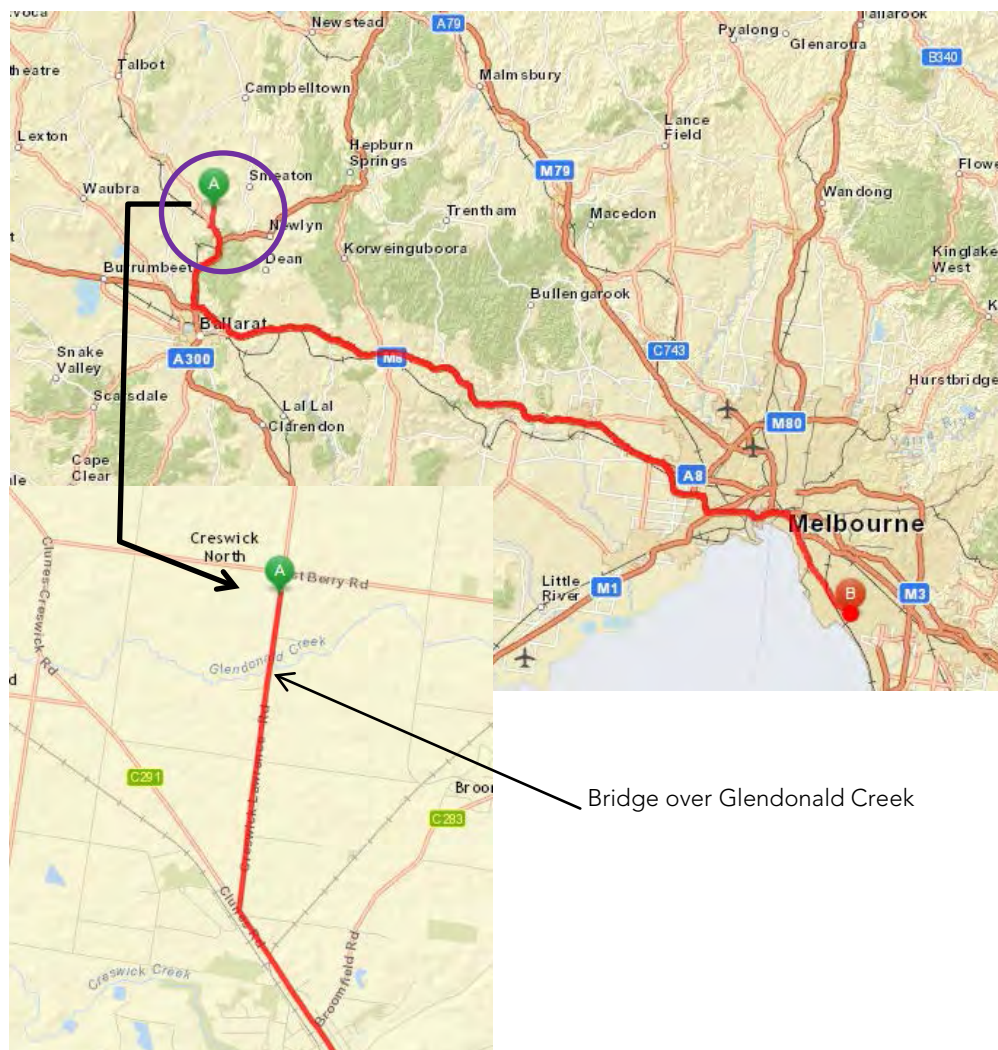
New Requests

a) Mentone Premix Pty Ltd (Request Number 22113)

Mentone Premix Pty Ltd is requesting to use Creswick-Lawrence Road in Creswick North (as marked in the below map) to transport quarry products. The section of the road expected to be used includes a bridge over Glendonald Creek.

The bridge is a reinforced concrete bridge with bluestone abutments. The width of the bridge is 6.1m and according to our assets condition survey undertaken in October 2013, the structure is in good condition and there is no load limit restriction on this bridge.

The section of the Creswick-Lawrence Road under consideration is a sealed road with a varying seal width from 3.7m to 6.4m.



Bridge over Glendonald Creek

It is recommended that Council approves Mentone Premix Pty Ltd to use Creswick-Lawrence Road subject to following conditions:

- The maximum speed over the Glendonald Creek Bridge shall be 60km/h.
- It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
- Must not trim or remove any trees without all approvals being obtained.
- The use of compression brakes is to be avoided.
- Hours of Operation shall be 7:00am to 6:00pm.

Renewal Requests

b) R & M Diesel Pty Ltd (Request Number 20995)

R & M Diesel Pty Ltd is requesting to use Council roads in order to tow accident damaged or incapacitated vehicles.

Considering the type of operation, it is hard to specify the routes and roads that will be used given the potential need to respond to vehicle breakdowns.

After consideration of this request to make use of all Council roads and confirming the permit requirements with NHVR, it is recommended that Council approves R & M Diesel Pty Ltd to use Council roads subject to following conditions:

- Must not travel on a road, bridge or structure if it would exceed any sign posted mass or dimension limit.
- Must not travel beneath a bridge or overhead structure which has a restricted clearance if the height of the vehicle is equal to or greater than the clearance shown on the sign.
- Must not travel beneath any bridges, overhead structures, cables, wires or trees unless there is adequate safe clearance to the highest point of the vehicle.
- It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
- Must not trim or remove any trees without all approvals being obtained.
- The use of compression brakes is to be avoided.

c) Inroads Pty Ltd (Request Number 22708)

Inroads Pty Ltd requests to extend its existing permit to use council roads to travel with trucks fitted with an aggregate spreader to the rear of the tipper (over size). The laden width of the vehicle is 2.8m.

The subject vehicles are used for road construction and maintenance works and can be considered non-obstructive.

It is recommended that Council approves Inroads Pty Ltd to use Council roads subject to following conditions:

- Must not travel on a road, bridge or structure if it would exceed any sign posted dimension limit.
- Must not travel beneath a bridge or overhead structure which has a restricted clearance if the height of the vehicle is equal to or greater than the clearance shown on the sign.
- Must not travel beneath any bridges, overhead structures, cables, wires or trees unless there is adequate safe clearance to the highest point of the vehicle.
- It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
- Must not trim or remove any trees without all approvals being obtained.
- The use of compression brakes is to be avoided.
- Hours of Operation shall be 7:00am to 6:00pm.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Council Plan 2013-2017:

Strategic Objective – Sustainable Environment and a Vibrant Economy

Key Strategic Activity:

12. Support and develop existing businesses within Hepburn Shire and continue to explore opportunities to diversify Hepburn Shire's Economic base.

FINANCIAL IMPLICATIONS

There are no expected financial implications from granting approval to R & M Diesel Pty Ltd, Mentone Premix Pty Ltd and Inroads Pty Ltd to use the respective Council roads for B-Doubles access at HML.

RISK IMPLICATIONS

There are no expected risk implications from granting approval to R & M Diesel Pty Ltd, Mentone Premix Pty Ltd and Inroads Pty Ltd.

However, in order to avoid any detrimental effect on the bridge over Glendonald Creek, the speed on the bridge has been restricted to 60km/h.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

There are expected to be economic benefits for local business and economic development through the granting of consent for access however this is not able to be measured.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

No external engagement was undertaken in relation to these requests. Relevant internal roads and natural resource management staff have been involved in assessing these requests.

CONCLUSION

Council has received three permit referrals from the National Heavy Vehicle Regulator for consent to operate B-Double vehicles at HML on roads within the Hepburn Shire.

Following a review of each referral, conditional consent is recommended for each of the three operators as detailed.

Ref	Organisation	Vehicles	Roads	Conclusion
New Requests				
22113	a) Mentone Premix Pty Ltd	B-Doubles at HML	Creswick-Lawrence Road, Creswick North	Conditional Approval
Renewal Requests				
20995	b) R & M Diesel Pty Ltd	Hook and Underlift Tow Truck	Various	Conditional Approval
22708	c) Inroads Pty Ltd	Over Size Vehicle	Various	Conditional Approval

OFFICER'S RECOMMENDATION

That Council:

11.7.1 Approves Mentone Premix Pty Ltd to use B-Double vehicles at Higher Mass Limits on Creswick-Lawrence Road for a period of three years commencing 1 November 2014 and expiring on 31 October 2017, subject to following conditions:

- The maximum speed over the Glendonald Creek Bridge shall be 60km/h.
- It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
- Must not trim or remove any trees without all approvals being obtained.
- Hours of Operation shall be 7:00am to 6:00pm.

11.7.2 Approves R & M Diesel Pty Ltd to use B-Double vehicles at Higher Mass Limits on Council Roads as required for a period of one year commencing 1 November 2014 and expiring on 31 October 2015, subject to following conditions:

- Must not travel on a road, bridge or structure if it would exceed any sign posted mass or dimension limit.
- Must not travel beneath a bridge or overhead structure which has a restricted clearance if the height of the vehicle is equal to or greater than the clearance shown on the sign.
- Must not travel beneath any bridges, overhead structures, cables, wires or trees unless there is adequate safe clearance to the highest point of the vehicle.
- It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
- Must not trim or remove any trees without all approvals being obtained.
- The use of compression brakes is to be avoided.

- 11.7.3 Approves Inroads Pty Ltd to use oversize vehicles on Council Roads for a period of three years commencing 1 November 2014 and expiring on 31 October 2017, subject to following conditions:
- Must not travel on a road, bridge or structure if it would exceed any sign posted dimension limit.
 - Must not travel beneath a bridge or overhead structure which has a restricted clearance if the height of the vehicle is equal to or greater than the clearance shown on the sign.
 - Must not travel beneath any bridges, overhead structures, cables, wires or trees unless there is adequate safe clearance to the highest point of the vehicle.
 - It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
 - Must not trim or remove any trees without all approvals being obtained.
 - The use of compression brakes is to be avoided.
 - Hours of Operation shall be 7:00am to 6:00pm.

MOTION

That Council:

11.7.1. Approves R & M Diesel Pty Ltd to use B-Double vehicles at Higher Mass Limits on Council Roads as required for a period of one year commencing 1 November 2014 and expiring on 31 October 2015, subject to following conditions:

- Must not travel on a road, bridge or structure if it would exceed any sign posted mass or dimension limit.
- Must not travel beneath a bridge or overhead structure which has a restricted clearance if the height of the vehicle is equal to or greater than the clearance shown on the sign.
- Must not travel beneath any bridges, overhead structures, cables, wires or trees unless there is adequate safe clearance to the highest point of the vehicle.
- It is the responsibility of the permit holder to pay attention to:
 - Overhead cables
 - Overhanging trees
 - Steep inclines/declines, tight corners and narrow roads.
- Must not trim or remove any trees without all approvals being obtained.
- The use of compression brakes is to be avoided.

11.7.2. Approves Inroads Pty Ltd to use oversize vehicles on Council Roads for a period of three years commencing 1 November 2014 and expiring on 31 October 2017, subject to following conditions.

- Must not travel on a road, bridge or structure if it would exceed any sign posted dimension limit.
- Must not travel beneath a bridge or overhead structure which has a restricted clearance if the height of the vehicle is equal to or greater than the clearance shown on the sign.
- Must not travel beneath any bridges, overhead structures, cables, wires or trees unless there is adequate safe clearance to the highest point of the vehicle.

- *It is the responsibility of the permit holder to pay attention to:*
 - *Overhead cables*
 - *Overhanging trees*
 - *Steep inclines/declines, tight corners and narrow roads.*
- *Must not trim or remove any trees without all approvals being obtained.*
- *The use of compression brakes is to be avoided.*
- *Hours of Operation shall be 7:00am to 6:00pm.*

11.7.3. *Defers consideration of the application from Mentone Premix Pty Ltd to use B-Double vehicles at Higher Mass Limits on Creswick-Lawrence Road.*

Moved: Councillor Bill McClenaghan
Seconded: Councillor Greg May
Carried.

11.8. DOUG LINDSAY RECREATION RESERVE - LEASE

GENERAL MANAGER COMMUNITY SERVICES

In providing this advice to Council as the Manager Community and Economic Development I Adam McSwain have no interests to disclose in this report.

PURPOSE

The purpose of this report is to formally seek Council approval to enter into a five year Crown land lease, plus a further two terms of five years for the Doug Lindsay Recreation Reserve, Creswick.

BACKGROUND

At its August 2014 Council meeting, Council resolved its intention to enter into a lease for the Doug Lindsay Recreation Reserve, Creswick with the Doug Lindsay Sports and Community Management Association Inc and authorised advertising its intention to enter into the lease.

ISSUE/DISCUSSION

Council's intention to enter into a lease for the Doug Lindsay Recreation Reserve was advertised in The Advocate on 3 September 2014. As per the *Local Government Act 1989*, submissions were able to be made to Council for a four week period, closing on 2 October 2014. No submissions were received regarding the proposed lease.

In line with Council's resolution that the Doug Lindsay Reserve Sports and Community Management Association Inc present reports to Council annually, an additional clause has been added to the draft lease. The wording of this clause is:

10. Presentation to Council

The tenant agrees to provide annually to Council copies of the following documents:

- *Annual budget and financial statements*
- *Report on facility operations including usage, marketing, progress against business plan and any other relevant items requested by Council*

An additional clause has also been added that provides for the use of the Doug Lindsay Recreation Reserve by Council for emergency management purposes. The wording of this clause is:

11. Emergency Management

The Landlord is permitted to utilise the leased Premises for reasonable emergency management purposes (e.g. relief centre, coordination centre) when and as required in response to community incidents or emergencies without providing any advanced notice to the Tenant. Pre-booked or planned usage will need to be cancelled during these occurrences. No payment will be made to the Tenant for such usage and no compensation will be provided by the Landlord or Third Parties for any bookings which may need to be cancelled as a result of such usage.

In addition, the Landlord may install, store and/or maintain equipment or facilities within the leased Premises for the purposes of keeping the facility ready for such emergency management purposes. The Landlord will provide verbal or written notice to the Tenant when it needs to access the premises for such emergency management related maintenance.

The Landlord will also undertake up to two emergency management training exercises per year in the leased Premises. The time for such exercises will be agreed in writing with the Tenant at a time when no other bookings are previously made. No payment will be made to the Tenant for these bookings.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Council Plan 2013-2017:

Strategic Objective - Active and Engaged Communities

Key Strategic Activity:

8. Implement a proactive and planned approach to the maintenance, renewal and upgrade of recreation assets.

This lease is granted under Council's powers in section 17D of the Crown Land (Reserves) Act 1978.

FINANCIAL IMPLICATIONS

The Lease outlines the financial support that Council will provide towards the operating costs of the Doug Lindsay Reserve Sports and Community Management Association Inc.

As a result of this subsidy there is no rent payable for the first Term. The rent can be reviewed at the end of the first and second terms of the lease.

RISK IMPLICATIONS

The Doug Lindsay Reserve Sports and Community Management Association Inc are required as part of their lease to complete a risk management plan, an emergency management plan and to hold appropriate insurance cover of the reserve and facilities.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

The Doug Lindsay Reserve Sports and Community Management Association Inc is made up of an executive of five community representatives appointed by Council, a Council officer and a representative from each of the current user groups - Creswick Football Netball Club, Creswick Soccer Club, Creswick and District Soccer Club, Creswick Bowling Club and Creswick Municipal Band (currently inactive).

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The Doug Lindsay Reserve Sports and Community Management Association Inc and each of the reserve user groups have been consulted about and had input into the lease document.

CONCLUSION

Following two years work to develop management arrangements for the Doug Lindsay Recreation Reserve, this lease document is the final step to formalise these arrangements. The lease clearly sets out the respective roles and responsibilities of both parties.

OFFICER'S RECOMMENDATION

That Council:

- 11.8.1 Approves the five year (plus a further two terms of five years) 17D Crown Land lease to the Doug Lindsay Reserve Sports and Community Management Association Inc at the Doug Lindsay Recreation Reserve, Creswick.
- 11.8.2 Authorises the Chief Executive Officer and the Mayor to sign and seal the attached lease document.
- 11.8.3 Authorises officers to formally seek Ministerial Consent to the granting of this lease.

MOTION

That Council:

- 11.8.1. *Approves the five year (plus a further two terms of five years) 17D Crown Land lease to the Doug Lindsay Reserve Sports and Community Management Association Inc at the Doug Lindsay Recreation Reserve, Creswick.*
- 11.8.2. *Authorises the Chief Executive Officer and the Mayor to sign and seal the attached lease document.*
- 11.8.3. *Authorises officers to formally seek Ministerial Consent to the granting of this lease.*

Moved: Councillor Greg May
Seconded: Councillor Sebastian Klein
Carried.

ATTACHMENT 7 - LEASE - DOUG LINDSAY RECREATION RESERVE
HEPBURN SHIRE COUNCIL AND DOUG LINDSAY RESERVE SPORTS AND
COMMUNITY MANAGEMENT ASSOCIATION INC

HEPBURN SHIRE COUNCIL

("Landlord")

AND

**Doug Lindsay Reserve Sports and Community Management Association Inc
A0061328V**

("Tenant")

**Section 17D Crown Land (Reserves) Act 1978
Lease
(Non Retail)**

**Premises: Doug Lindsay Recreation Reserve
Lindsay Park Drive, Creswick**

**DEPARTMENT OF ENVIRONMENT AND
PRIMARY INDUSTRIES**

Section 17D Crown Land (Reserves) Act 1978 Lease (Non Retail)

PARTIES:

1. **THE LANDLORD** whose name appears in Item 1 (**Landlord**)
2. **THE TENANT** whose name appears in Item 2 (**Tenant**)

Executed on

2014

Executed by the Landlord:

THE COMMON SEAL of **HEPBURN)**
SHIRE COUNCIL A.C.N. 76 845 763)
535 was affixed on authority of the)
Council pursuant to Local Law No. 1
in the presence of:

Aaron van Egmond
Chief Executive Officer

Cr. Don Henderson
Mayor

Executed by the Tenant:

THE COMMON SEAL of **DOUG)**
LINDSAY RESERVE SPORTS AND)
COMMUNITY MANAGEMENT)
ASSOCIATION INC (A0061328V)
was affixed subject to its Constitution
and Rules in the presence of:

Name: Darryl Clifton
Position: President

Name: Janine Booth
Position: Secretary

MINISTERIAL ATTESTATION:

Under Section 17D of the *Crown Land (Reserves) Act 1978*, I _____

(insert full name and title)

in the Department of Environment and Primary Industry as delegate of the Minister for Environment and Climate Change hereby:

- Consent to the grant of this lease;
- Approve the covenants, exceptions, reservations and conditions contained therein;
- Am satisfied that the purpose for which the lease is being granted is not detrimental to the purpose for which the land is reserved.

(Signature)

(Date)

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SCHEDULE 1

SCHEDULE 2 - (RENT REVIEW)

SCHEDULE 3 - FURTHER OBLIGATIONS

APPENDIX ONE (PLAN OF LAND)

APPENDIX TWO (CODE RED FIRE WARNING PROCEDURE)

THIS LEASE is made on _____ and commences on the date in Item 4 of schedule 1

BETWEEN THE LANDLORD whose name appears in Item 1 (**Landlord**)

AND THE TENANT whose name appears in Item 2 (**Tenant**)

RECITALS

- A** The Land is reserved pursuant to Section 4 of the Act for the purpose set out in Item 13.
- B** The Minister has appointed the Landlord as the Committee of Management of the Land and has power to enter into this Lease pursuant to Section 17D of the Act subject to the approval in writing of the Minister.
- C** The Landlord has agreed to lease the Land to the Tenant pursuant to Section 17D of the Act subject to the conditions, covenants, reservations, restrictions and exceptions and at the Rent set out in this Lease.

