

***C7 Instrument of Sub-Delegation
by CEO to Community Asset Committee***

Hepburn Shire Council

Instrument of Sub-Delegation

by the Chief Executive Officer

to the Lee Medlyn Home of Bottles Community Asset Committee

In exercise of the power conferred by s 47(1)(b) of the *Local Government Act 2020 (Act)*, I, as Chief Executive Officer of Hepburn Shire Council, by this Instrument of Sub-Delegation –

1. delegate to each person who is from time to time appointed as a member of the Community Asset Committee, established by resolution of Council passed on **25 August 2020** and known as “*Lee Medlyn Home of Bottles Community Asset Committee*” (**Community Asset Committee**), each power and/or function and/or duty set out in the Schedule;
2. declare that a delegate can only exercise the delegations contained in this Instrument of Sub-Delegation while acting as a member of the Community Asset Committee at a meeting of the Community Asset Committee;
3. declare that this Instrument of Sub-Delegation –
 - 3.1 comes into force immediately upon its execution;
 - 3.2 remains into force until varied or revoked; and
 - 3.3 is subject to the conditions and limitations set out in paragraph 4 and 5, and in the Schedule;
4. declare that the delegate must comply with specified governance requirements to ensure appropriate standards of probity are met and monitor and report on the activities and performance of the Community Asset Committee;
5. declare that the delegate must not determine the issue, take action or do the act or thing if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of s 47 of the Act or otherwise.

This Instrument of Sub-Delegation is dated 21 September 2020 and is made by the Chief Executive Officer.



Signed by the Acting Chief Executive Officer of)
Council in the presence of:)



Witness

SCHEDULE

Powers and functions

1. To manage the following community asset: Lee Medlyn Home of Bottles consisting of the Former School Building, Factory and Public Toilet Block at 70 Bailey Street, Clunes; Council Property Number 13338; CA 1-5, Section 31, TCL (**the Stated Property**); and the
2. the Lee Medlyn Home of Bottles Collection including, but not limited to, the following:
 - 2.1 Lee Medlyn Bottle Collection;
 - 2.2 Eberhard Factory (soft drink display); and
 - 2.3 other collectables and displays currently at the Home of Bottles, and as the committee obtains;

And for that purpose:

1. to enter into contracts not exceeding the value of \$5000 and for the specific purpose of **maintaining and improving the Stated Property**
2. and to incur expenditure not exceeding the value of \$10000 and for the specific purpose of **maintaining and improving the Stated Property**
3. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers, including:
 - 3.1 to only borrow money, obtain a bank overdraft or exceed the limits specified in the preceding clauses (1) & (2) upon receiving written approval from Council;
 - 3.2 Manage the Stated Property for the enjoyment and education of the public.
 - 3.3 Encourage participation in the Stated Property and include educational activities involving the buildings and the Lee Medlyn Home of Bottles Collection.
 - 3.4 Ensure the displays are open to the public for a minimum period of 18 hours each week of the year, except during periods of major maintenance or renovation works.
 - 3.5 Assist persons conducting research during the times set by the Committee for assisting with research of the Lee Medlyn Home of Bottles' Collection, subject to receiving fees as set by the Committee for such assistance.
 - 3.6 Maintain and conserve the Lee Medlyn Home of Bottles' Collection.
 - 3.7 Manage the expansion and development of the Lee Medlyn Home of Bottles' Collection, while being mindful of the impact any expansion and development will have on the future maintenance and conservation requirements of the Lee Medlyn Home of Bottles' Collection.
 - 3.8 Ensure all monies, grants or bequests specifically received for the preservation, security and upkeep of the collections are utilised for the purposes for which they were given.
 - 3.9 Ensure the security of the collections is of a high standard to minimise the risk of loss.
 - 3.10 Maintain a catalogue of all items within the Lee Medlyn Home of Bottles' Collection.

- 3.11 Keep a record of any items made available or loaned to the Lee Medlyn Home of Bottles' Collection.
- 3.12 Obtain a written receipt when receiving or returning items on loan or made available to the Lee Medlyn Home of Bottles' Collection.
- 3.13 Approve the moving of any item, collection or part of the Lee Medlyn Home of Bottles' Collection outside the Lee Medlyn Home of Bottles or for the purposes of display or loan to another organisation for them to display.
- 3.14 Maintain a record of items, collections or part of the Lee Medlyn Home of Bottles' Collection moved to another location, including items provided to another organisation.
- 3.15 Comply with all Statutes, Regulations and Laws and will follow any reasonable guidelines in relation to the Lee Medlyn Home of Bottles' Collection, as issued by relevant authorities such as Museums of Australia or the Public Records Office.
- 3.16 Assess any items donated or bequeathed to the Lee Medlyn Home of Bottles to determine whether they are considered suitable for the collection. Items considered suitable shall be accepted and added to the catalogue.
- 3.17 Obtain written Council approval prior to disposing of any item or part of the Lee Medlyn Home of Bottles' Collection.
- 3.18 Donated or bequeathed items considered unsuitable and items from the Lee Medlyn Home of Bottles' Collection approved for disposal shall be either:
- moved to another Council location, if directed to do so by the Council;
 - offered to another similar organisation (e.g. not for profit museum or gallery);
 - returned to the donor; or
 - sold via public auction or tender without a reserve, with all proceeds paid into the Committee's bank account.

