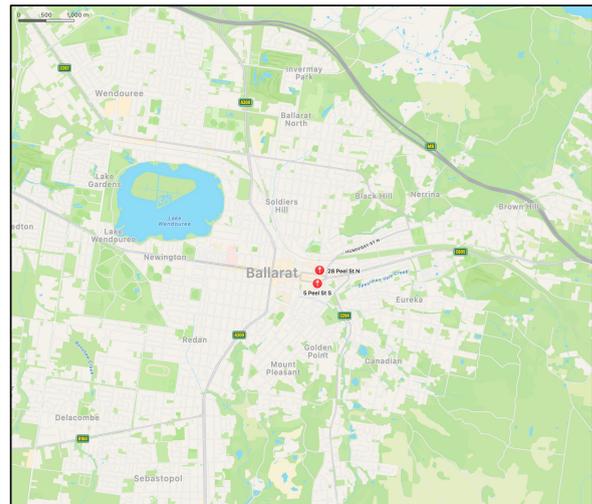


LOCATION

Location

Located 110km west of Melbourne, Ballarat is one of Australia's fastest growing regional cities and the third largest city in Victoria. It serves an economic community of 400,000 people.

The Site is located in the CBD and are owned by Council. It is currently being used as a public carpark. The commitment by the State Government to provide up to 1000 new spaces in Ballarat CBD means that the Site can be put to a higher and better use as proposed by the Bakery Hill Urban Renewal Plan.



A THRIVING ECONOMY, SUPPORTING AN ENGAGED AND RESILIENT COMMUNITY.

Bakery Hill will be a thriving mixed use hub - a key destination within Ballarat and a gateway to the Ballarat CBD. The Precinct will play an important role in Ballarat's economy and community life; it will be the centre of innovative and creative industries; an active and vibrant place during the day and night, and a sought after place to live for a diverse range of people.

Upgrades to and ultimately re-development of key sites will drive change and investment to create a great place to live, work and play, and to diversify the economy and add to the unique sense of place and community.

Bakery Hill will be an environmentally sustainable place and resilient community that limits the impact of climate change, and is adaptable to meet changing needs.

OBJECTIVES

- T1** Bakery Hill's renewal will be an ongoing **community led process**, that supports local leadership and private sector partnerships.
- T2** Bakery Hill will be reinvigorated with **diverse land uses**, including restaurants, creative industries, commercial uses and residential development.
- T3** Bakery Hill will be promoted as a **great place to live** for all people.
- T4** Bakery Hill will be positioned as a leader in **climate change adaptability and resilience**.

The sub-precincts identified in Figure 8 are derived from Making Ballarat Central - The CBD Strategy and modified to strengthen the core to become a mixed use Activity Hub that not only offers retail, but also residential, commercial and community uses.

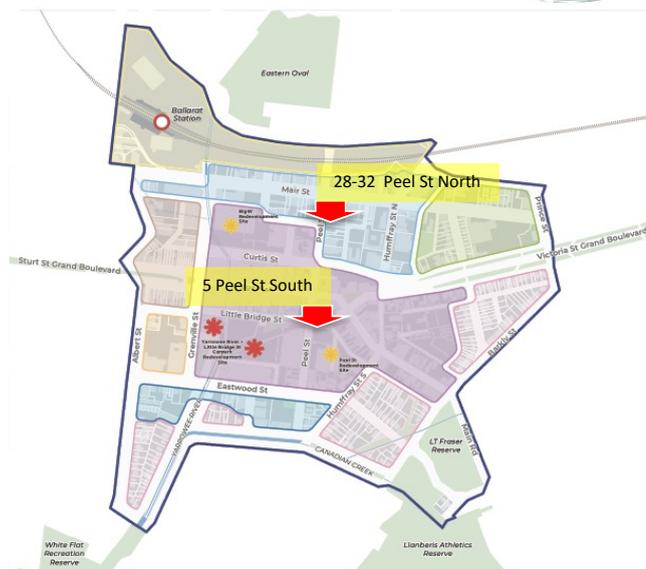


Figure 9: Urban Renewal Plan - Thriving

DRAWING KEY	
	Key redevelopment sites (Short-medium term)
	Key redevelopment sites (Long term)
	Activity hub
	Local retail hub
	Residential hub
	Community hub
	CBD peripheral retail
	Office
	Railway precinct

5 PEEL ST SOUTH VISION

Site Vision

The Bakery Hill and Bridge Mall Urban Renewal Plan (2019) describes the general area around this site as being at the gateway to the Ballarat CBD, that new developments should play an important role in Ballarat's economy and community. The aspiration is for this specific area to be an active and vibrant place during the day and night, and a sought-after place to live for a diverse range of people. Development should offer environmental, social, and economically sustainable outcomes to the Bakery Hill Precinct, building a resilient community that limits the impact of climate change, and is adaptable to meet changing needs, whilst still being responsive to the historical context of the area.

Council's vision for the 5 Peel Street South site in the context of this specific EOI is for a development which:

1. Acts as a leading example of quality design and placemaking in the Ballarat CBD, particularly in the context of this as a landmark gateway site
2. Either directly delivers or supports an inner city population with more people living, visiting and / or working in the area
3. Involves mixed use, residential or other land uses which create or help support activity and vibrancy across both day and night
4. Leverages its location and interfaces to promote private investment beyond just this specific site
5. Delivers on the environmental, social and economic objectives and vision of the Bakery Hill and Bridge Mall Urban Renewal Plan (2019).

Objectives for the Site Redevelopment EOI

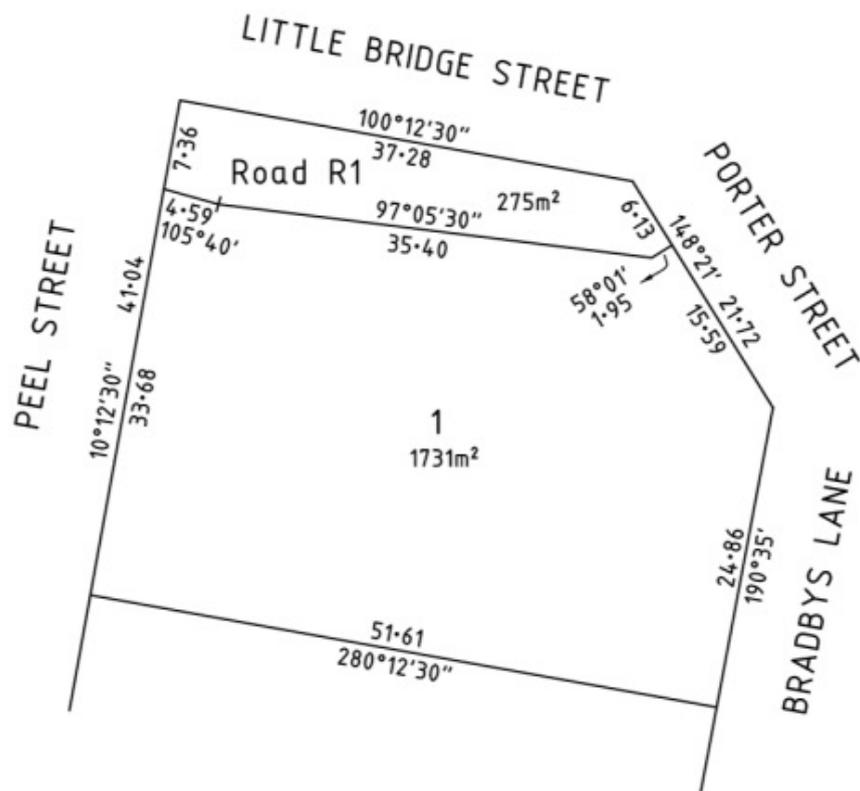
Council's objectives with relation to the redevelopment are:

1. Council's vision: Identify respondents with the ability to realise Council's vision for the site
2. Design and built form: Identify respondents with the ability to deliver a development which complies with Council's design criteria for the site
3. Financial capacity: Identify respondents with the financial capacity to undertake their proposed development
4. Experience and operational capacity: Identify respondents capable of delivering the proposed development in a timely manner
5. Financial return: Identify respondents which seek a development model that appropriately manages Council's financial exposure, risk and return during any land transaction.

TITLE INFORMATION

The Site is located at 5 Peel Street South, Bakery Hill, and is the land in certificate of title volume 11550 folio 194, being lot 1 on plan of subdivision PS 729843H.

The Site is approximately 1,731 m² in area, as shown on the extract from plan of subdivision PS 729843H below.



Note: the road reserve R1 is not part of the site.

PLANNING

Commercial 1 Zone

The site is zoned Commercial 1 and this supports a wide range of uses to facilitate the creation of a vibrant mixed use for retail, office, business, entertainment and accommodation uses. Whilst the site is unencumbered by any overlays, the following is provided as planning guidance to facilitate the planning process; however, it does not guarantee a planning permit will be granted.

Heritage Context is Celebrated

Development must contribute and respond to the heritage context of Ballarat. This includes identifying opportunities to celebrate the heritage of the Wadawurrung and Dja Dja Wurrung peoples, as well as post-settlement heritage.

Urban Structure and Legibility is Improved

There is an opportunity to improve the urban structure within the CBD. This can be achieved through consideration of:

- Pedestrian, bike, vehicle access, permeability and connectivity
- New streets, lanes and footpaths are to be designed in accordance with Council's public realm standards
- Streets and laneways that formed the historic urban fabric are reinstated where appropriate
- A clear sense of address is provided for all buildings, dwellings and commercial premises within the CBD.

Building Heights

The buildings in Ballarat CBD generally vary between one and five storeys. The heights of buildings vary along the street but there is usually no more than a two-storey difference between neighbouring buildings. Prominent corner buildings have features such as towers, decorative verandahs and 'splayed' corners that allow buildings to directly address the corner. The stepping parapets contribute to the strong heritage character and create visually interesting and distinctive streets.

View Analysis Overview

Ballarat's historic city skyline and unique story are celebrated and valued by both residents and visitors. The case for protecting Ballarat's Skyline was established in the concept of the 'City in the Landscape' - a key platform for change identified within the Ballarat Strategy. Components of the City in the Landscape include:

1. The natural topography and landscape features which surround the city
2. Landmark buildings across the city
3. The historical significance of the city (including precontact and post-contact Ballarat).

Visual Bulk is Minimised

Visual bulk relates to the overall height and width of buildings. A building is considered visually bulky if the scale of the building is much larger than the buildings in its surrounding context. Minimising visual bulk through a carefully executed massing strategy will ensure that contemporary developments sit comfortably along fine-grain heritage precincts

Parking Provision

The Ballarat Planning Scheme sets out how much on-site car parking must be provided for particular uses. If this car parking cannot be provided, then Council may consider an application to reduce the amount of car parking required.

RELEVANT SITE INFORMATION

Bakery Hill Urban Renewal Plan

The following are some relevant extracts from the Bakery Hill Urban Renewal Plan.



BAKERY HILL AND BRIDGE MALL PRECINCT - URBAN RENEWAL PROJECT - PART 4

PEEL STREET REDEVELOPMENT

This site is strategically located and forms a key entry point to Ballarat through Little Bridge Street. In the longer term, this area could be a desirable place to work and live.

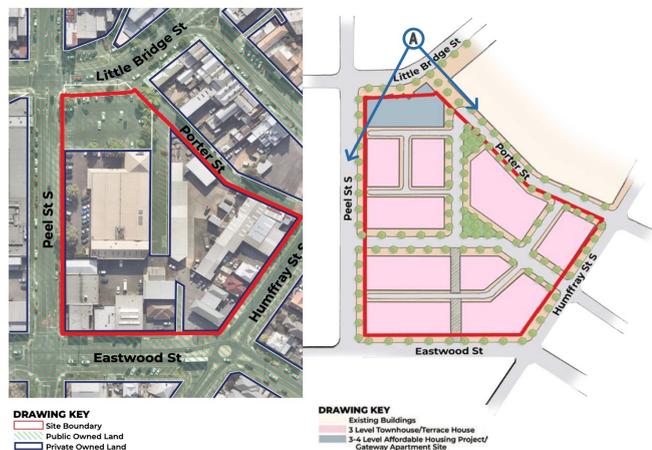
Short term upgrades and projects include:

- ☆ Improve interface with the public realm in order to create a desirable place for pedestrians and to help to increase business activity;
- ☆ Deliver street tree planting for improved amenity and canopy cover;
- ☆ Convert surplus roadway and car park areas to create more CBD green space;
- ☆ Rationalise existing car parking to create more efficient use of space;
- ☆ Improve existing laneways for improved connections and safety;
- ☆ Develop a way-finding strategy which reflects the evolving identity of the Precinct and creates a high quality public realm.

Longer-term upgrades and projects include:

- ☆ Encourage sustainable outcomes across any redevelopment of the land.
- ☆ Deliver a mixed-use Precinct which is supported by built form guidelines, incorporates high-quality public spaces and formalised streets and laneways.

This project is important as it makes more efficient use of land through redevelopment. It also has the potential to incentivise further private sector investment and encourage public/private partnerships across the Precinct. It also creates opportunity to improve and enhance public spaces and laneways.



BAKERY HILL AND BRIDGE MALL PRECINCT - URBAN RENEWAL PLAN - PART 4



PARKING IN BALLARAT CBD

Ballarat Regional Car Parks Fund

The following information has been obtained from the Ballarat Regional Car Parks Fund website at engage.vic.gov.au/ballarat-regional-car-parks-fund.

During the 2018 election, the state government committed to build 1000 new free car parking spaces in Ballarat to help take the pressure off neighbouring streets and make it easier to get in and out of the city.

Regional Development Victoria (RDV) in partnership with Council and Ballarat Health Services, has now identified sites including five potential locations that could deliver the commitment of 1000 car parks.

The Victorian Government has released a statement saying works are set to begin at three sites (Market St, White Flat Oval and Eastern Oval).

Community engagement in August 2021 received more than 240 responses, with all proposed locations receiving majority support.

For further information, please visit <https://www.rdv.vic.gov.au/grants-and-programs/regional-car-parks-fund>

Public Parking Provision on the Redevelopment Sites

In light of the above, Council considers that the public parking currently being provided on the site will be more than adequately replaced over time by the state government fund. **Existing public car parking is therefore not required to be provided in the proposed development.**

Note that car parking will still be required to satisfy planning requirements of the sites depending on the intended use.

DESIGN CRITERIA

Council seeks the following design criteria for the Site:

- *Inspiring* – Good design embedding the very essence of the development into a narrative and vision. A vision which elevates the development beyond its primary purpose and delivers an inspiring addition to the built environment.
- *Contextual* – Good design informed by its location responding to site-specific environmental, social and cultural conditions. Appropriate contextual relationships with regard to building scale, form, mass and materiality of all elements to create a valuable addition to the Precinct.
- *Functional* – Meets the requirements of a building or place through efficient spatial arrangements which enhance convenience, amenity and opportunities for future adaptability. A design that will fully integrate functional requirements and explores synergies with the project vision to deliver value beyond primary technical needs.
- *Valuable* – Good design marries aesthetics and functionality which will reduce the full life-cycle costs of the project and creates value.
- *Sustainable* – Respects our environment and resources by embedding efficiency, enhancing local ecology and creating a durable long-term built legacy.
- *Enjoyable* – Increasing amenity through creating healthy and safe places that are enjoyable at all times of the day, fostering community involvement and engendering community pride. Inclusive and equitable environments contribute to broader positive social and economic outcomes for all users.
- *Enduring* – Through the synthesis of vision and function, good design embeds lasting value into our built environment. Good design is essential in place-making which promotes community pride, providing a truly enduring legacy which will continue to serve, inspire and delight.





PLANNING PROCESS

Independence

Development will require a Planning Approval. In this regard Council wishes to explicitly state that the assessment of planning submissions on the Site has to be undertaken on an 'arms length' independent basis by Council's Statutory Planning Department.

Council is not in a position to provide any guarantees that Respondent design concepts will achieve a Planning Permit and expressly notes that this risk lies with the Respondent.

Process

Notwithstanding the above requirement for the planning process to operate independently, for this Project Council is proposing:

- Use of the Design Panel to provide design assessment and feedback
- Priority attention by the Planning Department.

NOTE: the Panel is NOT available to help Respondents in their EOI indicative design responses.

Design Panel

Council's Design Panel (the Panel) advises on the design quality of proposals. The roles and functions of the Panel include:

- Providing confidential peer review that is independent from the project team
- Explore and test design ideas and concepts at various stages throughout the design process
- Assisting Council officers in defining and articulating crucial design principles
- Applying professional expertise to assess the quality of the design primarily within the context of planning policies
- Broker alternative approaches and design solutions and expedite decisions.

The Panel is advisory only and does not have a decision-making function. Designed to complement the statutory planning system, influence design decisions early and provide expert advice to all parties, including decision making authorities at key stages of the project's development.

The Panel may be invited to provide feedback to Council on submissions made through this Expression of Interest. A design assessment will occur before a planning application is submitted, providing expert advice to the Respondent. The Panel will also be invited to submit feedback on any planning permit applications made in relation to the Site.

All Panel review sessions will be carried out in strict confidence and Panel members will not discuss proposal nor disclose any information received before or after the review. Panel advice will not generally be published but it may be subject to requirements of freedom of information legislation.

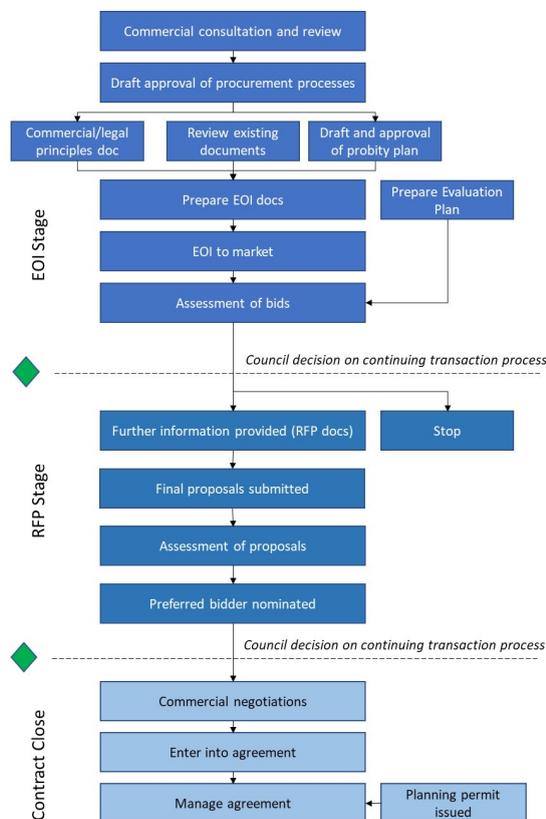
TRANSACTION PROCESS

Process

The procurement process has been designed to ensure an efficient, fair and cost-effective outcome. As a guide, it includes the following steps:

1. EOI Proposals sought from market, Section 114 public notice of intention to sell land issued
2. Assessment
3. Selection of a number of Respondents to be invited to provide more clarity and receive further information, or discontinue the transaction process
4. Request for final proposals (RFP)
5. Final Proposals submitted
6. Assessment
7. A preferred Respondent be nominated and be given exclusive negotiation rights for a limited timeframe with defined milestones, or discontinue the transaction process
8. One-on-one negotiations with the preferred developer (for each site) with the aim to negotiate an acceptable land sale and development agreement, or discontinue the transaction process
9. If negotiations acceptable, enter into legal agreements
10. Developer must lodge planning permit and upon a successful result must build the project.

The above is a guide only and Council reserves the right to change this process and consider alternative transaction models to facilitate the Project.



PROPOSED COMMERCIAL TERMS

Principles

The key commercial principles required by Council include:

- the preferred Respondent will be required to develop the Site in accordance with a design and for purposes approved by Council;
- the preferred Respondent will be required to develop the Site in a timely manner to an agreed timetable. The site cannot be 'land banked';
- the preferred Respondent will be required to obtain all approvals required for its development and use of the Site and accept all risks arising from the design, construction and economic viability of its development; and
- the Site will be sold to the preferred Respondent on an "as is" basis and the preferred Respondent will accept all risks associated with the Site, including environmental, geotechnical and connection of services.

The preferred Respondent) will be required to enter into a contract of sale for the Site (**Contract**) and an agreement under section 173 of the *Planning and Environment Act 1987* (Vic) (**Section 173 Agreement**) which will be registered on the title to the Site following settlement.

Contract

The Respondent will be required to:

- submit its application for planning approval for the development and use of the Site in accordance with approved concepts plans (**Planning Approval**) to Council for approval in its capacity as landowner by no later than [date];
- lodge its application for Planning Approval with the responsible authority by no later than [date]; and
- obtain Planning Approval by no later than [date].

If the Respondent does not obtain Planning Approval by [date], either Council or the Respondent may terminate the Contract.

The Respondent will be required to pay a deposit equal to 10% of the purchase price on execution of the Contract, with settlement and payment of the balance of the purchase price due 30 days after Planning Approval has been obtained.

Section 173 Agreement

The Respondent must develop and use the Site in accordance with the Planning Approval.

The Respondent must:

- substantially commence its development by no later than [date]; and
- complete its development by no later than [date].

If the Respondent does not develop the Site in accordance with these requirements, Council may require the Respondent to retransfer the Site to Council.



RISK APPORTIONMENT

Proposed Risk Apportionment

The proposed risk apportionment for the project is set out in the table below.

Risk Category	Description	Council	Purchaser
Site Risks			
Site availability and control	Risk that the designated project land is available in accordance with the development timetable.	✓	
Approvals (including planning)	Risk that necessary approvals cannot be obtained in accordance with the timetable set out in the Contract of Sale or may be obtained subject to unanticipated conditions that have adverse cost consequences or cause delay in the progress of the works.		✓
Site conditions	Risk that adverse ground condition cause construction costs to increase and/or cause delay in the progress of works.		✓
Environmental	Risk that the site is contaminated or polluted requiring significant expense and/or time to remedy.		✓
Native Title	Risk of any native title claim on the site which delays or prevents progress of the works and/or requires compensation to the Purchaser.		✓
Cultural Heritage and archaeological finds	Risk of cultural heritage or archaeological existing or discovered characteristics that delay works and/or cause construction costs to increase.		✓
Design			
Design Approval	Risk that the Purchaser's Design Documents do not comply with the requirements of the Contract of Sale.		✓
Design	Risk that the Purchaser's built form does not deliver the design in accordance with the Approved Design Documents.		✓
Financial Risk			
Costs	Risk of costs of participating in the EOI process including legal and professional consultants costs		✓
Financial capacity	Risk that financial demands on the Purchaser exceeds its financial capacity.		✓
Corporate failure	Risk that the Purchaser suffers corporate failure for any reason whatsoever.		✓
Financing risk	Risk that debt and/or equity as required by the Purchaser is not available at that time and in the amounts and on the conditions anticipated.		✓
Change in ownership of the Purchaser	Risk that a change in ownership or control of the Purchaser results in a weakening in their financial standing or support or other detriment to the development.		✓
FIRB approvals	Risk of not obtaining the requisite FIRB approvals in accordance with the development timetable.		✓
Insurance	The risk that insurance may be withdrawn, disallowed or offered on unacceptable terms or premiums increase or decrease due to any adverse incident or market perception.		✓
Construction Phase			
Construction	Risk that events occur during construction which prevent the project being delivered on time and to the budgeted cost.		✓
Change to final plans and specifications			✓
Market competition, economic conditions			✓
Contractor default	Risk of default or failure of a contractor or consultant engaged by the Purchaser causing delays and additional costs to the project.		✓
Industrial action and civil commotion	Risks of strikes, industrial action or civil commotion causing delays or additional costs.		✓
Weather	Risk of adverse weather conditions of any kind causing delay or additional costs to the project.		✓
Third party liability	This is the risk of damage or injury to a member of the public during the construction works.		✓
Risks throughout the development			
Overall delivery	Risk that poor management and co-ordination of all aspects of the development leads to delay and increased costs.		✓
Infrastructure (including services, utilities, etc) and public areas	This is the risk that the provision of infrastructure inside and outside development project is delayed, not delivered, uncoordinated, unfunded, poor quality and includes increased costs, cost over-runs, delays etc.		✓
Community objection	Community objection and action/litigation is taken by anyone within the community, including traders in the precinct seeking the provision of replacement public car parking.		✓
Compliance with laws	This is the risk that compliance with laws (including, without limitation, occupational health and safety laws) exceeds the anticipated cost, and the risk of non-compliance with those laws.		✓
Road Network	This is the risk that the road network for the site is prejudicial to the operation or viability of the project.		✓
Changes in law/policy	This is the risk of a change in law/policy which could not be anticipated at the time of signing the Contract of Sale which is not project-specific and which causes a marked increase in capital costs or has other consequences for the Purchaser.		✓
Any other risk not addressed in this Risk Matrix or the Terms Sheet			✓

RESPONSE TEMPLATE

The structure of the EOI response should be set out in a single file PDF, A4 portrait format in accordance with the following headings:

Section	Information Sought
Registration Form	<ul style="list-style-type: none"> As per the template attached
1. Executive Summary	<ul style="list-style-type: none"> Two pages maximum
2. Respondent Details	<ul style="list-style-type: none"> Name and registered address of Respondent entity Details and evidence pertaining to the corporate ownership of Respondent Corporate history/overview and description of the business of each Respondent Details relating to the proposed transaction vehicle structure i.e. structure and ownership Full contact details, including a primary and secondary contact Confirmation that the Respondent agrees to the terms and conditions set out within this EOI
3. Consortium Members	<ul style="list-style-type: none"> List of Consortium members and the role they will take in the Project Details of key executives and management of each entity
4. Development Experience and Capability	<ul style="list-style-type: none"> Demonstrated experience in the successful development of projects of similar size, complexity and regional location
5. Development Proposal	<ul style="list-style-type: none"> An outline of the key elements of the development proposal Evidence of understanding of the likely key development issues and Project risks
6. Design Proposal	<ul style="list-style-type: none"> Details of the design team and an outline of how design innovation will be incorporated into the Project Concept design vision for the Project (site plan, floor plans, elevations) Concept Areas Schedule
7. Operational Model	<ul style="list-style-type: none"> An outline of the key elements of the operating proposal Evidence of understanding of the target market Approach to ensure the long term sustainability and success of the Project
8. Financial Proposal	<ul style="list-style-type: none"> Indicative land payment Preliminary financial feasibility of the Project
9. Program	<ul style="list-style-type: none"> Provide a high level indicative timeline for the development of the Project
10. Financial Capacity	<ul style="list-style-type: none"> Certified copies of the last two years audited financial accounts, including at a minimum Balance Sheets and Profit and Loss Statements of each Consortium member. If not obliged to prepare the last two years audited financial accounts, other statements will need to be provided which indicate the Respondent's financial capacity Current financial commitments of each nominated Respondent, such as current and proposed projects Evidence of the ability to finance the Project, including supporting documentation that the Respondent is able to access equity and debt funding
11. Ability to Take and Manage Project Risk	<ul style="list-style-type: none"> Confirm acceptance of the project risk apportionment
12. Commercial Terms	<ul style="list-style-type: none"> Confirm acceptance of the proposed commercial principles and terms
13. Economic Benefits	<ul style="list-style-type: none"> Outline of the likely type and form of economic benefits the project will bring to Ballarat

REGISTRATION FORM

Registration Form

A. Respondents must complete the following details:

- 1. **Name:**
- 2. **ACN and ABN:**
- 3. **Registered office:**
- 4. **Postal address:**
- 5. **Nominated contact person**
- 6. **Telephone:**
- 7. **Email address:**
- 8. **Name, address, telephone number and email address of the Respondent's legal practitioner**

B. ACKNOWLEDGMENT AND DECLARATION

We acknowledge that, by submitting this proposal, we accept, and acknowledge that we are bound by, the terms and conditions stated in the Invitation.