OPERATIVE PROVISIONS

1 PART 1 – DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this document:

Act means the *Crown Land (Reserves) Act 1978*

Authority includes any government, local government, statutory, public or other Person, authority, instrumentality or body having jurisdiction over the Land, the Premises or any part of it or anything in relation to it;

Bank Guarantee means an unconditional and irrevocable undertaking in a form acceptable to the Landlord given by a bank authorised under the provisions of *the Banking Act 1959* (Cth.) or an Act of the Parliament of Victoria;

Business Day means any day (except a Saturday, Sunday or public holiday) on which banks are open for business in Melbourne, Victoria;

Claim includes any claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding and right of action;

Clause means a clause of this Lease; ("sub-clause" has a similar meaning); a reference to a Clause followed by a number refers to the relevant Clause in this Lease;

Commencement Date means the date set out in Item 4;

Cost includes any cost, charge, expense, outgoing, payment or other expenditure of any nature whatever;

Crown means the Crown in right of the State of Victoria;

Default Rate means the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983*; if that rate ceases to be published then it means any rate substituted in its place;

Further Obligations means any obligations set out in Schedule 3;

Further Term means the further term or terms set out in Item 8;

GST means any consumption, goods and services or value added tax, by whatever name called, imposed, levied or collected by any Federal or State Government which operates at any time or times during the Term or any renewal or overholding of the Lease including, without limitation, GST as defined in the GST Act and any replacement tax;

GST Act means *A New System (Goods and Services Tax) Act 1999*;

Guaranteed Sum means the amount set out in Item 9;

Hazardous Materials includes any substance, material, thing, component or element which is hazardous, a contaminant or a pollutant to persons or property;

Insured Sum means the amount set out in Item 12;

Her Majesty means Her Majesty Queen Elizabeth II and her heirs and successors;

Item means the relevant item in Schedule 1 to this Lease;

Land means the land described in Item 3 to a depth of 15 metres below the surface and all rights, easements and appurtenances usually and normally enjoyed with that land and all improvements, fixtures, fittings, plant, equipment and chattels listed in Item 15 of Schedule 1 together with any other improvements, fixtures, fittings, plant, equipment and chattels on it at the Commencement Date;

Landlord means the Landlord named in this Lease and the person for the time being entitled to the Lease reversion when the Lease ends;

Landlord's Agents means the employees, contractors, agents and any other Person appointed from time to time by the Landlord as agent of the Landlord;

Law includes any requirement of any statute, rule, regulation, proclamation, ordinance or local law, present or future, and whether State, Federal or otherwise;

Minister means the Minister having responsibility for the administration of the Act or such other Minister of the Crown or Authority to whom responsibility for this Lease may at any time be given;

Minister's Agents and Officers includes any person, committee or delegate (including any statutory authority or statutory body corporate or committee for the time being responsible for the administration, care and management of the Land) from time to time responsible for carrying out functions, including the functions of the Minister, under this Lease;

Name and Notice Address means the name and address in Item 11 as it may be changed from time to time;

Notice means any notice or other written communication;

Party means a party to this Lease and includes any Guarantor;

Permitted Use means the permitted use of the Land set out in Item 7;

Person includes any corporation and vice versa;

Premises means the Land and the Tenant's Improvements;

Proposed Work means the construction, alteration, addition, renovation, refurbishment, demolition, removal of or to any improvement on the Land;

Rates and Taxes means all existing and future rates (including any special rates or levies) taxes (including land tax on a single holding basis), duties, charges, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the Land or the Landlord or the Tenant or payable by the owner or occupier of the Land;

Rent means the annual Rent set out in Item 6;

Requirement includes any lawful Notice, order or direction received from or given by any Authority or pursuant to any Law, in writing or otherwise, and notwithstanding to whom such Requirement is addressed or directed but if not addressed to the Tenant then the Tenant must be given a copy;

Review Date means at the date or dates set out in Item 10.

Services means all services installed or to be installed and connected to the Premises including, without limitation, gas, electricity, telephone and telecommunication, water, sewerage and drainage;

Supply means the supply of any good, service or thing by either Party under this Lease.

Tenant means the Tenant named in this Lease and includes in the case of a:

- (a) corporation the Tenant, its successors and permitted assigns;
- (b) natural Person the Tenant, his executors, administrators and permitted assigns;

Tenant's Employees means each of the Tenant's employees, agents, contractors, invitees or others (whether with or without invitation), sublessees, licensees and concessionaires or others (whether expressly or impliedly) who may at any time be in or upon the Land;

Tenant's Improvements means those items listed in Item 16 of Schedule 1 and all buildings, structures, fixtures, fittings, plant, equipment, partitions, signs or other material or articles and chattels of all kinds which are at any time erected or installed by the Tenant in or on the Land;

Term means the term of this Lease set out in Item 5 commencing from and including the Commencement Date; and

this Lease or "the Lease" means this lease and includes all schedules, appendices, attachments, plans and specifications, annexures and exhibits to it.

1.2 Interpretation

- (a) The singular includes the plural and vice versa;

- (b) A gender includes all genders;
- (c) An obligation imposed by this Lease on more than one Person binds them jointly and severally;
- (d) Every covenant by the Tenant includes a covenant by the Tenant to procure compliance with the covenant by each of the Tenant's Employees;
- (e) A reference to legislation includes a modification or re-enactment of it, a legislative provision substituted for it or amendment of it and a regulation, rule or statutory instrument issued under it;
- (f) This Lease must be interpreted so that it complies with all Laws applicable in Victoria. Any provision must be read down so as to give it as much effect as possible. If it is not possible to give a provision any effect at all, then it must be severed from the rest of the Lease. If any provision or part of it cannot be so read down, such provision or part shall be deemed to be void and severable and the remaining provisions of this Lease shall not in any way be affected or impaired;
- (g) Unless otherwise stated, no provision of this Lease limits the effect of any other provision of this Lease. "Including" and similar expressions are not and must not be treated as words of limitation;
- (h) A reference to the Land, Premises or any thing includes the whole and each part of it;
- (i) The Landlord and the Tenant agree that:
 - (i) the terms contained in this Lease constitute the whole of the agreement in respect of the Land and Premises between the Landlord and the Tenant and all previous negotiations and agreements are negated;
 - (ii) no further terms are to be implied or arise between the Landlord and the Tenant by way of collateral or other agreement made by or on behalf of the Landlord or by or on behalf of the Tenant on or before or after the execution of this Lease, and any implication or collateral or other agreement is excluded and negated;
 - (iii) no information, representation or warranty by the Landlord or the Landlord's agents was supplied or made with the intention or knowledge that it would be relied on by the Tenant in entering into this Lease; and
 - (iv) no information, representation or warranty has been relied on by the Tenant in entering into this Lease.
- (j) Headings and the index to this Lease are for guidance only and do not affect the interpretation of this Lease;
- (k) If a reference is made to any Person, body or Authority and that person, body or Authority has ceased to exist, then the reference is deemed to be a reference to the Person, body or Authority that then serves substantially the same or equivalent objects as the Person, body or Authority that has ceased to exist;

- (l) Reference to the President of a Person, body or Authority must, in the absence of a President, be read as a reference to the senior officer or equivalent employee for the time being of the Person, body or Authority or such other Person fulfilling the duties of President;
- (m) A reference to "writing" or "written" and any words of similar import include printing, typing, lithography and any other means of reproducing characters in tangible and visible form, including any communication effected through any electronic medium if such communication is subsequently capable of reproduction in tangible or visible form;
- (n) A reference to "corporation" and any other words or expressions used or defined in the *Corporations Act 2001*, unless the context otherwise requires, has the same meaning that is given to them in the *Corporations Act 2001*;
- (o) This Lease is governed by Victorian law. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them. Except as expressly agreed in writing by both Parties or for an action required at a federal level, each Party waives any right it has to object to an action being brought in any court outside Victoria including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction;
- (p) If the day or last day for doing anything or on which an entitlement is due to arise is not a Business Day, the day or last day for doing the thing or date on which the entitlement arises for the purposes of this Lease shall be the next Business Day;
- (q) Each provision of this Lease continues to have full force and effect until it is satisfied or completed;
- (r) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning; and
- (s) A reference to an agreement or a document is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time except to the extent prohibited by this Lease.

1.3 Minister's delegations

- (a) Wherever this Lease refers to an action, consent, approval or other thing to be done by, or matter to be considered by the Minister, the reference to the Minister shall be deemed to include a reference to the Minister's Agents and Officers.
- (b) The Minister may appoint any person as the Minister's delegate to exercise all powers conferred by this Lease on the Minister expressly, including without limitation, the power to give any consent or approval pursuant to this Lease.
- (c) The Minister may change the appointment at any time.

2 PART 2 - EXCLUSION OF STATUTORY PROVISIONS

2.1 Moratorium

To the extent permitted by law, the application to this Lease or to any Party of any Law or any Requirement or any moratorium having the effect of extending or reducing the Term, reducing or postponing the payment of Rent or any part of it or otherwise affecting the operation of the terms of this Lease or its application to any Party is excluded and negatived.

2.2 Exclusion of Statutory Provisions

The covenants, powers and provisions implied in leases by virtue of the *Transfer of Land Act 1958* are expressly negatived.

3 PART 3 - LEASE OF LAND

3.1 Lease of Land for Term

The Landlord leases the Land to the Tenant for the Term.

3.2 Landlord's Reservations

The Landlord reserves the right for the Landlord and the Landlord's Agents to:

- (a) carry out any works that may be required to comply with any applicable Law or Requirement; and
- (b) create any registered or unregistered easement or other right over the Land as long as it does not adversely affect the Tenant's rights under this Lease;
- (c) enter the Land and the Premises for the purposes set out in this Clause.

3.3 Other Reservations

This Lease is granted subject to the following reservations:

- (a) the reservation to the Crown of all gold and minerals within the meaning of the *Mineral Resources Development Act 1990* and petroleum within the meaning of the *Petroleum Act 1958*, all of which are described as the "reserved minerals";
- (b) the reservation to the Crown of the rights of access for the purpose of searching for and obtaining the reserved minerals in any part of the Land;
- (c) the reservation to the Crown of the rights of access for any pipeline works and other purposes necessary for obtaining and conveying on and from the Land any of the reserved minerals obtained in any part of the Land; and
- (d) the right to resume the Land for mining purposes under Section 205 of the *Land Act 1958*.

3.4 Landlord's Exercise of Rights

Except in an emergency, the Landlord must give the Tenant reasonable notice of the Landlord's intended exercise of the rights set out in this Clause. The Landlord must only

exercise the rights at reasonable times and must minimise interference to the Tenant when doing so.

3.5 Ownership of Tenant's Improvements

The Tenant owns all of the Tenant's Improvements unless the Act requires any buildings and structures erected on the Land by the Tenant to be and to remain the property of the Landlord.

4 PART 4 - RENT

4.1 Tenant to pay Rent

The Tenant covenants to pay the Rent:

- (a) at the times and in the manner set out in Item 6 without demand by the Landlord;
- (b) without any abatement, deduction or right of set-off;
- (c) to the Landlord at the address set out in Item 14 or to any other address or in any other way the Landlord directs the Tenant by Notice.

4.2 Apportionment of Rent

If the Commencement Date is not the first day of a rent period, the first and last instalments of Rent will be apportioned on a pro-rata daily basis for the periods from:

- (a) the Commencement Date to the first day of the next rent period;
- (b) the first day of the last rent period of the Term until the date on which the Term expires.

5 PART 5 - RATES AND TAXES AND GST

5.1 Tenant to pay Rates and Taxes

The Tenant must pay the Rates and Taxes:

- (a) to the assessing Authority on time if assessed directly against the Tenant or the Land; but otherwise
- (b) to the Landlord by the date which is 10 Business Days before the due date for payment if the Landlord must pay the Rates and Taxes and has given the Tenant a copy of the notice at least 10 Business Days before then.

5.2 Tenant to Produce Receipts

The Tenant must produce receipts to the Landlord evidencing payment of the Rates and Taxes by the due date for payment if the Tenant is required to pay them to the assessing Authority.

5.3 Pro-rata apportionment

If necessary, the Rates and Taxes will be apportioned on a pro-rata daily basis at the beginning and at the end of the Term.

5.4 Goods and Services Tax

- (a) If GST is or will be or is purported to be payable on any Supply the Party receiving the Supply must pay the Party making the Supply a sum equal to any GST payable by the supplier for that Supply.
- (b) To the extent that one Party is required to reimburse the other Party for costs incurred by the other Party, those costs do not include any amount in respect of GST for which the Party is entitled to claim an input tax credit.
- (c) A Party's obligation to pay an amount under this Clause is subject to a valid tax invoice being delivered to that Party. For the avoidance of any doubt, the Rent and all other payments under this Lease are exclusive of GST.

6 PART 6 - COST OF SERVICES

The Tenant must pay Costs for all Services (including any special, additional or unusual Services separately supplied, metered, consumed or connected as appropriate in, to or on the Land or the Premises):

- (a) by direct payment on or before the due date if assessed directly against the Land or the Premises; but otherwise
- (b) by reimbursing the Landlord by the date which is 5 Business Days before the due date for payment if the Landlord has given a copy of the Notice to the Tenant at least 10 Business Days before then.

7 PART 7 - COSTS

The Tenant must pay to the Landlord all the Landlord's reasonable legal and other Costs including the costs of valuers, quantity surveyors and other consultants engaged by the Landlord of and incidental to:

- (a) the negotiation, preparation and execution of this Lease;
- (b) any consent required under this Lease;
- (c) any assignment or subletting for which the Landlord's consent is required by this Lease;
- (d) any variation, extension, surrender or termination of this Lease otherwise than by effluxion of time;
- (e) any default by the Tenant or the Tenant's Employees in observing or performing any covenants contained or implied in this Lease.

8 PART 8 - INTEREST

8.1 Payment

The Tenant must pay on demand interest at the Default Rate on any Rent or other moneys which the Tenant has not paid within 30 days of the due date for payment.

8.2 Calculation

Interest is to be calculated daily from the due date and is to continue until the overdue money is paid. The interest will be capitalised on the last day of each month and may be recovered in the same way as Rent in arrears.

8.3 No Prejudice

If the Landlord requires a Tenant to pay interest, it is without prejudice to any other rights, powers and remedies which the Landlord may have under this Lease or at law.

9 PART 9 - USE OF PREMISES

9.1 Tenant's Permitted Use and negative covenants

The Tenant must not:

- (a) use the Premises for any purpose other than the Permitted Use;
- (b) do anything in or on the Premises which in the reasonable opinion of the Landlord causes or may cause nuisance, damage, disturbance or danger to the Landlord or the occupiers or owners of any other property;
- (c) use or allow the use of any radio, television or other sound producing equipment at a volume that can be heard outside the Premises except with the prior written consent of the Landlord which is not to be unreasonably withheld but may be given conditionally;
- (d) affix any television or radio mast or antennae, satellite dish or any other communication device to any part of the Premises except with the prior written consent of the Landlord which is not to be unreasonably withheld but may be given conditionally;
- (e) write, paint, display, hang or affix any sign, advertisement, placard, name, flagpole, flag or notice on any part of the Premises except with the prior written consent of the Landlord which is not to be unreasonably withheld but may be given conditionally;
- (f) overload the floor, walls, roof or any other part of the Premises, or, bring onto or remove from the Premises any plant or heavy equipment which by reason of its weight or vibration in its operation or in any way is likely in the reasonable opinion of the Landlord to cause damage to any part of the Premises or the Services;
- (g) except to the extent that they are necessary for the Permitted Use and then only in compliance with any Law or Requirement and in such quantities as are reasonably appropriate, store Hazardous Materials on or in the Premises;
- (h) install any equipment or system in the Premises that overloads or may overload the electrical or other Services to the Premises;
- (i) use the Premises as a residence unless it is a Permitted Use;
- (j) use the Premises for an illegal purpose;

- (k) burn any rubbish or waste on the Premises other than the burning of vegetation in accordance with all necessary permits.

9.2 Tenant's positive covenants

The Tenant at its Cost must:

- (a) at all times carry out the Permitted Use in a business like and reputable manner;
- (b) keep the Premises clean and not permit any accumulation of useless property or rubbish in them;
- (c) keep the Premises free of pests, insects and vermin;
- (d) provide the Landlord (and keep updated when it changes) with the name, postal address, e-mail address, telephone and facsimile transmission numbers of a person or persons to contact during and after business hours if an emergency arises which affects the Premises;
- (e) comply with the Landlord's reasonable operational requirements for the Services and not interfere with the Services;
- (f) on vacating the Premises, remove all lettering, signs, flagpoles, flags, and other distinctive marks from the Premises and make good any damage caused by the removal;
- (g) obtain, maintain and comply with all consents or approvals from all Authorities which from time to time are necessary or appropriate for the Permitted Use. The Tenant must not by any act or omission cause or permit any consent or approval to lapse or be revoked;
- (h) maintain documented risk management identification and treatment programs for the Premises and the Services;
- (i) arrange for the regular and efficient removal from the Premises of its refuse and rubbish;
- (j) the Tenant must if a notifiable infectious illness occurs in the Premises promptly give Notice to the Landlord and all relevant Authorities and thoroughly fumigate and disinfect the Premises to the satisfaction of the Landlord and all relevant Authorities;
- (k) undertake all fire protection works on the Land required by Law to the satisfaction of the Landlord and all relevant Authorities;
- (l) permit the Landlord or the Landlord's servants or agents with or without vehicles and equipment, workmen or others at all times to enter the Land for fire protection and suppression purposes;
- (m) comply with the further obligations, if any, set out in Schedule 3.

9.3 No warranty as to use

- (a) The Landlord gives no warranty (either present or future) that the Land or the Premises are fit for the Permitted Use.
- (b) The Tenant has entered into this Lease with full knowledge of and subject to any prohibitions or restrictions contained in any Law or any Requirement on how the Land or the Premises may be used.

9.4 To Let Signs and Inspection

The Landlord may after giving reasonable notice and at reasonable times:

- (a) place advertisements and signs on those parts of Land and Premises as are reasonable having regard to the interests of the Landlord and the Tenant where the Premises are available for lease if the Tenant does not exercise any option to renew this Lease for a Further Term;
- (b) by appointment with the Tenant, show prospective tenants through the Land and the Premises.

The Landlord in exercising rights under this Clause must endeavour to minimise any inconvenience to the Tenant.

9.5 Cost of alteration

Pay to the Landlord on demand the Cost reasonably incurred by the Landlord of any alteration to any Services, sprinkler or fire prevention equipment and installations (including alarms) which may become necessary because of the non-compliance of the Tenant or of the Tenant's Employees with any Requirements, including those of any Tenant's insurer of the Premises or any Tenant's fittings within the period required or, if no period is required, within a reasonable period to meet those requirements.

10 PART 10 - COMPLIANCE WITH LAWS AND REQUIREMENTS

10.1 Compliance with Laws

- (a) The Tenant at its Cost must comply with and observe all Laws and Requirements relating to the Land, the Premises, the Services and the Permitted Use. If the Tenant receives any Notice from an Authority, the Tenant must immediately provide a complete copy of it to the Landlord;
- (b) Before complying with any Law or Requirement, the Tenant must:
 - (i) obtain the written consent of the Landlord which is not to be unreasonably withheld and;
 - (ii) observe the provisions of this Lease.

10.2 Landlord may comply with Laws if Tenant defaults

If the Tenant fails to do so, the Landlord may comply with any Law or Requirement referred to in this Clause either in part or whole. If the Landlord does this:

- (a) any Costs incurred by the Landlord must be paid or reimbursed to the Landlord by the Tenant;
- (b) it is without prejudice to any of the Landlord's other rights in respect of non-compliance by the Tenant with its obligations under this Lease.

11 PART 11 - MAINTENANCE REPAIRS ALTERATIONS AND ADDITIONS

11.1 General repairing obligation

- (a) The Tenant at its Cost during the Term and any extension or holding over must keep the Premises and the Services in good repair and condition and clean and tidy. For the avoidance of any doubt, the Tenant acknowledges that the Landlord will have no responsibility for any repairs or maintenance to the Premises and the Services;
- (b) Before carrying out any repairs or maintenance to the Premises, the Tenant must obtain the written approval of the Landlord and all relevant Authorities but the Tenant will not be required to obtain written or any form of approval from the Landlord for maintenance of a non-structural nature.

11.2 Landlord's right of inspection

The Landlord or the Landlord's Agents may enter the Premises and view the state of repair and condition of the Premises and Services:

- (a) in the presence of the Authorised Officer of the Tenant if required by the Tenant;
- (b) at reasonable times on giving to the Tenant reasonable notice in writing (except in the case of emergency when no notice is required) .

11.3 Enforcement of repairing obligations

The Landlord may serve on the Tenant a Notice:

- (a) specifying any failure by the Tenant to carry out any repair, replacement or cleaning of the Premises or the Services which the Tenant is required to do under this Lease; and/or
- (b) require the Tenant to carry out the repair, replacement or cleaning within a reasonable time. If the Tenant does not comply with the Notice, the Landlord may elect to carry out such repair, replacement or cleaning and any Costs incurred must be paid by the Tenant when demanded by the Landlord.

11.4 Landlord may enter to repair

The Landlord, the Landlord's Agents and others authorised by the Landlord may at all reasonable times after giving the Tenant reasonable notice (except in the case of emergency when no notice is required) enter the Land and the Premises to carry out any works and repairs in the circumstances set out below. In doing so, the Landlord must endeavour not to cause undue inconvenience to the Tenant.

- (a) The circumstances for entry are:

- (i) to carry out any repairs on or to the Premises or the Services, which the Landlord considers necessary or desirable or which relate to anything which the Landlord is obliged or entitled to do under this Lease;
- (ii) if an Authority requires any repair or work to be undertaken on or to the Premises or the Services which the Landlord is either required or in the Landlord's discretion elects to do and for which the Tenant is not liable under this Lease; and/or
- (iii) if the Landlord elects to carry out any repair work which the Tenant is required or liable to do under this Lease by any Law or by any Requirement but fails to do so within the time specified or otherwise allowed for that work to be done.

11.5 Alterations to Premises

- (a) The Tenant must not and must not permit any other person to carry out any Proposed Work without the Landlord's and the Minister's prior written consent which must not be unreasonably withheld or delayed;
- (b) In seeking the Landlord's and the Minister's consent the Tenant must submit plans and specifications of the Proposed Work for the approval of the Landlord together with a list of the Persons (if any) from or to whom the Tenant proposes to call a tender or award a contract for the Proposed Work;
- (c) the Landlord and the Minister may give consent subject to the Tenant satisfying the following requirements:
 - (i) any Proposed Work must be supervised by a Person approved by the Landlord;
 - (ii) any Proposed Work must be executed promptly and continuously in a proper and workmanlike manner, using the materials and by contractors or tradesmen approved by the Landlord, in accordance with all Laws and Requirements;
 - (iii) the Tenant must pay on demand all Costs incurred by the Landlord and the Minister in considering or inspecting the Proposed Work and its supervision, including the reasonable fees of architects, engineers or other building consultants reasonably engaged by or on behalf of the Landlord;
 - (iv) the Tenant must obtain and keep current and comply with all necessary approvals or permits from all Authorities necessary to enable any Proposed Work to be lawfully effected, and must on request by the Landlord produce for inspection by the Landlord copies of all such approvals and permits;
 - (v) on completion of the Proposed Work the Tenant must immediately obtain and produce to the Landlord, any unconditional certificates of compliance or of satisfactory completion issued by relevant Authorities and, a certificate by a consultant approved by the Landlord that the

Proposed Work has been carried out in accordance with the plans and specifications approved by the Landlord.