No items are to be sold or given to a Committee member or another person, unless through a public auction or tender.

Exceptions, conditions and limitations

The Community Asset Committee is not authorised by this Instrument to:

1. enter into contracts, or incur expenditure, for an amount which exceeds the approved amounts without written approval from Council
2. Exercise the powers which, by force of the Local Government Act 2020, cannot be delegated.
3. Delegate any of its powers or functions.
4. Dispose of assets within the collection without the written approval of Council.

Membership of the Committee

5. The Committee shall be comprised of at least seven voting members, comprising:

- 5.1 one representative of each of the following user groups (provided a nomination is received and endorsed by the CEO):
- 5.2 a nominated representative from the Clunes Tourism and Development Association; and
- 5.3 a nominated representative from the Clunes Neighbourhood House Inc.
6. Additional members of the committee will be made up by members of the public.
7. The Ward councillor(s) will be a member of the committee in an ex officio capacity.
8. The CEO may at any time, remove a member from the Committee, appoint a member to the Committee or disband the Committee.
9. All members shall be appointed by the CEO for a maximum duration of three years, and will be eligible for reappointment at the end of this term.

Requirements

The members of the Community Asset Committee must, when exercising the powers, functions and duties delegated to them:

1. comply with the following governance requirements:
 - 1.1 The Committee shall ensure that all members, including new members, have an understanding of the Instrument of Delegation and Local Laws of Council, as they apply to the Committee.
 - 1.2 The Committee shall ensure that all procedures and guidelines applicable to the Committee, as issued by Council, are followed.
 - 1.3 Seek assistance and/or clarification from Council, where necessary, to understand its responsibilities under this section.
 - 1.4 The Committee shall at its commencement and then at its Annual Meeting each year elect from its members at a minimum the following office bearers:
 - a) President, Chairperson of the Committee
 - b) Secretary
 - c) Treasurer
 - 1.5 Should a committee member become aware of a Conflict of Interest in a matter before the Committee for consideration, they must declare the conflict to the meeting and excuse themselves from discussion and vote on the matter. Conflicts declared should be recorded in the Meeting Minutes.
 - 1.6 Should an office bearer position become vacant, a meeting must be called, and a new office bearer appointed, within 30 days
 - 1.7 Should a committee member wish to resign from the committee, they must notify the Committee and Council in writing within 30 days of ceasing on the committee
 - 1.8 Should a committee member resign, they must return all documents that belong to the Committee or Council within 28 days of ceasing to be a committee member.
2. monitor and report on its activities and performance at least in accordance with the following:

- 2.1 Each year following the Annual Meeting the Committee should provide a report to Council which includes:
- Changes in contact details for all committee members;
 - Changes to office bearers;
 - Names of casual and regular hirers of the facility;
 - Details of any assets or equipment acquired or disposed of by the committee during the year;
 - Schedule of meetings for the future year;
 - Records of purchased and/or disposed of from the Lee Medlyn Home of Bottles Collection along with a copy of the current catalogue of the collection;
 - Items of maintenance, either with a total cost exceeding \$1,000 for an individual activity or when \$3,000 has been expended by the Committee on maintenance activities for the financial year.
 - Records of a quarterly building and property inspection to identify any property, insurance or health and safety risks, and to take actions to resolve issues identified through maintenance or requests to Council.
 - The end of the year inspection, identifying major maintenance items proposed to be included in the budget for the following financial year commencing 1 July.
3. Facilitate community use of the State Property by:
- 3.1 At the Annual Meeting each year, setting and approving approve conditions, fees and charges for visiting, hiring or using the Stated Property, for the sale of merchandise, and for legitimate research of the Lee Medlyn Home of Bottles Collection;
- 3.2 At the Annual Meeting each year, setting times and days the Lee Medlyn Home of Bottles will be open to the public;
- 3.3 At the Annual Meeting each year, setting times and days when the Committee will undertake research and/or assist persons research the Lee Medlyn Home of Bottles' Collection;
- 3.4 ensuring that formal hirers of the facility are properly inducted in use of the facility and safety procedures;
- 3.5 ensuring that hirers of the facility have the appropriate insurance and liability coverage for the activity being undertaken.