We declare that we have no direct or indirect conflict of interest in participating in the development outlined in the Invitation.

We authorise Council to contact our preferred project partners and referees provided as part of this proposal and to obtain from them any relevant information to assist Council in evaluating this proposal.

DATED: 2022

Signed for and on behalf of)
)
 (print name of Respondent))
 by)
) Signature of signatory
 (print full name of signatory))
)
 (print title of signatory))
 in the presence of:)

.....
 Signature of witness

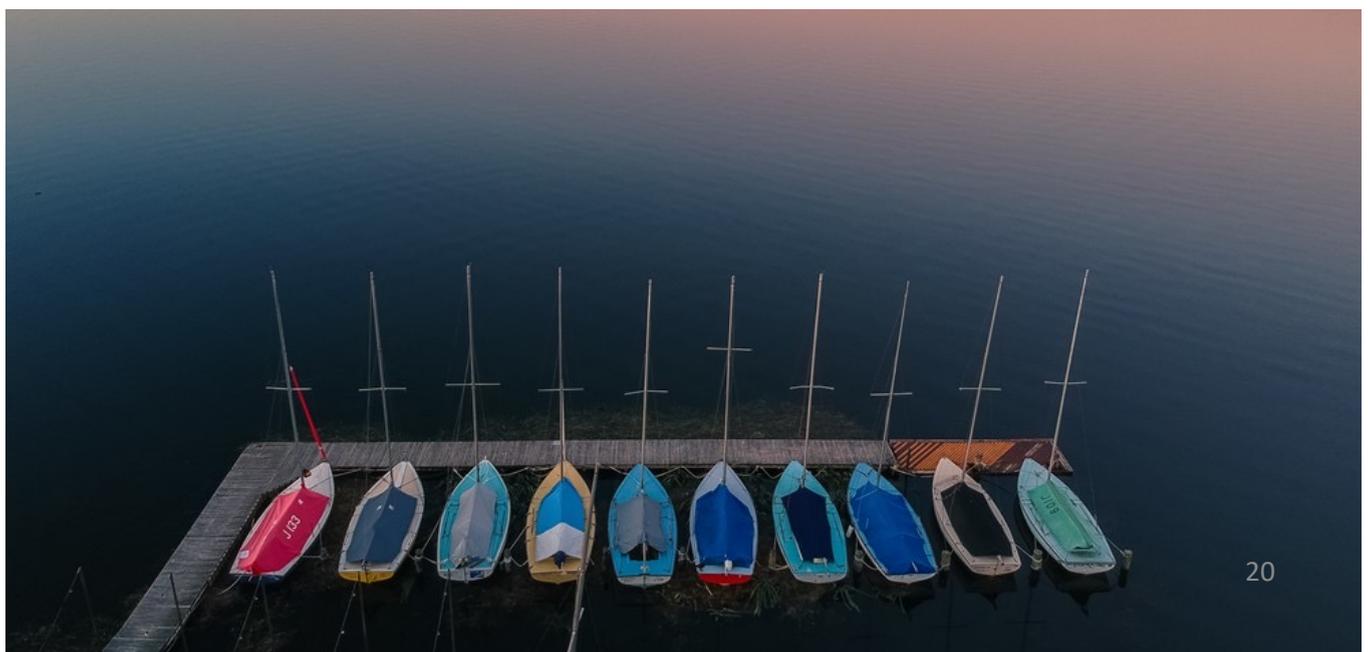
.....
 Print full name of witness

ASSESSMENT

Assessment Criteria

EOI responses will be evaluated against the following criteria:

Assessment Criteria	Relevant Response Section
1. Council’s vision: Extent to which the proposal aligns with Council’s vision for the Site	1, 5, 7
2. Design and built form: Extent to which the design proposed delivers a development which complies Council’s design criteria for the Site	6
3. Financial capacity: Extent to which respondents have the financial capacity to finance the project, take and manage risk and accept the proposed commercial terms	10, 11, 12
4. Experience and operational capacity: Extent to which respondents have previously delivered similar developments, and are capable of delivering this development in a timely manner	2, 3, 4, 9
5. Financial return: The financial and economic return to Council and community.	8, 13





TIMING

Indicative Timetable

The indicative and preferred timetable for the Project is outlined below.

EOI Submissions Close	[TBA]
EOI Assessment	[TBA]
RFP Period	[TBA]
RFP Assessment	[TBA]
Negotiation	[TBA]
Contract with preferred party	[TBA]

FURTHER INFORMATION

Further information is available on request, including:

- Features survey
- Geotech assessment
- Environmental assessment
- Response template in Word format

Please request this further documentation via the procurement portal.



CONDITIONS

Statutory process

The proposed sale of the Site is subject to Council complying with its obligations under the Local Government Act 2020 (Vic) and resolving to sell the Site.

EOI Conditions

The EOI conditions are as follows:

- No further details with respect to the property will be provided to potential Respondents. Council reserves the right to provide additional information if they so desire; a late EOI may be accepted or rejected, at the absolute discretion of Council and its advisors;
- Council may reject any EOI which does not comply with the requirements of this EOI;
- On completion of the EOI process, Council reserves the right to impose conditions on dealing with Respondents, discontinue or amend the EOI process and the EOI conditions at any time, issue a request for proposals to shortlisted Respondents or negotiate with any or several Respondents;
- Respondents warrant that in lodging an EOI it did not rely on any express or implied statement, warranty or representation, whether oral, written, or otherwise made by or on behalf of Council, its officers, employees, agents or advisors other than any statement, warranty or representation expressly contained in the EOI;
- Council may elect not to proceed with the EOI or the sale of the Site, and no discussions regarding the basis for that decision will be entered into;
- The submission of an EOI response by a Respondent will not give rise to any governing contract. Council expressly disclaims any intention to enter into any such contract;
- Respondent and their staff or consultants must not approach or request any other person to approach any member, officer or consultant of Council in order to canvas support from Council. Any Respondent who directly or indirectly seeks to obtain an advantage by the canvassing of support from Council may be disqualified from participating in this EOI process and Council can elect to not consider its EOI response;
- Respondents must not disclose the terms of any proposal unless the Respondent obtains the consent of Council or such disclosure is required for the purpose of implementation of this EOI process;
- Respondents must not make any public statement, including doing any media releases, in relation to this expression of interest process and must refer all enquiries from the media to Council;
- Respondents must not enter into any discussions, agreement, arrangement or understanding with any other Respondent concerning this Project;
- Respondents must not engage in any activity which may give rise to an actual or potential conflict of interest and must as soon as reasonably practicable notify Council of any matter which may give rise to an actual or potential conflict of interest. Council may refuse to consider a proposal from any Respondent where, in Council's opinion, that Respondent has an actual, perceived or potential conflict of interest;
- Respondents agree to comply with any probity requirements of Council or any probity adviser/auditor appointed by Council during the process covered by this EOI;
- Council and its advisors may seek clarification from Respondents on any aspect of the EOI prior to making a decision in this regard;
- Council may alter or amend this EOI and, if so, will do so in writing, Respondents that have registered to receive the EOI documentation will be provided with amendments to the EOI documentation (if any); and
- Nothing in this EOI process fetters or restricts the power or discretion of Council in the exercise of any statutory right, power or duty that the Council may lawfully exercise in respect of the Site or the proposed development of the Site.

Respondents that have registered to receive the EOI documentation will be provided with amendments to the EOI documentation (if any).

IMPORTANT NOTICE

Notice

This information is provided to a party interested in responding to the Expression of Interest ("Respondent") and solely for the purpose of assisting the Respondent and its professional advisors. The information is provided upon the express understanding that it be used for only that purpose. Further, the information is not intended to provide any recommendation either expressly or by implication with respect to the Project.

The information and material contained in this document has been provided to Council by numerous sources. While care has been taken in the preparation of this document, neither Council nor their advisors make any guarantee, representation or warranty, either expressed or implied concerning the accuracy, reliability or completeness of the information or that any information has been audited.

The Respondent to this Expression of Interest should make its own independent investigations and analysis of the property and its own assessment of all information and material provided as to the accuracy, reliability, completeness and timeliness of such information and material. The Respondent should consider seeking appropriate professional advice in reviewing the information and evaluating the suitability of the investment.

In furnishing the information, Council or their advisors do not undertake any obligation to provide the Respondent with access to any additional information. All warranties, conditions, liabilities or representations in relation to the information, advice or other services constituted by this document are hereby expressly negated and excluded to the maximum extent permitted by law. The Respondent agrees to the fullest extent permitted by law, that it shall not seek to sue or hold Council or their advisors liable in any respect by reason of the provision of the information.

Council and their advisors are not liable to reimburse or compensate any party or any of their representatives for any costs or expenses incurred by any party or its representatives in conducting their review and evaluation of this investment opportunity, submitting an expression of interest or otherwise in conjunction with the Project.







8.7. ART GALLERY OF BALLARAT CONSTITUTION

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Louise Tegart – Director Art Gallery of Ballarat

PURPOSE

1. To update the Art Gallery of Ballarat Constitution to ensure it is in line with current regulations as well as updated procedures.

BACKGROUND

2. As part of the Art Gallery of Ballarat Governance Review it has also been timely to review the Gallery's Constitution to ensure it fits current practice. The Gallery's Constitution has not been updated since the incorporation of the Gallery in 2012. The proposed amendments are prompted by a governance review undertaken as part of the merger between the Gallery and the Art Gallery of Ballarat Foundation. Since incorporation, the regulatory landscape in relation to charities has changed with the introduction of the Australian Not for Profit and Charities Commission, and in addition some modernisation and procedural changes have been updated.
3. The Process for Amending the Constitution considers Section 136 of the Corporations Act 2001 which provides that a company may modify its constitution by special resolution. In the case of a company with one member, this can be done by the member signing a record of that resolution. Clause 11 of the Constitution provides for limitation on that power only where, as a result of such modifications, the company will cease to be a charity (which does not apply to the proposed amendments).

KEY MATTERS

4. Amendments

Item – Legislative references

Explanation- As a charity registered with the Australian Charities and Not-for Profit Commission (ACNC), the Gallery is not obliged to comply with a number of Corporations Act requirements, including in relation to certain lodgements, duties of directors, meetings of members, financial reports and audits.

Instead, it is subject to the requirements of the governance standards under the Australian Charities and Not for Profit Commission Act 2012.

A number of ACNC Governance Standard requirements are satisfied by utilising Corporations Act mechanisms.

Accordingly, the following amendments have been made:

- including a clause providing that the Gallery will comply with the governance standards;
- including a clause providing that the ACNC Act and Corporations Act override any constitution clauses inconsistent with the relevant Acts;
- including a definition of ACNC Act; and
- clarifying references to the Corporations Act where necessary.

Item - Board of Directors

Explanation- The Governance review conducted proposes that the composition of the Board of the Gallery consists of up to one member appointed by the Council, one member appointed by the Ballarat Fine Art Public Gallery Association and up to 6 ordinary directors appointed by the member.

To ensure quality candidates, it is proposed to have a formal Nominations Committee which must have regard for the qualifications required by the Constitution, and which is responsible for identifying and nominating directors for election and for endorsement by Council as the member.

Some other mechanical and governance changes have also been proposed:

- including: limiting the maximum term for directors to 6 years (with re-eligibility following 12 months away from the board)
- clarifying the casual vacancy power of the board
- including a transitional provision to ensure there are staggered terms for the directors appointed on the date this Constitution is approved.

Item - Executive Officer

Explanation- It is proposed to remove the power of the Board to appoint a director as an 'Executive Officer', as this has the potential to confuse the proposed separation between executive (the Gallery Director) and governance sought for the Gallery.

Item - Notice and electronic signatures

Explanation- In the interests of modernisation the Constitution is amended to remove fax as a method of notice and clarify the position regarding electronic communication and signatures.

OFFICER RECOMMENDATION**5. That Council:****5.1 Approve the updated Art Gallery of Ballarat Constitution, and****5.2 Authorise the CEO on behalf of Council to sign such documents required to implement these changes.****ATTACHMENTS**

1. Governance Review [8.7.1 - 2 pages]
2. Art Gallery of Ballarat Constitution (2022 Update)(Clean) (1) [8.7.2 - 29 pages]

OFFICIAL

ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

1. Council Plan- An environmentally sustainable future, A healthy, connected and inclusive community, A city that fosters sustainable growth, A city that conserves and enhances our natural and built assets, A strong and innovative economy and city, A council that provides leadership and advocates for its community
2. Community Vision 2031
3. Ballarat Prosperity Framework
4. Art Gallery of Ballarat Strategic Plan 2019-2022
5. Creative City Strategy
6. Creative Precinct Masterplan
7. Events Strategy
8. Traveller Experience Plan
9. Visitor Economy Strategy
10. Health and Wellbeing Plan 2021-2031
11. Financial Plan
12. Workforce Plan
13. Asset Plan

COMMUNITY IMPACT

14. A vibrant and effectively funded and managed Art Gallery is fundamentally important to every community and even more so to a city the size of Ballarat. The Council holds some responsibility for the arts and cultural prosperity for the local community and as the capital of Western Victoria, a significant regional population looks to the city as a leader in this sector. Therefore, it is important that the greatest outcome can be achieved from the available funding and resources.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

15. Nil

ECONOMIC SUSTAINABILITY IMPLICATIONS

16. The new Board position descriptions clearly define the role of the Gallery Board and ensures that fundraising is part of their remit. A fundraising plan has been developed.
17. Long term financial stability of the Gallery including ethical management of bequests

FINANCIAL IMPLICATIONS

18. The new MoU between Council and the Board will give the Gallery the ability to have assurance of their forthcoming budget in order to plan exhibitions up to three years in advance which is industry standard. In theory the MoU allows the Gallery to view the three year budget holistically and spend when exhibitions fall rather than working within an allocated annual budget.

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LEGAL AND RISK CONSIDERATIONS

19. Harwood Andrews have drafted all new governance documentation.
20. Council taking on the physical assets of the Gallery Foundation- ongoing maintenance of 2 buildings.

HUMAN RIGHTS CONSIDERATIONS

21. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

COMMUNITY CONSULTATION AND ENGAGEMENT

22. Extensive consultation has been undertaken with the Board, Foundation and Association. Other galleries undergoing similar reviews have also been consulted- Shepparton Art Museum and Murray Art Museum Albury.

GENDER EQUALITY ACT 2020

23. There are no gender equality implications identified for the subject of this report.

CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT

24. Council officers affirm that no general or material conflicts need to be declared in relation to the matter of this report.

OFFICIAL

CONSTITUTION OF ART GALLERY OF BALLARAT
CORPORATIONS ACT
COMPANY LIMITED BY GUARANTEE

ADOPTED ON #

Corporations Act

Company Limited by Guarantee

ART GALLERY OF BALLARAT**1. COMPANY'S NAME**

The name of the company is Art Gallery of Ballarat.

2. COMPANY'S PURPOSES

2.1. The company is established for the public charitable object of operating a public art gallery by acquiring and exhibiting works of art to the public at Ballarat and other places in Australia decided by the directors.

2.2. For the object outlined in rule 2.1, the directors may:

2.2.1. Have regard to the recommendations of any advisory committee established under rule 15;

2.2.2. Formulate policies;

2.2.3. Make rules in connection with any policy; and

2.2.4. Revoke or amend any policy or rules and formulate others.

3. COMPANY'S POWERS

3.1. Solely for carrying out the company's purposes, the company may:

3.1.1. raise funds or encourage contributions by way of gifts (by will or otherwise), grants, sponsorships, personal or public appeals or in any other manner;

3.1.2. purchase, licence, lease, borrow, or otherwise acquire ownership or possession of works of art;

3.1.3. catalogue, conserve, restore and display works of art;

3.1.4. make works of art and other material available to others in accordance with a loans policy to be decided upon by the directors;

3.1.5. provide funds, facilities or other material benefits;

3.1.6. print and publish information in hard copy or by electronic means;

3.1.7. provide educational or training programs;

3.1.8. to provide other services, including computer and other technologies;

3.1.9. accept and hold funds or property of any kind on or for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person;

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- 3.1.10. engage or dismiss any employee, agent, contractor or professional person;
- 3.1.11. accept and undertake trusteeships, administration and management of trusts and funds, whether as trustee or as agent for the trustee or otherwise, and charge and accept fees, commission or other remuneration for doing so;
- 3.1.12. purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges;
- 3.1.13. control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;
- 3.1.14. invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;
- 3.1.15. construct, improve, maintain, develop, work, manage and control real or personal property;
- 3.1.16. enter into contracts and deeds;
- 3.1.17. appoint an attorney or agent with powers (including the power to sub-delegate) and on terms the company thinks fit, and procure registration or recognition of the company in any other country or place;
- 3.1.18. enter into arrangements with any government or authority;
- 3.1.19. borrow, raise or secure the payment of money and secure the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, in particular, by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the company's property (both present and future) and purchase, redeem or pay off those securities;
- 3.1.20. make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- 3.1.21. accept any gift of real or personal property, whether subject to any special trust or not and decline to accept any gift;
- 3.1.22. appoint patrons of the company;
- 3.1.23. arrange conferences, meetings and other forums; and
- 3.1.24. do all other things that are incidental or conducive to carrying out the company's purposes.

4. NOT FOR PROFIT

4.1. Application of the company's income and property

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- 4.1.1. The company's income and property must be applied solely towards promoting the company's purposes.
- 4.1.2. No part of the income or property may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any member or director.
- 4.1.3. This rule 4 does not prohibit indemnification of, or payment of premiums on contracts of insurance for, any director to the extent permitted by law and this constitution.

4.2. **Payments of directors fees**
No directors fees may be paid to the directors.

4.3. **Other payments to directors**
All other payments to directors must be approved by the directors including, but not limited to:

- 4.3.1. out-of-pocket expenses incurred by a director in performing a duty as a director of the company; or
- 4.3.2. a service rendered to the company by a director in a professional or technical capacity or as an employee, other than in the capacity as a director of the company, where:
 - 4.3.2.1. the provision of the service has the prior approval of the directors; and
 - 4.3.2.2. the amount payable is not more than an amount that commercially would be reasonable payment for the service.

5. MEMBERSHIP

5.1. Application

- 5.1.1. The members are:
 - 5.1.1.1. the person who consents to be the initial member; and
 - 5.1.1.2. any other persons the directors admit to membership in accordance with this constitution.
- 5.1.2. Every applicant for membership of the company except the initial member must apply in the form and manner decided by the directors.
- 5.1.3. Within 60 days of receipt of an application for membership, the directors must consider the application and decide whether to admit or reject the admission of the applicant. The directors need not give any reason for rejecting an application.
- 5.1.4. Despite the foregoing provisions of this rule, for so long as Ballarat City Council is a member of the company, the directors may not admit to membership any person without the prior approval of Ballarat City Council.

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6. WHEN MEMBERSHIP CEASES

6.1. Death, resignation and other events

A person immediately ceases to be a member if the person:

- 6.1.1. dies;
- 6.1.2. resigns as a member by giving written notice to the company;
- 6.1.3. becomes of unsound mind or the person is, or their estate is, liable to be dealt with in any way under a law relating to mental health;
- 6.1.4. becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors;
- 6.1.5. is expelled under rule 6.2; or
- 6.1.6. becomes, if the directors so decide in their absolute discretion, an untraceable member because the person has ceased to reside at, attend or otherwise communicate with his or her Registered Address.

6.2. Expulsion

- 6.2.1. Subject to rule 6.2.3 the directors may by resolution expel a member who is not a director from the company if, in their absolute discretion, they decide it is not in the interests of the company for the person to remain a member.
- 6.2.2. If the directors intend to consider a resolution under rule 6.2(a), at least one week before the meeting at which the resolution is to be considered, they must give the member written notice:
 - 6.2.2.1. stating the date, place and time of the meeting;
 - 6.2.2.2. setting out the intended resolution and the grounds on which it is based; and
 - 6.2.2.3. informing the member that he or she may attend the meeting and may give an oral or written explanation or submission before the resolution is put to the vote.
- 6.2.3. Despite rule 6.2.1 Ballarat City Council may not be expelled as a member.

7. LIABILITY OF MEMBER

The liability of the members is limited to the amount of the guarantee given in rule 8.

8. GUARANTEE BY MEMBER

Every member must contribute an amount not more than \$100 to the property of the company if it is wound up while the person is a member or within one year after the person ceases to be a member, for:

- 8.1. payment of the company's debts and liabilities contracted before the time he or she ceased to be a member; and
- 8.2. costs, charges and expenses of winding up.

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9. WINDING UP

- 9.1. If, on the winding up or dissolution of the company, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to an institution:
- 9.1.1. that is charitable at law;
 - 9.1.2. whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in rule 4; and
 - 9.1.3. Gifts and Deductible Contributions to which can be deducted under Division 30 of the ITAA 97 due to it being characterized as a public art gallery under item 12.1.4 of the table in section 30-100.
- 9.2. The identity of the institution referred to in rule 9.1 must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of the company and, if the members do not decide, by the Supreme Court of the state or territory in which the company is registered.
- 9.3. Without intending to impose any legal obligation to do so, a decision made under rule 9(b) should prefer an institution operating within the municipality of the City of Ballarat.

10. ESTABLISHMENT AND OPERATION OF GIFT ACCOUNT

- 10.1. **Maintaining a gift account**
The company must maintain a management account (**Gift Account**):
- 10.1.1. to identify and record Gifts and Deductible Contributions;
 - 10.1.2. to identify and record any money received by the company because of those Gifts and Deductible Contributions; and
 - 10.1.3. that does not record any other money or property.
- 10.2. **Taxation Administration Act requirements**
In accordance with section 385-15 of Schedule 1 of the *Taxation Administration Act 1953* (Cth), the Gift Account must record and explain all other acts the company engages in that are relevant to the company's status as a deductible gift recipient and show the use of the Gift Account in accordance with rule 10.3.
- 10.3. **Limits on use of Gift Account**
The company must use the Gift Account only for its principal purpose.
- 10.4. **Winding up or revocation of deductible gift recipient endorsement**
- 10.4.1. Upon:
 - 10.4.1.1. the winding up of the company; or
 - 10.4.1.2. the company ceasing to be endorsed as a deductible gift recipient under Subdivision 30-BA of ITAA 97,
 whichever is earlier, any surplus Gifts and Deductible Contributions and money received by the company because of those Gifts and Deductible Contributions must be transferred to an institution:

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- 10.4.1.3. which is charitable at law;
 - 10.4.1.4. whose constitution prohibits distributions or payments to its members and directors (if any) to an extent at least as great as is outlined in rule 4.1; and
 - 10.4.1.5. gifts to which are deductible under Division 30 of ITAA 97 on the basis that it is characterised as a public art gallery as described in item 12.1.4 of the table in section 30-100.
- 10.4.2. The identity of the institution referred to in rule 10.4.1 must be decided by the directors, or if the directors do not wish to decide or do not decide, it must be decided by the members by ordinary resolution at or before the time of winding up of the company and, if the members do not decide, by the Supreme Court of the state or territory in which the company is registered.
- 10.5. **Receipts**
Receipts for Gifts or Deductible Contributions must state the information required in the applicable provisions of section 30-228 of the ITAA 97.
- 10.6. **Gift**
The term **Gift** means a gift to the company as described in item 1 or item 4 of the table in section 30-15 of the ITAA 97.

11. ALTERING THIS CONSTITUTION

- 11.1. **Charitable**
The company must not pass a special resolution altering the constitution, if, as a result, the company will cease to be a charity.
- 11.2. **Notice to Commissioner**
- 11.2.1. The company must give written notice to the Commissioner if:
 - 11.2.1.1. a special resolution is passed materially altering rule 2; or
 - 11.2.1.2. the company ceases to be entitled to be endorsed as a tax concession charity or as a deductible gift recipient as a result of a change in its constitution or activities or otherwise.
 - 11.2.2. The notice must be given as soon as possible after the passing of the special resolution or the cessation.