11.6 Notice to Landlord of damage, accident etc

The Tenant must immediately give Notice to the Landlord of any:

- (a) damage however caused, accident to or defects in the Premises or the Services;
- (b) circumstances likely to cause any damage or injury occurring within the Premises of which the Tenant has actual or constructive notice;
- (c) any fault in the Services; or
- (d) Notice from any Authority.

12 PART 12 - ASSIGNMENT AND SUBLETTING

12.1 No disposal of Tenant's interest

The Tenant must not without the prior written consent of the Landlord and the Minister:

- (a) assign, transfer, sub-let, grant any licence, mortgage, encumber, charge or part with or share the possession of or otherwise deal with or dispose of the Tenant's estate or interest in the Land or any part of the Land or the Premises;
- (b) declare itself trustee of the Land or any part of the Land or of any legal or equitable estate or interest in the Land or the Premises.

12.2 Deemed assignment on change of shareholding

There is a deemed assignment under this Clause if the Tenant is a Corporation (other than an incorporated association) and there is any change in any of the following which results in a change in the effective control of the Tenant:

- (a) the membership of the Corporation or any holding Company of the Corporation;
- (b) the beneficial ownership of any shares in the capital of the Corporation or any holding Company of the Corporation; or
- (c) the beneficial ownership of the business or assets in the Corporation or part of it.

If any of these events occur then the Tenant must obtain the Landlord's written consent under this Clause. This does not apply in relation to the sale of shares in the Tenant or the Tenant's holding company that is listed on a recognised stock exchange.

12.3 Acceptance of Rent by Landlord

The acceptance by the Landlord of any Rent or other payment from any Person other than the Tenant does not constitute an acknowledgment by the Landlord that it recognises that person as the Authorised assignee or sub tenant.

12.4 S.144 excluded

Section 144 of the *Property Law Act 1958* does not apply to this Lease.

13 PART 13 - INSURANCE AND INDEMNITIES

13.1 Insurances to be taken out by Tenant

The Tenant must effect and maintain at the Tenant's Cost:

- (a) a standard public liability insurance policy endorsed to extend the indemnity under the policy to include the Tenant's liability under Clause 13.5. The policy must:
 - (i) be for an amount of not less than the Insured Sum or such higher amount as the Landlord may reasonably require in respect of any single occurrence; and
 - (ii) be on terms that the insurer waives all rights of subrogation against the Landlord;
- (b) insurance for the Premises and all Tenant's property for their full replacement value; and
- (c) any other insurance reasonably required by the Landlord.

13.2 Tenant's insurance obligations

The Tenant must:

- (a) ensure that all policies of insurance effected by the Tenant pursuant to this Clause are taken out with an insurance office or company authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia including policies underwritten by Lloyd's of London or otherwise approved by the Landlord.
- (b) by 30 July in each year of the Term, produce to the Landlord a certificate of currency; and
- (c) pay all premiums and other money payable in respect of the insurance policies when they become due and payable.

13.3 Non-vitiation of policies

The Tenant must not do anything in, to or on the Premises and must use its best endeavours not to allow anything to be done which may vitiate or render void or voidable any Tenant's insurances or any condition of any insurance taken out by the Landlord of which the Tenant has been made aware in respect of the Premises or any property in or on it.

13.4 Exclusion of Landlord's liability

- (a) In the absence of any negligence or deliberate act or omission or material breach of this Lease by the Landlord or the Landlord's Agents, the Tenant acknowledges that all property which may be in or on the Premises will be at the sole risk of the Tenant and the Landlord will not be liable for any Claim that the Tenant or the Tenant's Employees or any Person claiming by, through or under the Tenant may incur or make or any which arises from:

- (i) any fault in the construction or state of repair of the Premises or any part of it; or
 - (ii) the collapse of the Premises irrespective of the cause; or
 - (iii) any defect in any Services; or
 - (iv) the flow, overflow, leakage, condensation or breakdown of any water, air-conditioning, gas, oil or other sources of energy or fuel, whether from the roof, walls, gutter, downpipes or other parts of the Premises.
- (b) In the absence of any negligence or deliberate act or omission or material breach of this Lease by the Landlord or the Landlord's Agents, the Tenant agrees that the Landlord will not be responsible for and releases the Landlord, the Crown and the Landlord's Agents from liability in respect of any:
- (i) Claim relating to any property of the Tenant or any other Person in or on the Premises or any part of it however occurring; or
 - (ii) death, damage or injury to any Person or property in on or under the Premises or on any land near it suffered as a direct consequence of the construction, operation, presence or maintenance of the Premises and including, without limitation, damage or injury to any person or property resulting from any collision with or the collapse of the Premises.

13.5 Indemnities

In the absence of any negligence or deliberate act or omission or material breach of this Lease by the Landlord or the Landlord's Agents and Officers and despite:

- (a) any Claims having resulted from anything which the Tenant may be authorised or obliged to do under this Lease; and/or
- (b) at any time any waiver or other indulgence having been given to the Tenant in respect of any obligation of the Tenant under this Clause,

the Tenant will indemnify and keep indemnified the Landlord, the Landlord's Agents and the Crown from and against all Claims for which any of them will or may be or become liable, during or after the Term, in respect of or arising from:

- (i) any cause whatever in respect of damage or injury to the Premises, to any property or to any Person or the death of any Person inside or outside the Premises caused or contributed to by any neglect or default of the Tenant or the Tenant's Employees under this Lease or by the use of the Premises by the Tenant or by the Tenant's Employees including, without limitation, injury or death to any Person or property resulting from any collision with or collapse of the Premises;
- (ii) the negligent or careless use or neglect of the Services and facilities of the Premises by the Tenant or the Tenant's Employees or any other Person claiming through or under the Tenant or of any trespasser while such trespasser is in or on the Premises caused or contributed to by any default or negligent act or omission of the Tenant;

- (iii) overflow or leakage of water (including rain water) or from any Services whether originating inside or outside the Premises caused or contributed to by any act or omission on the part of the Tenant or the Tenant's Employees or other Person claiming through or under the Tenant;
- (iv) failure of the Tenant to give Notice to the Landlord of any defect in any of the mechanical or any other Services in the Premises within a reasonable time of the Tenant becoming aware of it; and
- (v) damage to plate, float and other glass caused or contributed to by any act or omission on the part of the Tenant or the Tenant's Employees.

14 PART 14 - DAMAGE AND DESTRUCTION

14.1 Tenant to reinstate Premises

If the Premises or any part of them are at any time damaged or destroyed by any disabling cause then the Tenant must expeditiously re-instate the Premises and make them fit for the occupation and use by the Tenant as if it was Proposed Work.

14.2 Obligation to reinstate is absolute

The Tenant's obligation under Clause 14.1 to reinstate the Premises applies irrespective of how the damage and destruction occurred and irrespective of whether any policy of insurance effected for the Premises is avoided or payment refused or reduced.

14.3 Rent and Rates and Taxes

The Tenant must continue to pay the Rent and the Rates and Taxes even if the Premises are destroyed or damaged.

15 PART 15 - LANDLORD'S COVENANT

15.1 Quiet Enjoyment

If the Tenant pays the Rent and observes and performs in a timely fashion the covenants and conditions on its part contained in this Lease, the Tenant may occupy and enjoy the Land during the Term without any interruption by the Landlord or by any Person claiming through the Landlord except as provided in this Lease.

16 PART 16 - TERMINATION AND DEFAULT

16.1 Events of Default

The following are Events of Default:

- (a) if the Rent or any other money payable under this Lease is not paid within 30 days of the due date for payment whether legally demanded or not;
- (b) if the Tenant at any time fails to perform or observe any of its obligations under this Lease;
- (c) if the Tenant or the Guarantor are companies then if either the Tenant or the Guarantor:

- (i) enter into any compromise or arrangement with any of its creditors or if an application is made to any court for an order summoning a meeting of creditors; or
 - (ii) has a receiver or receiver and manager or administrator or controller appointed of any of its assets; or
 - (iii) is wound up or dissolved or notice is given of intention to propose a resolution for winding up or an order is made or resolution passed or an application is made for winding up or dissolution; or
 - (iv) has a resolution passed by the directors that in their opinion the company can no longer continue its business; or
 - (v) calls a meeting of its creditors pursuant to the *Corporations Act 2001*; or
 - (vi) is placed under official management or if the members determine to convene a meeting of creditors for the purpose of placing the company under official management; or
 - (vii) has an inspector appointed pursuant to the *Australian Securities and Investments Commission Act 2001*; or
 - (viii) is unable to pay its debts as and when they fall due; or
 - (ix) makes an assignment for the benefit of or enters into an arrangement or composition or a moratorium whether formal or informal with its creditors or financiers; or
 - (x) has a provisional liquidator or a liquidator by any means appointed;
- (d) if any execution exceeding ten thousand dollars is issued, levied or enforced against the Tenant or the Guarantor or on any of the assets of the Tenant or the Guarantor unless such execution is fully paid or satisfied within seven days from the date of the issue, levy or enforcement, or appropriate legal proceedings to invalidate the execution are taken within seven days of the issue, levy or enforcement; and
- (e) if the Tenant or the Guarantor is a natural person and becomes or is made bankrupt or makes any assignment of his estate or any part of it for the benefit of creditors or otherwise seeks relief under or takes advantage of any Law for the time being in force relating to bankruptcy or insolvent debtors or causes or permits his goods to be levied on or under any execution or other legal process.

16.2 Forfeiture of Lease

If an Event of Default occurs the Landlord may, without prejudice to any other Claim which the Landlord has or may have against the Tenant or any other Person at any time re-enter into and upon the Land or any part of it in the name of the whole and thereupon this Lease will be absolutely determined.

16.3 Re-entry

The right of re-entry for breach of any covenant or condition to which section 146(1) of the *Property Law Act 1958* applies must not be exercised until the expiration of 30 days after the Landlord has served on the Tenant the notice required pursuant to that section.

16.4 Landlord may rectify

If the Tenant is in default under this Lease and fails to commence to rectify that default within 7 days of the Landlord notifying the Tenant in writing of that default and requiring its rectification or, having commenced, fails to expeditiously complete that rectification within a reasonable time, the Landlord may, but will not be obliged to, remedy at any time without further notice any default by the Tenant under this Lease. If the Landlord so elects all reasonable Costs incurred by the Landlord (including legal costs and expenses) in remedying the default will constitute a liquidated debt and must be paid by the Tenant to the Landlord on demand.

16.5 Waiver

- (a) The Landlord's failure to take advantage of any default or breach of covenant by the Tenant will not be or be construed as a waiver of it, nor will any custom or practice which may grow up between any of the Parties in the course of administering this Lease be construed to waive or to lessen the right of the Landlord to insist upon the timely performance or observance by the Tenant of any covenant or condition of this Lease or to exercise any rights given to the Landlord in respect of any such default;
- (b) A waiver by the Landlord of a particular breach is not deemed to be a waiver of the same or any other subsequent breach or default;
- (c) The demand by the Landlord for, or subsequent acceptance by or on behalf of the Landlord of, Rent or any other money payable under this Lease will not constitute a waiver of any earlier breach by the Tenant of any covenant or condition of this Lease, other than the failure of the Tenant to make the particular payment or payments of Rent or other moneys so accepted, regardless of the Landlord's knowledge of any earlier breach at the time of acceptance of such Rent or other moneys.

16.6 Tender after determination

If the Landlord accepts money from the Tenant after the Landlord ends this Lease the Landlord may (in the absence of any express election of the Landlord) apply it:

- (a) first, on account of any Rent and other moneys accrued and due under this Lease but unpaid at the date the Lease is ended; and
- (b) secondly, on account of the Landlord's Costs of re-entry.

16.7 Essential terms

The Landlord and the Tenant agree that each of the following covenants by the Tenant are essential terms of this Lease:-

- (a) to pay the Rent;

- (b) to keep the Premises open for use;
- (c) to carry on the Permitted Use;
- (d) to comply with Laws and Requirements;
- (e) subject to this Lease, to repair and maintain and, if necessary, reinstate or demolish the Tenant's Improvements;
- (f) not to assign this Lease or sub-let the Land or any part of it;
- (g) to take out and keep current those insurances required to be taken out by the Tenant;
- (h) to pay or reimburse Rates and Taxes.

16.8 Damages for Breach

The Tenant covenants to compensate the Landlord for any breach of an essential term of this Lease. The Landlord may recover damages from the Tenant for such breaches. The Landlord's entitlement under this Clause is in addition to any other remedy or entitlement to which the Landlord is entitled (including to terminate this Lease).

16.9 Repudiation by Tenant

- (a) The Tenant covenants to compensate the Landlord for any loss or damage suffered by reason of the Tenant's conduct (whether acts or omissions):
 - (i) constituting a repudiation of this Lease or of the Tenant's obligations under this Lease; or
 - (ii) breaching any Lease covenants.
- (b) The Landlord may recover damages against the Tenant in respect of repudiation or breach of covenant for the loss or damage suffered by the Landlord during the entire term of this Lease.

16.10 Acts by the Landlord not to constitute forfeiture

The Landlord's entitlement to recover damages shall not be affected or limited if any of the following events occur:-

- (a) the Tenant abandons or vacates the Land; or
- (b) the Landlord elects to re-enter the Land or to terminate the Lease; or
- (c) the Landlord accepts the Tenant's repudiation; or
- (d) the Parties' conduct (or that of any of their servants or agents) constitutes a surrender by operation of law.

16.11 Mitigation

Nothing in this Clause will operate to relieve the Landlord of any obligation which would otherwise apply to mitigate any loss or damage suffered by the Landlord.

17 PART 17 - DETERMINATION OF TERM

17.1 Tenant to yield up

When this Lease ends the Tenant at its Cost, if required by the Landlord must remove the Tenant's Improvements in a proper and workmanlike manner in compliance with the requirements of all Authorities and to the satisfaction of the Landlord. If the Landlord does not require the Tenant to remove the Tenant's Improvements those improvements that have not vested in the Landlord by operation of Law will revert to and become the absolute property of the Crown (except for the Tenant's trade fixtures, fittings and chattels) without any payment or compensation.

17.2 Tenant to continue pay rent etc

If the Tenant is required to remove the Tenant's Improvements the Tenant must continue to pay the Rent, the Rates and Taxes and all other money payable under this Lease until it has demolished and removed the Tenant's Improvements.

17.3 Tenant not to cause damage

- (a) The Tenant must not cause or contribute to any damage to the Land in the demolition and removal of the Tenant's Improvements.
- (b) If the Tenant causes any such damage in the demolition and removal of the Tenant's Improvements, the Tenant must make good any such damage and must leave the Land in a condition that is acceptable to the Landlord and all Authorities.
- (c) If the Tenant fails to do so within a reasonable time, the Landlord may make good any such damage at the Cost of and as agent for the Tenant and recover from the Tenant the reasonable cost to the Landlord of doing so as a liquidated debt payable on demand.

17.4 Failure by Tenant to remove the Tenant's Improvements

If the Tenant fails to remove the Tenant's Improvements in accordance with this Clause or if the Landlord re-enters the Land, the Landlord at the Landlord's option (without prejudice to any action or other remedy which the Landlord has) may:

- (a) demolish and remove the Tenant's Improvements; and
- (b) without being guilty of any manner of trespass, cause any of the Tenant's property to be removed and stored in such manner as is reasonable at the risk and at the Cost of Tenant and/or at the option of the Landlord sell it as the attorney of the Tenant and appropriate the proceeds of sale in payment of any Rent or other money owing by the Tenant to the Landlord and pay any residue without interest to the Tenant; or
- (c) treat the Tenant's property as if the Tenant had abandoned its interest in it and it had become the property of the Landlord, and deal with it in such manner as the Landlord thinks fit without being liable in any way to account to the Tenant for them.

17.5 Tenant to indemnify and pay Landlord's Costs

The Tenant must:

- (a) indemnify and keep indemnified the Landlord in respect of the reasonable cost of the removal and storage of the Tenant's property, the cost of demolishing and removing the Tenant's Improvements that the Tenant was required to remove and also in respect of all Claims which the Landlord may suffer or incur at the suit of any Person (other than the Tenant) claiming an interest in the Premises or the Tenant's property by reason of the Landlord acting in any manner permitted in this Clause; and
- (b) pay to the Landlord as a liquidated debt payable on demand any reasonable Costs incurred by the Landlord in exercising its rights pursuant to this Clause, including any excess of Costs over moneys received in disposal of the Tenant's property pursuant to the Landlord's rights contained in Clause 17.4 except to the extent caused by any negligent act or omission of the Landlord.

17.6 Condition at Termination

At the end of this Lease the Tenant must return the Premises to the Landlord in the condition required by this Lease.

17.7 Earlier breaches

The ending of this Lease does not prejudice or affect any rights or remedies of the Landlord against the Tenant in respect of any earlier breach by the Tenant of any Lease covenants and conditions.

18 PART 18 – MISCELLANEOUS

18.1 Notices

- (a) Any Notice served or given by either Party pursuant to this Lease will be valid and effectual if signed by either Party or by any director, alternate director, secretary, executive officer, attorney, managing agent, Authorised Officer or solicitors for the time being of that Party or any other Person nominated from time to time by that Party.
- (b) Each Party must immediately provide the other Party with a Notice containing full particulars of the address and facsimile information of the Party giving the Notice and must update such notice in the event of any change.
- (c) Any Notice required to be served or which the Landlord may elect to serve on the Tenant shall be sufficiently served if:
 - (i) served personally
 - (ii) sent by facsimile transmission
 - (iii) forwarded by prepaid security post to the Tenant at its address in this Lease.
- (d) Any Notice required to be served on the Landlord shall be sufficiently served if:

- (i) served personally
- (ii) sent by facsimile transmission
- (iii) forwarded by prepaid security post addressed to the Landlord to the Name and Notice Address.

All such Notices must be addressed to the Landlord at that address or at such other address as the Landlord from time to time nominates.

- (e) Any Notice is deemed to have been duly served if given:-
 - (i) by post, two Business Days after the day it was posted;
 - (ii) by facsimile, at the time of transmission to the Party's facsimile number unless the time of dispatch is later than 5.00 p.m. at the place to which the facsimile transmission is sent in which case it shall be deemed to have been received at the commencement of business on the next Business Day in that place. A copy of any Notice sent by facsimile transmission must also on the date of dispatch be sent by mail to the Party to whom it was sent by facsimile transmission;
 - (iii) personally, on the date of service.

18.2 Overholding

If the Tenant continues in occupation of the Land after the Term has expired without objection by the Landlord:

- (a) the Tenant will be deemed a tenant on the terms of this Lease from month to month for a period not exceeding the period permitted by the Act (if any) at a rent to be agreed and failing agreement at a rent to be determined by a qualified valuer acting as an expert and not as an arbitrator and his costs must be paid equally by the Parties;
- (b) either Party may end the Lease by giving to the other Party at any time one month's Notice.

18.3 Set-Off

If the Tenant defaults in the payment of the Rent, the Rates and Taxes or any other money payable under this Lease to the Landlord or any Authority, the Landlord may set-off that amount against any moneys which may from time to time be payable by the Landlord to the Tenant on any account whatsoever but any set-off will not relieve the Tenant from its default for any non-payment of the Rent, the Rates and Taxes or other moneys under this Lease.

18.4 Easements

The Landlord may grant rights of support and enter into any arrangement or agreement with any party with an interest in any adjacent land or with any Authority as the Landlord thinks fit for the purpose of:

- (a) public or private access to the Land; or

- (b) support structures erected on adjoining land;
- (c) the provision of Services.

The Landlord must not exercise any rights under this Clause if it substantially and permanently derogates from the enjoyment of the rights of the Tenant under this Lease.

18.5 Guarantee

If a Guarantee and Indemnity is annexed to this Lease, the Tenant must on the same date as the execution of this Lease procure its execution by the Guarantors named in it and deliver the executed Guarantee and Indemnity to the Landlord. If that Landlord elects, this Lease will not take effect until the Guarantee and Indemnity has been properly executed by the Guarantors and delivered to the Landlord.

18.6 Waiver

No waiver by one Party of a breach by or on behalf of the other Party of any obligation, provision or condition of this Lease expressed or implied shall operate as a waiver to or of any other breach of the same or any other obligation, provision or condition of this Lease expressed or implied.

19 PART 19 – FURTHER TERM

19.1 Option for new lease

The Landlord must grant the Tenant and the Tenant must take a new lease for the next Further Term if:

- (a) the Tenant gives the Landlord a renewal Notice not more than six months or less than three months before the Term expires;
- (b) there is no unremedied default of which the Landlord has given the Tenant written notice;
- (c) the Tenant has not persistently defaulted under this Lease throughout its Term and the Landlord has not given the Tenant Notices of the defaults; and
- (d) the Tenant does not default under this Lease after giving the Landlord the renewal Notice.