Duties of Office Bearers

Duties of Chairperson

The Chairperson shall:

1. Ensure the Committee operates in accordance with this delegation and any other relevant laws.
2. Provide the required notice of meetings. This is to be achieved by informing all members of the Committee, no later than 7 days prior to the date of the meetings

3. Ensure that the Annual General Meeting is held within 5 months of the end of financial year
4. Chair the meetings of the Committee.

Duties of Secretary

The Secretary shall:

1. Conduct the correspondence of the Committee
2. Have the custody of all documents belonging to the Committee
3. Keep correct minutes of all proceedings and records of the Committee
4. Accurately record all written motions/resolutions in the minutes.
5. Carry out the directions of the Committee (under motion/resolution)
6. Ensure a copy of the agenda for any upcoming meeting is circulated to all members at least 7 days prior to the meeting
7. Forward a copy of the minutes of all meetings and ensure a copy of the Financial statements as tabled at the Annual Meeting are forwarded to Council's Manager Governance and Risk (14) days of the meeting.
8. Provide the proposed dates of all Committee meetings, including regular meetings and the Annual Meeting, to Council's Manager Governance and Risk, via the Annual Meeting minutes, and make the meeting dates and locations available to the public.

Duties of Treasurer

The Treasurer shall:

1. Maintain the committee's bank accounts, ensuring the account is held in the name of the committee and maintaining current signatories to the account;
2. Ensure appropriate fraud prevention control measures are in place and followed;
3. Record, bank and issue receipts for any money received;
4. Pay accounts and invoices as authorised by the committee;
5. Keep and file all invoices, receipts, bank statements, etc. for audit purposes;
6. Provide a report to the committee at each meeting of current bank balances and the committee's financial position;
7. Prepare and present an annual financial report at the Annual Meeting;
8. Provide bank statements and financial statements to the secretary to be filed with the Annual Return to Council.

Duties of Committee Members

All Committee members shall:

1. Make themselves available to staff the Lee Medlyn Home of Bottles during opening hours for at least one day a month or equivalent, as agreed with the Secretary, while allowing for periods of absence for personal reasons.
2. be a person authorised to enforce the provisions of Council's Local laws and regulations (so far as they are applicable to the Stated Property only) relating to the control and management of municipal places.

Use of Volunteers

Council encourages the Committee to use the services of additional volunteers, while also recognising that there is valuable property involved and a need for people within the Lee Medlyn Home of Bottles to ensure that visitors receive a welcoming, interesting and pleasant experience that will promote the Lee Medlyn Home of Bottles and Hepburn Shire. As such, the Committee shall:

1. During times the Lee Medlyn Home of Bottles is open to the public, ensure that there is always a member of the Committee or a person authorised by the Committee present, as well as any additional volunteers rostered to staff the Lee Medlyn Home of Bottles.
2. Interview perspective volunteers to assess their suitability prior to them being taken on, including that they have people skills, friendly attitude to visitors and the ability to promote the Lee Medlyn Home of Bottles, the Region and Hepburn Shire with enthusiasm.
3. Approve all volunteers, in addition to Committee members, that are able to staff the Lee Medlyn Home of Bottles, after the proceeding clause (2) has been satisfactorily completed.
4. Keep an up-to-date list of volunteers and their duties, in addition to the Committee members, for the Lee Medlyn Home of Bottles to ensure they are covered by insurance.
5. Provide adequate training to volunteers as identified by the Committee from time to time.

Meetings

1. The Committee shall at its Annual Meeting each year appoint a time and place for regular meetings. Such meetings shall be held at intervals of not more than three (3) months. Should it be necessary to alter the times or place of a regular appointed meeting all members of the Committee shall be given at least forty-eight (48) hours notice in writing of the new time or place.
2. All meetings of the Committee must be advertised to the public and members of the public should be welcomed to attend. A meeting may be closed by resolution of the Committee to deal with an item of business of a sensitive or confidential nature.
3. The quorum of the Committee shall be an absolute majority of the members.
4. Each member shall be entitled to one vote and in the event of equality of votes the Chairperson shall have a casting vote as well as a deliberative vote.
5. The Committee shall hold an Annual Meeting within 5 months of the end of financial year. The Annual meeting shall be advertised at least fourteen (14) days prior to the meeting date.
6. The Secretary of the Committee shall, on receipt of a requisition signed by the Chairperson, or three (3) members, stating the object of such meeting, within fourteen (14) days call a Special Meeting. Written notice of such meeting shall be given to each member of the Committee specifying the object of the meeting and the time and place where the meeting shall be held.