12. GENERAL MEETINGS

- 12.1. **Sole member**
If the company has only one member:
- 12.1.1. the provisions of this rule 12 do not apply; and
 - 12.1.2. the company may pass a resolution by the member recording it and signing the record.
- 12.2. **Calling general meetings**
- 12.2.1. A general meeting may only be called:

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- 12.2.1.1. by a directors' resolution; or
- 12.2.1.2. in accordance with a members' requisition under the Corporations Act, or
- 12.2.1.3. as otherwise provided in the Corporations Act.
- 12.2.2. The directors may change the venue for, postpone or cancel a general meeting if:
 - 12.2.2.1. they consider that the meeting has become unnecessary;
 - 12.2.2.2. the venue would be unreasonable or impractical; or
 - 12.2.2.3. a change is necessary in the interests of conducting the meeting efficiently.
- 12.2.3. If the general meeting was not called by a directors' resolution or was called in accordance with a members' requisition under the Corporations Act, then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.
- 12.3. **Notice of general meetings**
 - 12.3.1. Notice of every general meeting must be given in any manner authorised by rule 17 to each person who is at the date of the notice:
 - 12.3.1.1. a member;
 - 12.3.1.2. a director; or
 - 12.3.1.3. the Auditor.
 - 12.3.2. A notice of a general meeting must:
 - 12.3.2.1. specify the date, time and place of the meeting;
 - 12.3.2.2. state the general nature of the business to be transacted at the meeting; and
 - 12.3.2.3. specify a place, fax number or electronic address for the receipt of proxies.
 - 12.3.3. A person may waive notice of a general meeting by written notice to the company.
 - 12.3.4. The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting does not invalidate any thing done or resolution passed at the general meeting if:
 - 12.3.4.1. the non-receipt or failure occurred by accident or error; or
 - 12.3.4.2. before or after the meeting, the person has notified or notifies the company of that person's agreement to that thing or resolution.
 - 12.3.5. A person's attendance at a general meeting waives any objection that person may have to:

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- 12.3.5.1. a failure to give notice, or the giving of a defective notice, of the meeting unless, at the beginning of the meeting, the person objects to the holding of the meeting; and
- 12.3.5.2. the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

12.4. Quorum at general meetings

- 12.4.1. No business may be transacted at a general meeting, except the election of a chairperson and the adjournment of the meeting, unless a quorum of members is present when the meeting proceeds to business.
- 12.4.2. A quorum consists of:
 - 12.4.2.1. if there is only one member entitled to vote and be present at the meeting, that member; and
 - 12.4.2.2. in any other case, 3 members entitled to vote and present at the meeting, unless the members have fixed a higher number of members entitled to vote.
- 12.4.3. If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - 12.4.3.1. where the meeting was convened on the requisition of members, the meeting must be dissolved; or
 - 12.4.3.2. in any other case the meeting stands adjourned to the day, and at the time and place, that the directors decide or, if the directors do not make a decision, to the same day in the next week at the same time and place.
- 12.4.4. If at the adjourned meeting under rule 12.4.3.2, a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting must be dissolved.

12.5. General meetings by technology

- 12.5.1. The simultaneous linking together by telephone or other electronic means of a sufficient number of the members in person, to constitute a quorum constitutes a meeting of the members, provided each member has a reasonable opportunity to participate at the meeting.
- 12.5.2. All the provisions in this constitution relating to meetings of the members apply, as far as they can, with any necessary changes, to meetings of the members by telephone or other electronic means.
- 12.5.3. A member who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- 12.5.4. A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the members involved was at that place for the duration of the meeting.

12.6. Chairperson of general meetings

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- 12.6.1. The chairperson of directors must preside as chairperson at a general meeting if present within 15 minutes after the time appointed for the meeting and willing to act.
- 12.6.2. If there is no chairperson of directors or both the conditions in rule 12.6.1 have not been met, the members present must elect another chairperson of the meeting.
- 12.6.3. A chairperson elected under rule 12.6.2 must be:
 - 12.6.3.1. another director who is present and willing to act; or
 - 12.6.3.2. if no other director present at the meeting is willing to act, a member who is present and willing to act.

12.7. Conducting and adjourning general meetings

- 12.7.1. A question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chairperson of the meeting, whose decision is final.
- 12.7.2. The chairperson of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting except the business left unfinished at the meeting from which the adjournment took place.
- 12.7.3. Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as for an original meeting.
- 12.7.4. Except as provided by rule 12.7.3, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 12.7.5. Where a meeting is adjourned, the directors may change the venue of, or postpone or cancel, the adjourned meeting, unless the meeting was called and arranged to be held by the members or the court under the Corporations Act. If a meeting is called and arranged to be held under section 249D of the Corporations Act, the directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning member.

12.8. Decisions at general meetings

- 12.8.1. Except where by law a resolution requires a special majority, questions arising at a general meeting must be decided by a majority of votes cast by the members present at the meeting. Such a decision is for all purposes a decision of the members.
- 12.8.2. Where the votes on a proposed resolution are equal:
 - 12.8.2.1. the chairperson of the meeting does not have a second or casting vote; and
 - 12.8.2.2. the proposed resolution is taken as lost.
- 12.8.3. A resolution put to the vote of a general meeting must be decided on a show of hands unless, before the vote is taken or before or immediately

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after the declaration of the result of the show of hands, a poll is demanded by:

- 12.8.3.1. the chairperson of the meeting;
 - 12.8.3.2. at least 2 members present and with the right to vote on the resolution; or
 - 12.8.3.3. a member or members present at the meeting and representing at least 5% of the total voting rights of all members entitled to vote on the resolution on a poll.
- 12.8.4. A demand for a poll does not prevent a general meeting continuing to transact any business except the question on which the poll has been demanded.
- 12.8.5. Unless a poll is duly demanded, a declaration by the chairperson of a general meeting that a resolution has on a show of hands been:
- 12.8.5.1. carried;
 - 12.8.5.2. carried unanimously;
 - 12.8.5.3. carried by a particular majority; or
 - 12.8.5.4. lost,
- and an entry to that effect in the book containing the minutes of the company's proceedings, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 12.8.6. If a poll is duly demanded at a general meeting, it must be taken in such manner, and either at once or after an interval or adjournment or otherwise, as the chairperson of the meeting directs. The result of the poll is the resolution of the meeting at which the poll was demanded.
- 12.8.7. A poll demanded at a general meeting on the election of a chairperson of the meeting or on a question of adjournment must be taken immediately.
- 12.8.8. The demand for a poll may be withdrawn.
- 12.8.9. If the company has only one member, the company may pass a resolution by the member recording it and signing the record.
- 12.9. **Voting rights**
- 12.9.1. Subject to this constitution and to any rights or restrictions attached to any class of membership, at a general meeting every member present has one vote.
 - 12.9.2. A proxy, attorney or representative is entitled to a separate vote for each member the person represents, in addition to any vote the person may have as a member in his or her own right.
 - 12.9.3. An objection to the qualification of a person to vote at a general meeting must be:

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- 12.9.3.1. raised before or at the meeting at which the vote objected to is given or tendered; and
- 12.9.3.2. referred to the chairperson of the meeting, whose decision is final.
- 12.9.4. A vote not disallowed by the chairperson of a meeting under rule 12.9.3 is valid for all purposes.
- 12.10. **Representation at general meetings**
 - 12.10.1. Subject to this constitution, each member entitled to vote at a meeting of members may vote:
 - 12.10.1.1. in person or, where a member is a body corporate, by its representatives;
 - 12.10.1.2. by one proxy; or
 - 12.10.1.3. by one attorney.
 - 12.10.2. A proxy, attorney or representative may, but need not, be a member of the company.
 - 12.10.3. A proxy, attorney or representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- 12.11. **Authority of a proxy, attorney or representative**
 - 12.11.1. Unless otherwise provided in the instrument, an instrument appointing a proxy, attorney or representative is to be taken to confer authority:
 - 12.11.1.1. to agree to a meeting being convened by shorter notice than is required by this constitution; and
 - 12.11.1.2. to agree to a resolution being proposed and passed as a special resolution at a meeting of which less than the period of notice required by this constitution.
 - 12.11.2. Even though the instrument (appointing a proxy, attorney or representative) may refer to specific resolutions and may direct the proxy, attorney or representative on how to vote on those resolutions, unless otherwise provided, it is taken to confer authority:
 - 12.11.2.1. to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - 12.11.2.2. to vote on any procedural motion, including any motion to elect the chairperson, to vacate the chair or to adjourn the meeting; and
 - 12.11.2.3. to act generally at the meeting.
 - 12.11.3. An instrument appointing a proxy, attorney or representative may direct the manner in which the proxy, attorney or representative is to vote in respect of a particular resolution and, where an instrument so provides,

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the proxy, attorney or representative is not entitled to vote on the proposed resolution except as directed in the instrument.

- 12.11.4. Subject to rule 12.11.5, an instrument appointing a proxy, attorney or representative need not be in any particular form as long as it is in writing, legally valid and signed by or on behalf of the appointor or the appointor's attorney.
- 12.11.5. A proxy, attorney or representative may not vote at a general meeting or adjourned meeting or on a poll unless the instrument appointing the proxy, attorney or representative, and the authority under which the instrument is signed, or a certified copy of the authority, are:
 - 12.11.5.1. received at the registered office of the company, a fax number at the company's registered office or at another place, fax number or electronic address specified for that purpose in the notice convening the meeting before the time specified in the notice;
 - 12.11.5.2. in the case of a meeting or an adjourned meeting, tabled at the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
 - 12.11.5.3. in the case of a poll, produced when the poll is taken.
- 12.11.6. The directors may waive all or any of the requirements of rules 12.11.4 and 12.11.5 and in particular, may, on production of other evidence to prove the valid appointment or a proxy, attorney or representative required by the directors, accept:
 - 12.11.6.1. an oral appointment of a proxy, attorney or representative;
 - 12.11.6.2. an appointment of a proxy, attorney or representative which is not signed in the manner required by rule 12.11.4; and
 - 12.11.6.3. the deposit, tabling or production of a copy (including a copy sent by fax) of an instrument appointing a proxy, attorney or representative or a power of attorney or other authority under which the instrument is signed.
- 12.11.7. A vote given in accordance with the terms of an instrument appointing a proxy, attorney or representative is valid despite the revocation of the instrument or the authority under which the instrument was executed, if no written notice of the revocation has been received by the company by the time and at one of the places at which the instrument appointing the proxy, attorney or representative must be deposited, tabled or produced under rule 12.11.5.
- 12.11.8. The appointment of a proxy or attorney is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on a resolution, the person acting as proxy or attorney for the appointer is not entitled to vote, and must not vote, as the appointer's proxy or attorney on the resolution.

13. DIRECTORS

13.1. Board composition

The board of directors will consist of:

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- 13.1.1. up to one director appointed by the Ballarat City Council;
 - 13.1.2. up to one director appointed by the Ballarat Fine Art Public Gallery Association Ltd; and
 - 13.1.3. subject to rule 13.3, up to 6 directors elected by the members whose nominations for election have been confirmed by the Nominations Committee.
- 13.2. **Transitional Provisions**
The directors elected in the general meeting at which this Constitution is adopted will be elected for one, two or three year terms, with one third of the Directors being elected for each period.
- 13.3. **Nominations Committee**
- 13.3.1. The Nominations Committee shall comprise the chairperson of directors and a minimum of 2 other directors appointed by the board.
 - 13.3.2. The chairperson will be chairperson of the Nominations Committee. The Nominations Committee shall meet as may be determined by the chairperson of the Nominations Committee.
 - 13.3.3. The responsibilities of the Nominations Committee shall be to:
 - 13.3.3.1. encourage appropriate persons who meet the qualifications in rule 13.10 to submit a nomination as a director of the company;
 - 13.3.3.2. to manage the selection process for candidates to be directors; and
 - 13.3.3.3. to nominate and approve the persons who can stand for election to be a director.
 - 13.3.4. Any person standing for election as a director must submit a nomination to the Nominations Committee and must have his or her nomination approved by the Nominations Committee.
- 13.4. **Number of directors**
- 13.4.1. The minimum number of directors is three. The maximum number of directors is to be fixed by the directors, but may not be more than eight, unless the company in general meeting resolves otherwise.
 - 13.4.2. The directors must not fix a maximum which is less than the number of directors in office at the time.
- 13.5. **Eligibility**
- 13.5.1. A person is eligible for election as a director if they have:
 - 13.5.1.1. have their nomination approved by the Nominations Committee;
 - 13.5.1.2. give the Company their signed consent to act as a Director; and

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13.5.1.3. are not ineligible to be a director under the Corporations Act or the ACNC Act.

13.6. **Appointment**

13.6.1. Other than in relation to a casual vacancy, a director will be appointed where the members resolve to appoint an individual eligible for election as director.

13.7. **Casual vacancy**

13.7.1. The directors may appoint any individual as a director to fill a casual vacancy provided the number of directors does not exceed the maximum number fixed under rule 13.1.

13.7.2. An individual so appointed will hold office until the next annual general meeting but is then eligible for election or appointment in accordance with rule 13.6.

13.8. **Term of office of Directors**

13.8.1. The term of office of a director is three years, excluding any term of office held in filling a casual vacancy. The expiration of that term is deemed to occur at the end of the third annual general meeting of the company following the appointment or election of that director (as the case may be).

13.8.2. At the annual general meeting, all directors subject for re-election shall retire but shall be eligible for re-election.

13.8.3. The maximum term for all directors is two terms of three years (**Maximum Term**)

13.8.4. Notwithstanding rule 13.8.3, a director is eligible to be reappointed as a director following the expiration of twelve months after standing down at the end of the Maximum Term.

13.9. **Responsible Persons**

13.9.1. A majority of the directors at all times must be Responsible Persons.

13.9.2. If at any time the requirement in rule 13.9.1 is not met, the directors must not exercise any discretion or power until the requirement is met, except:

13.9.2.1. for the purpose of appointing an additional director;

13.9.2.2. to protect the assets of the company; or

13.9.2.3. in the case of urgency.

13.10. **Qualifications**

13.10.1. A majority of the directors of the company must be persons who are not employed by, or an officer of, government, local government, or a government department or authority.

13.10.2. The directors must be persons who, in the opinion of the members, have the skills, background and expertise deemed necessary or desirable (including, without limitation, to complement the existing directors) for the effective operation of the board including in relation to:

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- 13.10.2.1. fundraising;
- 13.10.2.2. arts management;
- 13.10.2.3. business administration or finance; or
- 13.10.2.4. an active interest and leadership in cultural activities.

13.11. **Vacation of office**

The office of a director becomes vacant:

- 13.11.1. in the circumstances outlined in the ACNC Act or the Corporations Act;
- 13.11.2. if the director becomes of unsound mind or a director is, or their estate is, liable to be dealt with in any way under the law relating to mental health;
- 13.11.3. if the director is removed from office by resolution of the members;
- 13.11.4. except to the extent of a leave of absence granted by the directors, if the director fails to attend at least 3 consecutive meetings of the directors or at least 4 meetings over a period of 365 days; or
- 13.11.5. if the director resigns by written notice to the company.

13.12. **Directors may contract with the company and hold other offices**

- 13.12.1. The directors may make regulations requiring the disclosure of interests that a director, and any person considered by the directors as related to or associated with the director, may have in any matter concerning the company or a related body corporate. Any regulations made under this constitution bind all directors but no act, transaction, agreement, instrument, resolution or other thing with a third party is invalid or voidable only because a director fails to comply with the regulations.
- 13.12.2. Unless the Corporation Act permits, a director who has a material personal interest in a matter that is being considered at a directors' meeting must not:
 - 13.12.2.1. be present while the matter is being considered at the meeting; or
 - 13.12.2.2. vote on the matter.
- 13.12.3. A director is not disqualified from contracting or entering into an arrangement with the company as vendor, purchaser or in another capacity, merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- 13.12.4. A contract or arrangement entered into by or on behalf of the company in which a director is in any way interested is not invalid or voidable merely because the director holds office as a director or because of the fiduciary obligations arising from that office.
- 13.12.5. A director who is interested in an arrangement involving the company is not liable to account to the company for any profit realised under the arrangement merely because the director holds office as a director or because of the fiduciary obligations arising from that office, provided that the director complies with applicable disclosure requirements under the regulations adopted by the directors regarding that interest.

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13.12.6. A director may hold any other office or position (except Auditor) in the company or related body corporate in conjunction with his or her directorship and may be appointed to that office or position on terms (including remuneration and tenure) that the directors decide.

13.12.7. A director may be or become:

13.12.7.1. a director of;

13.12.7.2. another officer of; or

13.12.7.3. interested in,

a related body corporate or other body corporate associated with the company, and, with the consent of the company's directors, need not account to the company for remuneration or other benefits the director receives as a director or officer of, or from having an interest in, that body corporate.

13.12.8. The directors may exercise the voting rights conferred by shares in a body corporate held or owned by the company in the manner that they think fit.

13.13. **Powers and duties of directors**

13.13.1. The directors are responsible for managing the company's affairs and carrying out the company's objects. The directors may exercise to the exclusion of the company in general meeting all the company's powers which are not required, by the ACNC Act, the Corporations Act or by this constitution, to be exercised by the company in general meeting.

13.13.2. The directors may decide how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed (as applicable) by or on behalf of the company.

13.13.3. The directors may pay out of the company's funds all expenses of the promotion, formation and registration of the company.

13.13.4. The directors may:

13.13.4.1. appoint or employ an officer, agent or attorney of the company with the powers, discretions and duties vested in or exercisable by the directors, on the terms the directors decide;

13.13.4.2. authorise an officer, agent or attorney to delegate all or any of the powers, discretions and duties vested in the officer, agent or attorney; and

13.13.4.3. subject to any contract between the company and the relevant officer, agent or attorney, remove or dismiss any officer, agent or attorney at any time, with or without cause.

13.13.5. A power of attorney may contain provisions for the protection and convenience of the attorney or persons dealing with the attorney that the directors think fit.

13.14. **Proceedings of directors**

13.14.1. The directors may meet together and adjourn and otherwise regulate their meetings as they think fit.

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- 13.14.2. The simultaneous linking together by telephone or other electronic means of a sufficient number of the directors to constitute a quorum constitutes a meeting of the directors. All the provisions in this constitution relating to meetings of the directors apply, as far as they can and with any necessary changes, to meetings of the directors by telephone or other electronic means.
 - 13.14.3. A director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
 - 13.14.4. A meeting by telephone or other electronic means is taken as held at the place decided by the chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.
 - 13.14.5. If, before or during the meeting, a technical difficulty occurs which means that one or more directors cease to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, if a quorum of directors remains present, continue with the meeting.
- 13.15. **Convening meetings of directors**
- 13.15.1. A meeting of the directors may be convened by:
 - 13.15.1.1. the chairperson of directors;
 - 13.15.1.2. a director with the approval of the chairperson of directors;
or
 - 13.15.1.3. at least three directors.
 - 13.15.2. A secretary must, if requisitioned as outlined in rule 13.15.1 convene a meeting of the directors.
- 13.16. **Notice of meetings of directors**
- 13.16.1. Subject to this constitution, notice of a meeting of directors must be given to each person who is at the time of giving the notice a director, except a director on leave of absence approved by the directors.
 - 13.16.2. A notice of a meeting of directors:
 - 13.16.2.1. must specify the time and place of the meeting;
 - 13.16.2.2. need not state the nature of the business to be transacted at the meeting;
 - 13.16.2.3. may be given immediately before the meeting; and
 - 13.16.2.4. may be given in person or by post, telephone, fax or other electronic means.
 - 13.16.3. A director may waive notice of a meeting of directors by notifying the company to that effect in person or by post, telephone, fax or other electronic means.
 - 13.16.4. The non-receipt of notice of a meeting of directors by, or a failure to give notice of a meeting of directors to, a director does not invalidate any thing done or resolution passed at the meeting if:

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- 13.16.4.1. the non-receipt or failure occurred by accident or error;
 - 13.16.4.2. the director has waived or waives notice of that meeting under rule 13.16.3 before or after the meeting;
 - 13.16.4.3. the director has notified or notifies the company of his or her agreement to that thing or resolution personally or by post, telephone, fax or other electronic means before or after the meeting; or
 - 13.16.4.4. the director attended the meeting.
- 13.16.5. Attendance by a person at a meeting of directors waives any objection which that person may have to a failure to give notice of the meeting.
- 13.17. **Quorum at meetings of directors**
- 13.17.1. No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
 - 13.17.2. A quorum consists of:
 - 13.17.2.1. if the directors have fixed a number for the quorum greater than 4, that number of directors present at the meeting; and
 - 13.17.2.2. in any other case, 4 directors present at the meeting.
 - 13.17.3. If there is a vacancy in the office of a director then, subject to rule 13.17.4 the remaining directors may act.
 - 13.17.4. If the number of directors in office at any time is not sufficient to constitute a quorum, or is less than the minimum number of directors fixed under this constitution, the remaining directors must act as soon as possible to appoint additional directors, as required, and, until that has happened, may only act if and to the extent that there is an emergency requiring them to act.
- 13.18. **Chairperson of directors**
- 13.18.1. The directors may elect one of the directors as chairperson of directors and may decide the period for which that director is to be the chairperson.
 - 13.18.2. The chairperson of directors must preside as chairperson at each meeting of directors if present within 10 minutes after the time appointed for the meeting and willing to act.
 - 13.18.3. If there is no chairperson of directors or the conditions in rule 13.18.2 have not been met, the directors present must elect one of the directors as chairperson of the meeting.
- 13.19. **Decisions of directors**
- 13.19.1. A meeting of directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the directors under this constitution.
 - 13.19.2. Questions arising at a meeting of directors must be decided by a majority of votes cast by the directors present. Such a decision is for all purposes a decision of the directors.

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- 13.19.3. Where the votes on a proposed resolution are equal:
 - 13.19.3.1. the chairperson of the meeting does not have a second or casting vote; and
 - 13.19.3.2. the proposed resolution is taken as lost.

13.20. Written resolutions of directors

- 13.20.1. A resolution is taken to have been passed by a meeting of directors if:
 - 13.20.1.1. all the directors (except any director on leave of absence approved by the directors, any director who disqualifies himself or herself from considering the resolution in question and any director who would be prohibited by the Corporations Act from voting on the resolution in question) sign or consent to a written resolution; and
 - 13.20.1.2. the directors who sign or consent to the resolution would have constituted a quorum at a directors' meeting held to consider that resolution.
- 13.20.2. A director may consent to a resolution by:
 - 13.20.2.1. signing the document containing the resolution (or a copy of that document);
 - 13.20.2.2. giving to the company at its registered office a written notice (including by fax or other electronic means) addressed to the secretary or to the chairperson of directors signifying assent to the resolution and either setting out its terms or otherwise clearly identifying them; or
 - 13.20.2.3. telephoning the secretary or the chairperson of directors and signifying assent to the resolution and clearly identifying its terms.

13.21. Minutes of meetings and minutes of resolutions

- 13.21.1. The directors must ensure:
 - 13.21.1.1. minutes of proceedings; and
 - 13.21.1.2. resolutions of general meetings and of meetings of directors (including committees of directors),are recorded in books kept for the purpose, within one month after the relevant meeting is held.
- 13.21.2. The directors must ensure that minutes of resolutions passed by directors (and committees of directors) without a meeting are recorded in books kept for that purpose within one month after the resolution is passed.
- 13.21.3. The minutes of a meeting must be signed within a reasonable time by the chairperson of the meeting or the chairperson of the next meeting.

13.22. Committees of directors

- 13.22.1. The directors may delegate any of their powers to one or more committees consisting of the number of directors they think fit.

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13.22.2. A committee to which powers have been delegated must exercise those powers delegated in accordance with directions given by the directors.

13.22.3. Provisions of this constitution that apply to meetings and resolutions of directors apply, as far as they can, with any necessary changes, to meetings and resolutions of a committee of directors, (including the Nomination Committee).

13.23. **Delegation to individual directors**

13.23.1. The directors may delegate any of their powers to one director.

13.23.2. A director to whom powers have been delegated must exercise those powers delegated in accordance with directions given by the directors.

13.24. **Validity of acts**

An act done by a person acting as a director, a meeting of directors, or a committee of directors attended by a person acting as a director, is not invalidated merely because of one of the following circumstances, if that circumstance was not known by that person, the directors or the committee (as applicable) when the act was done:

13.24.1. a defect in the appointment of the person as a director;

13.24.2. the person being disqualified as a director or having vacated office; or

13.24.3. the person not being entitled to vote.

14. INDEMNITY AND INSURANCE

14.1. **Persons to whom the indemnity and insurance apply**

The indemnity and insurance referred to in this rule 14 apply to Indemnified Officers.

14.2. **Indemnity**

14.2.1. The company must indemnify, on a full indemnity basis and to the full extent permitted by law, each Indemnified Officer against all losses or liabilities (including costs and expenses) incurred by the person as an officer of the company.

14.2.2. This indemnity:

14.2.2.1. is a continuing obligation and is enforceable by an Indemnified Officer even though that person has ceased to be an officer of the company; and

14.2.2.2. operates only to the extent that the loss or liability in question is not covered by insurance.

14.3. **Insurance**

The company may, to the extent permitted by law:

14.3.1. purchase and maintain insurance; or

14.3.2. pay or agree to pay a premium for insurance,

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for any Indemnified Officer against any liability incurred by the person as an officer of the company where the directors consider it appropriate to do so.

14.4. Savings

Nothing in this rule 14:

- 14.4.1. affects any other right or remedy that an Indemnified Officer may have in respect of any loss or liability referred to in this indemnity or insurance; or
- 14.4.2. limits the capacity of the company to indemnify or provide or pay for insurance for any person to whom this rule 14 does not apply.

15. ADVISORY COMMITTEES

15.1. Establishment and termination

- 15.1.1. The directors may:
 - 15.1.1.1. establish one or more advisory committees; and
 - 15.1.1.2. appoint and remove, or make provision for the appointment and removal of, members of the advisory committees.
- 15.1.2. Each advisory committee will consist of a single individual or the number of individuals that the directors decide.
- 15.1.3. The directors may terminate an advisory committee at any time.

15.2. Functions

- 15.2.1. The functions of each advisory committee will be decided by the directors.
- 15.2.2. The directors may specify:
 - 15.2.2.1. the manner in which proceedings of each advisory committee are to be conducted;
 - 15.2.2.2. the matters which the advisory committee must consider in carrying out its functions; and
 - 15.2.2.3. any other matters concerning the advisory committee or its functions that the directors decide.

16. AUDITOR

The company must appoint a properly qualified Auditor whose duties will be regulated in accordance with the Corporations Act.

17. NOTICES

17.1. Notices by the company to members

- 17.1.1. The company may give notices, including a notice of general meeting to a member:
 - 17.1.1.1. personally;

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- 17.1.1.2. by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member; or
- 17.1.1.3. by sending it to the fax number or electronic address (if any) nominated by the member.

17.2. **Notices by the company to directors**

Subject to this constitution, a notice may be given by the company to any director by:

- 17.2.1. serving it personally at the director's usual residential or business address;
- 17.2.2. sending it by post in a prepaid envelope to the director's usual residential or business address; or
- 17.2.3. sending it to the electronic address supplied by the director to the company for giving notices.

17.3. **Notices by member or directors to the company**

Subject to this constitution, a notice may be given by a member or director to the company by:

- 17.3.1. serving it on the company at the registered office of the company;
- 17.3.2. sending it by post in a prepaid envelope to the registered office of the company; or
- 17.3.3. sending it to the principal electronic address of the company at its registered office.