19.2 Terms of new lease

The new lease will:

- (a) commence on the day after the Term expires;
- (b) be at an initial annual Rent from the commencement of the Further Term determined in the manner set out in this Lease and the Second Schedule; and
- (c) be on the terms and conditions contained in this Lease including any provision for the review of Rent but not including any provision for renewal if there are no Further Terms.

19.3 Execution of extension of lease

The Landlord and the Tenant, at the Landlord's option, must execute either a new lease or an extension of lease to be prepared at the direction of the Landlord and at the Tenant's Cost.

19.4 Guarantor to execute extension of lease or guarantee

- (a) If the Tenant is a corporation, then the Tenant must procure the Guarantor to execute a guarantee of the Tenant's obligations under the new lease.
- (b) The Landlord does not have to grant the new lease if the Tenant does not procure the Guarantor to execute the guarantee in accordance with the preceding sub-Clause.

20 PART 20 – BANK GUARANTEE

20.1 Tenant to provide Bank Guarantee

If asked to do so by the Landlord, in order to secure the performance of the obligations of the Tenant under this Lease the Tenant must procure in favour of the Landlord a Bank Guarantee for the Guaranteed Sum. The following provisions apply to the Bank Guarantee:-

- (a) The Bank Guarantee will remain in force until the bank is notified in writing by the Landlord that it is no longer required.
- (b) The Bank Guarantee must be provided to the Landlord and come into effect on the Commencement Date;
- (c) If the Tenant is in breach of or fails to perform its obligations under this Lease the Landlord may, without prejudice to all other rights and remedies available to it, draw down the whole or any part of the Bank Guarantee and apply the proceeds drawn down to remedy or assist in remedying and to compensate the Landlord for that default and to assist the Landlord in exercising any or all of the Landlord's rights and remedies under this Lease;
- (d) If the Landlord is entitled to exercise any rights and remedies under this Lease the whole of the Bank Guarantee or such of it remaining may be drawn down and the amount deposited in an interest bearing bank account in the name and under the control of the Landlord and the amount together with interest applied to remedy or assist in remedying the default and to compensate the Landlord for the reasonable loss, cost, expense and damage resultant upon the Tenant's default and the Landlord having to exercise its rights and remedies and to assist in the exercise of any rights and remedies under this Lease;
- (e) The Bank Guarantee must require the bank to pay to the Landlord the Guaranteed Sum or such part of the Guaranteed Sum which has not already been paid to the Landlord without any form of deduction, counterclaim or set off whatsoever on receipt by the bank of a copy of a notice of default certified by or on behalf of the Landlord or its solicitors and without reference or regard to the Tenant or any communication or direction given by the Tenant to the bank to the contrary. The bank must have no responsibility to investigate the entitlement of the Landlord to

terminate or seek specific performance of this Lease or demand the payment of any money under this Lease.

20.2 Return of Bank Guarantee

The Landlord must return the Bank Guarantee to the Tenant when this Lease comes to an end and the Tenant has no outstanding obligations under this Lease or liability or potential liability in damages for any breach or non-performance of any obligations under this Lease.

20.3 Assignment or sale does not affect guarantee

The Landlord will not be deemed to have waived or relinquished any right under the Bank Guarantee if the Tenant assigns this Lease. If that occurs, the Bank Guarantee will remain in full force and effect as if it had been provided by the assignee and it will be read accordingly. The Landlord may, as a condition of assignment, require the assignee to provide an equivalent replacement Bank Guarantee and if that occurs, the Landlord must return the Bank Guarantee provided by the Tenant assigning this Lease.

SCHEDULE 1

- 1 **LANDLORD:** **Hepburn Shire Council** ABN 76 845 763 535
of 76 Vincent Street, Daylesford 3640
- 2 **TENANT:** **Doug Lindsay Reserve Sports and Community
Management Association Inc** (A0061328V) of
Lindsay Park Drive, Creswick 3363
- 3 **LAND:** That part of the land known as the Doug Lindsay
Recreation Reserve, Lindsay Park Drive, Creswick
and described as Crown Allotment 35E and 35F
Section 48A Township of Creswick delineated on
the plan annexed to this Lease at Appendix One
- 4 **COMMENCEMENT DATE:** (following Minister's sign-off)
- 5 **TERM:** Five years
- 6 **RENT:** Nil for the first Term

The Rent shall be revised on the Rent Review
Dates in accordance with Schedule Two
- 7 **PERMITTED USE:** Organised sporting matches and ancillary uses,
including but not limited to meetings, community
activities, fundraising and other activities as may
be approved by the Landlord from time to time.
- 8 **FURTHER TERM:** Two further Terms each of five years duration
- 9 **GUARANTEED SUM:** N/A
- 10 **REVIEW DATE(S):** At the commencement of each further Term
- 11 **NAME AND NOTICE
ADDRESS:** **Landlord:**
Hepburn Shire Council
PO Box 21
Daylesford Vic 3460

Tenant:
Doug Lindsay Reserve Sports And Community
Management Association Inc A0061328V
Lindsay Park Drive
Creswick Vic 3363
- 12 **INSURED SUM:** **\$20 Million Public Liability Insurance**
- 13 **RESERVATION:** **Public Recreation**
- 14 **PAYMENT ADDRESS:** **PO Box 21**
Daylesford Vic 3460

16 TENANT'S IMPROVEMENTS: NIL

SCHEDULE 2

RENT REVIEW

The Landlord may review the annual rent on each Review Date as follows;

- 1 Not earlier than three months before the Review Date and not later than sixty days after the Review Date the Landlord must give the Tenant notice of the new rental it proposes be paid by the Tenant during that period or part thereof.
- 2 Time shall not be of the essence in respect of the Landlord's rent review notice and any delay by the Landlord in giving notice will not affect the Landlord's rights.
- 3 Within twenty eight days of being notified in writing of the proposed new rent the Tenant may give to the Landlord written notice of objection to the proposed new rent and within a further thirty days from the notice of objection supply the Landlord with a rent valuation from a qualified valuer. If no notice of objection is given or if notice is given and no rent valuation is supplied the new rent will be the new rent as proposed in the Landlord's notice.
- 4 If within thirty days from the lodgment with the Landlord of the Tenant's rent valuation the Landlord and the Tenant are unable to agree on the new rent and a conference of the Landlord's and Tenant's valuer's has failed to result in agreement on the rent the new rent shall be determined by a valuer nominated by the President for the time being of the Australian Property Institute (the **nominated valuer**) who in making a determination, must accept representations from either Party received within twenty one days of the appointment.
- 5 The decision of the nominated valuer will be final and binding and the nominated valuer's costs and fees must be paid by the parties equally.
- 6 Until the new rent is agreed or determined the Tenant must pay rent at the rate applicable immediately prior to the date fixed for review until such time as the new rent is determined.
- 7 After the new rent is determined the Tenant must pay the difference if any between the amount of the new rent paid since the date fixed for review.

Method of Determination:

- 1 In determining a new rent for the Premises the nominated valuer must as nearly as possible determine the open market rent value on the date when that rent is to apply for the Premises having regard to the following matters:
 - (a) act as an expert and not as an arbitrator and his decision will be final and binding on the parties;
 - (b) there is a reasonable period within which to negotiate the new rent having regard to the nature of the property and the state of the market;
 - (c) the Landlord and the Tenant are well acquainted with the Premises and aware of any factors which might affect its value.
 - (d) The length of the Term and the period between rent reviews.

- (e) The terms and obligations of the Lease.
- (f) The Permitted Use.
- (g) The rental of comparable premises
- (h) Rents paid to the Tenant under any sub leases or licences

but must disregard the value of any improvements on the Land regardless of who owns those improvements.

SCHEDULE 3

FURTHER OBLIGATIONS

1. Emergency Management

- 1.1. The Hepburn Shire Council "Code Red Fire Warning Procedure" annexed to this Lease at Appendix 2 applies to and is to be read in conjunction with this Lease.
- 1.2. The Tenant must prepare and maintain during the Term an emergency management plan which must describe:
 - 1.2.1. the measures to be taken to reduce emergency risks so far as is reasonably practicable; and
 - 1.2.2. response measures in the event of an emergency; and
 - 1.2.3. an evacuation procedure.

2. Risk Management Plan

- 2.1. The Tenant must have in place prior to the commencement of this Lease a risk management plan having regard to:
 - 2.1.1. a risk assessment conducted to identify, analyse and evaluate risks associated with the premises and the permitted use;
 - 2.1.2. any matters required by, or in guidelines of the Tenant or its affiliated associations or governing bodies; and
 - 2.1.3. any requirements of the Tenant's insurer.

3. Insurance

In addition to its obligations under Part 13 of this Lease, the Tenant must also reimburse the Landlord for any building, structures and contents (industrial special risks) insurance premiums or excess paid by the Landlord in relation to the Premises within 30 days of receiving a request for payment of same.

4. Tenant's Maintenance Obligations

- 4.1. In addition to the Tenant's general repairing obligations in Part 11 and the Maintenance and Renewal Plan Schedule 5, the Tenant must, during the Term:
 - 4.1.1. Contribute an amount of \$10,000 over the first Term to capital renewal
 - 4.1.2. Prepare and submit an annual report of maintenance completed to the Landlord within 30 days of the anniversary of the lease each year.

5. Financial Reports

The Tenant will, upon request of the Landlord to do so, provide copies of annual financial reports and supporting documentation to the Landlord.

6. Landlord Subsidy

Council established an Advisory Committee to advise Council on the future management arrangements for Doug Lindsay Reserve. Through this Committee a Business and Management Plan for the facility was developed. This plan identified that appropriate management arrangements for Doug Lindsay would be an Incorporated Committee made up of community and user group representatives. In order to establish this committee it was identified that financial support from Council would be required for an initial five year term. Below is a table outlining the financial support that Council will provide over the initial lease Term.

	Year 1	Year 2	Year 3	Year 4	Year 5
Council – Subsidy	\$19,500	\$16,500	\$13,500	\$9,500	\$5,000

While the Landlord is providing a subsidy via a cash contribution and/or operational support (e.g. ground maintenance) the Landlord will receive free hire of the facility for meetings and events, provided the facility is not already previously booked.

7. Playing Surface Use

The Landlord retains the right to restrict access to any of the playing surfaces included in the lease area. The Landlord will endeavour to provide an alternate playing surface for user groups but this is not guaranteed. The Landlord will not provide any financial compensation in relation to this.

8. Equipment Ownership

The following equipment located in the Doug Lindsay Community Facility is owned, managed, maintained and replaced by the Tenant:

- Tables and Chairs
- Cutlery and Crockery

9. Assignment and Subletting

The Landlord and the Tenant agree and acknowledge that Part 12 of this Lease is deleted and replaced with the following:

12.1 No disposal of Tenant's interest

This Lease is personal to the Tenant and subject to clause 12.2, the Tenant must not under any circumstances:

- (a) assign, transfer, sub-let, grant any licence, mortgage, encumber, charge or part with or share the possession of or otherwise deal with or dispose of the Tenant's estate or interest in the Land or any part of the Land or the Premises;
- (b) declare itself trustee of the Land or any part of the Land or of any legal or equitable estate or interest in the Land or the Premises.

12.2 Licensing

- (a) The Tenant may with the consent of the Landlord, grant a licence or sub-licence on terms approved in writing by the Landlord.
- (b) The granting of a licence with the Landlord's consent in accordance with this sub clause 12.2 will not relieve, excuse, waive, modify or alter in any way, the obligations or the performance of the obligations of the Tenant under this Lease.

12.3 Change of shareholding

If the Tenant is a Corporation (other than an incorporated association), there must be no change in any of the following which results in a change in the effective control of the Tenant:

- (a) the membership of the Corporation or any holding Company of the Corporation;
- (b) the beneficial ownership of any shares in the capital of the Corporation or any holding Company of the Corporation; or
- (c) the beneficial ownership of the business or assets in the Corporation or part of it.

12.4 Acceptance of Rent by Landlord

The acceptance by the Landlord of any Rent or other payment from any Person other than the Tenant does not under any circumstances constitute an acknowledgement by the Landlord that it recognises that person as the Authorised assignee or sub tenant.

12.5 S 144 excluded

Section 144 of the Property Law Act 1958 does not apply to this Lease.

10. Presentation to Council

The tenant agrees to provide annually to Council copies of the following documents:

- Annual budget and financial statements
- Report on facility operations including usage, marketing, progress against business plan and any other relevant items requested by Council

11. Emergency Management

The Landlord is permitted to utilise the leased Premises for reasonable emergency management purposes (e.g. relief centre, coordination centre) when and as required in response to community incidents or emergencies without providing any advanced notice to the Tenant. Pre-booked or planned usage will need to be cancelled during these occurrences. No payment will be made to the Tenant for such usage and no

compensation will be provided by the Landlord or Third Parties for any bookings which may need to be cancelled as a result of such usage.

In addition, the Landlord may install, store and/or maintain equipment or facilities within the leased Premises for the purposes of keeping the facility ready for such emergency management purposes. The Landlord will provide verbal or written notice to the Tenant when it needs to access the premises for such emergency management related maintenance.

The Landlord will also undertake up to two emergency management training exercises per year in the leased Premises. The time for such exercises will be agreed in writing with the Tenant at a time when no other bookings are previously made. No payment will be made to the Tenant for these bookings.

SCHEDULE 4

MANAGEMENT RESPONSIBILITIES

The following table outlines the responsibilities for managing the operations within the leased area:

Tenant - Doug Lindsay Reserve Sports and Community Management Association	Landlord - Hepburn Shire Council
Managing bookings for regular and casual users	Maintenance of turf playing surfaces on football/cricket oval and both soccer pitches (includes irrigation, mowing, drainage, fertilisation, aeration and top dressing as deemed necessary by the Landlord)
Develop licenses with and manage the facility user groups	Roads, Car parking and Associated Drainage as required
Hold the liquor licence and manage the bars	Public litter bins (only those which are permanently publicly accessible)
Cleaning and Waste Disposal for all buildings	Landscaping and park maintenance outside of 10 metres around buildings
Kitchen and Bar Fitout	
Audio Visual Equipment	
Landscaping and garden beds within 10 metres of buildings	
Marketing and attracting events to the facility	
Coordinating regular maintenance and repairs	
Minor equipment and consumables	
Ensuring the Doug Lindsay Reserve including the surrounds are kept clean and tidy	

SCHEDULE 5

BUILDING AND STRUCTURES MAINTENANCE AND RENEWAL PLAN

The following table outlines the maintenance obligations of the tenant under the lease and the responsibility for replacing different components of the buildings and structures in the leased area.

Item	Maintenance Required by Tenant	Replacement (renewal) Responsibility
Heating, Ventilation and Air Conditioning	Annual maintenance and cleaning of filters	Tenant
Internal and External Doors and Windows	Annual Maintenance Cleaning as required	Tenant
Roof, Gutters and Downpipes	Annual Cleaning of gutters and downpipes	Landlord
Plate Glass	Replacement when damaged	N/A
Floor Coverings	12 monthly steam clean	Tenant – Replace carpet every ten years
Kitchen Fitout, including Appliances and Draining	Cleaning as required Annual service of exhaust system and gas appliances	Tenant
Painting	Repainting internally and externally every five years - Landlord to cover cost of anti-graffiti paint	N/A
Bathroom Fit Out (including vanities, bowls, cisterns, tiles, mirrors, hand driers)	Repairs and plumbing works as required	Tenant
Lights and electrical fittings	Repairs by certified electrician as required	Tenant
Grease trap and waste plumbing	Clean grease trap every six months Plumbing repairs as required	Tenant

Structural components of Bowls clubhouse, Multi-purpose pavilion and Netball/soccer pavilion buildings (inc. internal load bearing components in floor, walls and roof)	Advising Landlord of any observed issues	Landlord
Coaches boxes, ticket box, goal posts, cricket nets, oval and grounds fencing and sponsorship signs	Repairs and maintenance as deemed necessary	Tenant
Existing perimeter fencing	Advising Landlord of any observed issues	Landlord

Where the tenant has maintenance or renewal responsibilities, these may be completed by particular user group(s) as outlined in licence or similar agreements with them.

APPENDIX TWO

(CODE RED FIRE WARNING PROCEDURE)

Purpose

This procedure is designed to assist in maintaining the health and safety of Hepburn Shire Council employees during the bush fire season and to minimise the risks to staff either at work or travelling to and from work when weather conditions are such that a fire danger rating of Code Red is issued by the Bureau of Meteorology.

This procedure will also form part of Council's Business Continuity Plan.

Scope

This procedure is enacted when a *Code Red* warning is issued for the Central District only and then applies to all Hepburn Shire staff, contractors and volunteers.

Definitions

Hepburn Shire Council – refers to all Council depots, offices and any other work locations.

Code Red warnings are based on the information provided by the Bureau of Meteorology via the CFA website at www.cfa.vic.gov.au

Procedure

When a Code Red warning is issued for the Central District, all Hepburn Shire Council work locations will close and all services will be suspended in the designated "high risk" townships of Daylesford, Creswick, Trentham and Hepburn Springs from 12 midnight to 12 midnight.

On Code Red days, non-emergency management employees will not attend work in these towns, except staff trained in appropriate emergency management operations; all staff will be paid as normal. Due to travel requirements, all Aged and Disability Care Services will be suspended beyond these towns to all clients across the Shire.

Staff involved in Emergency Management will undertake their roles and responsibilities in accordance with the Emergency Management procedures. On declared Code Red days, Hepburn Shire Council emergency management personnel will be stationed in the Municipal Emergency Coordination Centre (MECC) in readiness for any incidents. Emergency staff will also be able take calls from community members whilst on standby status.

Staff should take the necessary personal precautions and preparations during the fire season.

On days other than those declared as Code Red for the Central District, staff who due to fire conditions are unable to attend work or who decide to stay and defend their property must advise their manager as soon as practicable. The normal range of leave provisions will apply in these circumstances.

This procedure must be read in conjunction with the Municipal Emergency Management Plan (MEMP).

Responsibilities

The Chief Executive Officer will determine when Hepburn Shire Council will close.

General Managers / Managers / Supervisors will:

- advise staff when Hepburn Shire Council will close as a result of a Code Red warning being issued for the Central District.
- ensure all employees are aware of and adhere to fire ban restrictions
- ensure that all employees are aware of and trained in the fire evacuation procedures
- ensure staff who are working at non office or depot locations have a suitable plan to protect themselves on days of fire risk.

All Staff will

- ensure they do not take undue risk to travel to or from work
- maintain regular checks on emergency radio broadcasts relevant to their area on (ABC radio AM 774 or FM 107.9)
- regularly check the Bureau of Meteorology website <http://www.bom.gov.au> and the CFA website <http://www.cfa.gov.au/index.htm>, especially if there are fires in their area.
- inform their supervisor of any fire risk in their area and if they are unable to travel
- Maintain hydration.

**11.9. LICENCE RENEWALS – 33 ALBERT STREET AND 42 RAGLAN STREET,
DAYLESFORD – BY DAYLESFORD NEIGHBOURHOOD CENTRE INC AS
AUSPICE FOR DAYLESFORD COMMUNITY FOOD GARDENERS
GENERAL MANAGER INFRASTRUCTURE**

In providing this advice to Council as the Property Officer, I Karen Ratcliffe have no interests to disclose in this report.

PURPOSE

The purpose of this report is to seek Council approval to renew two licences for the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners) to utilise the properties at 33 Albert Street and 42 Raglan Street, Daylesford as community food gardens.

BACKGROUND

Rea Lands Community Food Garden – 42 Raglan Street, Daylesford

At the June 2011 Council Meeting, Council resolved to allow the Daylesford Community Food Gardeners to develop a community food garden at the property known as Rea Lands Community Park, at 42 Raglan Street, Daylesford, subject to a signed occupancy agreement.

Council subsequently entered into an annual licence agreement of \$104 + GST with the Daylesford Neighbourhood Centre Inc as the auspicating body for the Daylesford Community Food Gardeners. The Daylesford Neighbourhood Centre is an incorporated association and has adequate and current public liability insurance.

Council is responsible for mowing the lawns and major pruning of trees whilst the gardeners maintain all other facets of the garden. The licence expired on 31 July 2014.

33 Albert Street, Daylesford Community Food Garden

At the June 2011 Council Meeting, Council resolved to support and endorse the use of the open space next to the library for community food production in recognition of the ongoing social value. Subsequently, Council entered into a licence agreement with the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners) which expired on 1 August 2014. Council no longer maintains this part of the property as the community food gardeners have taken full responsibility for it.

ISSUE/DISCUSSION

In 2013/14, the Daylesford Community Food Gardeners focused on becoming a non-monetary operation. To achieve this, they have established a local seed bank, have developed on-site seedling stocks, use green manure, and have developed a community compost system and worm farm.

The 33 Albert Street property (which is also the site of the Daylesford Library) has now been identified as a site for possible sale with the proceeds to offset costs of the Hepburn Hub, which will include a new library. A two year licence with no annual fee is proposed to be offered to the Daylesford Neighbourhood Centre Inc for this site.