7. No business, apart from that which is described in the object of a Special Meeting, can be conducted or acted upon by the Committee at a Special Meeting.
8. No motion/resolution has any standing if made at a meeting where a quorum was not present.
9. Any contracts or other such instruments that the Committee enters into will have no legal effect upon Council unless preceding clause (8) is followed.
10. The Committee shall cause minutes to be kept of all meetings and shall forward to Council (shire@hepburn.vic.gov.au) a copy of such minutes within fourteen days of each meeting.
11. The Committee shall, at each meeting, confirm and adopt the minutes of the previous meeting and alert Council (shire@hepburn.vic.gov.au) to any variation to the draft minutes.

Finance

The Committee shall:

1. Maintain an open bank account and advise Council of the name of the bank.
2. Authorise the manager of its bank to supply Council with a copy of the Committee's bank account on the written request of the Chief Executive Officer.
3. Ensure that all funds raised by the Committee are only expended on management, control, improvement and minor maintenance of the Stated Property.
4. Receive rent from the Clunes Neighbourhood House Ltd and spend that rent in accordance with clause (3) above.
5. Authorise all expenditure, which shall be paid by cheque or bank transfer signed or authorised by any two (2) of three (3) signatories.
6. Make the annual financial reports for the year ending 30 June, to be presented at the Annual Meeting, available to Councils' auditor no later than 31 July.
7. Execute and attest to all legal instruments, being contracts and agreements above the sum of two hundred (\$200) in the following manner:

"This contract/agreement is executed by the Lee Medlyn Home of Bottles Community Asset Committee for and on behalf of the Hepburn Shire Council in accordance with the terms of its Instrument of Delegation"

Signed _____

Committee member #1

Signed _____

Committee member #2

8. Only enter into a contract or agreement for the purpose of maintaining or improving the Stated Property.
9. Provide a copy of any contract entered into to Council within 14 days of signing.

Council's Responsibilities

Council shall:

1. Be responsible for all major maintenance of the property.

2. Consider requests for major maintenance at the Stated Property as part of the annual budget process and in line with priorities across all assets.
3. Consult with the Committee on the timing of any such maintenance that may impact on the use of the Stated Property so that clashes with planned uses shall be minimised or avoided.
4. Provide and be responsible for payment of a person to perform the annual audit of the Committee's financial records.
5. Provide assistance to the Committee to enable it to understand and undertake its responsibilities under this Instrument.
6. Inform the Committee of the contact details for other Council Officers responsible for specific areas (e.g. finance, maintenance requests) within 14 days of any change to those officers.
7. Insure the Stated Property against loss or damage.
8. Maintain public liability insurance cover for the Committee and its volunteers when it is performing its duties under this Instrument of Delegation.
9. Advise the Committee of the requirements for the annual financial audit 14 days prior to the end of each financial year.
10. Advise the Committee of changes to the Hall Hire insurance administration fee for uninsured hirers within 14 days of it being approved in the annual budget.

Maintenance and Other Outgoings

1. The Committee shall pay the following outgoings as appropriate:
 - Electricity
 - Wood for Heating
 - Cleaning
 - Minor Maintenance
 - Six monthly fire equipment inspection and maintenance
2. Carry out all minor items of maintenance of the Stated Property and conservation of the Lee Medlyn Home of Bottles' Collection at the Committee's expense. Maintenance has its ordinary meaning and includes cleaning, repairing, replacing, painting, polishing or similar activities. Minor maintenance and conservation refers to any activity which has a total cost of \$1,000 or where the Committee has reached the amount of \$3,000 for the financial year in expenditure on maintenance.
3. Council will pay the following outgoings as appropriate:
 - Major Maintenance (subject to priorities and budgets)
 - Water
 - Electrical equipment testing
 - Security
 - Fire Alarm Monitoring
 - Annual audit fees

Indemnity

Council indemnifies members of the Committee against any action, liability, claim or demand on account of any matter or thing done by them on behalf of the Committee, provided they are acting in accordance with this Instrument of Delegation in an honest and reasonable belief or under a mistake of law that the member was properly exercising any function or power of the Committee hereunder.

Winding Up

In the event of the Committee being wound up or dissolved for any reason, all monies, after the satisfaction of all debts and liabilities, all property held or held in trust, all records and any other assets will be paid or transferred to Council. No monies or property shall be distributed to or amongst members of the Committee.