17.4. **Time of Service**

- 17.4.1. A notice properly addressed and posted is taken to be served:
 - 17.4.1.1. in the case of a notice of a general meeting, at 10.00am on the day after the date it was posted; or
 - 17.4.1.2. in any other case, at the time the letter would be delivered in the ordinary course of post.
- 17.4.2. Where a notice is sent by an electronic messaging system with a delivery verification function, the notice is taken as served on generation of a delivery verification notice, log entry, or other confirmation by the electronic messaging system.
- 17.4.3. Where a notice is sent by email or other electronic messaging system (not covered by rule 17.4.2), the notice is served on delivery to:
 - 17.4.3.1. the addressee's email or electronic messaging system account if the addressee is a natural person; or
 - 17.4.3.2. the corporation's computer systems if the addressee is a corporation.
- 17.4.4. If service of a notice is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day.

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- 17.5. **Other communications and documents**
Rules 17.1 to 17.4 (inclusive) apply, as far as they can, with any necessary changes, to the service of any communication or document.
- 17.6. **Notices and signatures in writing**
A reference in this constitution to a written notice includes a notice given by electronic transmission or any other form of written communication and any requirement for a document or instrument to be signed includes a signature applied electronically.

18. DEFINITIONS AND INTERPRETATION

- 18.1. **Definitions**
The meanings of the terms used in this constitution are set out below:

Term	Meaning
ACNC Act	the <i>Australian Charities and Not for Profit Commission Act 2012 (Cth)</i> .
Corporations Act	the <i>Corporations Act 2001 (Cth)</i> .
Auditor	the auditor of the company.
Business Day	a day on which banks are open for business in Ballarat excluding a Saturday, Sunday or a public holiday in that city.
Commissioner	the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation for the purposes of ITAA 97.
Deductible Contribution	a contribution of money or property as described in item 7 or item 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event held for the principal purpose of the company.
Gift	the meaning outlined in rule 10.
Indemnified Officer	<ol style="list-style-type: none"> 1. each person who is or has been a director of the company; and 2. any other officers or former officers of the company as the directors in each case decide.
ITAA 97	the <i>Income Tax Assessment Act 1997 (Cth)</i> .
Nominations Committee	the committee referred to in rule 13.3 of this Constitution.
Registered Address	a member's address as notified to the company by the member and recorded in the company's records.
Responsible Persons	<p>means an individual who:</p> <ol style="list-style-type: none"> 1. performs a significant public function; 2. is a member of a professional body having a code of ethics or rules of conduct; 3. is officially charged with spiritual functions by a religious institution;

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4. is a director of a company whose shares are listed on the Australian Stock Exchange;
5. has received formal recognition from government for services to the community; or
6. is approved as a Responsible Person by the Commissioner
7. is in the class of responsible persons within the meaning of that term in guidelines issued by the Commissioner under section 426-103 in Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.

Works of Art

includes works of art of all types and items of historical, educational or social interest

18.2. **Interpretation**
In this constitution:

- 18.2.1. references to notices include formal notices of meeting, all documents and other communications from the company to its members;
- 18.2.2. a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements nor re-enactments of any of them;
- 18.2.3. a reference to a member present at a general meeting is a reference to a member present in person or by proxy, attorney or representative;
- 18.2.4. a reference to writing and written includes printing, lithography, electronic means of writing (eg fax, email) and other ways of representing or reproducing words in a visible form;
- 18.2.5. the singular includes the plural and the plural includes the singular; and
- 18.2.6. headings and bold type are used for convenience only and do not affect the interpretation of this constitution.

19. APPLICATION OF THE ACT19.1. **ACNC Act**

While the company is a Registered Charity:

- 19.1.1. the ACNC Act and the Corporations Act override any rules in this Constitution which are inconsistent with those Acts; and
- 19.1.2. the Company and the directors must comply with the "governance standards", as that term is defined in the ACNC Act.

19.2. **What parts of the Acts apply**

Unless the contrary intention appears:

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- 19.2.1. an expression used in a rule that deals with a matter dealt with by a provision of the Corporations Act or the ACNC Act has the same meaning as in that provision; and
 - 19.2.2. subject to rule 19.2.1 an expression in a rule that has a defined meaning for the purposes of the Corporations Act or the ACNC Act has the same meaning as in the relevant Act.
- 19.3. **Replaceable rules displaced**
- 19.3.1. The provisions of this constitution displace each provision of a section or subsection of the Corporation Act that applies (or would apply but for this rule) to the company.
 - 19.3.2. The replaceable rules do not apply to the company except those which operate as mandatory rules for public companies under the Corporations Act.

8.8. ART GALLERY OF BALLARAT NEW BOARD APPOINTMENTS

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Louise Tegart – Director Art Gallery of Ballarat

PURPOSE

1. To present the preferred candidates to be appointed to the Art Gallery of Ballarat Board.

BACKGROUND

2. Following the Governance Review of the Art Gallery of Ballarat Board and the endorsement of the Council to bring together the Board and the Foundation into one entity, all current Board members and Foundation Trustees were required, if they chose, to apply for the Board. All positions were declared vacant and the expression of interest was publicly advertised. Consultants Positive Solutions who have been assisting the Art Gallery of Ballarat with the Governance Review were engaged to assist the Art Gallery of Ballarat (AGB) with the recruitment of board members to the AGB Board.
3. The following is a summary of the process that was undertaken, including the key steps involved:
 - a. The preparation of a board recruitment pack, including information on AGB and an Expression of Interest form
 - b. A recruitment campaign using a broad range of channels and techniques, including social media and personal invitations to targeted candidates, to encourage applications for the available positions
 - c. Handling responses to potential candidate enquiries
 - d. Shortlisting applications for interview
 - e. Shortlisting, interviewing, and the take-up of references were undertaken by a small panel. Following take-up of verbal references the panel recommending five experienced and capable applicants for appointment to the AGB Board.
4. A number of promotion activities were used to invite expressions of interest for the new Board and these included:
 - a. Positive Solutions
 - i. Announcement of EOI was posted on Positive Solutions Facebook and LinkedIn accounts, including follow-up messaging
 - b. Art Gallery of Ballarat
 - i. EOI opportunity listed on AGB webpage, under Career section
 - ii. Announcement communications were included on the AGB and Council social media channels, including Facebook and Twitter
 - iii. Announcements and key messaging were included in various digital platforms, including: The Courier, The Ballarat Times and the Australian Institute of Company Directors
 - iv. Targeted networking was undertaken
 - v. Advertising online on ArtsHub and in The Saturday Paper and The Age newspapers.

5. There was a strong response to the EOI with a total of 32 EOIs were received by the AGB through the Award Force portal.
6. The interview and selection process was undertaken via an interview panel comprising members with knowledge of the AGB and also the broader arts sector. The interview panel comprised:
 - i. Louise Tegart, Director, Art Gallery of Ballarat
 - ii. Garry Taylor, former Art Gallery of Ballarat Board member, former Art Gallery Foundation Trustee, former Art Gallery of Ballarat Association Chair
 - iii. Rebecca Coates, former Director of Shepparton Art Museum
 - iv. David Fishel, Director, Positive Solutions
7. The panel shortlisted nine applicants for interview and interviews were undertaken on Friday 4th March 2022, at the AGB. Three of the nine candidates were interviewed online.

KEY MATTERS

8. Section 13 of The Art Gallery of Ballarat Constitution specifies that the Board has a maximum of 8 members. The relevant section is as follows:

13. Directors

13.1 Board Composition

The board of directors will consist of:

13.1.1. up to one director appointed by the Ballarat City Council;

13.1.2. up to one director appointed by the Ballarat Fine Art Public Gallery Association Ltd; and

13.1.3. subject to rule 13.3, up to 6 directors elected by the members whose nominations for election have been confirmed by the Nominations Committee.

All future Board director positions will be identified and vetted by the Board Nominations Committee and presented for ratification to Council as per the following sections of the Constitution:

13.6. Appointment

13.6.1. Other than in relation to a casual vacancy, a director will be appointed where the member resolve to appoint an individual eligible for election as director.

The member referred to in 13.6.1 is Council, therefore requiring Council to ratify appointments of directors to the Board.

9. The normal period of appointment for each director is specified in the Constitution in the following section:

13.8. Term of office of Directors

13.8.1. The term of office of a director is three years, excluding any term of office held in filling a casual vacancy. The expiration of that term is deemed to occur at the end of the third annual general meeting of the company following the appointment or election of that director (as the case may be).

As all positions are currently vacant the following clause in the Constitution comes into effect to ensure a staggering of the end of Board director terms:

13.2. Transitional Provisions

The directors elected in the general meeting at which this Constitution is adopted will be elected for one, two or three year terms, with one third of the Directors being elected for each period.

10. Following interviews by the panel and reference checks the preferred candidates for the 6 vacant roles, and the recommended terms of initial appointment under clause 13.2 above, are:

- David Herman for a term of 1 year
- Lynne McLennan for a term of 2 years
- Sally Basser for a term of 3 years
- David Constantine for a term of 1 year
- Stephen Bigarelli for a term of 2 years

The nominated representative of the Gallery Association is:

- Emma Blee for a term of 3 years

11. One Board position is therefore still vacant and the Council representative is yet to be determined.

12. If endorsed by Council, the recommended new members of the AGB Board will form a highly skilled new governance body in support of the AGB.

OFFICER RECOMMENDATION**13. That Council:**

13.1 Endorse David Herman to be appointed to the Art Gallery of Ballarat Board for a term of 1 year, and

13.2 Endorse Lynne McLennan to be appointed to the Art Gallery of Ballarat Board for a term of 2 years, and

13.3 Endorse Sally Basser to be appointed to the Art Gallery of Ballarat Board for a term of 3 years, and

13.4 Endorse David Constantine to be appointed to the Art Gallery of Ballarat Board for a term of 1 year, and

13.5 Endorse Stephen Bigarelli to be appointed to the Art Gallery of Ballarat Board for a term of 2 years, and

13.6 Endorse the appointment of Emma Blee to the Art Gallery of Ballarat for a term of 3 years as the nominated representative of the Gallery Association, and

13.7 Authorise the CEO on behalf of Council to sign such documents required to implement these changes.

ATTACHMENTS

1. Governance Review [8.8.1 - 2 pages]

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ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

1. Council Plan- An environmentally sustainable future, A healthy, connected and inclusive community, A city that fosters sustainable growth, A city that conserves and enhances our natural and built assets, A strong and innovative economy and city, A council that provides leadership and advocates for its community
2. Community Vision 2031
3. Ballarat Prosperity Framework
4. Art Gallery of Ballarat Strategic Plan 2019-2022
5. Creative City Strategy
6. Creative Precinct Masterplan
7. Events Strategy
8. Traveller Experience Plan
9. Visitor Economy Strategy
10. Health and Wellbeing Plan 2021-2031
11. Financial Plan
12. Workforce Plan
13. Asset Plan

COMMUNITY IMPACT

14. A vibrant and effectively funded and managed Art Gallery is fundamentally important to every community and even more so to a city the size of Ballarat. The Council holds some responsibility for the arts and cultural prosperity for the local community and as the capital of Western Victoria, a significant regional population looks to the city as a leader in this sector. Therefore, it is important that the greatest outcome can be achieved from the available funding and resources.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

15. Nil

ECONOMIC SUSTAINABILITY IMPLICATIONS

16. The new Board position descriptions clearly define the role of the Gallery Board and ensures that fundraising is part of their remit. A fundraising plan has been developed.
17. Long term financial stability of the Gallery including ethical management of bequests

FINANCIAL IMPLICATIONS

18. The new MoU between Council and the Board will give the Gallery the ability to have assurance of their forthcoming budget in order to plan exhibitions up to three years in advance which is industry standard. In theory the MoU allows the Gallery to view the three year budget holistically and spend when exhibitions fall rather than working within an allocated annual budget.

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LEGAL AND RISK CONSIDERATIONS

19. Harwood Andrews have drafted all new governance documentation.
20. Council taking on the physical assets of the Gallery Foundation- ongoing maintenance of 2 buildings.

HUMAN RIGHTS CONSIDERATIONS

21. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

COMMUNITY CONSULTATION AND ENGAGEMENT

22. Extensive consultation has been undertaken with the Board, Foundation and Association. Other galleries undergoing similar reviews have also been consulted- Shepparton Art Museum and Murray Art Museum Albury.

GENDER EQUALITY ACT 2020

23. There are no gender equality implications identified for the subject of this report.

CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT

24. Council officers affirm that no general or material conflicts need to be declared in relation to the matter of this report.

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8.9. GAMBLING HARM MINIMISATION POLICY

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Hayley McArthur – Social Planning Officer
Belinda Hynes – Coordinator Health and Social Planning

PURPOSE

1. The purpose of this report is to present Council with the proposed Gambling Harm Minimisation Policy for adoption.
2. Summarises the outcomes of community engagement and the Councillor workshop on the Draft Gambling Harm Minimisation Policy, presenting a revised draft for adoption.

BACKGROUND

3. The regulation of Electronic Gaming Machines (EGMs) primarily rests with State Government. In upholding its responsibility to improve community health and wellbeing, Council plays an important role in setting the local policy context for influencing decision making and ensuring gambling-related harm across the community is minimised.
4. The Gambling Harm Minimisation Policy will replace the City of Ballarat Gaming Machine Community Policy (2011). While the Policy is relevant to all gambling activities that take place in the municipality, its primary focus is on EGMs. This form of gambling is where Council has some direct influence through its statutory roles and decision-making processes.
5. Local government has a legislated responsibility to protect, promote and improve community health and wellbeing, and to apply the 'precautionary principle' to preventing and controlling public health risk under the Victorian *Public Health and Wellbeing Act 2008*. Additionally, the Victorian *Local Government Act 2020* requires councils to provide the best outcomes for the community regarding the long-term cumulative effects of decisions. This includes seeking to protect communities from the risks and harms associated with gambling.
6. Reducing harm from gambling in the municipality is also a key commitment of the City of Ballarat Health and Wellbeing Plan 2021 – 2031. This is addressed in the Health Priority area of "*Reducing harm from smoking, gambling, alcohol and other drugs; improving mental wellbeing.*" Initiative 2.9 of the Ballarat Strategy 2040 also identifies the need to "*Continue to control where poker machines can be located, to minimise their impact on vulnerable communities.*"
7. The Policy adopts a public health approach to the minimisation of gambling harm and has been developed following background research (considering evidence and best practice in relation to gambling harm minimisation), the requirement to consider gender impacts under the *Local Government Act 2020*, review of other Council policies, and incorporation of known community sentiment (outlined in the Community Attitudes to Gambling Survey completed in 2019).

8. Specifically, the Policy:
 - a. Articulates and strengthens Council's commitment to reducing harms from gambling
 - b. Improves clarity around roles, actions and outcomes Council can take within its legislative role
 - c. Clearly articulates Council's position in relation to advocacy for systemic and legislative reform, changes to local EGM provisions (such as reducing the number of EGMs in the municipality and lowering the regional cap), and the need for State Government to regulate the gaming industry in an appropriate, transparent and consistent manner
 - d. Supports undertaking a future amendment process in relation to gaming provisions in the Ballarat Planning Scheme
 - e. Considers gendered impacts of gambling harm
 - f. Outlines the context of gambling harm in Ballarat from a public health perspective.

KEY MATTERS

9. The Draft Gambling Harm Minimisation Policy was made publicly available for feedback via survey or written submissions from 28 October to 25 November 2021. Twenty-two (22) survey responses were completed, and 8 written submissions were received. Of these, the majority were generally supportive of the policy, a minority were opposed to elements of the policy, and the remainder were neutral or mixed. Five (5) written submissions supported action from Council to reduce harm from gambling through the Policy, whilst 3 written submissions were broadly opposed to the Policy.
10. Key themes from these submissions have been considered, with the draft Policy updated accordingly. A workshop was held with Councillors on 22 February 2022 to discuss the feedback received, and to identify changes to the draft policy.
11. As a result of the above, several changes have been made to the draft policy. A detailed overview of changes to the draft policy is contained within the Consultation Report. Key themes from the updates are:
 - a. Clearer articulation of Council's capacity to influence change, highlighting the focus on harm minimisation from a public health approach.
 - b. Strengthened position regarding advocacy (particularly in relation to reduced EGMs and lowered regional cap, reiterating state responsibility for regulation).
 - c. Added clarity regarding advertising of Gambling products and additional EGMs on Council-owned land.
 - d. Wording changes to enhance clarity regarding future Planning Scheme amendment processes.
 - e. Clarification that this document is a social policy.
 - f. Committed to partnerships and promotion of harm minimisation education and research efforts across Ballarat, including:
 - Reference to clubs managing Self-Exclusion Programs as an example of good practice in harm minimisation responses.
 - Support and promotion of services that assist those impacted by gambling harm, or family and friends affected by someone else's gambling.
 - g. Added clarity regarding Council-run staff and internal meetings being held at venues without EGMs.

- h. Commitment made to no longer accept applications to the City of Ballarat Community Impact Grant Program from entities and venues operating EGMS, and owners of EGM licenses, beginning 1 July 2022.
- i. Clarity added regarding prohibition of the siting and operation of any new EGMS on Council-owned land.
- j. General wording and formatting changes throughout the policy to increase readability and provide additional clarity where required.

12. The Policy will be subject to review by June 2026.

OFFICER RECOMMENDATION

13. That Council:

13.1 Adopt the Gambling Harm Minimisation Policy.

ATTACHMENTS

- 1. Governance Review [8.9.1 - 2 pages]
- 2. Gambling Harm Minimisation Policy 2022 Final [8.9.2 - 8 pages]

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ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

The Gambling Harm Minimisation Policy aligns with several key strategic documents:

1. Health and Wellbeing Plan 2021– 2031: Key priority area, '*Reducing harm from smoking, gambling, alcohol and other drugs.*'
2. Ballarat Strategy 2040.

COMMUNITY IMPACT

3. The policy includes actions and strategies to reduce harms resulting from gambling and supports the use of a broad range of measures and strategies to ensure the impacts of gambling are reduced in the municipality.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

4. There are no climate emergency and environmental sustainability implications arising from this report.

ECONOMIC SUSTAINABILITY IMPLICATIONS

5. There are no economic sustainability implications arising from this report.

FINANCIAL IMPLICATIONS

6. Costs incurred to implement actions from the Gambling Harm Minimisation Policy all fall within allocated annual budget parameters.

LEGAL AND RISK CONSIDERATIONS

7. The new Policy is in line with current health promotion and harm minimisation practice and replaces the *Gaming Machine Community Policy 2011*.

HUMAN RIGHTS CONSIDERATIONS

8. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

COMMUNITY CONSULTATION AND ENGAGEMENT

9. The draft Gambling Harm Minimisation Policy was placed on public exhibition from 28 October to 25 November 2021 with feedback via survey and written submissions sought. A total of 22 surveys and eight submissions were received. A consultation report has been produced.

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GENDER EQUALITY ACT 2020

10. There are gender equality implications identified within the Gender Impact Assessment that was undertaken. Gender impacts considered in the development of the policy include inclusion of specific statements and evidence within the body of the policy, and continued consideration of gendered impacts of gambling harm whilst developing the policy.

CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT

11. Council officers affirm that no general or material conflicts need to be declared in relation to the matter of this report.

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GAMBLING HARM MINIMISATION POLICY

1.0 Purpose

The City of Ballarat acknowledges regulation of Electronic Gaming Machines (EGMs) primarily rests with State Government. In upholding its responsibility to improve community health and wellbeing, Council plays an important role in ensuring harm resulting from gambling across the community is minimised, as outlined in this document.

The City of Ballarat Gambling Harm Minimisation Policy 2022 is a 'whole of Council' approach to minimising gambling-related harm in the community. The purpose of this policy is to guide Council in its decision making to reduce the harm from gambling in the City of Ballarat. In adopting this social policy, Council's position, responsibilities, commitments, and approach to minimising gambling related harms in the municipality are set forth. This policy replaces the City of Ballarat Gaming Machine Community Policy (2011).

Whilst Council carries a high level of commitment to the wellbeing of the community, including mitigating the impacts of gambling harm, the state-controlled nature of gambling regulation leaves Council with little regulatory influence. In endeavouring to achieve a healthy and safe community, the City of Ballarat is committed to reducing the harms that result from gambling where influence allows and supports the use of a broad range of measures and strategies to ensure the impacts of gambling are reduced in the municipality.

Local government has a legislated responsibility to protect, promote and improve community health and wellbeing, and to apply the 'precautionary principle' to preventing and controlling public health risk under the Victorian *Public Health and Wellbeing Act 2008*. Additionally, the Victorian *Local Government Act 2020* requires councils to provide the best outcomes for the community regarding the long-term cumulative effects of decisions. This includes seeking to protect communities from the risks and harms associated with gambling.

For the purpose of this policy, 'gambling' is defined as the placement of a wager or bet on the outcome of a future uncertain event, including poker machines, casino games, race betting, and sports betting activities.

2.0 Scope

While the policy is relevant to all gambling activities that take place in the municipality, its primary focus is on EGMs and gambling at gaming venues, as this is where Council has greatest influence through its statutory roles and decision-making processes. Additionally, this form of gambling continues to cause significant losses and community harm.

Clause 52.28 of the Victorian Planning Provisions under the *Planning and Environment Act 1987* provides a statutory responsibility for councils to consider the social and economic impacts of gaming machines in their municipality. The *Gambling Regulation Act 2003* enables local government to make submissions to the Victorian Gambling and Casino Control Commission (VGCCC) in the form of a social and economic impact assessment (SEIA) for potential new applications for EGMs within its municipality or a neighbouring municipality.

Land use planning at the local level has a role in addressing and regulating the use of EGMs. Local Government is the responsible authority for deciding whether to approve, or not approve, a planning permit

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application for EGMs. Like other land use planning processes, if Council rejects the application and decides not to issue a planning permit, the applicant has the right to appeal the decision to the Victorian Civil and Administrative Tribunal (VCAT).

The policy supports the proposal of a future amendment process in relation to gaming provisions in the Ballarat Planning Scheme. Additionally, whilst the decision-making criteria set out in the Ballarat Planning Scheme underpins decisions relating to EGM applications in the municipality, this policy clearly articulates Council's intent in relation to the provision of EGMs from a public health perspective. It will also inform Council's submissions to the VGCCC in response to applications for new gaming licences or amendments to existing gaming licences, and the assessment of applications considered under the relevant clauses of the Ballarat Planning Scheme. Whilst the Ballarat Planning Scheme provides an important role in assessing gaming related planning applications, it is important to note that local planning policies are limited to addressing locational issues and to a lesser extent operation and design issues.

As the closest level of government to the community, local government is best placed to understand the effects of gambling and to limit the negative impacts of gambling on their communities. As a result, the City of Ballarat undertakes roles as a planner and regulator, community partner, and advocate. The ways in which this will be undertaken are outlined in 4.0 Policy Statements.

3.0 Background

Gambling has the potential to generate negative social and economic impacts for the player, their family and friends, and the wider community. The experience of these harms can differ depending on a person's gender, cultural background, age, and other intersecting factors. Whilst there are many different forms of gambling, a significant source of financial loss and harm in Australia comes from EGMs.

It is also recognised that sports betting and internet gambling are fast growing in the community, increasing rapidly each year. The advertising and normalisation of sports betting and online gambling and the resultant community impacts are of concern to Council. While mostly controlled at the federal level, there are points of influence that Council can utilise, particularly around supporting education efforts in the community, and the introduction of advertising restrictions on Council-owned land.

The prevalence and accessibility of EGMs in the Ballarat area, and their potential harmful impacts on the community, are also of concern to Council. A large body of evidence exists that demonstrates the adverse consequences resulting from problem gambling, including financial loss, relationship breakdown, emotional or psychological distress, issues with work or study, criminal activity and reduced health and wellbeing.

The *Gender Equality Act 2020* requires defined entities, including councils, to conduct gender impact assessments to ensure policies, programs and services are designed to benefit all members of the community. The gender impact assessment undertaken relating to the issue of gambling harm has identified that males are more likely to participate in gambling activities, and in fact are more likely to be problem gamblers; however, females suffer disproportionately more gambling related harm. There are also differences in both gambling behaviour and the experience of gambling harm between different sub-groups of men and women, particularly between different age groups, and those from Aboriginal and Torres Strait Islander or migrant communities. A growing concern is the emerging research revealing the relationship between family violence and problem gambling, especially given the very high rates of family violence in the City of Ballarat, and very high EGM losses in the municipality. These findings should be considered when developing responses to reduce gambling-related harm.

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4.0 Policy Statements

4.1. Policy Principles

The policy is founded on a public health approach to gambling-related harm. This approach acknowledges a shared responsibility for improving the health of population groups and subgroups, rather than just the health of individuals. Two key principles underpin the public health approach to gambling-related harms:

1. A range of social, economic, and environmental factors affect a person's mental and physical health and wellbeing; and
2. It is important to implement an appropriate mix of actions with partners and the community to achieve improved health outcomes.

4.2. Policy Objectives

1. **Planning, Regulation, and Enforcement**

Demonstrate Council's commitment to protecting those most at risk of gambling related harms through its statutory roles and responsibilities, including strengthening Council's capacity to effectively guide the location of EGMs by providing the framework for proposed future amendments to the Ballarat Planning Scheme.

2. **Community Partnerships**

Collaborate with partners and the community to reduce gambling related harm using a public health approach, increasing access to services and opportunities for alternative recreational activities.

3. **Advocacy**

Advocate for systemic and legislative change within the gambling industry, promote harm minimisation best practice and improve understanding to reduce gambling harm in the Ballarat community.

4.3. Policy Statements

The City of Ballarat adopts the following policy statements in relation to gambling. These statements are founded on three primary priorities that reflect Council's statutory roles, namely: planning, regulation, and enforcement; community partnerships; and advocacy. These will guide Council strategies and actions over the life of this Policy.

Planning, Regulation, and Enforcement

- Council will fulfil its various statutory roles to encourage an environment which aims to protect the community from gambling related harms.
- Council will assess Gaming Machine planning permit applications on their merits, seeking to reduce the harm from EGMs in Ballarat, with consideration to venue location, relationship to known risk factors, and ensuring that vulnerable communities are protected.
- Council will consider the potential social and economic impacts of applications for new or amended gaming licences or applications to install, transfer or use EGMs, including consideration of gender and intersectional specific experiences of gambling harm.
- Council will oppose any planning and licensing application for additional EGMs and the transfer of EGMs in the municipality where there is solid evidence that the application will have negative social and economic impacts and minimal community benefit.