There are currently no future plans for the 42 Raglan Street property, therefore a three year licence is proposed to be offered to the Daylesford Neighbourhood Centre Inc at an annual licence fee of \$104 + GST.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

These licences are granted under Council's powers in Section 190 of the *Local Government Act 1989*. Council owns the freehold to these properties.

Council Policy 9: Council Owned & Controlled Property requires that appropriate written occupancy arrangements be in place to support good governance objectives and principles.

FINANCIAL IMPLICATIONS

There are no significant financial implications regarding the issue of licences to the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners).

The annual licence fee of \$104 + GST, for community based organisations must be paid for the garden at 42 Raglan Street. There will be no charge for the garden at 33 Albert Street as this property may be sold following the completion of the Hepburn Hub, including the new library.

RISK IMPLICATIONS

The Licences require the Daylesford Neighbourhood Centre Inc to hold public liability insurance of \$20m and to submit annual risk management plans.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

Hepburn Shire Council recognises that the Daylesford Community Food Gardeners provide important social connection and benefits for the community. The gardens also help community strengthening through beautifying public spaces, passive recreation, and providing a free food source for the broader community.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The request to renew the licences originated from the Daylesford Community Food Gardeners. Council officers regularly liaise with the members regarding the pruning schedules, providing free mulch and other operational matters.

CONCLUSION

The existing licences were established in July 2011 and expired on 31 July 2014. The Daylesford Community Food Gardeners have indicated a desire to continue to utilise the two gardens at 33 Albert Street and 42 Raglan Street.

A three year licence for 42 Raglan Street, Daylesford and a two year licence for 33 Albert Street, Daylesford issued under Section 190 of the *Local Government Act 1989*, are presented for Council's approval.

OFFICER'S RECOMMENDATION

That Council:

- 11.9.1 Grants a three year Council licence to the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners) to utilise the property at 42 Raglan Street, Daylesford as a community food garden in accordance with the attached licence document;
- 11.9.2 Grants a two year Council licence to the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners) to utilise the property at 33 Albert Street, Daylesford as a community food garden in accordance with the attached licence document; and
- 11.9.3 Authorises the Chief Executive Officer to execute the Council licences for and on behalf of Council.

MOTION

That Council:

- 11.9.1. *Grants a three year Council licence to the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners) to utilise the property at 42 Raglan Street, Daylesford as a community food garden in accordance with the attached licence document;*
- 11.9.2. *Grants a two year Council licence to the Daylesford Neighbourhood Centre Inc (as auspice for the Daylesford Community Food Gardeners) to utilise the property at 33 Albert Street, Daylesford as a community food garden in accordance with the attached licence document; and*
- 11.9.3. *Authorises the Chief Executive Officer to execute the Council licences for and on behalf of Council.*

Moved: Councillor Pierre Niclas
Seconded: Councillor Kate Redwood
Carried.

ATTACHMENT 8 - THREE YEAR COUNCIL LICENCE – 42 RAGLAN STREET,
DAYLESFORD



GENERAL LICENCE

Local Government Act 1989

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of the payment of the licence fee and the conditions contained in this Licence, the Licensor or a person authorised by the Licensor, at the request of the Licensee **HEREBY AUTHORISES** the Licensee to use the licensed premises described in the Schedule for the specified purposes set out in the Schedule.

This Licence is subject to the provisions of the Local Government Act 1989 and Regulations or Local Laws of the Licensor thereunder, the Licence conditions attached and any statutory and other Special Conditions set out in the Schedule.

.....
For and on behalf of the Licensor
Aaron van Egmond
Chief Executive Officer
Hepburn Shire Council

The Licensee hereby agrees to accept and comply with the terms and conditions of this Licence

.....
For and on behalf of the Licensee
Denise Hanaphy-Shearer
Manager
Daylesford Neighborhood Centre Incorporated

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1. SCHEDULE

ITEM

- i. Licence Number:** FOL/12/127 42 Raglan St, Daylesford
- ii. Licensor:** Hepburn Shire Council
ABN 76 845 763 535
- iii. Licensor's Address:** 76 Vincent Street, Daylesford, Vic 3460
- iv. Licensee:** Daylesford Neighbourhood Centre Incorporated
ABN 91 523 232 008
- v. Licensee's Address:** PO Box 325, Daylesford, Vic 3460
- vi. Commencement Date:** 1 August 2014
- vii. Term:** 3 years
- viii. Licence fee:** \$104pa +GST
- ix. Payable:** Annually in advance by 31 August
- x. Amount of Public Liability Insurance:** \$20m
- xi. Reservation description:** Vacant land, used as a public park, predominantly grassed, with some established trees and table and seats infrastructure.
- xii. Licensed Premises:** 42 Raglan Street, Daylesford.
Lot 1 LP145621
- Area:** 1854sq metres
Refer – 9. The land delineated on the plan marked “A” annexed to this licence.
- xiii. Powers under which licence granted:** Local Government Act 1989
- xiv. Specified Purpose:**
- Establishment and maintenance of the long term production of a non-exclusive free organic community food garden and a dynamic social space.

2. LICENCE CONDITIONS

Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the licensed premises or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

3. LICENSEE'S OBLIGATIONS (POSITIVE)

The Licensee **Hereby Covenants** with the Licensor that during the term this Licensee it will:

3.1 Reporting

By 31 August each year during the licence term, the Licensee will provide to the Licensor a brief annual report which includes information on the general level of activity and maintenance at the Licensed Premises.

3.2 Licence fee

Pay the licence fee to the Licensor annually by 31 August.

3.3 Indemnity

Indemnify the Licensor in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, or breach of a statutory duty by the Licensee or any associated party consequential to the use or occupation of the licensed premises, including, but without restricting the generality of the foregoing, the pollution or contamination of land or water, and any costs, charges and expenses incurred in connection therewith.

3.4 Public Liability Insurance

Hold a public liability insurance policy over the licensed premises (providing no less limit of indemnity for any one occurrence during the policy period than the amount shown at Item 10 of the Schedule) and which is endorsed to note the interests of Hepburn Shire Council. Evidence of insurance is to be provided to the Licensor annually upon renewal.

3.5 Maintenance

Throughout the term of this Licence the licensee will keep the Licensed Premises and the improvements (if any) including the gardens to be established on it in good order and condition and will:-

- Not encourage pest animals or weeds on the licensed premises.
- If this Licence expires or is not to be replaced or the Specified Purpose ceases the licensee will deliver back the Licensed Premises in a state that is suitable as a public access park/space and is free from rubbish or debris. Established garden plantings and infrastructure can remain.

3.6 Notice of Defects and other matters

Give the Licensor notice in writing within 7 days of any accident to or defect in the licensed premises and of any circumstances likely to cause any damage risk or hazard to the licensed premises or any person on it.

Give to the Licensor within 7 days of its receipt by the Licensee a true copy of every notice, proposal or order given, issued or made in respect of the licensed premises and full details of the circumstances of it.

3.7 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the licensed premises and all lawful orders or direction made under them.

4. LICENSEE'S OBLIGATIONS (NEGATIVE)

The Licensee **Hereby Covenants** with the Licensor that during the term the Licensee will not

4.1 Use of Licensed premises

Use the licensed premises for any purpose other than the specified purpose referred to in Item XIV of the Schedule without first obtaining the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

4.2 Create nuisance

Do or cause or permit to be done anything which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the licensed premises or to use any land in the vicinity or to occupiers of properties adjoining the licensed premises.

4.3 Allow rubbish

Permit any refuse or rubbish to accumulate in or about the licensed premises.

4.4 Void insurance

Do or allow anything to be done which might result in any insurances relating to the licensed premises becoming void or voidable or which might increase the premium on any insurance.

5. LICENSOR OBLIGATIONS: (POSITIVE)

The Licensor **Hereby Covenants** with the Licensee that during the term the Licensor will:

5.1 Maintenance

- Continue to mow a designated area within the plan of the licensed area on the regular scheduled basis, provided that Licensee's equipment or infrastructure does not restrict access or movement of equipment.
- Maintain existing trees for public safety matters as required (e.g. removing dangerous or dead branches).

6. LICENSOR OBLIGATIONS: (NEGATIVE)

The Licensor **Hereby Covenants** with the Licensee that during the term the Licensor will not:

6.1 Chemical Usage

Use any herbicides, fungicides or pesticides on the licensed area.

6.2 Utilities

Charge for water usage and any associated fees.

6.3 Pruning

Prune fruit trees on site except as provided in Clause 5.1

7. GENERAL CONDITIONS

7.1 Licence Renewal

Subject to the evaluation of the annual reports and the Licensee not being in default of any condition in this Licence the Licensor in conjunction with the Licensee will consider a further or longer term of up to 3 years.

7.2 Termination upon Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of this Licence, the Licensor may declare and give notice to the Licensee that the Licence is cancelled, and upon cancellation the Licensee will not be entitled to any compensation whatsoever.

7.3 Termination without Default

In addition to and not in substitution for the power to cancel this Licence under clause 7.2, the Licensor may by giving to the Licensee at least 90 days written notice to that effect cancel this Licence upon a date to be specified in that notice notwithstanding that there has been no breach by the Licensee of any term or condition of this Licence.

If the Licence is terminated under this clause the Licensee is entitled to receive and will be paid by the Licensor a refund of a proportionate amount of the licence fee paid.

7.4 Ownership of Improvements

It is acknowledged that the Licensee may erect or place on the Licensed Premises sheds, fencing, plant- houses, compost bins, water tanks, garden beds, paths, and other improvements. Prior to any erection or placement of any improvements or the items mentioned the Licensee will submit to the Licensor a concept and design Plan for approval and once approved the Plan will be attached to and become a part of this Licence.

The Licensee acknowledges that all buildings and structures on the licensed premises at the date of commencement of this Licence and all new structural works (except for any Licensee's trade fixtures or fittings) and any additions or modifications to the existing or new buildings and structures carried out during the term of this Licence are and remain the property of the Licensor.

The Licensee is responsible to apply for and obtain any necessary planning and building approvals or permits or any other permits or approvals required in connection with the Specified Purpose.

7.5 Licensee's Chattels

Except as provided in sub-clause 7.4, the Licensee's chattels remain the property of the Licensee.

On the cancellation or expiration of this Licence the Licensee must, within a period of time specified by the Licensor, remove all Licensee's chattels from the licensed premises and forthwith make good all damage caused to the licensed premises by the affixing, retention or removal of the Licensee's chattels to the satisfaction of the Licensor.

If the Licensee's chattels are not removed at the end of the period of time specified under sub-clause 7.5, the Licensee's chattels shall become the property of the Licensor.

7.6 Debt recovery

All moneys payable by the Licensee to the Licensor under this Licence are recoverable from the Licensee as liquidated debts payable on demand.

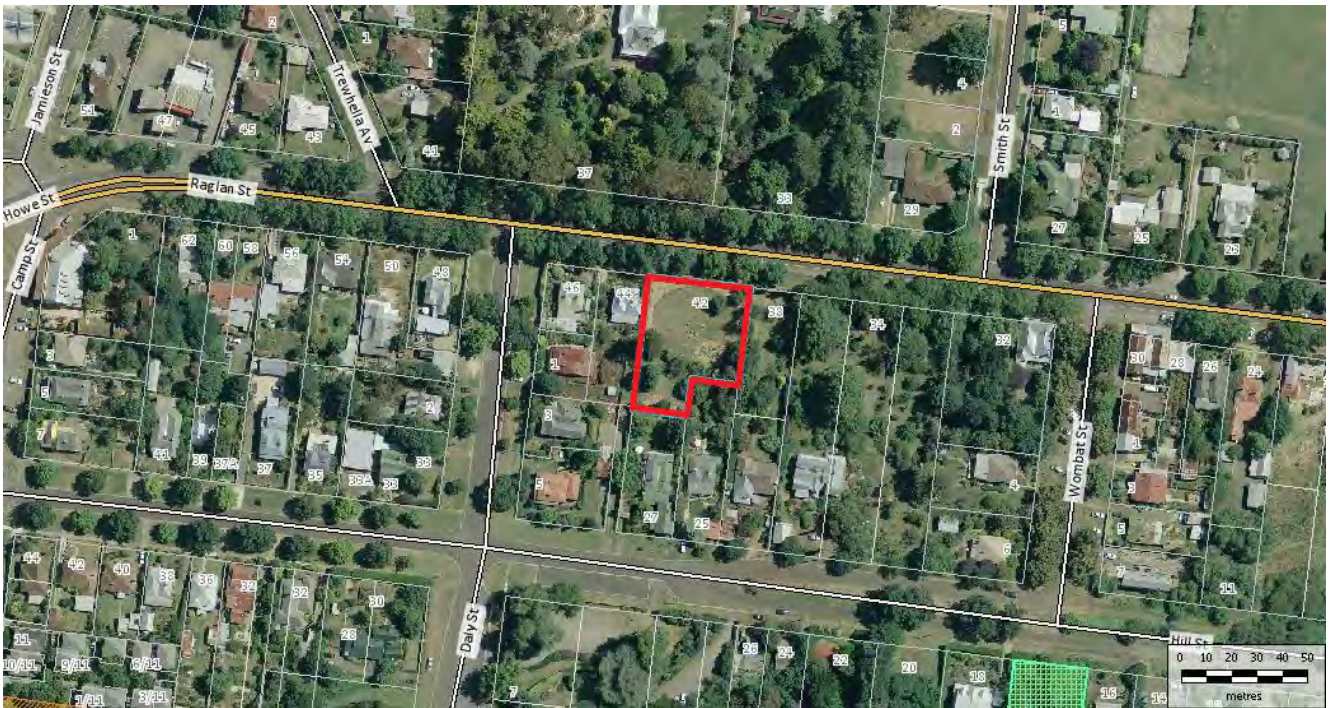
The Licensor and Licensee must endeavour to resolve any disputes through negotiation. If a dispute cannot be resolved by negotiation after 90 days, the matter must be referred to an appropriate person for mediation and that person's written determination must be made within a further 60 days and will bind the Licensor and Licensee.

8. DEFINITIONS

Unless inconsistent with the context or subject matter each word or phrase defined in this clause has the same meaning when used elsewhere in this Licence.

- **Commencement date** means the date described in the Schedule and is the first day of the term;
- **GST** means a goods and services tax within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.
- **Improvement** includes building, dam, levee, channel, pipe, tap, sign, permanent fence, garden bed, or other structure and any addition to an existing improvement;
- **Licensed premises** means the land and structures described in the Schedule and any improvements subsequently made;
- **Licence fee** means the licence fee described in the Schedule as varied during the term;
- **Licensee** means the person named in the Schedule and includes the permitted assigns and successors in law to a Licensee;
- **Licensor** means the Hepburn Shire Council;
- **Person** includes a body corporate as well as an individual;
- **pest animals** has the same meaning as in the *Catchment and Land Protection Act 1994*;
- **Schedule** means the schedule to this Licence;
- **Sign** includes names, advertisements and notices;
- **Soil** includes gravel, stone, salt, guano, shell, sand, loam and brick earth;
- **Term** means the period of time set out in the Schedule, as and from the commencement date;
- **Weeds** include noxious weeds within the meaning of the *Catchment and Land Protection Act 1994* and prescribed flora within the meaning of the *Flora and Fauna Guarantee Act 1988*;
- **Writing** includes typewriting, printing, photography, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.

9. PLAN - A – 42 Albert Street, Daylesford



ATTACHMENT 9 - TWO YEAR COUNCIL LICENCE – 33 ALBERT STREET,
DAYLESFORD



GENERAL LICENCE

Local Government Act 1989

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of the payment of the licence fee and the conditions contained in this Licence, the Licensor or a person authorised by the Licensor, at the request of the Licensee **HEREBY AUTHORISES** the Licensee to use the licensed premises described in the Schedule for the specified purposes set out in the Schedule.

This Licence is subject to the provisions of the Local Government Act 1989 and Regulations or Local Laws of the Licensor thereunder, the Licence conditions attached and any statutory and other Special Conditions set out in the Schedule.

.....
For and on behalf of the Licensor
Aaron van Egmond
Chief Executive Officer
Hepburn Shire Council

The Licensee hereby agrees to accept and comply with the terms and conditions of this Licence

.....
For and on behalf of the Licensee
Denise Hanaphy-Shearer
Manager
Daylesford Neighborhood Centre Incorporated

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1. SCHEDULE

ITEM

- i. Licence Number:** **FOL/12/127 33 Albert St, Daylesford**
- ii. Licensor:** **Hepburn Shire Council**
ABN 76 845 763 535
- iii. Licensor's Address:** 76 Vincent Street, Daylesford, Vic 3460
- iv. Licensee:** **Daylesford Neighbourhood Centre Incorporated**
ABN 91 523 232 008
- v. Licensee's Address:** PO Box 325, Daylesford, Vic 3460
- vi. Commencement Date:** 1 August 2014
- vii. Term:** 2 years
- viii. Licence fee:** **\$Nil**
- ix. Payable:** Annually in advance on 31 August
- x. Amount of Public Liability Insurance:** \$20m
- xi. Reservation description:** Vacant land
- xii. Licensed Premises:** 33 Albert Street, Daylesford 3460
Lot 1 TP668476, being Pt CA 2 Section 5, Daylesford Township
- Area:** 293sq metres
Refer – 9. The land delineated on the plan marked “A” annexed to this licence.
- xiii. Powers under which licence granted:** Local Government Act 1989
- xiv. Specified Purpose:**
- Establishment and maintenance of the long term production of a non-exclusive free organic community food garden and a dynamic social space.

2. LICENCE CONDITIONS

Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the licensed premises or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

3. LICENSEE'S OBLIGATIONS (POSITIVE)

The Licensee **Hereby Covenants** with the Licensor that during the term this Licensee it will:

3.1 Reporting

By 31 August each year during the Licence term, the Licensee will provide to the Licensor a brief annual report which includes information on the general level of activity and maintenance at the Licensed Premises.

3.2 Licence fee

Pay the licence fee to the Licensor annually by 31 August.

3.3 Indemnity

Indemnify the Licensor in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, or breach of a statutory duty by the Licensee or any associated party consequential to the use or occupation of the licensed premises, including, but without restricting the generality of the foregoing, the pollution or contamination of land or water, and any costs, charges and expenses incurred in connection therewith.

3.4 Public Liability Insurance

Hold a public liability insurance policy over the licensed premises (providing no less limit of indemnity for any one occurrence during the policy period than the amount shown at Item 10 of the Schedule) and which is endorsed to note the interests of Hepburn Shire Council. Evidence of insurance is to be provided to the Licensor annually upon renewal.

3.5 Maintenance

Throughout the term of this Licence the licensee will keep the Licensed Premises and the improvements (if any) including the gardens to be established on it in good order and condition and will:-

- Not encourage pest animals or weeds on the licensed premises.
- If this Licence expires or is not to be replaced or the Specified Purpose ceases the licensee will deliver back the Licensed Premises in a state that is suitable as a public access park/space and is free from rubbish or debris. Established garden plantings and infrastructure can remain.

3.6 Notice of Defects and other matters

Give the Licensor notice in writing within 7 days of any accident to or defect in the licensed premises and of any circumstances likely to cause any damage risk or hazard to the licensed premises or any person on it.

Give to the Licensor within 7 days of its receipt by the Licensee a true copy of every notice, proposal or order given, issued or made in respect of the licensed premises and full details of the circumstances of it.

3.7 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the licensed premises and all lawful orders or direction made under them.

4. LICENSEE'S OBLIGATIONS (NEGATIVE)

The Licensee **Hereby Covenants** with the Licensor that during the term the Licensee will not

4.1 Use of Licensed premises

Use the licensed premises for any purpose other than the specified purpose referred to in Item XIV of the Schedule without first obtaining the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

4.2 Create nuisance

Do or cause or permit to be done anything which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the licensed premises or to use any land in the vicinity or to occupiers of properties adjoining the licensed premises.

4.3 Allow rubbish

Permit any refuse or rubbish to accumulate in or about the licensed premises.

4.4 Void insurance

Do or allow anything to be done which might result in any insurances relating to the licensed premises becoming void or voidable or which might increase the premium on any insurance.

5. LICENSOR OBLIGATIONS: (POSITIVE)

The Licensor **Hereby Covenants** with the Licensee that during the term the Licensor will:

5.1 Maintenance

- Maintain existing trees for public safety matters as required (e.g. removing dangerous or dead branches).
- Assist in the relocation of any soils and trees upon the Licensee vacating the site (if resources allow).

6. LICENSOR OBLIGATIONS: (NEGATIVE)

The Licensor **Hereby Covenants** with the Licensee that during the term the Licensor will not:

6.1 Chemical Usage

Use any herbicides, fungicides or pesticides on the licensed area.

6.2 Utilities

Charge for water usage and any associated fees.

6.3 Pruning

Prune fruit trees on site except as provided in Clause 5.1

7. GENERAL CONDITIONS

7.1 License Renewal

Not Applicable

7.2 Termination upon Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of this Licence, the Licensor may declare and give notice to the Licensee that the Licence is cancelled, and upon cancellation the Licensee will not be entitled to any compensation whatsoever.

7.3 Termination without Default

In addition to and not in substitution for the power to cancel this Licence under clause 7.2, the Licensor may by giving to the Licensee at least 90 days written notice to that effect cancel this Licence upon a date to be specified in that notice notwithstanding that there has been no breach by the Licensee of any term or condition of this Licence.