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- Council will discourage an increase in EGM density per 1,000 adults and EGM expenditure in vulnerable communities and neighbourhoods.
- A Planning Scheme amendment process will be undertaken, including the production of detailed and thoroughly researched supporting documents, to strengthen Council's capacity to manage and influence the location, operation, and design of EGM facilities in the municipality through the planning process.
- The following will be considered in the determination of any planning permit application:
 - Evidence of intentional design to limit access and exposure to gambling products (both visually and audibly), and promotion of gambling products, within all areas of premises that will attract minors, families and others seeking to avoid interactions with gambling products;
 - Prevention of access to gambling experiences for young people who may attend an establishment's bistro, family area, playground, or outdoor area has been prioritised, including ensuring that there is no visibility or promotion of products such as gaming machine areas, Keno, racing, sports betting, raffles, lucky cards, or envelopes;
 - For new gaming venues, this Policy recommends a minimum eight-hour shut down of the gaming floor, either between 1am-9am, or 3am-9am and 3pm-5pm daily;
 - Ensuring that EGMs are not located in close proximity (within 400m) to children's and community services, or vulnerable communities. This includes communities with lower SEIFA index of disadvantage or income, or those with higher levels of housing stress or unemployment than the City of Ballarat average;
 - Ensuring that the already higher than State average density of EGMs within the municipality does not increase; and
 - Ballarat and State Planning Scheme considerations will underpin final decisions.
- Council will require that applications for planning permits to install or use EGMs, or new or amended gaming licences are accompanied by rigorous and transparent social and economic impact assessments, encouraging applicants to have early engagement with Council to ensure harm minimisation design principles are employed. Social and economic impact assessments are completed entirely by Council with no cost to applicants.

Community Partnerships

- Council will work in partnership to support relevant organisations, providers, and agencies in their initiatives to increase access to services that address the impacts of gambling related harms, particularly for vulnerable groups, in line with best practice approaches.
- Council will promote services that assist those impacted by gambling harm, including family and friends affected by someone else's gambling.
- Council will support and assist coordination of collaborative work within the municipality in advocating for harm minimisation approaches and improved community awareness of gambling and related harms, including increased understanding of the different ways that gambling harm may be experienced depending on gender, culture, and other intersectional attributes, and the provision of gambling harm education efforts.
- Council internal meetings will be held at venues that do not have EGMs. This is in line with Council's staff Code of Conduct Handbook, which commits to limiting exposure at work to gambling. Larger events (sporting, festive and partnered) may continue to be held at such venues when required.

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- Council will prohibit the siting and operation of any new or additional EGMs on Council-owned land. This does not retroactively apply to EGM applications commenced prior to the adoption of the policy.
- Council will prohibit permanent promotion and advertising of gambling products at Council-owned facilities outside of gaming floors, with the exception of pre-existing contractual obligations. This pertains to sports betting, online gambling, other forms of gambling and EGMs, with the aim of minimising community exposure to gambling advertising and the further normalisation of sports betting.
- Council will support initiatives that reduce gaming operators' reliance on revenue from EGMs.
- Council will prohibit applications to the City of Ballarat Community Impact Grant Program from entities and venues operating EGMS, and owners of EGM licenses, beginning 1 July 2022. This will not impact the delivery of grants previously awarded prior to 1 July 2022.
- Council will support opportunities which increase non-gambling social, leisure, entertainment and recreation opportunities which do not result in additional people being exposed to gambling related harms, including those providing safe alternative venues and activities.
- Council will maximise the opportunity for the community to provide their input into Council's strategic, regulatory, and decision-making processes relating to gaming applications.

Advocacy

- Council will advocate in partnership with the community for systemic and legislative change to address gambling harm.
- Council will advocate to the Victorian Government for a reduction in the regional cap for EGMs (currently 663).
- Council will advocate that any EGMs given up by venues are automatically removed from the regional cap.
- Council will advocate to government and peak bodies for effective reform of the gambling industry consistent with the Productivity Commission and the Alliance for Gambling Reform, including (but not limited to) restricting access through reduced poker machines and trading hours, limiting maximum bets to \$1, removing deceptive features such as 'near misses', and losses disguised as wins.
- Council will advocate to ensure state government is regulating the gaming industry in an appropriate manner.
- Council will support community, service providers and agencies in their efforts to advocate for necessary changes to the regulatory, statutory, and strategic framework.
- Council will research and access data on local gambling context and emerging needs to inform community awareness and advocacy, including online and sports betting, and gender and intersectional experiences of gambling harm, and include this information in the review of its 'Minimising Gambling Harm' Social Policy Position Statement.
- Council will encourage all gaming venues and community settings to promote their adoption and implementation of gambling harm minimisation strategies, such as Clubs managing Self-Exclusion Programs.
- Council will support advocacy efforts that increase transparency, efficiency, and equity in the regulatory and decision-making processes.
- Council will advocate for the amendment of legislation to transfer stronger controls over EGMs to local government.

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4.4. Monitoring and Review

Intended outcomes to monitor the implementation of the Policy may include but are not limited to:

Objective 1. Planning, Regulation, and Enforcement

- Amendments to the Ballarat Planning Scheme have been proposed with the view of strengthening Council's capacity to manage and influence the location, operation, and design of EGM facilities.
- All submitted planning permits related to EGM's have been assessed ensuring that harm minimisation principles are applied, and vulnerable populations have been protected.
- Social and Economic Impact Assessments have been undertaken by Council and submitted to the VGCCC on all applications for new or amended gaming licences or applications to install, transfer or use EGMs.
- Any planning and licensing application for additional EGMs and the transfer of EGMs in the municipality where there is solid evidence that the application will have negative social and economic impacts and minimal community benefit has been opposed.

Objective 2. Community Partnerships

- Council has worked with a range of partners to implement local gambling harm minimisation and awareness activities.
- Council has promoted services that assist those impacted by gambling harm, or family and friends affected by someone else's gambling.
- Council has worked with partners to undertake community attitudes to gambling survey.
- There is increased availability of facilities and services that provide non-gambling social, leisure, entertainment and recreation activities, and safe alternative venues for individuals experiencing harm.
- There are no new or additional EGMs on Council-owned land, with the exception of any applications currently in progress at the time this policy is adopted.
- Council internal meetings and staff social events have been held at venues where there is no exposure to EGMs.
- Council has not accepted new funding applications from entities or venues operating EGMS, or owners of EGM licenses, for the Community Impact Grant Program after 1 July 2022.
- The Community Impact Grant Guidelines and Grants Policy have been updated to reflect that Council will no longer accept funding applications from entities and venues operating EGMs, or the owners of EGM licenses, for the Community Impact Grant Program.
- Council has enabled opportunities for community members and stakeholders to participate in EGM decision making and gambling advocacy processes.
- Where possible, Council will participate in and/or support research undertaken regarding the impacts of gambling environments and gambling, and effective harm prevention and harm minimisation measures.

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Objective 3. Advocacy

- Council has maintained its role as a supporter organisation to the Alliance for Gambling Reform and participated in relevant campaigns which advocate for state and federal government legislative change.
- Council has made submissions to appropriate enquiries, committees and policies calling for changes to gambling legislation and systems which reduce gambling harm.
- Council has updated the 'Minimising Gambling Harm' Social Policy Position Statement and made available on Council's website.
- Council has contributed to relevant gambling harm research projects through direct participation and promotion.

This policy will be subject to review by June 2026.

5.0 Supporting Documents and References

5.1. Legislation

- *Gambling Regulation Act 2003*
- *Gender Equality Act 2020*
- *Interactive Gambling Act 2001*
- *Local Government Act 1989*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*
- *Public Health and Wellbeing Act 2008*
- *Victorian Commission for Gambling and Liquor Regulation Act 2011*
- *Victorian Gambling and Casino Control Commission Act 2011*

5.2. Associated Documents

- Ballarat Planning Scheme
- Ballarat Strategy 2040
- MySay Community Engagement - City of Ballarat Community Attitudes to Gambling 2019
- City of Ballarat Health and Wellbeing Plan 2021- 2031
- 'Minimising Gambling Harm' Social Policy Position Statement 2022
- Social Policy Framework 2018
- Victorian Planning Schemes

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5.3. Definitions

Council means Ballarat City Council and/or City of Ballarat.

EGM means an electronic gaming machine. It is a computerised gambling device that has a video screen displaying symbols on simulated reels. Cash is inserted into the machine and buttons are used to place bets. The machine randomly determines positions of symbols on the screen. Wins are returned as credits back into the machine.

Gambling means the placement of a wager or bet on the outcome of a future uncertain event. It includes gaming, racing, and sports betting activities.

Gambling related harm means any initial or increased detrimental consequence due to an engagement with gambling that leads to a negative impact to the health or wellbeing of an individual, family unit, community, or population.

VGCCC means Victorian Gambling and Casino Control Commission, the independent statutory authority which regulates Victoria's gambling and liquor industries. The commission conducts hearings (both public and private) on matters such as approval for proposed gaming premises, or requests for increased gaming machines.

6.0 Policy Owner

Executive Manager Engaged Communities.

7.0 Authorisation

Adopted by Ballarat City Council on XX.

8.10. CONTRACTS APPROVAL DELEGATED COMMITTEE MINUTES

Division: Corporate Services
Director: John Hausler
Author/Position: Lorraine Sendall – Executive Assistant Director Corporate Services

PURPOSE

1. The purpose of this report is to provide Council with copies of minutes of Council's Contracts Approval Delegated Committee in accordance with the adopted Terms of Reference. At the meetings of these Committees held on 1 and 15 December 2021, 25 January, 16 February and 2 March 2022 eight contracts were approved by the Committee. This report provides a copy of the minutes of these meetings as well as detailing summary information in relation to these Contracts.

BACKGROUND

2. To ensure good governance and transparent decision making, minutes of meetings of the Delegated Committees are presented to Council and kept in accordance with the adopted Terms of Reference and Common Seal and Conduct at Meetings Local Law. This report advises that minutes of the Contracts Approval Delegated Committee (the Committee) are attached to this report for the meetings held on 1 and 15 December 2021, 25 January, 16 February and 2 March 2022.
3. The Committee has been established to more effectively facilitate Council's Capital Works Program. To that end, the Committee meets fortnightly, as required, in order to provide Council Officers with necessary decisions of Council to enable procurement processes to be completed.

KEY MATTERS

4. Local Content

Contract	Awarded to	Value	Outcomes	Local Content Outcome
2021/22-380	The Trustee of Turf One Trust	\$505,990.00 (excluding GST)	City Oval Netball Court and Lighting	No
2021/22-274	The Trustee of Turf One Trust	\$437,250.00 (excluding GST)	Ballarat Regional Tennis Centre Court Lighting	No
2021/22-395	Fulton Hogan Industries Pty Ltd	\$544,251.93 (excluding GST)	White Flat Carpark Upgrade	Yes

2021/22-369	4Front Construction	\$761,995.00 (excluding GST)	North Ballarat Netball Club Changerooms	Yes
2021/22-386	Butler Excavations Pty Ltd	\$606,360.07 (excluding GST)	Shared Bike Path in Steinfield Street North	Yes
2021/22-423	Fulton Hogan Industries Pty Ltd	\$929,915.80 (excluding GST)	Humffray Street South and Flockhart Street reconstruction	Yes
2021/22-447	Butler Excavations Pty Ltd	\$389,421.29 (excluding GST)	Crocker Street Rehabilitation Works	Yes
2021/22-521	Fulton Hogan Industries Pty Ltd	\$1,999,881.73 (excluding GST)	Tram Line Construction Works Wendouree Parade	Yes

OFFICER RECOMMENDATION

5. That Council:

5.1 Note, as per the *Local Government Act 2020* Section 66 that the material contained in the Contracts Approval Delegated Committee agendas have been designated confidential.

5.2 Receive the Contracts Approval Delegated Committee minutes of the meeting held on 1 and 15 December 2021, 25 January, 16 February and 2 March 2022.

ATTACHMENTS

1. Confirmed Contracts - Minutes of meeting held Wednesday 1 December 2021 [8.10.1 - 6 pages]
2. Confirmed Contracts - Minutes of meeting held Wednesday 15 December 2021.docx [8.10.2 - 6 pages]
3. Confirmed Contracts Minutes of meeting held Wednesday 25 January 2022 [8.10.3 - 6 pages]
4. Confirmed Contracts - Minutes of meeting held Wednesday 16 February 2022 [8.10.4 - 6 pages]
5. Confirmed Contracts - Minutes of meeting held Wednesday 2 March 2022 [8.10.5 - 7 pages]



***CONTRACTS APPROVAL
DELEGATED COMMITTEE***

MINUTES

1 December 2021

**MINUTES OF THE MEETING OF THE SPECIAL CONTRACTS APPROVAL DELEGATED
COMMITTEE OF THE BALLARAT CITY COUNCIL, HELD BY A VIRTUAL MEETING
ON WEDNESDAY 1 DECEMBER 2021 AT 12:30PM**

**Evan King
(Chief Executive Officer)**

MINUTES

ORDER OF BUSINESS:

PRESENT

Cr Ben Taylor (Chair)
Cr Mark Harris
Cr Tracey Hargreaves

IN ATTENDANCE

Mr John Hausler (Director Corporate Services)
Ms Natalie Robertson (Director Development and Growth)
Mr Rod Leith (Manager Revenue and Procurement)
Mr Trevor Harris (Procurement Co-ordinator)
Ms Lorraine Sendall (Minutes)

APOLOGIES

Mr Evan King (Chief Executive Officer)

ACKNOWLEDGEMENT TO COUNTRY

Acknowledgement to Country was read by the Chair.

DECLARATIONS OF INTEREST

No conflicts of interest were recorded.

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves, pursuant to Section 66 of the Local Government Act 2020, that the meeting be closed to members of the public, whilst the Committee is dealing with the following matters, that may include matters that are Commercial in Confidence that may prejudice Council: -

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

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Contracts Special Committee Minutes

1 December, 2021

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6.1 AMENDMENT TO TENDER 2021/22-291 – CONCRETE SERVICES
(RO – John Hausler / Trevor Harris)**SUMMARY**

1. This report requests an amendment to the Resolution for Contract 2021/22-291 Concrete Services Tender.

BACKGROUND

2. The tender was put to Contracts Committee for consideration on 17th November 2021. The resolution did not include the recommended contract term as per the tender documentation which stated:-

“This Contract shall be for an initial period of 3 years commencing 1 November 2021. The Principal may offer a further two (2) x one (1) year extensions to the Contract subject to annual review of performance.

KEY MATTERS

It was requested that Councillors consider amending the original resolution prior to confirmation of the minutes to include the additional wording.

The basis for seeking to add the requirements for the extension is that the awarded contract then reflects what Council initially sought tenders for. This option was not outlined in the initial evaluation report recommendation.

Should the Contracts Committee decide not to amend the resolution then the Contract would proceed as currently resolved for a period of 12 months.

RESOLUTION**3. That the Contracts Approval Delegated Committee:**

- 3.1 Resolves to award Contract 2021/22-291 for the provision of Supplier for Concrete Services – Kerb and Channel, Footpath and other Capital Works Construction to Blue Star Concrete Pty Ltd for the total tendered price of \$270,600.00 (excluding GST). This Contract term is for three (3) years with the provision of two (2) x one (1) year extensions at Council’s sole discretion.
- 3.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.

Moved Cr Ben Taylor
Seconded Cr Tracey Hargreaves

CARRIED

Cr Harris left the meeting due to technical difficulties.

6.2 TENDER 2021/22-380 CITY OVAL NETBALL COURT REPLACEMENT
(RO – Natalie Robertson / Anthony Schreenan)

SUMMARY

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the provision of City Oval Netball Court and Lighting.

BACKGROUND

2. The City Oval Netball Court project is part of City of Ballarat Recreation Capital Improvement Program and co-funded through Sport and Recreation Victoria with funding of \$150,000.
3. This project will deliver upgraded netball facilities and lighting at the City Oval for the Netball Club and broader recreation community.

KEY MATTERS

4. Two (2) tender responses were received with both being considered as conforming tenders.
5. The project is jointly funded by City of Ballarat and Sport and Recreation Victoria with a funding agreement of \$150,000.

RESOLUTION

6. That the Contracts Approval Delegated Committee:

- 6.1 Resolves to enter into Contract Number 2021/22-380 for the provision of City Oval Netball Court and Lighting with The Trustee of Turf One Trust for the total tendered price of \$505,990.00 (excluding GST).**
- 6.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Tracey Hargreaves
Seconded Cr Ben Taylor

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves to come out of Section 66 and adopt the resolutions made therein.

Moved Cr Ben Taylor
Seconded Cr Tracey Hargreaves

CARRIED

CONFIRMATION OF MINUTES

RESOLUTION:

That the minutes of the Contracts Committee meeting held on 17th November, 2021 as circulated, be confirmed, subject to the amendment to the resolution for Contract 2021/22-291 Concrete Services Tender, as outlined in report 6.1 – amendment to Tender 2021/22-291 Concrete Services.

Moved Cr Ben Taylor
Seconded Cr Tracey Hargreaves

CARRIED

There being no further business, the Chairperson declared the meeting closed at 12:41pm

Confirmed this 15th day of December, 2021

Cr Ben Taylor

**Cr Ben Taylor
Chairperson**

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***CONTRACTS APPROVAL
DELEGATED COMMITTEE***

MINUTES

15 December 2021

**MINUTES OF THE MEETING OF THE SPECIAL CONTRACTS APPROVAL DELEGATED
COMMITTEE OF THE BALLARAT CITY COUNCIL, HELD BY A VIRTUAL MEETING
ON WEDNESDAY 15 DECEMBER 2021 AT 12:33PM**

**Evan King
(Chief Executive Officer)**

MINUTES

ORDER OF BUSINESS:

PRESENT

Cr Ben Taylor (Chair)
Cr Mark Harris
Cr Tracey Hargreaves

IN ATTENDANCE

Mr Evan King (Chief Executive Officer)
Mr John Hausler (Director Corporate Services)
Ms Natalie Robertson (Director Development and Growth)
Ms Bridget Wetherall (Director Infrastructure and Environment)
Mr Vaughn Notting (Executive Manager Infrastructure)
Mr Mark Patterson (Executive Manager Recreation Services)
Mr Rod Leith (Manager Revenue and Procurement)
Ms Lorraine Sendall (Minutes)

APOLOGIES

Nil

ACKNOWLEDGEMENT TO COUNTRY

Acknowledgement to Country was read by the Chair.

DECLARATIONS OF INTEREST

No conflicts of interest were recorded.

CONFIRMATION OF MINUTES

RESOLUTION:

That the minutes of the Contracts Committee meeting held on 1st December, 2021 as circulated, be confirmed.

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves, pursuant to Section 66 of the Local Government Act 2020, that the meeting be closed to members of the public, whilst the Committee is dealing with the following matters, that may include matters that are Commercial in Confidence that may prejudice Council: -

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

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6.1 TENDER 2021/22-274
– BALLARAT REGIONAL TENNIS CENTRE HOT SHOT COURTS
(RO – Natalie Robertson / Dan Farrar)

SUMMARY

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the construction of six Hot Shots tennis courts and associated drainage infrastructure and two drink stations.

BACKGROUND

2. This project will form part of the larger \$1.14m upgrade package at Ballarat Regional Tennis Centre. The upgrades involve several core deliverables to be delivered independent of each other, but which together constitute the delivery of the overall project. The core deliverables are as follows:-
 - New LED court lighting to the 18 existing tennis courts (350 lux);
 - 6 new 'Hot Shot' courts with lighting infrastructure;
 - 'Book-a-Court' hardware;
 - 2 drinking fountains.
3. The new dedicated Hot Shots Courts will provide targeted programming, particularly for junior age groups increasing programming for engaged participants and enabling targeted programming for junior development currently being undertaken indoors in the social space and on outdoor courts when available.

KEY MATTERS

4. Three (3) tender responses were received.
5. The project is funded by the Victorian Labour Government represented by Department of Jobs, Precincts and Regions (DJPR), City of Ballarat and Ballarat Regional Tennis Centre.

RESOLUTION

1. **That the Contracts Approval Delegated Committee:**
 - 3.1 **Resolves to award Contract 2021/22-274 for the provision of Ballarat Regional Tennis Centre Court Lighting with The Trustee for the Turf One Unit Trust for the total tendered price of \$437,250.00 (excluding GST).**
 - 3.2 **Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Ben Taylor
Seconded Cr Tracey Hargreaves

CARRIED

6.2 TENDER 2021/22-395 WHITE FLAT CAR PARK
(RO – Bridget Wetherall / Vaughn Notting)**SUMMARY**

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the provision of White Flat Carpark upgrade.
2. This project will see the reconstruction of the existing car park at White Flat Oval. This project is located behind the Federation University TAFE Campus in Grant Street, Ballarat Central.

BACKGROUND

3. This project is part of the State Government Program providing funding for election commitment of 1000 free car parking spaces throughout the Central Business District.
4. The aim of this project is to refurbish and construct a new total of 127 formal spaces with a net gain of 65 spaces above the current 62 spaces marked on site. The extent of works will be between Moyle Street, Hickman Street and White Flat Oval.
5. The precinct has been utilised for car parking by students and workers in the Central Business district for a number of years. The existing crushed rock surface is vastly deteriorating due to increased volumes of vehicles parking in the vicinity which is causing localised ponding.
6. The project involves several components of work which were identified during the design stage including the following:
 - Earthworks;
 - Pavement and construction;
 - Kerb and channel construction;
 - Landscaping;
 - Asphalt surfacing;
 - Line marking and ancillary works.

KEY MATTERS

7. Seven (7) tender responses were received and evaluated in full.

RESOLUTION**8. That the Contracts Approval Delegated Committee:**

- 8.1 Resolves to enter into Contract Number 2021/22-395 for the provision of White Flat Carpark Upgrade with Fulton Hogan Industries Pty Ltd for the total tendered price of \$544,251.93 (excluding GST).**
- 8.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves to come out of Section 66 and adopt the resolutions made therein.

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

Next Meeting

It was agreed that the first meeting for 2022 will be held on 19th January @12:30pm (if required) then each fortnight thereafter (if required).

There being no further business, the Chairperson declared the meeting closed at 12.41 pm

Confirmed this 19th day of January, 2022

Cr Ben Taylor

**Cr Ben Taylor
Chairperson**

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***CONTRACTS APPROVAL
DELEGATED COMMITTEE***

MINUTES

25 January 2022

**MINUTES OF THE MEETING OF THE SPECIAL CONTRACTS APPROVAL DELEGATED
COMMITTEE OF THE BALLARAT CITY COUNCIL, HELD BY A VIRTUAL MEETING
ON WEDNESDAY 25 JANUARY 2022 AT 12:00PM**

**Evan King
(Chief Executive Officer)**

MINUTES

ORDER OF BUSINESS:

PRESENT

Cr Ben Taylor (Chair)
Cr Mark Harris
Cr Tracey Hargreaves

IN ATTENDANCE

Mr Evan King (Chief Executive Officer)
Mr Matthew Wilson (Director Community Wellbeing)
Natalie Robertson (Director Development and Growth)
Mark Patterson (Executive Manager Recreation Services)
Rod Leith (Manager Revenue and Procurement)
Mr Dan Farrar (Project Manager)
Mr Trevor Harris Leith (Procurement Co-ordinator)
Ms Lorraine Sendall (Minutes)

APOLOGIES

Mr John Hausler (Director Corporate Services)

ACKNOWLEDGEMENT TO COUNTRY

Acknowledgement to Country was read by the Chair.

DECLARATIONS OF INTEREST

No conflicts of interest were recorded.

CONFIRMATION OF MINUTES

RESOLUTION:

That the minutes of the Contracts Committee meeting held on 15th December, 2021 as circulated, be confirmed.

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves, pursuant to Section 66 of the Local Government Act 2020, that the meeting be closed to members of the public, whilst the Committee is dealing with the following matters, that may include matters that are Commercial in Confidence that may prejudice Council: -

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

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Contracts Special Committee Minutes

25 January, 2022

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6.1 UPDATE ON TENDER STATUS
(RO – John Hausler / Trevor Harris)

SUMMARY

1. This report is provided for the information of the Contracts Committee.

BACKGROUND

2. This report outlines the status of tenders – planning, advertising, evaluating or reports being prepared for final approval.
3. This report is provided once per month to the Contracts Committee to increase transparency regarding the status and progress of tenders.

KEY MATTERS

4. The report gives a snapshot of the tender status at a set date.

RESOLUTION

5. **That the Contracts Approval Delegated Committee:**
 - 5.1 **Receive and note the Tender Status Report.**

Moved Cr Tracey Hargreaves
Seconded Cr Ben Taylor

CARRIED

6.2 TENDER 2021/22-369 NORTH BALLARAT NETBALL CHANGEROOMS
(RO – Matthew Wilson / Dan Farrar)**SUMMARY**

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the provision of North Ballarat Netball Club Changerooms.
2. The scope of this contract involves the construction of a new changerroom pavilion and associated external works to serve the new netball courts at North Ballarat Football Netball Club.

BACKGROUND

3. The North Ballarat Football Netball Club currently do not have a facility that is up to standard for senior netball. They require 2 courts and adequate changerrooms. Future Mars Stadium Development is likely to result in the existing one court facility being removed.
4. The new North Ballarat Netball facility will deliver a female friendly netball facility upgrade at the Mars Stadium Sports Precinct in Ballarat. The scope being new Netball Victoria compliant home and away unisex change rooms and amenities, storage, first aid and match day administration room, verandah, DDA accessible parking and associated path networks and landscaping.
5. The facility will:
 - a) Develop new or maintain existing participation opportunities where there is a risk to participation decline; improve diversity and inclusion by increasing participating in under-represented groups identified in Active Victoria;
 - b) Develop local economic activity through the planning, building, maintenance, management and activation of new or redeveloped infrastructure;
 - c) Improve physical and mental health and wellbeing in traditionally disadvantaged communities such as low socio-economic areas, growth areas and communities experiencing long term disadvantage;
 - d) Support gender equity in participation, coaching, administration, officiating and volunteering; and
 - e) Facilitate the delivery of vital fixed equipment to support volunteers and enhance member experiences.

KEY MATTERS

6. Two (2) tender submissions were received.
7. The tender price is in line with the planned budget for these works.
8. The project is funded by the Victorian Labour Government represented by Department of Jobs, Precincts and Regions (DJPR), City of Ballarat and North Ballarat Football Netball Club.

Contracts Special Committee Minutes

25 January, 2022

RESOLUTION

9. That the Contracts Approval Delegated Committee:

- 9.1 Resolves to enter into Contract Number 2021/22-369 for the provision of North Ballarat Netball Club Changerooms with 4Front Construction for the total tendered price of \$761,995.00 (excluding GST).**
- 9.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Mark Harris
Seconded Cr Ben Taylor

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves to come out of Section 66 and adopt the resolutions made therein.

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

General Business

Nil

There being no further business, the Chairperson declared the meeting closed at 12.08 pm

Confirmed this 16th day of February, 2022

Cr Ben Taylor
Cr Ben Taylor
Chairperson



***CONTRACTS APPROVAL
DELEGATED COMMITTEE***

MINUTES

16 February 2022

**MINUTES OF THE MEETING OF THE SPECIAL CONTRACTS APPROVAL DELEGATED
COMMITTEE OF THE BALLARAT CITY COUNCIL, HELD BY A VIRTUAL MEETING
ON WEDNESDAY 16 FEBRUARY 2022 AT 12:30PM**

**Evan King
(Chief Executive Officer)**

MINUTES

ORDER OF BUSINESS:

PRESENT

Cr Ben Taylor (Chair)
Cr Mark Harris
Cr Tracey Hargreaves

IN ATTENDANCE

Mr John Hausler (Director Corporate Services)
Ms Bridget Wetherall (Director Infrastructure and Environment)
Mr Vaughn Notting (Executive Manager Infrastructure)
Mr Trevor Harris (Procurement Co-ordinator)
Mr Robin Hand (Contracts Administration Officer)
Ms Lorraine Sendall (Minutes)

APOLOGIES

ACKNOWLEDGEMENT TO COUNTRY

Acknowledgement to Country was read by the Chair.

DECLARATIONS OF INTEREST

No conflicts of interest were recorded.

CONFIRMATION OF MINUTES

RESOLUTION:

That the minutes of the Contracts Committee meeting held on 25th January, 2022 as circulated, be confirmed.

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves, pursuant to Section 66 of the Local Government Act 2020, that the meeting be closed to members of the public, whilst the Committee is dealing with the following matters, that may include matters that are Commercial in Confidence that may prejudice Council: -

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

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6.1 UPDATE ON TENDER STATUS
(RO – John Hausler / Trevor Harris)

SUMMARY

1. This report is provided for the information of the Contracts Committee.

BACKGROUND

2. This report outlines the status of tenders – planning, advertising, evaluating or reports being prepared for final approval.
3. This report is provided once per month to the Contracts Committee to increase transparency regarding the status and progress of tenders.

KEY MATTERS

4. The report gives a snapshot of the tender status at a set date.

RESOLUTION

5. **That the Contracts Approval Delegated Committee:**
 - 5.1 **Receive and note the Tender Status Report.**

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

6.2 TENDER 2021/22-386 STEINFELD STREET BIKE PATH
(RO – Bridget Wetherall / Robin Hand)**SUMMARY**

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the provision of a shared bike path in Steinfeld Street North (from Anderson street to Barkly Street, Golden Point).
2. The project will see the construction of a shared asphalt bicycle path along the northern side of the Canadian Creek abutting Steinfeld Street. The works are a continuation of a small section completed in Anderson Street East in 2019 providing for the extension of the path up to Barkly Street, Golden Point.
3. The project involves several components of work which were identified during the design stage including the following:
 - * installation of wheel stops;
 - * concrete shared path construction at 2.5m width;
 - * construction of 2 raised pedestrian crossings;
 - * supply and installation of signage;
 - * line marking;
 - * nature strip reinstatement;
 - * supply and planting of trees and ancillary works.

KEY MATTERS

4. Six (6) tender submissions were received with five (5) tender responses being evaluated in full..

RESOLUTION**5. That the Contracts Approval Delegated Committee:**

- 9.1 Resolves to enter into Contract Number 2021/22-386 for the provision of Shared Bike Path – Steinfeld Street North (from Anderson Street East to Barkly Street, Golden Point) with Butler Excavations Pty Ltd for the total tendered price of \$606,360.07 (excluding GST).**
- 9.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Mark Harris
Seconded Cr Ben Taylor

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves to come out of Section 66 and adopt the resolutions made therein.

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

General Business

Nil

There being no further business, the Chairperson declared the meeting closed at 12.39 pm

Confirmed this 2nd day of March, 2022

Cr Ben Taylor

**Cr Ben Taylor
Chairperson**



***CONTRACTS APPROVAL
DELEGATED COMMITTEE***

MINUTES

2 March 2022

**MINUTES OF THE MEETING OF THE SPECIAL CONTRACTS APPROVAL DELEGATED
COMMITTEE OF THE BALLARAT CITY COUNCIL, HELD BY A VIRTUAL MEETING
ON WEDNESDAY 2 MARCH 2022 AT 12:30PM**

**Evan King
(Chief Executive Officer)**

MINUTES

ORDER OF BUSINESS:

PRESENT

Cr Ben Taylor (Chair)
Cr Mark Harris
Cr Tracey Hargreaves

IN ATTENDANCE

Mr John Hausler (Director Corporate Services)
Ms Bridget Wetherall (Director Infrastructure and Environment)
Mr Vaughn Notting (Executive Manager Infrastructure)
Mr Luke Ives (Acting Executive Manager Operations)
Mr Rod Leith (Manager, Revenue and Procurement)
Mr Robin Hand (Contracts Administration Officer)
Ms Lorraine Sendall (Minutes)

APOLOGIES

ACKNOWLEDGEMENT TO COUNTRY

Acknowledgement to Country was read by the Chair.

DECLARATIONS OF INTEREST

No conflicts of interest were recorded.

CONFIRMATION OF MINUTES

RESOLUTION:

That the minutes of the Contracts Committee meeting held on 16th February, 2022 as circulated, be confirmed.

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

SECTION 66 MATTERS

RESOLUTION:

That the Committee resolves, pursuant to Section 66 of the Local Government Act 2020, that the meeting be closed to members of the public, whilst the Committee is dealing with the following matters, that may include matters that are Commercial in Confidence that may prejudice Council: -

Moved Cr Ben Taylor
Seconded Cr Tracey Hargreaves

CARRIED

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6.1 TENDER 2021/22-423 HUMFFRAY STREET AND FLOCKHART STREET
(RO – Bridget Wetherall / Robin Hand)**SUMMARY**

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the reconstruction of Humffray Street South and Flockhart Street.
2. This tender comprises two components in Humffray Street South (Sykes Avenue to Greene Drive) and Flockhart Street (South of Sykes Avenue).

KEY MATTERS

3. Humffray Street South and Flockhart Street (South of Sykes Avenue) are currently single lane carriageways with gravel shoulders and a failing pavement. These areas have seen a significant increase in traffic volumes in recent years due to recent private developments. This project will see the road upgraded to a two-lane carriageway with new pavement, concrete kerb and channel and a new asphalt wearing course.
4. The project involves several components of work which were identified during the design stage including the following:-
 - Earthworks
 - Pit and pipe drainage
 - Kerb and channel construction;
 - Road pavement construction;
 - Road pavement primer sealing and asphalt surfacing;
 - Guard rail barrier installation;
 - Line marking;
 - Signage;
 - Gravel driveway construction'
 - Lawn nature strip reinstatement and ancillary works.
5. Five (5) tender submissions were received and evaluated in full.

RESOLUTION

6. **That the Contracts Approval Delegated Committee:**
 - 6.1 **Enter into Contract Number 2021/22-423 for the provision of Humffray Street South and Flockhart Street reconstruction with Fulton Hogan Industries Pty Ltd for the total tendered price of \$929,915.80 (ex GST).**
 - 6.2 **Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

6.2 TENDER 2021/22-447 CROCKER STREET REHABILITATION
(RO – Bridget Wetherall / Robin Hand)**SUMMARY**

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the provision of Crocker Street rehabilitation works (Sturt Street to Carlton Street).

KEY MATTERS

2. Crocker Street is a primary access street in the vicinity of Lake Wendouree which provides access to 21 residential properties. The street is currently comprised of an undulating asphalt carriageway with gravel road shoulders and tree plantings. The existing concrete kerb and channel has areas of ponding and failure and causes concerns for vehicles to gain access to driveways.
3. This project will see the existing asphalt carriageway overlaid with a new asphalt surface, the gravel shoulders tidied up with fresh gravel, the existing kerb and channel replaced and lifted to remove vehicle access issues and areas of localised ponding with asphalt footpath renewal where required.
4. The project involves several components of work which were identified during the design stage including the following:
 - * earthworks;
 - * kerb and channel reconstruction;
 - * road pavement widening;
 - * road asphalt surfacing;
 - * concrete speed platform construction;
 - * line marking;
 - * signage;
 - * gravel shoulder reconstruction;
 - * asphalt footpath reconstruction;
 - * lawn nature strip reinstatement;
 - * ancillary works.
5. Eight (8) tender submissions were received and evaluated in full.

RESOLUTION**6. That the Contracts Approval Delegated Committee:**

- 6.1 Resolves to enter into Contract Number 2021/22-447 for the provision of Crocker Street Rehabilitation Works (Sturt Street to Carlton Street) with Butler Excavations Pty Ltd for the total tendered price of \$389,421.29 (excluding GST).**
- 6.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Mark Harris
Seconded Cr Tracey Hargreaves

CARRIED

6.3 TENDER 2021/22-308 URBAN FOREST PROJECT
(RO – Bridget Wetherall / Luke Ives)

This report was deferred to be considered at a future Council meeting.

**6.4 TENDER 2021/22-521 TRAM LINE CONSTRUCTION WORKS
WENDOUREE PARADE**
(RO – Bridget Wetherall / Robin Hand)

SUMMARY

1. This report recommended that the Contracts Approval Delegated Committee approve Council to enter into a contract for the provision of Tram Line Construction works in Wendouree Parade.

KEY MATTERS

2. This project will see the existing Tram Tracks replaced from St Aidans Drive to the new Ballarat Tramways Museum. Currently the existing tracks are heavily worn and warped with the timber sleepers beginning to fail beneath the track. This project incorporates the replacement of the Tram Track, installation of new concrete sleepers and reconstruction of the road pavement surrounding the tracks.
3. The project involves several components of work which were identified during the design stage including the following:
 - * new tram line;
 - * replacement tram line;
 - * asphalt works;
 - * line marking and minor drainage improvements.
4. Two (2) tender responses were received with one (1) being evaluated in full.

RESOLUTION

5. That the Contracts Approval Delegated Committee:

- 5.1 Resolves to enter into Contract Number 2021/22-521 for the provision of Tram Line Construction works Wendouree Parade with Fulton Hogan Industries Pty Ltd for the total tendered price of \$1,999,881.73 (excluding GST).**
- 5.2 Delegate to the Chief Executive Officer the authority to execute the associated contract on behalf of Council.**

Moved Cr Tracey Hargreaves
Seconded Cr Ben Taylor

CARRIED

SECTION 66 MATTERS**RESOLUTION:**

That the Committee resolves to come out of Section 66 and adopt the resolutions made therein.

Moved Cr Tracey Hargreaves
Seconded Cr Mark Harris

CARRIED

General Business

Cr Harris raised the level of detail provided in the evaluation reports and the way information about the evaluation was structured in reports, for discussion. The Committee discussed how there was a fine balance between getting the information required to make a decision and the way the detailed information is outlined in the evaluation reports. The Committee requested officers ensure what is written is concise and that it reflects substantiable information identified about each tenderer during the evaluation. The Committee also requested that officers clearly outline information that is related to the referee checking process that occurs within the evaluation reports such that it is easy to identify.

There being no further business, the Chairperson declared the meeting closed at 1:00 pm

Confirmed this 16th day of March, 2022

Cr Tracey Hargreaves

**Cr Tracey Hargreaves
Chairperson**

8.11. S11A INSTRUMENT OF APPOINTMENT AND AUTHORISATION (PLANNING AND ENVIRONMENT ACT 1987)

Division: Corporate Services
Director: John Hausler
Author/Position: Sarah Anstis - Statutory Compliance Officer

PURPOSE

1. The report is to seek Council's endorsement of the S11A. Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* to Jorine Bothma and Kahlia Reid and to revoke the S11A Authorisation for Rachel Blackwell.

BACKGROUND

2. The Chief Executive Officer appoints the majority of authorised officers under section 224 of the *Local Government Act 1989*, through Council's delegation to the Chief Executive Officer. However, the appointment of authorised officers under the *Planning and Environment Act 1987* cannot be delegated by the Chief Executive Officer and must be made through a resolution of Council.

KEY MATTERS

3. Kahlia Reid and Jorine Bothma hold the position of Coordinator Statutory Planning, and the *Planning and Environment Act 1987* requires Council to endorse the authorisation for the officer to undertake duties authorised by Council.
4. At the Council Meeting held on 22 July 2020, Council resolved R181/20 to endorse the authorisation for Rachel Blackwell under the *Planning and Environment Act 1987*. Rachel Blackwell is no longer in the position of Strategic Planner and the authorisation requires revocation by Council resolution.

OFFICER RECOMMENDATION

5. That Council:

5.1 Exercise the powers conferred by s224 of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of appointment and authorisations (the instruments), and that

- a. Jorine Bothma and Kahlia Reid be appointed and authorised as set out in the instruments.
- b. The instruments come into force immediately the Common Seal of Council is affixed to the instrument and remains in force until Council determines to vary or revoke it.
- c. The instruments be sealed.

5.2. Revoke the S11A Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*) for Rachel Blackwell (R181/20).

ATTACHMENTS

1. Governance Review [8.11.1 - 2 pages]
2. S11A Kahlia Reid [8.11.2 - 2 pages]
3. S11A Jorine Bothma [8.11.3 - 2 pages]

OFFICIAL

ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

1. The Instrument of Appointments and Authorisations are a statutory requirement of Council.

COMMUNITY IMPACT

2. Council will make the register of authorised officers available on Council's website in accordance with Council's Public Transparency Policy.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

3. There are no climate emergency and environmental sustainability implications identified for the subject of this report.

ECONOMIC SUSTAINABILITY IMPLICATIONS

4. There are no economic sustainability implications identified for the subject of this report.

FINANCIAL IMPLICATIONS

5. There are no financial implications identified for the subject of this report.

LEGAL AND RISK CONSIDERATIONS

6. It is essential that Council's authorisations are constantly maintained and periodically monitored so that appropriate officers have the power to carry out their duties lawfully. This is a key component in Council meetings, as legislation requires Council to approve authorised officers under the *Planning and Environment Act 1987*.

HUMAN RIGHTS CONSIDERATIONS

7. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

COMMUNITY CONSULTATION AND ENGAGEMENT

8. There has been consultation with relevant managers and officers to ensure the correct officers have been authorised to complete tasks.
9. The revocation and conferring of authorisations does not require any public consultation, however, Council is required to keep a register of all authorised officers available for public inspection.

OFFICIAL

OFFICIAL

GENDER EQUALITY ACT 2020

10. There are no gender equality implications identified for the subject of this report.

CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT

11. Council Officers affirm that no direct or indirect interests need to be declared in relation to the matter of this report.

OFFICIAL



S11A Instrument of Appointment and Authorisation (Planning and Environment Act 1987)

Ballarat City Council

Instrument of Appointment and Authorisation

(Planning and Environment Act 1987 only)

OFFICIAL



**Instrument of Appointment and Authorisation
(Planning and Environment Act 1987)**

In this instrument "officer" means -

Kahlia Reid

By this instrument of appointment and authorisation Ballarat City Council -

- 1. under s 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
- 2. under s 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the Ballarat City Council on

Date:

The Common Seal of Ballarat City Council)
 was affixed by authority of the Council in the)
 presence of:)

..... Mayor/Councillor

..... Chief Executive Officer

OFFICIAL



S11A Instrument of Appointment and Authorisation (Planning and Environment Act 1987)

Ballarat City Council

Instrument of Appointment and Authorisation

(Planning and Environment Act 1987 only)

8.12. S6 INSTRUMENT OF DELEGATION - MEMBERS OF STAFF

Division: Corporate Services
Director: John Hausler
Author/Position: Sarah Anstis – Statutory Compliance Officer

PURPOSE

1. To review and update the S6 Instrument of Delegation, Members of Staff for Council's consideration.

BACKGROUND

2. It is proposed that the Instrument of Delegation be granted to the positions of members of Council staff rather than to the individual staff member. This means that the delegation will still apply to the position should there be a change in personnel or any staff acting in the role.
3. It is imperative that Council staff have the correct delegation for dealing with matters under the current Acts and Regulations.
4. The powers conferred on the Council under some legislative Instruments cannot be delegated through the Chief Executive Officer and must be delegated from Council.

KEY MATTERS

5. Changes to the Instrument of Delegation since the last approved iteration includes:
 - The inclusion of the new position Sustainable Growth Technical Support Officer (SGTSO) (attachment two);
 - Changed the position title Team Leader Compliance (TLC) to Coordinator Compliance Parking and School Crossings (CCPSC);
 - Changed the position title Team Leader Parking Services (TLPS) to Team Leader Compliance and Parking (TLCP); and
 - Removed the position Senior Strategic Planner (SSP) as it is no longer required.

OFFICER RECOMMENDATION

That Council:

6. **Exercise the powers conferred by the legislation referred to in the attached instrument of delegation at Attachment 3, and that:**
 - 6.1. **There be delegated to members of Council staff, holding, acting in or performing the duties of the officers or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument.**
 - 6.2. **The Instrument comes into force immediately after the Common Seal of Council is affixed to the instrument.**

- 6.3. On the coming into force of the instrument, all previous S6 delegations to members of Council staff are revoked.**
- 6.4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**

ATTACHMENTS

1. Governance Review [8.12.1 - 2 pages]
2. Provisions for Sustainable Growth Technical Support Officer [8.12.2 - 15 pages]
3. S6 Instrument of Delegation - Members of Staff [8.12.3 - 176 pages]

OFFICIAL

ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

1. The Instrument of Delegation is a statutory requirement of Council.

COMMUNITY IMPACT

2. There are no community impacts identified for the subject of this report.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

3. There are no climate emergency and environmental sustainability implications identified for the subject of this report.

ECONOMIC SUSTAINABILITY IMPLICATIONS

4. There are no economic sustainability implications identified for the subject of this report.

FINANCIAL IMPLICATIONS

5. There are no financial implications identified for the subject of this report.

LEGAL AND RISK CONSIDERATIONS

6. The endorsement of the revised S6 Instrument of Delegation ensures that the core operations functions of the Council are not impeded.
7. Council's delegations are constantly maintained and periodically monitored to ensure that appropriated Council officers have the power to carry out their duties lawfully.

HUMAN RIGHTS CONSIDERATIONS

8. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

COMMUNITY CONSULTATION AND ENGAGEMENT

9. There has been consultation with the relevant managers to ensure the correct delegations have included in the Instrument of Delegation.

GENDER EQUALITY ACT 2020

10. There are no gender equality implications identified for the subject of this report.

OFFICIAL

OFFICIAL

CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT

11. No Council Officers who have provided advice in relation to this report have a conflict of interest regarding the matter.

OFFICIAL



Provisions for Sustainable Growth Technical Support Officer (SGTSO)

S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GI(2)(b)(i)	Power to agree to a lower rate of standard levy for a class of development of a particular type of land than the rate specified in a Minister's direction	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the planning authority, the municipal Council of the municipal district in which the land is located and/or the development agency
s 46GN(1)	Duty to arrange for estimates of values of inner public purpose land	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GQ	Function of receiving a submission from an affected owner who objects to the estimated value per hectare (or other appropriate unit of measurement) of the inner public purpose land	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GR(1)	Duty to consider every submission that is made by the closing date for submissions included in the notice under s 46GO	MSG, SGO, DCA, DDG, EMDF, SGTSO	

OFFICIAL

OFFICIAL



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GT(4)	Function of receiving, from the valuer-general, written confirmation of the agreement between the planning authority's valuer and the affected owner's valuer as to the estimated value of the inner public purpose land	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GT(6)	Function of receiving, from the valuer-general, written notice of a determination under s 46GT(5)	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GU	Duty not to adopt an amendment under s.29 to an infrastructure contributions plan that specifies a land credit amount or a land equalisation amount that relates to a parcel of land in the ICP plan area of the plan unless the criteria in s 46GU(1)(a) and (b) are met	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GX(1)	Power to accept works, services or facilities in part or full satisfaction of the monetary component of an infrastructure contribution payable	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the collecting agency

OFFICIAL



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GY(1)	Duty to keep proper and separate accounts and records	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency
s 46GY(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency
s 46GZ(2)(a)	Duty to forward any part of the monetary component that is imposed for plan preparation costs to the planning authority that incurred those costs	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is that planning authority
s 46GZ(2)(a)	Function of receiving the monetary component	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where the Council is the planning authority This duty does not apply where Council is also the collecting agency



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZ(2)(b)	Duty to forward any part of the monetary component that is imposed for the provision of works, services or facilities to the development agency that is specified in the plan, as responsible for those works, services or facilities	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This provision does not apply where Council is also the relevant development agency
s 46GZ(2)(b)	Function of receiving the monetary component	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan This provision does not apply where Council is also the collecting agency
s 46GZ(4)	Duty to use any land equalisation amounts to pay land credit amounts under s 46GZ(7), except any part of those amounts that are to be forwarded to a development agency under s 46GZ(5)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(5)	Duty to forward any part of a land equalisation amount required for the acquisition of outer public purpose land by a development agency specified in the approved infrastructure contributions plan to that development agency	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG,	Where Council is the collecting agency under an approved infrastructure contributions plan This provision does not apply where Council is also the relevant development agency



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMDF, PSTP, PP, SGTSO	
s 46GZ(5)	Function of receiving any part of a land equalisation amount required for the acquisition of outer public purpose land	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency specified in the approved infrastructure contributions plan This provision does not apply where Council is also the collecting agency
s 46GZ(7)	Duty to pay to each person who must provide an infrastructure contribution under the approved infrastructure contributions plan any land credit amount to which the person is entitled under s 46GW	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(9)	Duty to transfer the estate in fee simple in the land to the development agency specified in the approved infrastructure contributions plan as responsible for the use and development of that land	MSG, SGO, DCA, DDG, EMDF, SGTSO	If any inner public purpose land is vested in Council under the Subdivision Act 1988 or acquired by Council before the time it is required to be provided to Council under s 46GV(4) Where Council is the collecting agency under an approved infrastructure contributions plan



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			This duty does not apply where Council is also the development agency
s 46GZ(9)	Function of receiving the fee simple in the land	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan This duty does not apply where Council is also the collecting agency
s 46GZA(1)	Duty to keep proper and separate accounts and records	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZA(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Where Council is a development agency under an approved infrastructure contributions plan

OFFICIAL



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZB(3)	Duty to follow the steps set out in s 46GZB(3)(a) – (c)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(4)	Duty, in accordance with requirements of the VPA, to report on the use of the infrastructure contribution in the development agency's annual report and provide reports on the use of the infrastructure contribution to the VPA	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	If the VPA is the collecting agency under an approved infrastructure contributions plan Where Council is a development agency under an approved infrastructure contributions plan
s 46GZD(2)	Duty, within 6 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZD(2)(a) and (b)	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZD(3)	Duty to follow the steps set out in s 46GZD(3)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan

OFFICIAL



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZD(5)	Duty to make payments under s 46GZD(3) in accordance with ss 46GZD(5)(a) and 46GZD(5)(b)	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZE(2)	Duty to forward the land equalisation amount back to the collecting agency within 6 months after the expiry date if any part of a land equalisation amount paid or forwarded to a development agency for acquiring outer public purpose land has not been expended by the development agency to acquire that land at the date on which the approved infrastructure contributions plan expires	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan This duty does not apply where Council is also the collecting agency
s 46GZE(2)	Function of receiving the unexpended land equalisation amount	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is also the development agency
s 46GZE(3)	Duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZE(3)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan

OFFICIAL



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZF(2)	Duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to use the public purpose land for a public purpose approved by the Minister or sell the public purpose land	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s.46GZF(3)	Duty, if land is sold under s.46GZF(2)(b), to follow the steps in s.46GZF(3)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZF(3)	s 46GZF(3)(a) function of receiving proceeds of sale	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collection agency under an approved infrastructure contributions plan This provision does not apply where Council is also the development agency
s 46GZF(4)	Duty to divide the proceeds of the public purpose land among the current owners of each parcel of land in the ICP plan area and pay each current owner a portion of the proceeds in accordance with s 46GZF(5)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan

OFFICIAL



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZF(6)	Duty to make the payments under s 46GZF(4) in accordance with s 46GZF(6)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZH	Power to recover the monetary component, or any land equalisation amount of the land component, payable under Part 3AB as a debt in any court of competent jurisdiction	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZI	Duty to prepare and give a report to the Minister at the times required by the Minister	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is a collecting agency or development agency
s 46GZK	Power to deal with public purpose land which has vested in, been acquired by, or transferred to, Council	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is a collecting agency or development agency
s 46LB(3)	Duty to publish, on Council's Internet site, the payable dwelling amount for a financial year on or before 1 July of each financial year for which the amount is adjusted under s 46LB (2)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46N(1)	Duty to include condition in permit regarding payment of development infrastructure levy	STP, MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, SGTSO	
s 46N(2)(c)	Function of determining time and manner for receipt of development contributions levy	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46N(2)(d)	Power to enter into an agreement with the applicant regarding payment of development infrastructure levy	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46O(1)(a) & (2)(a)	Power to ensure that community infrastructure levy is paid, or agreement is in place, prior to issuing building permit	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46O(1)(d) & (2)(d)	Power to enter into agreement with the applicant regarding payment of community infrastructure levy	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46P(1)	Power to require payment of amount of levy under s 46N or s 46O to be satisfactorily secured	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46P(2)	Power to accept provision of land, works, services or facilities in part or full payment of levy payable	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46Q(1)	Duty to keep proper accounts of levies paid	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46Q(1A)	Duty to forward to development agency part of levy imposed for carrying out works, services, or facilities on behalf of development agency or plan preparation costs incurred by a development agency	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46Q(2)	Duty to apply levy only for a purpose relating to the provision of plan preparation costs or the works, services and facilities in respect of which the levy was paid etc	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46Q(3)	Power to refund any amount of levy paid if it is satisfied the development is not to proceed	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Only applies when levy is paid to Council as a 'development agency'
s 46Q(4)(c)	Duty to pay amount to current owners of land in the area if an amount of levy has been paid to a municipal council as a development agency for plan preparation costs incurred by the Council or for the provision by the Council of works, services or facilities in an area under s 46Q(4)(a)	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Must be done within six months of the end of the period required by the development contributions plan and with the consent of, and in the manner approved by, the Minister