If the Licence is terminated under this clause the Licensee is entitled to receive and will be paid by the Licensor a refund of a proportionate amount of the licence fee paid.

7.4 Ownership of Improvements

It is acknowledged that the Licensee may erect or place on the Licensed Premises sheds, fencing, plant- houses, compost bins, water tanks, garden beds, paths, and other improvements. Prior to any erection or placement of any improvements or the items mentioned the Licensee will submit to the Licensor a concept and design Plan for approval and once approved the Plan will be attached to and become a part of this Licence.

The Licensee acknowledges that all buildings and structures on the licensed premises at the date of commencement of this Licence and all new structural works (except for any Licensee's trade fixtures or fittings) and any additions or modifications to the existing or new buildings and structures carried out during the term of this Licence are and remain the property of the Licensor.

The Licensee is responsible to apply for and obtain any necessary planning and building approvals or permits or any other permits or approvals required in connection with the Specified Purpose.

7.5 Licensee's Chattels

Except as provided in sub-clause 7.4, the Licensee's chattels remain the property of the Licensee.

On the cancellation or expiration of this Licence the Licensee must, within a period of time specified by the Licensor, remove all Licensee's chattels from the licensed premises and forthwith make good all damage caused to the licensed premises by the affixing, retention or removal of the Licensee's chattels to the satisfaction of the Licensor.

If the Licensee's chattels are not removed at the end of the period of time specified under sub-clause 7.5, the Licensee's chattels shall become the property of the Licensor.

7.6 Debt recovery

All moneys payable by the Licensee to the Licensor under this Licence are recoverable from the Licensee as liquidated debts payable on demand.

The Licensor and Licensee must endeavour to resolve any disputes through negotiation. If a dispute cannot be resolved by negotiation after 90 days, the matter must be referred to an appropriate person for mediation and that person's written determination must be made within a further 60 days and will bind the Licensor and Licensee.

8. DEFINITIONS

Unless inconsistent with the context or subject matter each word or phrase defined in this clause has the same meaning when used elsewhere in this Licence.

- **Commencement date** means the date described in the Schedule and is the first day of the term;
- **GST** means a goods and services tax within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.
- **Improvement** includes building, dam, levee, channel, pipe, tap, sign, permanent fence, garden bed, or other structure and any addition to an existing improvement;
- **Licensed premises** means the land and structures described in the Schedule and any improvements subsequently made;
- **Licence fee** means the licence fee described in the Schedule as varied during the term;
- **Licensee** means the person named in the Schedule and includes the permitted assigns and successors in law to a Licensee;
- **Licensor** means the Hepburn Shire Council;
- **Person** includes a body corporate as well as an individual;
- **pest animals** has the same meaning as in the *Catchment and Land Protection Act 1994*;
- **Schedule** means the schedule to this Licence;
- **Sign** includes names, advertisements and notices;
- **Soil** includes gravel, stone, salt, guano, shell, sand, loam and brick earth;
- **Term** means the period of time set out in the Schedule, as and from the commencement date;
- **Weeds** include noxious weeds within the meaning of the *Catchment and Land Protection Act 1994* and prescribed flora within the meaning of the *Flora and Fauna Guarantee Act 1988*;
- **Writing** includes typewriting, printing, photography, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.

9. PLAN – A – Part 33 Albert Street, Daylesford



11.10. WESLEY COLLEGE CLUNES - LICENCES TO USE PARTS OF THE WAREHOUSE – CLUNES, AND THE CLUNES TOWN HALL

CHIEF EXECUTIVE OFFICER

In providing this advice to Council as the Property Officer, I Karen Ratcliffe have no interests to disclose in this report.

PURPOSE

The purpose of this report is to recommend that Council enters into two proposed licences with Wesley College to utilise parts of The Warehouse – Clunes and the Clunes Town Hall (including Main Hall, Court House, Supper Room and Kitchen).

BACKGROUND

The Warehouse – Clunes

Wesley College has utilised the Clunes Museum since the first students arrived in 2000. The expansion of the museum to the newly built The Warehouse - Clunes is providing further learning opportunities for the students. Entering into a licence to formalise the use of The Warehouse - Clunes is proposed.

Clunes Town Hall

Wesley College has utilised the Clunes Town Hall (including Main Hall, Supper Room, Kitchen and Court House) for teaching purposes since 2000. During this time, the College has:

- made a \$15,000 contribution to kitchen upgrades;
- managed the Town Hall bookings, and facilitated hiring and community use at no cost to Council;
- made annual payments for its usage to the Special Committee of the Town Hall (\$4,000 for 2013 calendar year); and
- undertaken Essential Safety Measures management at the Town Hall at no cost to Council.

Wesley College's occupancy has not previously been recognised in a formal agreement, although one was discussed in the late 1990s but not completed. The Local Government Inspectorate identified in 2012 that Council should enter into a formal agreement with Wesley College for its usage.

ISSUE/DISCUSSION

Due to the regular nature of the proposed usage and Wesley College's offer to continue managing the Essential Safety Measures at the Town Hall, to provide certainty it is recommended that Council enters into licences rather than utilising individual bookings for each use.

In August 2014, the following fee schedule was presented to, and accepted by, Wesley College. The rates used are based on the fees and charges adopted at the June 2014 Council meeting, with some small adjustments to reflect Wesley's specific usage.

Property Rooms -	Estimated first year usage	Rate Used to Establish Overall Cost	Cost Proposed (exc. GST)
The Warehouse - Clunes: Multipurpose room	Once a week during term for 6 hours	\$14 per hour	\$3,250
Warehouse - Clunes: Exhibition Room	Four times a year for presentations	\$22 per hour	\$250
Museum Access	320 students full access during opening hours	\$5 per student	\$1,600
Total for The Warehouse – Clunes			\$5,100
Town Hall - Main Hall/Supper Room (no kitchen)	One day a week during term – 60 Days	\$35 per day	\$2,100
Town Hall - Main Hall/Supper Room/Kitchen	One day a week during term – 60 Days	\$45 per day – (inclusive of contribution to utilities)	\$2,700
Total for Clunes Town Hall			\$4,800
Total Fees			\$9,900

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

These Licences are granted under the Council's powers in Section 190 of the *Local Government Act 1989* and section 17B of the *Crown Land (Reserves) Act 1978*.

Council Policy 9: Council Owned & Controlled Property requires that appropriate written occupancy arrangements be in place to support good governance objectives and principles.

FINANCIAL IMPLICATIONS

Whilst negotiations around the fee structure have taken place, Wesley has not been invoiced for any usage of the Clunes Town Hall and The Warehouse during 2014. Council and Wesley College have now agreed that Wesley College will be invoiced under the proposed new fee structure for the 2014 calendar year. Annual licences are more efficient and offer cost savings and more certainty than invoicing for individual bookings.

RISK IMPLICATIONS

The licences allocate roles and responsibilities and Council's exposure to liability is mitigated by virtue of the licences being in place. The licences require indemnity for Crown and Council and minimum public liability insurance of \$20m with evidence of this and currency to be provided.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

The benefits of Wesley College utilising these properties include additional income sources by way of licence fees to help Council meet ongoing maintenance responsibilities and operating expenses.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Wesley College staff and students continue to participate in community focussed programs and other forms of participation in Clunes.

CONCLUSION

Two three year licences for Wesley College to utilise The Warehouse – Clunes and the Clunes Town Hall are presented for Council's approval.

OFFICER'S RECOMMENDATION

That Council:

- 11.10.1 Grants a three year Council licence to Wesley College to utilise parts of The Warehouse – Clunes for teaching purposes in accordance with the attached licence document;
- 11.10.2 Grants a three year 17B Crown Land licence to Wesley College to utilise parts of the Clunes Town Hall for teaching purposes in accordance with the attached licence document;
- 11.10.3 Authorises the Chief Executive Officer to execute the licences for and on behalf of Council.
- 11.10.4 Authorises officers to formally seek Ministerial Consent to the granting of the 17B Crown Land Licence for Wesley College to utilise part of the Clunes Town Hall.

MOTION

That Council:

- 11.10.1. Grants a three year Council licence to Wesley College to utilise parts of The Warehouse – Clunes for teaching purposes in accordance with the attached licence document;*
- 11.10.2. Grants a three year 17B Crown Land licence to Wesley College to utilise parts of the Clunes Town Hall for teaching purposes in accordance with the attached licence document;*
- 11.10.3. Authorises the Chief Executive Officer to execute the licences for and on behalf of Council*
- 11.10.4. Authorises officers to formally seek Ministerial Consent to the granting of the 17B Crown Land Licence for Wesley College to utilise part of the Clunes Town Hall.*

Moved: Councillor Neil Newitt
Seconded: Councillor Greg May
Carried.

ATTACHMENT 10 - COUNCIL LICENCE – WESLEY COLLEGE AT THE
WAREHOUSE - CLUNES



Hepburn Shire Council

LICENCE

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of the payment of the licence fee and the conditions contained in this Licence, the Licensor or a person authorised by the Licensor, at the request of the Licensee HEREBY AUTHORISES the Licensee to use the licensed premises described in the Schedule for the specified purposes set out in the Schedule.

This Licence is granted subject to the provisions of the *Local Government Act 1989* and Regulations thereunder, the licence conditions attached and any Statutory and other Special Conditions set out in the Schedule.

.....
Licensor or Authorised person
Aaron van Egmond, Chief Executive Officer
On behalf of **Hepburn Shire Council**

The Licensee hereby agrees to comply with the terms and conditions of this Licence

.....
Licensee –
Mr Cameron Moroney, Chief Financial Officer
On behalf of **Wesley College Melbourne**

NOTE:

1	This licence is not valid until it has been executed.
2	This licence is an important document and should be stored in a secure and safe place. In the event of loss, a replacement fee will be charged.

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**SCHEDULE
ITEM**

- 1 Licence Number: DOC/13/35704**
- 2 Licensor: HEPBURN SHIRE COUNCIL ABN 76 845 763 535**
- 3 Licensee: WESLEY COLLEGE MELBOURNE ABN 38 994 068 473**
- 4 Licensee's Address: 577 St Kilda Road, Melbourne 3004**
- 5 Commencement Date: 1 Jan 2014**
- 6 Term: Three (3) years**
- 7 Licence fee: \$5100 pa + GST for the first year, to be reviewed each year on the basis of annual usage and Council's fees and charges schedule**
- 8 Payable: In advance on signing of the licence and annually on the anniversary date thereafter**
- 9 Reservation description: The Warehouse - Clunes, 36 Fraser Street, Clunes VIC 3370**
- 10 Licensed premises: Areas within The Warehouse - Clunes as agreed with the responsible Council officer**
- 11 Area: see attached location plan**
- 12 Powers under which licence granted: Sections 3E and 3F *Local Government Act 1989***
- 13 Specified Purposes: Teaching secondary students and associated activities**
- 14 Amount of Public Liability Insurance: \$20 Million**
- 15 Licensor Address: PO Box 21, Daylesford Vic 3460.**
- 16 Special Conditions:**
 - 16.1 Bookings can be made by the Licensee across the full academic year and advised to the relevant Council officer responsible for The Warehouse - Clunes in advance prior to the end of the preceding year. Bookings for each academic term are to be confirmed prior to the end of the preceding term. It is anticipated that bookings will generally entail use of the Multipurpose Room (ground floor) and the Exhibition Room (first floor) for varying days and times across each academic term. Use will include 'out of hours' access as approved by the relevant Council officer.**
 - 16.2 The Licensee has permission to retain two set of access swipes to the Licensed Premises for the term of the Licence.**
 - 16.3 The Licensee has permission for its personnel and students to connect to the wireless network available at the Licensed Premises to allow access to the Licensee's computer network.**

- 16.4 The Licensee will need to seek approval from the relevant Council officer responsible for room bookings before storing any equipment or materials in the Licensed Premises.**
- 16.5 The Licensee agrees to tidy the area and reposition the furniture after use.**
- 16.6 The Licensor will be responsible for the payment of utilities, building maintenance, external landscape maintenance, and scheduled cleaning expenses at the Licensed Premises.**
- 16.7 The Licensor will be responsible for maintenance of Essential Safety Measures at the Licensed Premises.**

LICENCE CONDITIONS

1 Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the licensed premises or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2 Licensee's Obligations (Positive)

The Licensee **Hereby Covenants** with the Licensor that during the term the Licensee will:-

2.1 Licence fee

Duly and punctually pay or cause to be paid the licence fee to the Licensor at the payment address shown in Item 15 of the Schedule or as advised by the Licensor from time to time on the days and in the manner provided in Item 8 of the Schedule without demand, deduction, set-off or abatement.

2.2 Rates and Taxes

Duly and punctually pay to the Licensor at the same time and in the same manner as the licence fee is payable to the Licensor (or as otherwise notified to the Licensee by the Licensor) under clause 2.1 above the amount of any GST payable on or in relation to this licence thereunder or that becomes payable by the Licensor during the period covered by the fee.

2.3 Indemnity

For activities outside of the Specified Purposes, in clause 13 of the Schedule, indemnify the Council in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, breach of any relevant Special Condition, or breach of a statutory duty by the Licensee or any associated party consequential to the use or occupation of the licensed premises, including, but without restricting the generality of the foregoing, the pollution or contamination of land or water, and any costs, charges and expenses incurred in connection therewith. Note that this does not apply to activities or actions relating to the Specified Purposes.

2.4 Public Liability Insurance

A public liability insurance policy over the premises (providing no less limit of indemnity for any one occurrence during the policy period than the amount shown at Item 14 of the Schedule), which is endorsed (as follows), to note:

<p>'the Hepburn Shire Council, its servants, agents and employees in respect to providing indemnity for personal injury and/or property damage caused by an occurrence, and/or for breach of Professional duty arising out of the negligent acts, errors or omissions of the Licensee and/or its servants agents and employees. The endorsement and extension to the policy does not extend to negligent acts, errors or omissions of the Council (and others above mentioned), and is limited to the amount shown in Item 14 of the Schedule for any one occurrence.'</p>
--

2.5 Maintenance

2.5.1 Throughout the term keep the licensed premises in good order and condition and the improvements (if any) on it in good order and condition having regard to their condition at the commencement date or, if constructed or added to the licensed premises after the commencement date, at the date of such construction or addition as the case may be and in particular but without restricting the generality of the foregoing will remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.5.2 Any items of maintenance requiring council's action are to be reported promptly to the Council officers at the The Warehouse - Clunes for action.

2.6 [Deleted]

2.7 Condition at Termination

On expiry or prior determination of this Licence return the licensed premises to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.8 Notice of Defects and other matters

2.8.1 Give the Licensor prompt notice in writing of any accident to or defect in the licensed premises and of any circumstances likely to cause any damage risk or hazard to the licensed premises or any person on it;

- 2.8.2 Give to the Licensor within 7 days of its receipt by the Licensee a true copy of every notice, proposal or order given, issued or made in respect of the licensed premises and full details of the circumstances of it;
- 2.8.3 Without delay take all necessary steps to comply with any notice, proposal or order referred to in paragraph 2.8.2 with which the Licensee is required to comply; and
- 2.8.4 At the request of the Licensor make or join with the Licensor in making such objections or representations against or in respect of any notice, proposal or order referred to in paragraph 2.8.2 as the Licensor deems expedient.

2.9 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the licensed premises and all lawful orders or direction made under them;

2.10 Arrears and Interest

2.10.1 Pay to the Licensor:-

2.10.1.1 on any moneys payable by the Licensee to the Licensor and outstanding for thirty (30) days or on any judgment for the Licensor in an action arising under the Licence, interest at the penalty rate of interest for the time being made payable under the *Penalty Interest Rates Act 1983* computed from the date the moneys or judgment became payable until all moneys (including interest on them) are paid in full;

2.10.1.2 on demand all the Licensor's legal costs and disbursements payable in respect of or in connection with any assignment of this Licence or under-licensing of the licensed premises, any surrender of this Licence, the giving of any consent by the Licensor or any failure by the Licensee to perform and observe this Licence, or any deed or other document executed in connection with this Licence.

2.11 Further Conditions

Comply with the Special Conditions (if any) contained in Item 16 of the Schedule.

3 Licensee's Obligations (Negative)

The Licensee **Hereby Covenants** with the Licensor that during the term the Licensee will not -

3.1 Use of Licensed premises

Use the licensed premises for any purpose other than the specified purpose referred to in Item 13 of the Schedule without first obtaining the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

3.2 Create nuisance

Do not cause or permit to be done anything which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the licensed premises or to use any land in the vicinity or to occupiers of properties adjoining the licensed premises.

3.3 Allow rubbish

Permit any rubbish to accumulate in or about the licensed premises.

3.4 Hazardous Chemicals

Keep any hazardous materials on the premises without the Licensor's written consent save a reasonable quantity of any hazardous material which is normally used in any specified purpose actually carried on in or upon the premises and which is kept in compliance with the requirements of any authority charged with regulating the keeping of it.

3.5 Assignment

Without first obtaining the written consent of the Licensor assign, under-license, mortgage, or charge this Licence or part with or share possession of the licensed premises or any part of it.

3.6 Licensor's Entry

3.6.1 Prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employee or agent or any other person who may have a right to use the Reserve at any time from entering and remaining on the licensed premises either with or without motor vehicles or other equipment for any purpose, and in particular, but without restricting the generality of the foregoing, for any of the following purposes:-

3.6.1.1 retaking or attempting to retake possession of the licensed premises;

3.6.1.2 inspection; or

3.6.1.3 any other lawful purpose.

3.6.2 Notwithstanding 3.6.1 nothing contained herein permits the Licensor or the Licensor's employee or agent or any other person using the Reserve to access, interfere with, or damage the pipeline constructed in the licensed premises.

3.7 Void insurance

Do or allow anything to be done which might result in any insurances relating to the licensed premises becoming void or voidable or which might increase the premium on any insurance.

3.8 Erection of Improvements

Erect or permit the erection of any improvement on the licensed premises without the Licensor's prior written approval, which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

4 General Conditions

4.1 Termination upon Default If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the Licensee has failed to comply with any terms or conditions of the Licence, the Licensor may, by notice given to the Licensee, declare that the Licence is cancelled, and upon cancellation the Licensee will not be entitled to any compensation whatsoever.

4.2 Termination without Default

4.2.1 In addition to and not in substitution for the power to cancel this Licence under clause 4.1, the Licensor may by giving to the Licensee at least 30 days written notice to that effect cancel this Licence upon a date to be specified in that notice notwithstanding that there has been no breach by the Licensee of any term or condition of this Licence.

4.2.2 If the Licence is terminated under this clause the Licensee is entitled to receive and will be paid by the Licensor a refund of an amount of the Licence fee paid.

4.2.3 The amount of refund will be determined by the Licensor on a pro rata basis, taking into account any period of the Licence remaining at the date of cancellation.

4.2.4 Except as provided in sub clause 4.2.2 above no compensation is payable in respect of the cancellation of the licence.

4.3 Ownership of Improvements

The Licensee acknowledges that all buildings and structures on the licensed premises at the date of commencement of this Licence and all new structural works (except for any Licensee's trade fixtures or fittings) and any additions or modifications to the existing or new buildings and structures carried out during the term of this Licence are and remain the property of the Licensor.

4.4 Licensee's Chattels

4.4.1 Except as provided in sub-clause 4.4.3 the Licensee's chattels will remain the property of the Licensee.

4.4.2 On the cancellation or expiration of the Licence the Licensee must, within a period of time specified by the Licensor, remove all Licensee's chattels from the licensed premises and forthwith make good all damage caused to the licensed premises by the affixing, retention or removal of Licensee's chattels to the satisfaction of the Licensor.

4.4.3 If the Licensee's chattels are not removed at the end of the period of time specified under sub-clause 4.4.2, the Licensee's chattels will become the property of the Licensor.

4.5 Licensor may remove and dispose of Licensee's chattels

If the Licence expires, or is cancelled, the Licensor may at the end of the period of time specified under Clause 4.4.2 remove the Licensee's chattels and store them at the Licensee's expense without being liable to the Licensee for trespass, detinue, conversion or negligence. After storing them for at least one month, the Licensor may sell or dispose of them by auction, private sale, gift, distribution or otherwise and apply the net proceeds towards the payment of any moneys owed by the Licensee to the Licensor.

4.6 Licensor's Agents

Every act or thing to be done, decision to be made or document to be signed pursuant to this Licence by the Licensor and not required by law to be done, made or signed by the Licensor personally may be done made or signed by any person or class of person to whom such power has been delegated by the Licensor.

4.7 Notices

Any notice consent or demand or other communication to be served on or given to the Licensee by the Licensor under this Licence will be deemed to have been duly served or given if it is in writing signed by the Licensor and delivered or sent by pre paid post to the Licensee's address set out in Item 4 of the Schedule or to the latest address stated by the Licensee in any written communication with the Licensor.

4.8 Debt recovery

All moneys payable by the Licensee to the Licensor under this Licence are recoverable from the Licensee as liquidated debts payable on demand.

5 Definitions

Unless inconsistent with the context or subject matter each word or phrase defined in this clause has the same meaning when used elsewhere in the licence.

"**commencement date**" means the date described in Item 5 of the Schedule and is the first day of the term;

"**Council**" means the Hepburn Shire Council (its successors in law) and includes the Licensor and each employee and agent of the Council;

"**GST**" means a goods and services tax within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.

"**hazardous chemical**" includes gas, inflammable liquid, explosive substance, pesticide, herbicide, fertilizer and other chemicals;

"**improvement**" includes building, dam, levee, channel, sign, permanent fence, or other structure and any addition to an existing improvement;

"**licensed premises**" means the land and structures described in Item 10 of the Schedule;

"**Licence fee**" means the licence fee described in Item 7 of the Schedule as varied during the term;

"**Licensee**" means the person named in Item 3 of the Schedule and includes the permitted assigns and successors in law to a Licensee;

"**Licensor**" means the Council;

"**person**" includes a body corporate as well as an individual;

"**rates and taxes**" means all existing and future rates (including water by consumption and any special rates or levies) taxes, charges, tariffs, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the licensed premises or the Licensor or the Licensee or payable by the owner or occupier of the licensed premises;

"**schedule**" means the schedule to this Licence;

"**sign**" includes names, advertisements and notices;

"**soil**" includes gravel, stone, salt, guano, shell, sand, loam and brick earth;

"**term**" means the period of time set out in Item 6 of the Schedule, as and from the commencement date;

"**writing**" includes typewriting, printing, photography, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.

6 Interpretations

6.1 A reference importing the singular includes the plural and vice versa.

6.2 The index and headings are included for ease of reference and do not alter the interpretation of this Licence.

6.3 If any day appointed or specified by this Licence falls on a Saturday, Sunday or a day appointed under the *Public Holidays Act 1993* as a holiday for the whole day the day so

appointed or specified is deemed to be the first day succeeding the day appointed or specified which is not a Saturday, Sunday or day appointed as a holiday.

6.4 References to an Act of Parliament or a section or schedule of it shall be read as if the words "or any statutory modification or re-enactment thereof or substitution therefor" were added to the reference.

6.5 If the Licensee comprises more than one person, the covenants and agreements contained in this Licence shall be construed as having been entered into by, and are binding, both jointly and severally on all and each of the persons who constitute the Licensee.

6.6 References to clauses, sub-clauses and Items are references to clauses, sub-clauses and Items of this Licence respectively.

Location Plan



ATTACHMENT 11 - CROWN LAND LICENCE 17B – WESLEY COLLEGE AT
CLUNES TOWN HALL

Hepburn Shire Council as Committee of Management

LICENCE

CROWN LAND (RESERVES) ACT 1978

Section 17B

THIS LICENCE is granted by the Licensor to the Licensee and commences on the date set out in the Schedule.

In consideration of the payment of the licence fee and the conditions contained in this Licence, the Licensor or a person authorised by the Licensor, at the request of the Licensee **HEREBY AUTHORISES** the Licensee to use the licensed premises described in the Schedule for the specified purposes set out in the Schedule.

This Licence is subject to the provisions of the *Crown Land (Reserves) Act 1978* and Regulations thereunder, the licence conditions attached and any Statutory and other Special Conditions set out in the Schedule.

.....
Licensor or Authorised person
Aaron van Egmond, Chief Executive Officer
On behalf of **Hepburn Shire Council**

The Licensee hereby agrees to comply with the terms and conditions of this licence

.....
Licensee –
Mr Cameron Moroney, Chief Financial Officer
On behalf of **Wesley College Melbourne**

Approved by

as delegate for the Minister
on

.....
.....

NOTE:

- | | |
|----------|---|
| 1 | <i>This licence is not valid until it has been approved by the Minister or the Minister's delegate.</i> |
| 2 | <i>This Licence is an important document and should be stored in a secure and safe place. In the event of loss, a replacement fee will be charged.</i> |

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SCHEDULE

ITEM

- 1 **Licence Number:** DOC/13/31565
- 2 **Licensor:** HEPBURN SHIRE COUNCIL ABN 76 845 763 535
- 3 **Licensee:** WESLEY COLLEGE MELBOURNE ABN 38 994 068 473
- 4 **Licensee's Address:** 577 St Kilda Road, Melbourne 3004
- 5 **Commencement Date:** 1 Jan 2014
- 6 **Term:** Three (3) years
- 7 **Licence fee:** \$4,800 pa + GST for the first year, to be reviewed each year on the basis of annual usage and Council's fees and charges schedule
- 8 **Payable:** In advance on signing of the licence and annually on the anniversary date thereafter
- 9 **Reservation description:** Pt CA 7 Section 4, Clunes Township
- 10 **Licensed premises:** 98 Bailey Street, Clunes. Clunes Town Hall, Court Room, Supper Room and Kitchen
- 11 **Area:** See attached location plan
- 12 **Powers under which licence granted:** Section 17B Crown Land (Reserves) Act 1978
- 13 **Specified Purposes:** Teaching secondary students and associated activities
- 14 **Amount of Public Liability Insurance:** \$20 Million
- 15 **Licensor Address:** PO Box 21, Daylesford Vic 3460.
- 16 **Special Conditions:**
 - 16.1 **Bookings can be made by the Licensee across the full academic year and advised to the relevant officer responsible for The Warehouse – Clunes in advance prior to the end of the preceding year. Bookings for each academic term are to be confirmed prior to the end of the preceding term. It is anticipated that bookings will generally entail use of the kitchen and/or supper room and/or main hall for varying days and times across each academic term. Use of the Court Room for teaching or projects is permitted provided there are no conflicting bookings. Use will include 'out of hours' access as agreed by the relevant Council officer.**
 - 16.2 **The Licensee has permission to install and maintain wireless network equipment at its own cost.**

- 16.3 The Licensee has permission to store equipment and teaching aids in areas as agreed with the relevant Council officer.**
- 16.4 The Licensee will be responsible for maintenance of the following Essential Safety Measures at the Licensed Premises: Paths of Travel to exits; Exit Lighting; Fire Extinguishers and Blankets; Evacuation Procedures; and Door Furniture on Exit Doors. All other Essential Safety Measures remain the responsibility of the Licensor.**
- 16.5 The Licensee is required to clean floors and surfaces after use and to make them tidy, including disposing all rubbish. Cleaning floors includes sweeping in all areas, as well as mopping in kitchen areas.**
- 16.6 The Licensee has permission to retain two sets of keys to the Licensed Premises for the term of the Licence.**
- 16.7 The Licensor will be responsible for the payment of utilities (water, electricity), building maintenance, external landscape maintenance, and scheduled cleaning (e.g. polishing floors, dusting, cleaning toilets) expenses at the Licensed Premises.**

LICENCE CONDITIONS

1 **Grant**

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the licensed premises or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

2 **Licensee's Obligations (Positive)**

The Licensee **Hereby Covenants** with the Licensor that during the term the Licensee will:-

2.1 **Licence fee**

Duly and punctually pay or cause to be paid the licence fee to the Licensor at the payment address shown in Item 15 of the Schedule or as advised by the Licensor from time to time on the days and in the manner provided in Item 8 of the Schedule without demand, deduction, set-off or abatement.

2.2 **Rates and Taxes**

2.2.1 If requested to do so by the Licensor, duly and punctually pay as and when they respectively fall due all rates and taxes on the licensed premises.

2.2.2 If requested to do so by the Licensor, produce receipts to the Licensor evidencing payment of the rates and taxes.

2.2.3 Duly and punctually pay to the Licensor at the same time and in the same manner as the licence fee is payable to the Licensor (or as otherwise notified to the Licensee by the Licensor) under clause 2.1 above the amount of any GST payable on or in relation to this licence and/or the rent payable thereunder or that becomes payable by the Licensor during the period covered by the fee.

2.3 **Indemnity**

Indemnify the Crown in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, or breach of a statutory duty by the Licensee or any associated party consequential to the use or occupation of the licensed premises, including, but without restricting the generality of the foregoing, the pollution or contamination of land or water, and any costs, charges and expenses incurred in connection therewith.

2.4 **Public Liability Insurance**

A public liability insurance policy over the premises (providing no less limit of indemnity for any one occurrence during the policy period than the amount shown at Item 14 of the Schedule), which is endorsed (as follows), to note:

‘the Committee of Management, the Crown in the right of the State of Victoria, the Secretary to the Department of Environment and Primary Industries, its servants, agents and employees in respect to providing indemnity for personal injury and/or property damage caused by an occurrence, and/or for breach of Professional duty arising out of the negligent acts, errors or omissions of the Licensee and/or its servants agents and employees. The endorsement and extension to the policy does not extend to negligent acts, errors or omissions of the Crown (and others above mentioned), and is limited to the amount shown in Item 14 of the Schedule for any one occurrence.’

2.5 **Maintenance**

2.5.1 Throughout the term keep the licensed premises in good order and condition and the improvements (if any) on it in good order and condition having regard to their condition at the commencement date or, if constructed or added to the licensed premises after the commencement date, at the date of such construction or addition as the case may be and in particular but without restricting the generality of the foregoing will:-

2.5.1.1 Keep the licensed premises free of pest animals and weeds;

2.5.1.2 Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days.

2.6 **Fire Protection Works**

Undertake all fire protection works on the licensed premises required by law to the satisfaction of the Licensor and the responsible fire Authority

2.7 **Condition at Termination**

On expiry or prior determination of this Licence return the licensed premises to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

2.8 Notice of Defects and other matters

- 2.8.1 Give the Licensor prompt notice in writing of any accident to or defect in the licensed premises and of any circumstances likely to cause any damage risk or hazard to the licensed premises or any person on it;
- 2.8.2 Give to the Licensor within 7 days of its receipt by the Licensee a true copy of every notice, proposal or order given, issued or made in respect of the licensed premises and full details of the circumstances of it;
- 2.8.3 Without delay take all necessary steps to comply with any notice, proposal or order referred to in paragraph 2.8.2 with which the Licensee is required to comply; and
- 2.8.4 At the request of the Licensor make or join with the Licensor in making such objections or representations against or in respect of any notice, proposal or order referred to in paragraph 2.8.2 as the Licensor deems expedient.

2.9 Compliance with Law

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the licensed premises and all lawful orders or direction made under them;

2.10 Arrears and Interest

- 2.10.1 Pay to the Licensor:-
 - 2.10.1.1 on any moneys payable by the Licensee to the Licensor and outstanding for thirty (30) days or on any judgment for the Licensor in an action arising under the Licence, interest at the penalty rate of interest for the time being made payable under the **Penalty Interest Rates Act 1983** computed from the date the moneys or judgment became payable until all moneys (including interest on them) are paid in full;
 - 2.10.1.2 on demand all the Licensor's legal costs and disbursements payable in respect of or in connection with any assignment of this Licence or under-licensing of the licensed premises, any surrender of this Licence, the giving of any consent by the Licensor or any failure by the Licensee to perform and observe this Licence, or any deed or other document executed in connection with this Licence.

2.11 Further Conditions

Comply with the Special Conditions (if any) contained in Item 16 of the Schedule.

3 Licensee's Obligations (Negative)

The Licensee **Hereby Covenants** with the Licensor that during the term the Licensee will not -

3.1 Use of Licensed premises

Use the licensed premises for any purpose other than the specified purpose referred to in Item 13 of the Schedule without first obtaining the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

3.2 Create nuisance

Do not cause or permit to be done anything which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the licensed premises or to use any land in the vicinity or to occupiers of properties adjoining the licensed premises.

3.3 Allow rubbish

Permit any rubbish to accumulate in or about the licensed premises.

3.4 Hazardous Chemicals

Keep any hazardous materials on the premises without the Licensor's written consent save a reasonable quantity of any hazardous material which is normally used in any specified purpose actually carried on in or upon the premises and which is kept in compliance with the requirements of any authority charged with regulating the keeping of it.

3.5 Assignment

Without first obtaining the written consent of the Licensor assign, under-license, mortgage, or charge this Licence or part with or share possession of the licensed premises or any part of it.

3.6 Licensor's Entry

- 3.6.1 Prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employee or agent at any time from entering and remaining on the licensed premises either with or without motor vehicles or other equipment for any purpose and in particular, but without restricting the generality of the foregoing, for any of the following purposes:-

- 3.6.1.1 retaking or attempting to retake possession of the licensed premises;
- 3.6.1.2 inspection; or
- 3.6.1.3 any other lawful purpose.

3.7 Void insurance

Do or allow anything to be done which might result in any insurances relating to the licensed premises becoming void or voidable or which might increase the premium on any insurance.

3.8 Erection of Improvements

Erect or permit the erection of any improvement on the licensed premises without the Licensor's prior written approval, which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

4 General Conditions

4.1 Termination upon Default

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the licensee has failed to comply with any terms or conditions of the licence, the Licensor may, by notice published in the Government Gazette, declare that the licence is cancelled, and upon cancellation the licensee will not be entitled to any compensation whatsoever.

4.2 Termination without Default

4.2.1 In addition to and not in substitution for the power to cancel this Licence under clause 4.1, the Licensor may with the approval of the Minister by giving to the Licensee at least 30 days written notice to that effect cancel this Licence upon a date to be specified in that notice notwithstanding that there has been no breach by the Licensee of any term or condition of this Licence.

4.2.2 If the licence is terminated under this clause the Licensee is entitled to receive and will be paid by the Licensor a refund of an amount of the licence fee paid.

4.2.3 The amount of refund will be determined by the Licensor on a pro rata basis, taking into account any period of the licence remaining at the date of cancellation.

4.2.4 Except as provided in sub clause 4.2.2 above no compensation is payable in respect of the cancellation of the licence.

4.3 Ownership of Improvements

The Licensee acknowledges that all buildings and structures on the licensed premises at the date of commencement of this Licence and all new structural works (except for any Licensee's trade fixtures or fittings) and any additions or modifications to the existing or new buildings and structures carried out during the term of this Licence are and remain the property of the Licensor.

4.4 Licensee's Chattels

4.4.1 Except as provided in sub-clause 4.4.3 the Licensee's chattels shall remain the property of the Licensee.

4.4.2 On the cancellation or expiration of the Licence the Licensee must, within a period of time specified by the Licensor, remove all Licensee's chattels from the licensed premises and forthwith make good all damage caused to the licensed premises by the affixing, retention or removal of Licensee's chattels to the satisfaction of the Licensor.

4.4.3 If the Licensee's chattels are not removed at the end of the period of time specified under sub-clause 4.4.2, the Licensee's chattels shall become the property of the Licensor.

4.5 Licensor may remove and dispose of Licensee's chattels

If the Licence expires, or is cancelled, the Licensor may at the end of the period of time specified under Clause 4.4.2 remove the Licensee's chattels and store them at the Licensee's expense without being liable to the Licensee for trespass, detinue, conversion or negligence. After storing them for at least one month, the Licensor may sell or dispose of them by auction, private sale, gift, distribution or otherwise and apply the net proceeds towards the payment of any moneys owed by the Licensee to the Licensor.

4.6 Licensor's Agents

Every act or thing to be done, decision to be made or document to be signed pursuant to this Licence by the Licensor and not required by law to be done, made or signed by the Licensor personally may be done made or signed by any person or class of person to whom such power has been delegated by the Licensor.

4.7 Notices

Any notice consent or demand or other communication to be served on or given to the Licensee by the Licensor under this Licence shall be deemed to have been duly served or given if it is in writing signed by the Licensor and delivered or sent by pre paid post to the Licensee's address set out in Item 4 of the Schedule or to the latest address stated by the Licensee in any written communication with the Licensor.

4.8 Debt recovery

All moneys payable by the Licensee to the Licensor under this Licence are recoverable from the Licensee as liquidated debts payable on demand.

4.9 Additional Approvals

If the Licensor is a Committee of Management or Trustees the approvals required in Conditions 3.1 and 3.8 shall be read to mean the Licensor and the Secretary or delegate.

5 **Definitions**

Unless inconsistent with the context or subject matter each word or phrase defined in this clause has the same meaning when used elsewhere in the licence.

"**commencement date**" means the date described in Item 5 of the Schedule and is the first day of the term;

"**Crown**" means the Crown in right of the State of Victoria and includes the Licensor and each employee and agent of the Crown or the Secretary;

"**Department**" means the Department of Environment and Primary Industries or its successor in law;

"**GST**" means a goods and services tax within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.

"**hazardous chemical**" includes gas, inflammable liquid, explosive substance, pesticide, herbicide, fertilizer and other chemicals;

"**improvement**" includes building, dam, levee, channel, sign, permanent fence, or other structure and any addition to an existing improvement;

"**licensed premises**" means the land and structures described in Item 10 of the Schedule;

"**Licence fee**" means the licence fee described in Item 7 of the Schedule as varied during the term;

"**Licensee**" means the person named in Item 3 of the Schedule and includes the permitted assigns and successors in law to a Licensee;

"**Licensor**" means the Trustees or Committee of Management appointed by the Minister to manage the reserved land described in Item 9 of the Schedule or if there are no Trustees or Committee of Management means the Secretary to the Department of Environment and Primary Industries or a person or class of person authorised by the Secretary to grant licences under Section 17B of the *Crown Land (Reserves) Act 1978*;

"**Minister**" means the Minister of the Crown for the time being administering the *Crown Land (Reserves) Act 1978*;

"**person**" includes a body corporate as well as an individual;

"**pest animals**" has the same meaning as in the *Catchment and Land Protection Act 1994*;

"**rates and taxes**" means all existing and future rates (including water by consumption and any special rates or levies) taxes, charges, tariffs, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the licensed premises or the Licensor or the Licensee or payable by the owner or occupier of the licensed premises;

"**schedule**" means the schedule to this Licence;

"**Secretary**" means The Secretary to the Department of Environment and Primary Industries, the body corporate established under the *Conservation, Forests and Lands Act 1987*;

"**sign**" includes names, advertisements and notices;

"**soil**" includes gravel, stone, salt, guano, shell, sand, loam and brick earth;

"**term**" means the period of time set out in Item 6 of the Schedule, as and from the commencement date;

"**weeds**" include noxious weeds within the meaning of the *Catchment and Land Protection Act 1994*, and prescribed flora within the meaning of the *Flora and Fauna Guarantee Act 1988*;

"**writing**" includes typewriting, printing, photography, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.

6 **Interpretations**

6.1 A reference importing the singular includes the plural and vice versa.

6.2 The index and headings are included for ease of reference and do not alter the interpretation of this Licence.

6.3 If any day appointed or specified by this Licence falls on a Saturday, Sunday or a day appointed under the *Public Holidays Act 1993* as a holiday for the whole day the day so appointed or specified is deemed to be the first day succeeding the day appointed or specified which is not a Saturday, Sunday or day appointed as a holiday.

6.4 References to an Act of Parliament or a section or schedule of it shall be read as if the words "or any statutory modification or re-enactment thereof or substitution therefor" were added to the reference.

6.5 If the Licensee comprises more than one person, the covenants and agreements contained in this Licence shall be construed as having been entered into by, and are binding, both jointly and severally on all and each of the persons who constitute the Licensee.

6.6 References to clauses, sub-clauses and Items are references to clauses, sub-clauses and Items of this Licence respectively.

Location Plan



11.11. RECORD OF ASSEMBLIES OF COUNCILLORS – SEPTEMBER 2014

GENERAL MANAGER CORPORATE SERVICES

In providing this advice to Council as the Governance and Corporate Support Officer, I Mary Dancuk have no interests to disclose in this report.

PURPOSE

The purpose of this report is for Council to receive and note Assemblies of Councillors.

BACKGROUND

The Local Government Act 1989 defines Assembly of Councillors as

...a meeting of an advisory committee of the Council, if at least one Councillor is present, or a planned or scheduled meeting of at least half of the Councillors and one member of Council staff which considers matters that are intended or likely to be

-

- (a) the subject of a decision of the Council; or*
- (b) subject to the exercise of a function, duty of power of the Council that has been delegated to a person or committee –*

but does not include a meeting of the Council, a special committee of the Council, as audit committee established under Section 139, a club, association, peak body, political party of other organisation;

Assemblies of Councillors		
Date	Location	Committee Name
2 September 2014	Council Chamber, Daylesford	Councillor Briefing
17 September 2014	Trentham Mechanics Institute	Councillor/CEO Meeting
17 September 2014	Trentham Mechanics Institute	Pre Council Meeting Briefing

ISSUE / DISCUSSION

The *Local Government Act 1989* (as amended) requires the record of an Assembly of Councillors to be:

1. reported at an Ordinary Meeting of the Council; and
2. incorporated in the minutes of that Council Meeting.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Local Government Act 1989, Section 80A

FINANCIAL IMPLICATIONS

Nil

RISK IMPLICATIONS

There are implications with regards to Council's compliance with the *Local Government Act 1989* (as amended) if written records of Councillor Assemblies are not reported to Council.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

The inclusion of the attached record of Councillor Assemblies in the Council Agenda and their availability to the public will increase awareness of the activities of Council and could increase community involvement in decision making at Council level.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Using Council's adopted Community Engagement Framework, International Public Participation Consultation, this report presents information via the Council Agenda.

CONCLUSION

Information provided for noting.

OFFICER'S RECOMMENDATION

11.11.1 That Council receives and notes the Records of Assemblies of Councillors for the month of September 2014.

MOTION

11.11.1. *That Council receives and notes the Records of Assemblies of Councillors for the month of September 2014.*

Moved: Councillor Sebastian Klein
Seconded: Councillor Pierre Niclas
Carried.