S6 Instrument of Delegation - Members of Staff - Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s46Q(4)(e)	Duty to expend that amount on other works etc.	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	With the consent of, and in the manner approved by, the Minister
s 46QC	Power to recover any amount of levy payable under Part 3B	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 84AB	Power to agree to confining a review by the Tribunal	SO, MSG, SGO, TSODF, DCA, DCS, DDG, EMDF, SGTSO	

OFFICIAL



BALLARAT CITY COUNCIL

INSTRUMENT OF DELEGATION

S6 INSTRUMENT OF DELEGATION - MEMBERS OF STAFF

OFFICIAL



Instrument of Delegation

In exercise of the powers conferred by the legislation referred to in the attached Schedule, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described opposite each such duty and/or function and/or power in column 3 of the Schedule;
2. record that references in the Schedule are as follows:

Abbreviation	Position
AOBS	Administration Officer Building Services
AOEH	Administration Officer Environmental Health
AOLLT	Administration Officer Local Laws and Traffic
AORS	Administration Officer Regulatory Services
AOSC	Administration Officer Statutory Compliance
CAEO	Compliance and Events Officer
CO	Compliance Officer
CAM	Coordinator Asset Management
CBS	Coordinator Building Services
CCPSC	Coordinator Compliance Parking and School Crossings
CEH	Coordinator Environmental Health
CID	Coordinator Infrastructure Delivery
CIT	Coordinator Integrated Transport

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Abbreviation	Position
CPG	Coordinator Parks and Gardens
CRC	Coordinator Risk and Compliance
CRM	Coordinator Road Maintenance
CSTP	Coordinator Statutory Planning
CP	Counter Planner
DCA	Development Contributions Accountant
DCS	Director Corporate Services
DDG	Director Development and Growth
DIE	Director Infrastructure and Environment
EHO	Environmental Health Officer
EMDF	Executive Manager Development Facilitation
EMEG	Executive Manager Economic Growth
EMGR	Executive Manager Governance and Risk
EMI	Executive Manager Infrastructure
EMO	Executive Manager Operations
EMPSFM	Executive Manager Property Services and Facilities Management

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Abbreviation	Position
EMRS	Executive Manager Regulatory Services
HSO	Health Services Officer
MSTP	Manager Statutory Planning
MSP	Manager Strategic Planning
MSG	Manager Sustainable Growth
MBS	Municipal Building Surveyor
Not Applicable	Not Applicable
Not Delegated	Not Delegated
PSO	Planning Support Officer
PP	Principal Planner
PSTP	Principal Statutory Planner
PSP	Principal Strategic Planner
POC	Project Officer Compliance
RMCS	Road Maintenance Contract Supervisor
RMS	Road Maintenance Scheduler
SASO	Senior Asset Surveillance Officer

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Abbreviation	Position
SSTP	Senior Statutory Planner
SCO	Statutory Compliance Officer
STP	Statutory Planner
SP	Strategic Planner
SPA0	Strategic Planning Administration Officer
SO	Subdivision Officer
SASU	Supervisor Asset Surveillance
SPD	Supervisor Pathways and Drainage
SRS	Supervisor Road Safety
SUSR	Supervisor Sealed Roads
SUR	Supervisor Unsealed Roads
SGO	Sustainable Growth Officer
SGTSO	Sustainable Growth Technical Support Officer
TLCP	Team Leader Compliance and Parking
TLEG	Team Leader Economic Growth
TLEH	Team Leader Environmental Health

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Abbreviation	Position
TLRSATS	Team Leader Regulatory Services Administration/Technical Support
TOBS	Technical Officer Building Services
TOEH	Technical Officer Environmental Health
TSODF	Technical Support Officer Development Facilitation

3. declares that:

3.1 this Instrument of Delegation is authorised by [#insert "a resolution" or "resolutions"#] of Council passed on [#date#] [#add "and [date]", if appropriate#]; and

3.2 the delegation:

3.2.1 comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;

3.2.2 remains in force until varied or revoked;

3.2.3 is subject to any conditions and limitations set out in sub-paragraph 3.3, and the Schedule; and

3.2.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and

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

3.3.1 if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;

3.3.2 if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a

(a) policy; or

(b) strategy

adopted by Council;

3.3.3 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; or

3.3.4 the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff or delegated committee.

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The Common Seal of Ballarat City Council)
was affixed by authority of the Council in the)
presence of:)

..... Mayor/Councillor

..... Chief Executive Officer

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Delegation Sources

- Cemeteries and Crematoria Act 2003
- Domestic Animals Act 1994
- Food Act 1984
- Heritage Act 2017
- Local Government Act 1989
- Planning and Environment Act 1987
- Residential Tenancies Act 1997
- Road Management Act 2004
- Cemeteries and Crematoria Regulations 2015
- Planning and Environment Regulations 2015
- Planning and Environment (Fees) Regulations 2016
- Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020
- Road Management (General) Regulations 2016
- Road Management (Works and Infrastructure) Regulations 2015

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S6 Instrument of Delegation - Members of Staff

Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 8(1)(a)(ii)	Power to manage one or more public cemeteries	CPG, EMO, EMPSFM, DIE	Where Council is a Class B cemetery trust
s 12(1)	Function to properly and efficiently manage and maintain each public cemetery for which responsible and carry out any other function conferred under this Act	CPG, EMO, EMPSFM, DIE	Where Council is a Class B cemetery trust
s 12(2)	Duty to have regard to the matters set out in paragraphs (a) - (c) in exercising its functions	CPG, EMO, EMPSFM, DIE	Where Council is a Class B cemetery trust
s 13	Duty to do anything necessary or convenient to enable it to carry out its functions	CPG, EMO, EMPSFM, DIE	
s 14	Power to manage multiple public cemeteries as if they are one cemetery.	CPG, EMO, EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 15(4)	Duty to keep records of delegations	DCS, EMGR, SCO, AOSC, CRC	
s 17(1)	Power to employ any persons necessary	EMPSFM, DIE	
s 17(2)	Power to engage any professional, technical or other assistance considered necessary	CPG, EMO, EMPSFM, DIE	
s 17(3)	Power to determine the terms and conditions of employment or engagement	EMPSFM, DIE	Subject to any guidelines or directions of the Secretary
s 18(3)	Duty to comply with a direction from the Secretary	CPG, EMO, EMPSFM, DIE	
s 19	Power to carry out or permit the carrying out of works	CPG, EMO, EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 20(1)	Duty to set aside areas for the interment of human remains	CPG, EMO, EMPSFM, DIE	
s 20(2)	Power to set aside areas for the purposes of managing a public cemetery	CPG, EMO, EMPSFM, DIE	
s 20(3)	Power to set aside areas for those things in paragraphs (a) - (e)	CPG, EMO, EMPSFM, DIE	
s 24(2)	Power to apply to the Secretary for approval to alter the existing distribution of land	CPG, EMO, EMPSFM, DIE	
s 36	Power to grant licences to enter and use part of the land or building in a public cemetery in accordance with s 36	CPG, EMO, EMPSFM, DIE	Subject to the approval of the Minister
s 37	Power to grant leases over land in a public cemetery in accordance with s 37	CPG, EMO, EMPSFM, DIE	Subject to the Minister approving the purpose

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Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 40	Duty to notify Secretary of fees and charges fixed under s 39	CPG, EMO, EMPSFM, DIE	
s 47	Power to pay a contribution toward the cost of the construction and maintenance of any private street adjoining or abutting a cemetery	DCS	Provided the street was constructed pursuant to the Local Government Act 1989
s 57(1)	Duty to submit a report to the Secretary every financial year in respect of powers and functions under the Act	CPG, EMO, EMPSFM, DIE	Report must contain the particulars listed in s 57(2)
s 59	Duty to keep records for each public cemetery	CPG, EMO, EMPSFM, DIE	
s 60(1)	Duty to make information in records available to the public for historical or research purposes	EMPSFM, DIE	
s 60(2)	Power to charge fees for providing information	DCS	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 64(4)	Duty to comply with a direction from the Secretary under s 64(3)	CPG, EMO, EMPSFM, DIE	
s 64B(d)	Power to permit interments at a reopened cemetery	CPG, EMO, EMPSFM, DIE	
s 66(1)	Power to apply to the Minister for approval to convert the cemetery, or part of it, to a historic cemetery park	CPG, EMO, EMPSFM, DIE	The application must include the requirements listed in s 66(2)(a)-(d)
s 69	Duty to take reasonable steps to notify of conversion to historic cemetery park	EMPSFM, DIE	
s 70(1)	Duty to prepare plan of existing places of interment and make a record of any inscriptions on memorials which are to be removed	CPG, EMO, EMPSFM, DIE	
s 70(2)	Duty to make plans of existing place of interment available to the public	CPG, EMO, EMPSFM, DIE	

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Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 71(1)	Power to remove any memorials or other structures in an area to which an approval to convert applies	CPG, EMO, EMPSFM, DIE	
s 71(2)	Power to dispose of any memorial or other structure removed	CPG, EMO, EMPSFM, DIE	
s 72(2)	Duty to comply with request received under s 72	CPG, EMO, EMPSFM, DIE	
s 73(1)	Power to grant a right of interment	CPG, EMO, EMPSFM, DIE	
s 73(2)	Power to impose conditions on the right of interment	CPG, EMO, EMPSFM, DIE	
s 74	Duty to offer a perpetual right of interment	EMPSFM, DIE	Provision commences on 1 March 2022 unless proclaimed earlier



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 75	Power to grant the rights of interment set out in s 75(a) and (b)	CPG, EMO, EMPSFM, DIE	
s 76(3)	Duty to allocate a piece of interment if an unallocated right is granted	CPG, EMO, EMPSFM, DIE	
s 77(4)	Power to authorise and impose terms and conditions on the removal of cremated human remains or body parts from the place of interment on application	EMPSFM, DIE	
s 80(1)	Function of receiving notification and payment of transfer of right of interment	CPG, EMO, EMPSFM, DIE	
s 80(2)	Function of recording transfer of right of interment	CPG, EMO, EMPSFM, DIE	

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Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 82(2)	Duty to pay refund on the surrender of an unexercised right of interment	DCS	
s 83(2)	Duty to pay refund on the surrender of an unexercised right of interment	DCS	Reference to 'sole holder' will no longer apply from 1 March 2022
s 83(3)	Power to remove any memorial and grant another right of interment for a surrendered right of interment	CPG, EMO, EMPSFM, DIE	
s 84(1)	Function of receiving notice of surrendering an entitlement to a right of interment	CPG, EMO, EMPSFM, DIE	
s 84F(2)(d)	Function of receiving notice of decision to vary or force the surrender of a right of interment under s 84C(2), (3) or (5)	EMPSFM, DIE	
s 84H(4)	Power to exercise the rights of a holder of a right of interment	EMPSFM, DIE	

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Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 84I(5)	Duty to pay refund to the previous holder or holders of the right of interment	EMPSFM, DIE	
s 84I(6)(a)	Power to remove any memorial on the place of interment	EMPSFM, DIE	
s 84I(6)(b)	Power to grant right of interment under s 73	EMPSFM, DIE	
s.85(1)	Duty to notify holder of 25 year right of interment of expiration at least 12 months before expiry	CPG, EMO, EMPSFM, DIE	The notice must be in writing and contain the requirements listed in s 85(2)
s 85(2)(b)	Duty to notify holder of 25 year right of interment of expiration of right at least 12 months before expiry	CPG, EMO, EMPSFM, DIE	Does not apply where right of interment relates to remains of a deceased veteran.
85(2)(c)	Power to leave interred cremated remains undistributed in perpetuity and convert right of interment to perpetual right of interment or;	EMPSFM, DIE	May only be exercised where right of interment relates to cremated human remains of a deceased identified veteran, if right of interment is not extended or converted to a perpetual right of interment



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	remove interred remains and re-inter at another location within cemetery grounds and remove any memorial at that place and re-establish at new or equivalent location.		
s 86	Power to remove and dispose of cremated human remains and remove any memorial if no action taken by right holder within time specified	EMPSFM, DIE	
s 86(2)	Power to leave interred cremated human remains undisturbed or convert the right of interment to a perpetual right of interment	EMPSFM, DIE	
s 86(3)(a)	Power to leave interred cremated human remains undisturbed in perpetuity and convert the right of interment to a perpetual right of interment	EMPSFM, DIE	
s 86(3)(b)	Power to remove interred cremated human remains and take further action in accordance with s 86(3)(b)	EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s.86(4)	power to take action under s.86(4) relating to removing and re-interring cremated human remains	EMPSFM, DIE	
s.86(5)	duty to provide notification before taking action under s.86(4)	EMPSFM, DIE	
s 86A	Duty to maintain place of interment and any memorial at place of interment, if action taken under s 86(3)	EMPSFM, DIE	
s 87(3)	Duty, if requested, to extend the right for a further 25 years or convert the right to a perpetual right of interment	EMPSFM, DIE	
s 88	Function to receive applications to carry out a lift and re-position procedure at a place of interment	EMPSFM, DIE	
s 91(1)	Power to cancel a right of interment in accordance with s 91	EMPSFM, DIE	
s 91(3)	Duty to publish notice of intention to cancel right of interment	CPG, EMO, EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 92	Power to pay refund or grant a right of interment in respect of another place of interment to the previous holder of the cancelled right of interment	CPG, EMO, EMPSFM, DCS, DIE	
s 98(1)	Function of receiving application to establish or alter a memorial or a place of interment	CPG, EMO, EMPSFM, DIE	
s 99	Power to approve or refuse an application made under s 98, or to cancel an approval	CPG, EMO, EMPSFM, DIE	
s 99(4)	Duty to make a decision on an application under s 98 within 45 days after receipt of the application or within 45 days of receiving further information where requested	CPG, EMO, EMPSFM, DIE	
s 100(1)	Power to require a person to remove memorials or places of interment	EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 100(2)	Power to remove and dispose a memorial or place of interment or remedy a person's failure to comply with s 100(1)	EMPSFM, DIE	
s 100(3)	Power to recover costs of taking action under s 100(2)	CPG, EMO, EMPSFM, DIE	
s 101	Function of receiving applications to establish or alter a building for ceremonies in the cemetery	CPG, EMO, EMPSFM, DIE	
s 102(1)	Power to approve or refuse an application under section 101, if satisfied of the matters in (b) and (c)	CPG, EMO, EMPSFM, DIE	
s 102(2) & (3)	Power to set terms and conditions in respect of, or to cancel, an approval granted under s 102(1)	CPG, EMO, EMPSFM, DIE	
s 103(1)	Power to require a person to remove a building for ceremonies	CPG, EMO, EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 103(2)	Power to remove and dispose of a building for ceremonies or remedy the failure to comply with s 103(1)	CPG, EMO, EMPSFM, DIE	
s 103(3)	Power to recover costs of taking action under s 103(2)	CPG, EMO, EMPSFM, DIE	
s 106(1)	Power to require the holder of the right of interment of the requirement to make the memorial or place of interment safe and proper or carry out specified repairs	CPG, EMO, EMPSFM, DIE	
s 106(2)	Power to require the holder of the right of interment to provide for an examination	CPG, EMO, EMPSFM, DIE	
s 106(3)	Power to open and examine the place of interment if s 106(2) not complied with	EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 106(4)	Power to repair or - with the approval of the Secretary - take down, remove and dispose any memorial or place of interment if notice under s 106(1) is not complied with	EMPSFM, DIE	
s 107(1)	Power to require person responsible to make the building for ceremonies safe and proper or carry out specified repairs	CPG, EMO, EMPSFM, DIE	
s 107(2)	Power to repair or take down, remove and dispose any building for ceremonies if notice under s 107(1) is not complied with	EMPSFM, DIE	
s 108	Power to recover costs and expenses	CPG, EMO, EMPSFM, DIE	
s 109(1)(a)	Power to open, examine and repair a place of interment	EMPSFM, DIE	Where the holder of right of interment or responsible person cannot be found



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 109(1)(b)	Power to repair a memorial or, with the Secretary's consent, take down, remove and dispose of a memorial	EMPSFM, DIE	Where the holder of right of interment or responsible person cannot be found
s 109(2)	Power to repair the building for ceremonies or, with the consent of the Secretary, take down, remove and dispose of a building for ceremonies	CPG, EMO, EMPSFM, DIE	Where the holder of right of interment or responsible person cannot be found
s 110(1)	Power to maintain, repair or restore a memorial or place of interment from other funds if unable to find right of interment holder. with consent of the Secretary	CPG, EMO, EMPSFM, DIE	
s 110(1A)	Power to maintain, repair or restore the place of interment if unable to find any of the other holders after diligent inquiries and with the consent of the Secretary	EMPSFM, DIE	Provision commences on 1 March 2022
s 110(2)	Power to maintain, repair or restore any building for ceremonies from other funds if unable to find responsible person and with consent of the Secretary	CPG, EMO, EMPSFM, DIE	

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Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 110A	Power to use cemetery trust funds or other funds for the purposes of establishing, maintaining, repairing or restoring any memorial or place of interment of any deceased identified veteran	DCS	
s 111	Power to enter into agreement with a holder of the right of interment to maintain a memorial or place of interment	CPG, EMO, EMPSFM, DIE	
s 112	Power to sell and supply memorials	CPG, EMO, EMPSFM, DIE	
s 116(4)	Duty to notify the Secretary of an interment authorisation granted	CPG, EMO, EMPSFM, DIE	
s 116(5)	Power to require an applicant to produce evidence of the right of interment holder's consent to application	CPG, EMO, EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 118	Power to grant an interment authorisation if satisfied that the requirements of Division 2 of Part 8 have been met	CPG, EMO, EMPSFM, DIE	
s 119	Power to set terms and conditions for interment authorisations	EMPSFM, DIE	
s 131	Function of receiving an application for cremation authorisation	EMPSFM, DIE	
s 133(1)	Duty not to grant a cremation authorisation unless satisfied that requirements of s 133 have been complied with	CPG, EMO, EMPSFM, DIE	Subject to s 133(2)
s 145	Duty to comply with an order made by the Magistrates' Court or a coroner	CPG, EMO, EMPSFM, DIE	
s 146	Power to dispose of bodily remains by a method other than interment or cremation	EMPSFM, DIE	Subject to the approval of the Secretary
s 147	Power to apply to the Secretary for approval to dispose of bodily remains by a method other than interment or cremation	EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 149	Duty to cease using method of disposal if approval revoked by the Secretary	EMPSFM, DIE	
s 150 & 152(1)	Power to authorise the interment or cremation of body parts if the requirements of Division 1 of Part 11 are met	EMPSFM, DIE	
s 151	Function of receiving applications to inter or cremate body parts	EMPSFM, DIE	
s 152(2)	Power to impose terms and conditions on authorisation granted under s 150	CPG, EMO, EMPSFM, DIE	
sch 1 cl 8(3)	Power to permit members to participate in a particular meeting by telephone, closed-circuit television or any other means of communication	CPG, EMO, EMPSFM, DIE	



Cemeteries and Crematoria Act 2003			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 1 cl 8(8)	Power to regulate own proceedings	CPG, EMO, EMPSFM, DIE, CSS	Subject to cl 8

Domestic Animals Act 1994			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 41A(1)	Power to declare a dog to be a menacing dog	CCPSC, DIE, EMRS	Council may delegate this power to a Council authorised officer



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 19(2)(a)	Power to direct by written order that the food premises be put into a clean and sanitary condition	TLEH, EHO, CEH, DDG	If s 19(1) applies
s 19(2)(b)	Power to direct by written order that specified steps be taken to ensure that food prepared, sold or handled is safe and suitable	TLEH, EHO, CEH, DDG	If s 19(1) applies
s 19(3)	Power to direct by written order that the food premises not be kept or used for the sale, or handling for sale, of any food, or for the preparation of any food, or for any other specified purpose, or for the use of any specified equipment or a specified process	TLEH, EHO, CEH, DDG	If s 19(1) applies Only in relation to temporary food premises or mobile food premises
s 19(4)(a)	Power to direct that an order made under s 19(3)(a) or (b), (i) be affixed to a conspicuous part of the premises, and (ii) inform the public by notice in a published newspaper or otherwise	DDG	If s 19(1) applies
s 19(6)(a)	Duty to revoke any order under section 19 if satisfied that an order has been complied with	TLEH, EHO, CEH	If s 19(1) applies



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 19(6)(b)	Duty to give written notice of revocation under section 19(6)(a) if satisfied that an order has been complied with	TLEH, EHO, CEH	If s 19(1) applies
s 19AA(2)	Power to direct, by written order, that a person must take any of the actions described in (a)-(c).	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 19AA(4)(c)	Power to direct, in an order made under s 19AA(2) or a subsequent written order, that a person must ensure that any food or class of food is not removed from the premises	TLEH, EHO, CEH	Note: the power to direct the matters under s 19AA(4)(a) and (b) not capable of delegation and so such directions must be made by a Council resolution
s 19AA(7)	Duty to revoke order issued under s 19AA and give written notice of revocation, if satisfied that that order has been complied with	TLEH, EHO, CEH	Where Council is the registration authority
s 19CB(4)(b)	Power to request copy of records	TLEH, EHO, CEH, DDG	Where Council is the registration authority



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 19E(1)(d)	Power to request a copy of the food safety program	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 19EA(3)	Function of receiving copy of revised food safety program	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 19GB	Power to request proprietor to provide written details of the name, qualification or experience of the current food safety supervisor	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s19IA(1)	Power to form opinion that the food safety requirements or program are non-compliant.	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 19IA(2)	Duty to give written notice to the proprietor of the premises	TLEH, EHO, CEH, EMRS	Where Council is the registration authority Note: Not required if Council has taken other appropriate action in relation to deficiencies (see s 19IA(3))



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 19M(4)(a) & (5)	Power to conduct a food safety audit and take actions where deficiencies are identified	Not Delegated	Where Council is the registration authority
s 19N(2)	Function of receiving notice from the auditor	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 19NA(1)	Power to request food safety audit reports	TLEH, EHO, AOBS, AOEH, AOLLT, CAEO, TOBS, CEH, TLRATS, HSO, AORS	Where Council is the registration authority
s 19U(3)	Power to waive and vary the costs of a food safety audit if there are special circumstances	Not Delegated	
s 19UA	Power to charge fees for conducting a food safety assessment or inspection	CEH, DDG, EMRS	Except for an assessment required by a declaration under s 19C or an inspection under ss 38B(1)(c) or 39.



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 19W	Power to direct a proprietor of a food premises to comply with any requirement under Part IIIB	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 19W(3)(a)	Power to direct a proprietor of a food premises to have staff at the premises undertake training or instruction	TLEH, CEH	Where Council is the registration authority
s 19W(3)(b)	Power to direct a proprietor of a food premises to have details of any staff training incorporated into the minimum records required to be kept or food safety program of the premises	TLEH, CEH	Where Council is the registration authority
	Power to register or renew the registration of a food premises	TLEH, EHO, CEH, DDG	Where Council is the registration authority Refusal to grant or renew the registration of a food premises must be ratified by Council or the CEO (see s 58A(2))
s 36A	Power to accept an application for registration or notification using online portal	TLEH, EHO, CEH, EMRS	Where Council is the registration authority

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Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 36B	Duty to pay the charge for use of online portal	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 38AA(5)	Power to (a) request further information; or (b) advise the proprietor that the premises must be registered if the premises are not exempt	TLEH, EHO, AOBS, AOEH, AOLLT, CAEO, TOBS, CEH, TLRATS, HSO, AORS	Where Council is the registration authority
s 38AB(4)	Power to fix a fee for the receipt of a notification under s 38AA in accordance with a declaration under s 38AB(1)	EHO, CEH	Where Council is the registration authority
s 38A(4)	Power to request a copy of a completed food safety program template	TLEH, EHO, AOBS, AOEH, AOLLT, CAEO, TOBS, CEH,	Where Council is the registration authority



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		TLRSATS, HSO, AORS	
s 38B(1)(a)	Duty to assess the application and determine which class of food premises under s 19C the food premises belongs	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 38B(1)(b)	Duty to ensure proprietor has complied with requirements of s 38A	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 38B(2)	Duty to be satisfied of the matters in s 38B(2)(a)-(b)	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 38D(1)	Duty to ensure compliance with the applicable provisions of s 38C and inspect the premises if required by s 39	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 38D(2)	Duty to be satisfied of the matters in s 38D(2)(a)-(d)	TLEH, EHO, CEH, DDG	Where Council is the registration authority



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 38D(3)	Power to request copies of any audit reports	TLEH, EHO, AOBS, AOEH, AOLLT, CAEO, TOBS, CEH, TLRSATS, HSO, AORS	Where Council is the registration authority
s 38E(2)	Power to register the food premises on a conditional basis	TLEH, EHO, CEH, DDG	Where Council is the registration authority not exceeding the prescribed time limit defined under s 38E(5)
s 38E(4)	Duty to register the food premises when conditions are satisfied	TLEH, EHO, CEH, DDG	Where Council is the registration authority
s 38F(3)(b)	Power to require proprietor to comply with requirements of this Act	TLEH, EHO, CEH, DDG	Where Council is the registration authority



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 38G(1)	Power to require notification of change of the food safety program type used for the food premises	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 38G(2)	Function of receiving notice from proprietor if there is a change of the food safety program type used for the food premises	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 38G(4)	Power to require the proprietor of the food premises to comply with any requirement of the Act	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 39(2)	Duty to carry out an inspection of the premises during the period of registration before the registration of the food premises is renewed	TLEH, EHO, CEH, EMRS	
s 39A	Power to register, or renew the registration of a food premises despite minor defects	TLEH, EHO, CEH, DDG	Where Council is the registration authority Only if satisfied of matters in s 39A(2)(a)-(c)



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 39A (6)	Duty to comply with a direction of the Secretary	TLEH, EHO, CEH, EMRS	
s 40(1)	Duty to give the person in whose name the premises is to be registered a certificate of registration	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 40(2)	Power to incorporate the certificate of registration in one document with any certificate of registration under Part 6 of the Public Health and Wellbeing Act 2008	TLEH, EHO, CEH, DDG	
s 40C(2)	Power to grant or renew the registration of food premises for a period of less than 1 year	TLEH, CEH, DDG	Where Council is the registration authority
s 40D(1)	Power to suspend or revoke the registration of food premises	TLEH, CEH, DDG	Where Council is the registration authority



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 40E	Duty to comply with direction of the Secretary	TLEH, EHO, CEH, EMRS	
s 40F	Power to cancel registration of food premises	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 43	Duty to maintain records of registration	TLEH, EHO, CEH, EMRS	Where Council is the registration authority
s 43F(6)	Duty to be satisfied that registration requirements under Division 3 have been met prior to registering or renewing registration of a component of a food business	TLEH, EHO, CEH	Where Council is the registration authority
s 43F(7)	Power to register the components of the food business that meet requirements in Division 3 and power to refuse to register the components that do not meet the requirements	TLEH, EHO, CEH, DDG	Where Council is the registration authority



Food Act 1984			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 45AC	Power to bring proceedings	TLEH, EHO, CEH, EMRS	
s 46(5)	Power to institute proceedings against another person where the offence was due to an act or default by that other person and where the first person charged could successfully defend a prosecution, without proceedings first being instituted against the person first charged	TLEH, EHO, CEH, DDG	Where Council is the registration authority

Heritage Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 116	Power to sub-delegate Executive Director's functions, duties or powers	DDG, DIE	Must first obtain Executive Director's written consent Council can only sub-delegate if the Instrument of Delegation from the Executive Director authorises sub-delegation

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Local Government Act 1989			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 185L(4)	Power to declare and levy a cladding rectification charge	Not Delegated	

Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 4B	Power to prepare an amendment to the Victorian Planning Provisions	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	If authorised by the Minister
s 4G	Function of receiving prescribed documents and a copy of the Victorian Planning Provisions from the Minister	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 4H	Duty to make amendment to Victoria Planning Provisions available in accordance with public availability requirements	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 4I	Duty to keep Victorian Planning Provisions and other documents available in accordance with public availability requirements	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 8A(2)	Power to prepare amendment to the planning scheme where the Minister has given consent under s 8A	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 8A(3)	Power to apply to Minister to prepare an amendment to the planning scheme	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 8A(5)	Function of receiving notice of the Minister's decision	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 8A(7)	Power to prepare the amendment specified in the application without the Minister's authorisation if no response received after 10 business days	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 8B(2)	Power to apply to the Minister for authorisation to prepare an amendment to the planning scheme of an adjoining municipal district	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 12(3)	Power to carry out studies and do things to ensure proper use of land and consult with other persons to ensure co-ordination of planning scheme with these persons	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 12B(1)	Duty to review planning scheme	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 12B(2)	Duty to review planning scheme at direction of Minister	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s.12B(5)	duty to report findings of review of planning scheme to Minister without delay	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 14	duties of a Responsible Authority as set out in s 14(a) to (d)	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 17(1)	Duty of giving copy amendment to the planning scheme	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 17(2)	Duty of giving copy s 173 agreement	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 17(3)	Duty of giving copy amendment, explanatory report and relevant documents to the Minister within 10 business days	SP, SPAO, MSTP, CSTP, DDG, EMDF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PSTP, MSP, PP	
s 18	Duty to make amendment etc. available in accordance with public availability requirements	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 19	Power to give notice, to decide not to give notice, to publish notice of amendment to a planning scheme and to exercise any other power under s 19 to a planning scheme	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 19	Function of receiving notice of preparation of an amendment to a planning scheme	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	Where Council is not the planning authority and the amendment affects land within Council's municipal district; or Where the amendment will amend the planning scheme to designate Council as an acquiring authority.