ATTACHMENT 12 - RECORDS OF ASSEMBLIES OF COUNCILLORS – AUGUST
2014

RECORD OF ASSEMBLY OF COUNCILLORS

This record is required under Section 80A of the *Local Government Act 1989*

Title of Meeting: Councillor Briefing
Date: Tuesday 2 September 2014
Time: 11:00 am

Venue: Council Chamber Daylesford
 Senior Citizens Centre Daylesford
 Other (specify)

Councillors present:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Cr Don Henderson | <input checked="" type="checkbox"/> Cr Greg May |
| <input type="checkbox"/> Cr Kate Redwood AM | <input checked="" type="checkbox"/> Cr Neil Newitt |
| <input checked="" type="checkbox"/> Cr Sebastian Klein | <input checked="" type="checkbox"/> Cr Pierre Niclas |
| <input checked="" type="checkbox"/> Cr Bill McClenaghan | |

Members of Council Staff present:

- | | |
|--|-------------------------------------|
| <input checked="" type="checkbox"/> CEO Aaron van Egmond | Manager Planning, Justin Fiddes |
| <input checked="" type="checkbox"/> GM Community Services Kathleen Brannigan | Property Officer, Karen Ratcliffe |
| <input checked="" type="checkbox"/> GM Infrastructure Bruce Lucas | Manager Strategic Asset Management, |
| <input checked="" type="checkbox"/> Other, please specify:
Projects Co-ordinator, Steve Millard | Grant Schuster |
| Manager Community & Economic
Development, Adam McSwain | |

Conflict of Interest Disclosures:


Councillor Name	Time Left and Returned

Matters Considered:

Agenda Attached

Name and title of Officer responsible for this written record:

- | | |
|---|---|
| <input checked="" type="checkbox"/> CEO Aaron van Egmond | <input type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> GM Community Services Kathleen Brannigan | |
| <input type="checkbox"/> GM Infrastructure Bruce Lucas | |

Signature: 

Note: This form MUST be completed by the attending Council Officer and returned immediately to Governance Officer for filing.

CONFIDENTIAL
 ► COUNCILLOR BRIEFING AGENDA
 TUESDAY 2 SEPTEMBER 2014

Tuesday 2 September 2014
 Council Chamber, Daylesford Town Hall
 11:00am

PRESENT: Councillors Don Henderson, Sebastian Klein, Greg May, Bill McClenaghan, Neil Newitt, Pierre Niclas

Officers Chief Executive Officer, General Manager Community Services, General Manager Infrastructure and other officers as required

CHAIR: Mayor Cr Don Henderson

APOLOGIES: Cr Kate Redwood AM

No.	Time		Agenda Item	Presenter	No.
1.	11:00am	Report	Boathouse Café Lease, Lake Daylesford – Request by Spa Country Pty Ltd to Vary Minimum Operating Hours	Projects Co-ordinator	Page 3
2.	11:30am	Report	Central Highlands Regional Transport Strategy 2014 Attachment 1	General Manager Infrastructure	Page 5 Page 9
3.	12:00pm	Verbal Presentation	Community Grants Program	Manager Community and Economic Development	Page 43
4.	12:30pm	Verbal Presentation	Trentham Hub	General Manager Community Services	Page 44
	1:00pm		Lunch Break Lunch will be provided		
5.	1:30pm	Report	Proposed Transfer of Meals on Wheels Funding to Hepburn Health Service	General Manager Community Services	Page 45

No.	Time	Agenda Item		Presenter	No.
6.	2:00pm	Report	Review of Policy 64 (C) – Complaints Handling Policy	Acting General Manager Corporate Services	Page 47 Page 49 Page 56
			Attachment 2		
			Attachment 3		
7.	2:30pm	Report	Review of Policy 30 (C) – Information Privacy	Acting General Manager Corporate Services	Page 61 Page 62
			Attachment 4		
8.	2:45pm	Report	Renewal of Caretaker’s Agreement and Outside Camping Agreement – Jubilee Lake Recreation Reserve	Property Officer	Page 68
	3:15pm	Break			
9.	3:45pm	Report	Heritage Advisory Committee – Nominations	Manager Planning	Page 70
10.	4:00pm	Verbal Presentation	Heritage Loans Policy	Manager Planning	Page 72
11.	4:15pm	Verbal Presentation	Planning Update VCAT Update	Manager Planning	Page 73
12.	4:30pm	Report	Hepburn Bathhouse – Belgravia’s Compensation Claim and Record of Understanding of Settlement	Chief Executive Officer Manager Strategic Asset Management	Page 74 Page 77 Page 86 Page 89
			Attachment 5		
			Attachment 6		
			Attachment 7		
13.	5:00pm	CLOSE OF MEETING			Page 104

RECORD OF ASSEMBLY OF COUNCILLORS

This record is required under Section 80A of the *Local Government Act 1989*

Title of Meeting: Councillor/CEO Meeting
 Date: Tuesday 16 September 2014
 Time: 2:00 pm

Venue: Council Chamber Daylesford
 Senior Citizens Centre Daylesford
 Other (specify) – Trentham Mechanics Institute

Councillors present:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Cr Don Henderson | <input checked="" type="checkbox"/> Cr Greg May |
| <input checked="" type="checkbox"/> Cr Kate Redwood AM | <input checked="" type="checkbox"/> Cr Neil Newitt |
| <input checked="" type="checkbox"/> Cr Sebastian Klein | <input checked="" type="checkbox"/> Cr Pierre Niclas |
| <input checked="" type="checkbox"/> Cr Bill McClenaghan | |

Members of Council Staff present:

- | | |
|---|---|
| <input checked="" type="checkbox"/> CEO Aaron van Egmond | <input type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> GM Corporate Services | |
| <input type="checkbox"/> GM Community Services Kathleen Brannigan | |
| <input type="checkbox"/> GM Infrastructure Bruce Lucas | |

Conflict of Interest Disclosures:

Councillor Name	Time Left and Returned

Matters Considered:

Agenda Attached

Name and title of Officer responsible for this written record:

- | | |
|---|---|
| <input checked="" type="checkbox"/> CEO Aaron van Egmond | <input type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> GM Corporate Services | |
| <input type="checkbox"/> GM Community Services Kathleen Brannigan | |
| <input type="checkbox"/> GM Infrastructure Bruce Lucas | |

Signature: 

Note: This form MUST be completed by the attending Council Officer and returned immediately to Governance Officer for filing.

COUNCILLOR + CEO MEETING

Tuesday 16 September 2014

Trentham Mechanics Institute

2:00PM

PRESENT: Councillors Don Henderson, Kate Redwood AM, Pierre Niclas, Neil Newitt, Greg May, Bill McClenaghan, Sebastian Klein
CEO, Aaron van Egmond

CHAIR: Councillor Don Henderson

APOLOGIES: N/A

No.	Time	Agenda Item	Presenter
1.	2:00PM	Domestic Waste Water Management Plan	Cr Bill McClenaghan
2.		Hub timelines for projected works	Cr Bill McClenaghan
3.		Chinese Sister City visit - Bozhou Delegation return visit	Cr Sebastian Klein
4.		Mt Rommel Mining application Clunes	Cr Neil Newitt
5.		Shipping Containers in respect to their use as sheds/storage within residential zones	Cr Neil Newitt
6.		Proposed "Bojangles" Music Festival at Mt Beckworth Estate same weekend as Children's Booktown	Cr Neil Newitt
7.		Grant Application Timing (timelines being very tight)	Cr Greg May

▶ MEETING AGENDA

8.		Recycle Shed Smeaton Primary School - future of the shed now that the school is closed.	Cr Greg May
9.		Basin Reserve	Aaron van Egmond
10.		"Third Door Co-operative" - East Street	Aaron van Egmond
11.		Primary School - Student Citizenship Awards. Would you like to continue in 2014? Would you like to continue with \$50 Book Voucher for recipients? How many nominations can we receive from each school? Do Ward Councillors want to participate in the award ceremonies?	Aaron van Egmond
12.		Mineral Springs Reserve Committee	Cr Sebastian Klein

RECORD OF ASSEMBLY OF COUNCILLORS

This record is required under Section 80A of the *Local Government Act 1989*

Title of Meeting: Pre Council Meeting Briefing
 Date: Tuesday 16 September 2014
 Time: 3:30 pm

Venue: Council Chamber Daylesford
 Senior Citizens Centre Daylesford
 Other (specify) – Trentham Mechanics Institute

Councillors present:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Cr Don Henderson | <input checked="" type="checkbox"/> Cr Greg May |
| <input checked="" type="checkbox"/> Cr Kate Redwood AM | <input checked="" type="checkbox"/> Cr Neil Newitt |
| <input checked="" type="checkbox"/> Cr Sebastian Klein | <input checked="" type="checkbox"/> Cr Pierre Niclas |
| <input checked="" type="checkbox"/> Cr Bill McClenaghan | |

Members of Council Staff present:

- | | |
|--|--|
| <input checked="" type="checkbox"/> CEO Aaron van Egmond | <input checked="" type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> GM Corporate Services | Manager Community & Economic |
| <input checked="" type="checkbox"/> GM Community Services Kathleen Brannigan | Development, Adam McSwain |
| <input checked="" type="checkbox"/> GM Infrastructure Bruce Lucas | Manager Strategic Asset Management, |
| | Grant Schuster |
| | Manager Planning, Justin Fiddes |

Conflict of Interest Disclosures:

Councillor Name	Time Left and Returned

Matters Considered:

Council Meeting Agenda – Tuesday 16 September 2014

Agenda Attached

Name and title of Officer responsible for this written record:

- | | |
|---|---|
| <input checked="" type="checkbox"/> CEO Aaron van Egmond | <input type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> GM Corporate Services | |
| <input type="checkbox"/> GM Community Services Kathleen Brannigan | |
| <input type="checkbox"/> GM Infrastructure Bruce Lucas | |

Signature: 

Note: This form MUST be completed by the attending Council Officer and returned immediately to Governance Officer for filing.

12. COUNCIL SPECIAL COMMITTEES (SECTION 86)

12.1. MINUTES OF SPECIAL COMMITTEES (SECTION 86)

GENERAL MANAGR CORPORATE SERVICES

In providing this advice to Council as the Governance and Corporate Support Officer, I Mary Dancuk have no interests to disclose in this report.

PURPOSE

The purpose of this report is for Council to note the minutes and recommendations from Council's Special Committees (Section 86).

BACKGROUND

Special Committees are established by Council under section 86 of the *Local Government Act 1989* and their function and responsibilities outlined in an Instrument of Delegation. Under the Instruments of Delegation, special committees are required to maintain minutes of meetings held and provide a copy of the minutes to Council for review.

ISSUE/DISCUSSION

Please see listed below the minutes and other reports of Special Committees, as provided by the committees over the past month, for your information:

- Minutes from the Creswick Museum Special Committee –01/09/2014
- Minutes from the Lee Medlyn Home of Bottles Special Committee – Annual General Meeting – 03/09/2014.
- Minutes from the Glenlyon Recreation Reserve Special Committee — 17/092014.

These minutes have been previously provided to Councillors under a separate cover.

The following advice has been received by Council and is presented for Council to consider:

- **Creswick Museum Special Committee – Resignation of Committee Member**

Mr Jack van Beveren has tendered his resignation from the Creswick Museum Special Committee effective from 23 September 2014.

It is recommended that Council accepts Mr van Beveren's resignation and thanks him for his contribution to the Creswick Museum.

As per the Instrument of Delegation for the Creswick Museum Special Committee, a minimum of seven members is required. As there are currently

six members, a call for membership nominations was advertised in The Advocate on Wednesday 15 October 2014 to fill recent vacancies. An advertisement has also been booked in the November issue of the Creswick District News. The appointment of proposed new members will be presented to the December Council Meeting.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Nil

FINANCIAL IMPLICATIONS

Nil

RISK IMPLICATIONS

Nil

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

Nil

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Members of the community are represented on these committees.

Council advertised a call for membership nominations for the Creswick Museum Special Committee in The Advocate on Wednesday 15 October to fill recent vacancies. An advertisement has also been booked in the November issue of the Creswick District News.

CONCLUSION

Minutes and reports have been provided for noting.

OFFICER'S RECOMMENDATION

That Council:

- 12.1.1 Receives and notes the following minutes of Special Committees (Section 86) which have been distributed under separate cover:
- Minutes from the Creswick Museum Special Committee – 01/09/2014.
 - Minutes from the Lee Medlyn Home of Bottles Special Committee – 03/09/2014.
 - Minutes from the Glenlyon Recreation Reserve Special Committee – 17/09/2014.
- 12.1.2 Accepts the resignation from Mr Jack van Beveren from the Creswick Museum Special Committee and thanks him for his contribution to the Creswick Museum.

MOTION

That Council:

- 12.1.1. *Receives and notes the following minutes of Special Committees (Section 86) which have been distributed under separate cover:*
- *Minutes from the Creswick Museum Special Committee – 01/09/2014.*
 - *Minutes from the Lee Medlyn Home of Bottles Special Committee – 03/09/2014.*
 - *Minutes from the Glenlyon Recreation Reserve Special Committee – 17/09/2014.*
- 12.1.2. *Accepts the resignation from Mr Jack van Beveren from the Creswick Museum Special Committee and thanks him for his contribution to the Creswick Museum.*

Moved: Councillor Kate Redwood
Seconded: Councillor Sebastian Klein
Carried.

12.2. APPOINTMENT OF COMMITTEE MEMBER TO THE WAREHOUSE – CLUNES SPECIAL COMMITTEE

GENERAL MANAGER CORPORATE SERVICES

In providing this advice to Council as the Governance and Corporate Support Officer, I Mary Dancuk have no interests to disclose in this report.

PURPOSE

The purpose of this report is to recommend to Council the appointment of a second volunteers' representative to The Warehouse – Clunes Special Committee.

BACKGROUND

In accordance with current Instrument of Delegation, the Committee shall be comprised of at least nine members, including two representatives of the volunteers at The Warehouse – Clunes.

At its Ordinary Meeting held on 16 September 2014, Council appointed Mrs Dot Keller to The Warehouse – Clunes Special Committee as a representative of the volunteers for a period of two years, commencing Wednesday 17 September 2014 to Monday 31 October 2016.

ISSUE/DISCUSSION

Council received an application from Ms Suzanne Orbach-Iles to be the second representative of volunteers on The Warehouse – Clunes Special Committee.

At the meeting of The Warehouse – Clunes Special Committee held on 25 September 2014, the Committee confirmed its support for the application for the volunteer position on the Special Committee from Ms Suzanne Orbach-Iles and noted that the application was to be presented to Council for consideration.

Ms Orbach-Iles has general administration skills, local business experience and volunteers at both The Warehouse - Clunes and the Creswick Visitor Information Centre.

COUNCIL PLAN / LEGISLATIVE COMPLIANCE

Local Government Act 1989 – Council has the power to appoint members to Special Committees of Council.

FINANCIAL IMPLICATIONS

None identified.

RISK IMPLICATIONS

None identified.

ENVIRONMENTAL / SOCIAL / ECONOMIC IMPLICATIONS

No change to current arrangements.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The Warehouse – Clunes Special Committees has confirmed its support for the appointment of Ms Suzanne Orbach-Iles to the Committee.

CONCLUSION

The appointment of Ms Suzanne Orbach-Iles to The Warehouse – Clunes Special Committee will add a second volunteer representative to the committee.

OFFICER'S RECOMMENDATION

That Council:

- 12.2.1 Appoints Ms Suzanne Orbach-Iles to The Warehouse - Clunes Special Committee as a representative of the volunteers at The Warehouse – Clunes for a period of two years commencing Wednesday 22 October 2014 to Monday 31 October 2016.
- 12.2.2 Pursuant to section 81(2A) of the Local Government Act 1989, exempts the above Special Committee member from being required to submit a primary return or ordinary return.

MOTION

That Council:

- 12.2.1. *Appoints Ms Suzanne Orbach-Iles to The Warehouse - Clunes Special Committee as a representative of the volunteers at The Warehouse – Clunes for a period of two years commencing Wednesday 22 October 2014 to Monday 31 October 2016.*
- 12.2.2. *Pursuant to section 81(2A) of the Local Government Act 1989, exempts the above Special Committee member from being required to submit a primary return or ordinary return.*

Moved: Councillor Neil Newitt
Seconded: Councillor Bill McClenaghan
Carried.

13. COUNCIL ADVISORY COMMITTEES

13.1. MINUTES OF ADVISORY COMMITTEES
GENERAL MANAGER CORPORATE SERVICES

No Minutes have been received from Advisory Committees for the month of September 2014.

**13.2. RECOMMENDATION FROM THE PUBLIC ART PANEL
GENERAL MANAGER COMMUNITY SERVICES**

This recommendation to Council is based on a resolution by the Public Art Panel from a meeting on 25 July 2014 .

PURPOSE

The purpose of this report is to consider a recommendation to Council from the Public Art Panel regarding the direction for expenditure of \$40,000 allocated in Council's 2014/15 budget for acquisition, maintenance and replacement of Public Art.

BACKGROUND

Following the adoption of the Public Art Policy in December 2013, Council appointed a Public Art Panel to provide advice to Council on public art within Hepburn Shire.

The 2014/15 Council budget includes a \$40,000 allocation for acquisition, maintenance and replacement of Public Art.

The Public Art Panel considered the upcoming opportunities for public art within Hepburn Shire through the development and implementation of the Streetscape and Hub projects. The Panel recommends that a public art project in the Daylesford/Hepburn region is appropriate in 2014/15 due to the streetscape plan for Daylesford already being completed and due to a number of suitable sites within the area being available.

The Panel is recommending a public art commission that involves:

- A two-stage Expression of Interest process open to Australian artists.
- A maximum of 3 short-listed artists will receive up to \$1,500 fee to develop their ideas.
- Artists will propose a location in Daylesford/Hepburn/Hepburn Springs on Council owned or managed land for the artwork, this will be further refined with Council input.
- The Public Art Panel will make a recommendation to Council on the preferred artist
- The final artist approved by Council will receive \$30,000 to produce a permanent artwork.

ADVISORY COMMITTEE RECOMMENDATION

- 13.2.1 That Council opens expressions of interest for a public art commission to be installed on a suitable site in Daylesford, Hepburn or Hepburn Springs.

MOTION

- 13.2.1. *That Council opens expressions of interest for a public art commission to be installed on a suitable site in Daylesford, Hepburn or Hepburn Springs.*

Moved: Councillor Kate Redwood

Seconded: Councillor Pierre Niclas

Carried.

14. CONFIDENTIAL ITEMS

14.1. CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC

That pursuant to the provisions of Section 89(2) of the *Local Government Act 1989*, the meeting be closed to the public in order to consider:

- (d) Contractual matters; and
- (h) Any other matter which the Council or special committee considers would prejudice the Council or any person.

RECOMMENDATION

That the meeting be closed to members of the public under Section 89(2) of the *Local Government Act 1989*, specifically the following sub-sections:

14.1.1 89(2)(d) Contractual matters

Boat Hire Agreement and Licence – Jubilee Lake Recreation Reserve

Contract H525-2014 – Pavement Construction, Bituminous Surfacing, Drainage Construction and Associated Works Ch0.00km to Ch1.18km Fawcett Drive and Ch0.00km to Ch1.37km Foulkes Crescent, Clunes;

and

14.1.2 89(2)(h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person.

MOTION

That the meeting be closed to members of the public under Section 89(2) of the Local Government Act 1989, specifically the following sub-sections:

14.1.1. *89(2)(d) Contractual matters*

Boat Hire Agreement and Licence – Jubilee Lake Recreation Reserve

*Contract H525-2014 – Pavement Construction, Bituminous Surfacing,
Drainage Construction and Associated Works Ch0.00km to Ch1.18km
Fawcett Drive and Ch0.00km to Ch1.37km Foulkes Crescent, Clunes;*

and

14.1.2. *89(2)(h) Any other matter which the Council or Special Committee
considers would prejudice the Council or any person.*

Moved: Councillor Kate Redwood
Seconded: Councillor Sebastian Klein
Carried.

The Meeting closed to Members of the Public at 8:16pm.

15. RE-OPENING OF MEETING TO PUBLIC

RECOMMENDATION

- 15.1 That Council, having considered the confidential items, re-opens the Meeting to members of the public.

MOTION

15.1. *That Council, having considered the confidential items, re-opens the Meeting to members of the public.*

Moved: Councillor Bill McClenaghan
Seconded: Councillor Sebastian Klein
Carried.

The Meeting re-opened to Members of the Public at 8:28pm.

In accordance with Council's resolution, the following information is provided to the public on matters considered during the confidential section of the meeting.

- 14.2.1 *That Council grants a three year Boat Hire Agreement and Licence to Jubilee Lake Co-operative to allow for Boat Hire at Jubilee Lake Reserve.*
- 14.3.1 *That Council awards the Tender for Contact H525-2014 – Pavement construction, bituminous surfacing, drainage construction and associated works, Ch 0.000km to Ch 1.18km Fawcett Drive and Ch 0.00km to Ch 1.37km Foulkes Crescent, Clunes, for the lump sum of \$433,352.00 to Fulton Hogan Industries Pty Ltd.*

16. CLOSE OF MEETING

The Meeting closed at 8.28pm.