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 20(1)	Power to apply to Minister for exemption from the requirements of s 19	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	Where Council is a planning authority
s 21(2)	Duty to make submissions available in accordance with public availability requirements	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 21A(4)	Duty to publish notice	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 22	Duty to consider all submissions	SP, SPAO, EMO, MSTP, CSTP, DDG,	Except submissions which request a change to the items in s 22(5)(a) and (b)



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMDF, PSTP, MSP, PP	
s 23(1)(b)	Duty to refer submissions which request a change to the amendment to a panel	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 23(2)	Power to refer to a panel submissions which do not require a change to the amendment	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 24	Function to represent Council and present a submission at a panel hearing (including a hearing referred to in s 96D)	SP, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 26(1)	Power to make report available for inspection in accordance with the requirements set out in s 197B of the Act	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 26(2)	Duty to keep report of panel available in accordance with public availability requirements	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 27(2)	Power to apply for exemption if panel's report not received	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 28(1)	Duty to notify the Minister if abandoning an amendment	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	Note: the power to make a decision to abandon an amendment cannot be delegated
s 28(2)	Duty to publish notice of the decision on Internet site	SPAO, MSTP, CSTP, DDG, EMDF, SSTP	
s 28(4)	Duty to make notice of the decision available on Council's Internet site for a period of at least 2 months	SPAO, MSTP, CSTP, DDG, EMDF, SSTP	
s 30(4)(a)	Duty to say if amendment has lapsed	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 30(4)(b)	Duty to provide information in writing upon request	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 32(2)	Duty to give more notice if required	SP, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 33(1)	Duty to give more notice of changes to an amendment	SP, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 36(2)	Duty to give notice of approval of amendment	SP, SPAO, MSTP, CSTP, DDG, EMDF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PSTP, MSP, PP	
s 38(5)	Duty to give notice of revocation of an amendment	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 39	Function of being a party to a proceeding commenced under s 39 and duty to comply with determination by VCAT	SP, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 40(1)	Function of lodging copy of approved amendment	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 41(1)	Duty to make a copy of an approved amendment available in accordance with the public availability requirements during inspection period	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 41(2)	Duty to make a copy of an approved amendment and any documents lodged with it available in person in accordance with the requirements set out in s 197B of the Act after the inspection period ends	SPAO, MSTP, CSTP, DDG, EMDF, SSTP	
s 42(2)	Duty to make copy of planning scheme available in accordance with the public availability requirements	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46AAA	Duty to prepare an amendment to a planning scheme that relates to Yarra River land that is not inconsistent with anything in a Yarra Strategic Plan which is expressed to be binding on the responsible public entity	Not Applicable	Where Council is a responsible public entity and is a planning authority Note: this provision is not yet in force, and will commence on the day on which the initial Yarra Strategic Plan comes into operation. It will affect a limited number of councils
s 46AW	Function of being consulted by the Minister	DDG, EMDF	Where Council is a responsible public entity
s 46AX	Function of receiving a draft Statement of Planning Policy and written direction in relation to the endorsement of the draft Statement of Planning Policy Power to endorse the draft Statement of Planning Policy	DDG, EMDF	Where Council is a responsible public entity
s 46AZC(2)	Duty not to prepare an amendment to a declared area planning scheme that is inconsistent with a Statement of Planning Policy for the declared area that is expressed to be binding on the responsible public entity	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	Where Council is a responsible public entity



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46AZK	Duty not to act inconsistently with any provision of the Statement of Planning Policy that is expressed to be binding on the public entity when performing a function or duty or exercising a power in relation to the declared area	SP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	Where Council is a responsible public entity
s 46GI(2)(b)(i)	Power to agree to a lower rate of standard levy for a class of development of a particular type of land than the rate specified in a Minister's direction	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the planning authority, the municipal Council of the municipal district in which the land is located and/or the development agency
s 46GJ(1)	Function of receiving written directions from the Minister in relation to the preparation and content of infrastructure contributions plans	DDG, EMDF	
s 46GK	Duty to comply with a Minister's direction that applies to Council as the planning authority	DDG, EMDF	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GN(1)	Duty to arrange for estimates of values of inner public purpose land	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GO(1)	Duty to give notice to owners of certain inner public purpose land	DDG, EMDF	
s 46GP	Function of receiving a notice under s 46GO	DDG, EMDF	Where Council is the collecting agency
s 46GQ	Function of receiving a submission from an affected owner who objects to the estimated value per hectare (or other appropriate unit of measurement) of the inner public purpose land	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GR(1)	Duty to consider every submission that is made by the closing date for submissions included in the notice under s 46GO	MSG, SGO, DCA, DDG, EMDF, SGTSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GR(2)	Power to consider a late submission Duty to consider a late submission if directed to do so by the Minister	DDG, EMDF	
s 46GS(1)	Power to accept or reject the estimate of the value of the inner public purpose land in a submission made under s 46GQ	DDG, EMDF	
s 46GS(2)	Duty, if Council rejects the estimate of the value of the inner public purpose land in the submission, to refer the matter to the valuer-general, and notify the affected owner of the rejection and that the matter has been referred to the valuer-general	DDG, EMDF	
s 46GT(2)	Duty to pay half of the fee fixed by the valuer-general for arranging and attending the conference	DDG, EMDF	
s 46GT(4)	Function of receiving, from the valuer-general, written confirmation of the agreement between the planning	MSG, SGO, DCA, DDG,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	authority's valuer and the affected owner's valuer as to the estimated value of the inner public purpose land	EMDF, SGTSO	
s 46GT(6)	Function of receiving, from the valuer-general, written notice of a determination under s 46GT(5)	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GU	Duty not to adopt an amendment under s.29 to an infrastructure contributions plan that specifies a land credit amount or a land equalisation amount that relates to a parcel of land in the ICP plan area of the plan unless the criteria in s 46GU(1)(a) and (b) are met	MSG, SGO, DCA, DDG, EMDF, SGTSO	
s 46GV(3)	Function of receiving the monetary component and any land equalisation amount of the infrastructure contribution Power to specify the manner in which the payment is to be made	DCS, DDG, EMDF	Where Council is the collecting agency

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GV(3)(b)	Power to enter into an agreement with the applicant	DDG, EMDF	Where Council is the collecting agency
s 46GV(4)(a)	Function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	DDG, EMDF	Where Council is the development agency
s 46GV(4)(b)	Function of receiving the inner public purpose land in accordance with s 46GV(5) and (6)	DDG, EMDF	Where Council is the collecting agency
s 46GV(7)	Duty to impose the requirements set out in s 46GV(3) and (4) as conditions on the permit applied for by the applicant to develop the land in the ICP plan area	DDG, EMDF	
s 46GV(9)	Power to require the payment of a monetary component or the provision of the land component of an infrastructure contribution to be secured to Council's satisfaction	DDG, EMDF	Where Council is the collecting agency



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GX(1)	Power to accept works, services or facilities in part or full satisfaction of the monetary component of an infrastructure contribution payable	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the collecting agency
s 46GX(2)	Duty, before accepting the provision of works, services or facilities by an applicant under s 46GX(1), to obtain the agreement of the development agency or agencies specified in the approved infrastructure contributions plan	DDG, EMDF	Where Council is the collecting agency
s 46GY(1)	Duty to keep proper and separate accounts and records	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency
s 46GY(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZ(2)(a)	Duty to forward any part of the monetary component that is imposed for plan preparation costs to the planning authority that incurred those costs	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is that planning authority
s 46GZ(2)(a)	Function of receiving the monetary component	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where the Council is the planning authority This duty does not apply where Council is also the collecting agency
s 46GZ(2)(b)	Duty to forward any part of the monetary component that is imposed for the provision of works, services or facilities to the development agency that is specified in the plan, as responsible for those works, services or facilities	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This provision does not apply where Council is also the relevant development agency
s 46GZ(2)(b)	Function of receiving the monetary component	MSG, SGO, DCA, DCS,	Where Council is the development agency under an approved infrastructure contributions plan



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DDG, EMDF, SGTSO	This provision does not apply where Council is also the collecting agency
s 46GZ(4)	Duty to use any land equalisation amounts to pay land credit amounts under s 46GZ(7), except any part of those amounts that are to be forwarded to a development agency under s 46GZ(5)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(5)	Duty to forward any part of a land equalisation amount required for the acquisition of outer public purpose land by a development agency specified in the approved infrastructure contributions plan to that development agency	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This provision does not apply where Council is also the relevant development agency
s 46GZ(5)	Function of receiving any part of a land equalisation amount required for the acquisition of outer public purpose land	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency specified in the approved infrastructure contributions plan This provision does not apply where Council is also the collecting agency



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZ(7)	Duty to pay to each person who must provide an infrastructure contribution under the approved infrastructure contributions plan any land credit amount to which the person is entitled under s 46GW	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZ(9)	Duty to transfer the estate in fee simple in the land to the development agency specified in the approved infrastructure contributions plan as responsible for the use and development of that land	MSG, SGO, DCA, DDG, EMDF, SGTSO	If any inner public purpose land is vested in Council under the Subdivision Act 1988 or acquired by Council before the time it is required to be provided to Council under s 46GV(4) Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is also the development agency
s 46GZ(9)	Function of receiving the fee simple in the land	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan This duty does not apply where Council is also the collecting agency

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZA(1)	Duty to keep proper and separate accounts and records	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZA(2)	Duty to keep the accounts and records in accordance with the Local Government Act 2020	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(3)	Duty to follow the steps set out in s 46GZB(3)(a) – (c)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is a development agency under an approved infrastructure contributions plan
s 46GZB(4)	Duty, in accordance with requirements of the VPA, to report on the use of the infrastructure contribution in the	MSG, SGO, DCA, MSTP, DCS, CSTP,	If the VPA is the collecting agency under an approved infrastructure contributions plan



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	development agency's annual report and provide reports on the use of the infrastructure contribution to the VPA	DDG, EMDF, PSTP, PP, SGTSO	Where Council is a development agency under an approved infrastructure contributions plan
s 46GZD(2)	Duty, within 6 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZD(2)(a) and (b)	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZD(3)	Duty to follow the steps set out in s 46GZD(3)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZD(5)	Duty to make payments under s 46GZD(3) in accordance with ss 46GZD(5)(a) and 46GZD(5)(b)	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan

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Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZE(2)	Duty to forward the land equalisation amount back to the collecting agency within 6 months after the expiry date if any part of a land equalisation amount paid or forwarded to a development agency for acquiring outer public purpose land has not been expended by the development agency to acquire that land at the date on which the approved infrastructure contributions plan expires	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan This duty does not apply where Council is also the collecting agency
s 46GZE(2)	Function of receiving the unexpended land equalisation amount	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan This duty does not apply where Council is also the development agency
s 46GZE(3)	Duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to follow the steps set out in s 46GZE(3)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZF(2)	Duty, within 12 months after the date on which the approved infrastructure contributions plan expires, to use the public purpose land for a public purpose approved by the Minister or sell the public purpose land	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s.46GZF(3)	Duty, if land is sold under s.46GZF(2)(b), to follow the steps in s.46GZF(3)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the development agency under an approved infrastructure contributions plan
s 46GZF(3)	s 46GZF(3)(a) function of receiving proceeds of sale	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collection agency under an approved infrastructure contributions plan This provision does not apply where Council is also the development agency
s 46GZF(4)	Duty to divide the proceeds of the public purpose land among the current owners of each parcel of land in the ICP plan area and pay each current owner a portion of the proceeds in accordance with s 46GZF(5)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46GZF(6)	Duty to make the payments under s 46GZF(4) in accordance with s 46GZF(6)(a) and (b)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZH	Power to recover the monetary component, or any land equalisation amount of the land component, payable under Part 3AB as a debt in any court of competent jurisdiction	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is the collecting agency under an approved infrastructure contributions plan
s 46GZI	Duty to prepare and give a report to the Minister at the times required by the Minister	MSG, SGO, DCA, DDG, EMDF, SGTSO	Where Council is a collecting agency or development agency
s 46GZK	Power to deal with public purpose land which has vested in, been acquired by, or transferred to, Council	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	Where Council is a collecting agency or development agency



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46LB(3)	Duty to publish, on Council's Internet site, the payable dwelling amount for a financial year on or before 1 July of each financial year for which the amount is adjusted under s 46LB (2)	MSG, SGO, DCA, DCS, DDG, EMDF, SGTSO	
s 46N(1)	Duty to include condition in permit regarding payment of development infrastructure levy	STP, MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, SGTSO	
s 46N(2)(c)	Function of determining time and manner for receipt of development contributions levy	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46N(2)(d)	Power to enter into an agreement with the applicant regarding payment of development infrastructure levy	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46O(1)(a) & (2)(a)	Power to ensure that community infrastructure levy is paid, or agreement is in place, prior to issuing building permit	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46O(1)(d) & (2)(d)	Power to enter into agreement with the applicant regarding payment of community infrastructure levy	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46P(1)	Power to require payment of amount of levy under s 46N or s 46O to be satisfactorily secured	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46P(2)	Power to accept provision of land, works, services or facilities in part or full payment of levy payable	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46Q(1)	Duty to keep proper accounts of levies paid	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46Q(1A)	Duty to forward to development agency part of levy imposed for carrying out works, services, or facilities on behalf of development agency or plan preparation costs incurred by a development agency	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46Q(2)	Duty to apply levy only for a purpose relating to the provision of plan preparation costs or the works, services and facilities in respect of which the levy was paid etc	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46Q(3)	Power to refund any amount of levy paid if it is satisfied the development is not to proceed	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Only applies when levy is paid to Council as a 'development agency'



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 46Q(4)(c)	Duty to pay amount to current owners of land in the area if an amount of levy has been paid to a municipal council as a development agency for plan preparation costs incurred by the Council or for the provision by the Council of works, services or facilities in an area under s 46Q(4)(a)	MSG, SGO, DCA, MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	Must be done within six months of the end of the period required by the development contributions plan and with the consent of, and in the manner approved by, the Minister
s 46Q(4)(d)	Duty to submit to the Minister an amendment to the approved development contributions plan	MSTP, CSTP, DDG, EMDF, PSTP, PP	Must be done in accordance with Part 3
s46Q(4)(e)	Duty to expend that amount on other works etc.	MSG, SGO, DCA, MSTP, CSTP, DDG, EMDF, PSTP, PP, SGTSO	With the consent of, and in the manner approved by, the Minister
s 46QC	Power to recover any amount of levy payable under Part 3B	MSG, SGO, DCA, MSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DCS, CSTP, DDG, EMDF, PSTP, PP, SGTSO	
s 46QD	Duty to prepare report and give a report to the Minister	MSG, DCA, DDG, EMDF	Where Council is a collecting agency or development agency
s 46Y	Duty to carry out works in conformity with the approved strategy plan	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 47	Power to decide that an application for a planning permit does not comply with that Act	CO, POC, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 49(1)	Duty to keep a register of all applications for permits and determinations relating to permits	SO, STP, TSODF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 49(2)	Duty to make register available for inspection in accordance with the public availability requirements	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 50(4)	Duty to amend application	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 50(5)	Power to refuse to amend application	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 50(6)	Duty to make note of amendment to application in register	SO, STP, TSODF, MSTP, CSTP, DDG, SCO, EMDF, PSTP, AOSC, CP, PP	
s 50A(1)	Power to make amendment to application	SO, SP, STP, SPAO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 50A(3)	Power to require applicant to notify owner and make a declaration that notice has been given	SO, SP, STP, SPAO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 50A(4)	Duty to note amendment to application in register	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 51	Duty to make copy of application available for inspection in accordance with the public availability requirements	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PSTP, SSTP, CP, PP	
s 52(1)(a)	Duty to give notice of the application to owners/occupiers of adjoining allotments unless satisfied that the grant of permit would not cause material detriment to any person	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 52(1)(b)	Duty to give notice of the application to other municipal council where appropriate	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 52(1)(c)	Duty to give notice of the application to all persons required by the planning scheme	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 52(1)(ca)	Duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if may result in breach of covenant	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 52(1)(cb)	Duty to give notice of the application to owners and occupiers of land benefited by a registered restrictive covenant if application is to remove or vary the covenant	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 52(1)(d)	Duty to give notice of the application to other persons who may be detrimentally effected	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s.52(1AA)	Duty to give notice of an application to remove or vary a registered restrictive covenant	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 52(3)	Power to give any further notice of an application where appropriate	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 53(1)	Power to require the applicant to give notice under s 52(1) to persons specified by it	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 53(1A)	Power to require the applicant to give the notice under s 52(1AA)	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 54(1)	Power to require the applicant to provide more information	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 54(1A)	Duty to give notice in writing of information required under s 54(1)	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 54(1B)	Duty to specify the lapse date for an application	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 54A(3)	Power to decide to extend time or refuse to extend time to give required information	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 54A(4)	Duty to give written notice of decision to extend or refuse to extend time under s 54A(3)	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 55(1)	Duty to give copy application, together with the prescribed information, to every referral authority specified in the planning scheme	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 57(2A)	Power to reject objections considered made primarily for commercial advantage for the objector	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 57(3)	Function of receiving name and address of persons to whom notice of decision is to go	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 57(5)	Duty to make a copy of all objections available in accordance with the public availability requirements	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 57A(4)	Duty to amend application in accordance with applicant's request, subject to s 57A(5)	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 57A(5)	Power to refuse to amend application	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 57A(6)	Duty to note amendments to application in register	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 57B(1)	Duty to determine whether and to whom notice should be given	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 57B(2)	Duty to consider certain matters in determining whether notice should be given	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 57C(1)	Duty to give copy of amended application to referral authority	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 58	Duty to consider every application for a permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 58A	Power to request advice from the Planning Application Committee	MSTP, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 60	Duty to consider certain matters	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 60(1A)	Duty to consider certain matters	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 60(1B)	Duty to consider number of objectors in considering whether use or development may have significant social effect	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 61(1)	Power to determine permit application, either to decide to grant a permit, to decide to grant a permit with conditions or to refuse a permit application	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	The permit must not be inconsistent with a cultural heritage management plan under the Aboriginal Heritage Act 2006
s 61(2)	Duty to decide to refuse to grant a permit if a relevant determining referral authority objects to grant of permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 61(2A)	Power to decide to refuse to grant a permit if a relevant recommending referral authority objects to the grant of permit	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 61(3)(a)	Duty not to decide to grant a permit to use coastal Crown land without Minister's consent	Not Delegated	
s 61(3)(b)	Duty to refuse to grant the permit without the Minister's consent	Not Delegated	
s 61(4)	Duty to refuse to grant the permit if grant would authorise a breach of a registered restrictive covenant	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 62(1)	Duty to include certain conditions in deciding to grant a permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 62(2)	Power to include other conditions	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 62(4)	Duty to ensure conditions are consistent with paragraphs (a),(b) and (c)	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 62(5)(a)	Power to include a permit condition to implement an approved development contributions plan or an approved infrastructure contributions plan	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 62(5)(b)	Power to include a permit condition that specified works be provided on or to the land or paid for in accordance with s 173 agreement	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 62(5)(c)	Power to include a permit condition that specified works be provided or paid for by the applicant	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 62(6)(a)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except in accordance with ss 46N(1), 46GV(7) or 62(5)	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 62(6)(b)	Duty not to include a permit condition requiring a person to pay an amount for or provide works except a condition that a	SO, TSODF, MSTP, CSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	planning scheme requires to be included as referred to in s 62(1)(a)	DDG, EMDF, PSTP, PP	
s 63	Duty to issue the permit where made a decision in favour of the application (if no one has objected)	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 64(1)	Duty to give notice of decision to grant a permit to applicant and objectors	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	This provision applies also to a decision to grant an amendment to a permit - see s 75
s 64(3)	Duty not to issue a permit until after the specified period	STP, MSTP, CSTP, DDG, EMDF, PSTP,	This provision applies also to a decision to grant an amendment to a permit - see s 75



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		SSTP, CP, PP, PSO	
s 64(5)	Duty to give each objector a copy of an exempt decision	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	This provision applies also to a decision to grant an amendment to a permit - see s 75
s 64A	Duty not to issue permit until the end of a period when an application for review may be lodged with VCAT or until VCAT has determined the application, if a relevant recommending referral authority has objected to the grant of a permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	This provision applies also to a decision to grant an amendment to a permit - see s 75A
s 65(1)	Duty to give notice of refusal to grant permit to applicant and person who objected under s 57	SO, STP, TSODF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 66(1)	Duty to give notice under s 64 or s 65 and copy permit to relevant determining referral authorities	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 66(2)	Duty to give a recommending referral authority notice of its decision to grant a permit	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	If the recommending referral authority objected to the grant of the permit or the responsible authority decided not to include a condition on the permit recommended by the recommending referral authority
s 66(4)	Duty to give a recommending referral authority notice of its decision to refuse a permit	STP, MSTP, CSTP, DDG,	If the recommending referral authority objected to the grant of the permit or the recommending referral authority



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMDF, PSTP, SSTP, CP, PP, PSO	recommended that a permit condition be included on the permit
s 66(6)	Duty to give a recommending referral authority a copy of any permit which Council decides to grant and a copy of any notice given under s 64 or 65	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	If the recommending referral authority did not object to the grant of the permit or the recommending referral authority did not recommend a condition be included on the permit
s 69(1)	Function of receiving application for extension of time of permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 69(1A)	Function of receiving application for extension of time to complete development	SO, STP, TSODF, MSTP, CSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 69(2)	Power to extend time	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 70	Duty to make copy permit available for inspection in accordance with the public availability requirements	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 71(1)	Power to correct certain mistakes	SO, STP, TSODF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 71(2)	Duty to note corrections in register	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 73	Power to decide to grant amendment subject to conditions	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 74	Duty to issue amended permit to applicant if no objectors	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 76	Duty to give applicant and objectors notice of decision to refuse to grant amendment to permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 76A(1)	Duty to give relevant determining referral authorities copy of amended permit and copy of notice	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 76A(2)	Duty to give a recommending referral authority notice of its decision to grant an amendment to a permit	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	If the recommending referral authority objected to the amendment of the permit or the responsible authority decided not to include a condition on the amended permit recommended by the recommending referral authority
s 76A(4)	Duty to give a recommending referral authority notice of its decision to refuse a permit	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	If the recommending referral authority objected to the amendment of the permit or the recommending referral authority recommended that a permit condition be included on the amended permit
s 76A(6)	Duty to give a recommending referral authority a copy of any amended permit which Council decides to grant and a copy of any notice given under s 64 or 76	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	If the recommending referral authority did not object to the amendment of the permit or the recommending referral authority did not recommend a condition be included on the amended permit



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 76D	Duty to comply with direction of Minister to issue amended permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP, PSO	
s 83	Function of being respondent to an appeal	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 83B	Duty to give or publish notice of application for review	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 84(1)	Power to decide on an application at any time after an appeal is lodged against failure to grant a permit	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 84(2)	Duty not to issue a permit or notice of decision or refusal after an application is made for review of a failure to grant a permit	SO, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 84(3)	Duty to tell principal registrar if decide to grant a permit after an application is made for review of its failure to grant a permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 84(6)	Duty to issue permit on receipt of advice within 3 working days	SO, STP, TSODF, MSTP, CSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DDG, EMDF, PSTP, SSTP, CP, PP	
s 84AB	Power to agree to confining a review by the Tribunal	SO, MSG, SGO, TSODF, DCA, DCS, DDG, EMDF, SGTSO	
s 86	Duty to issue a permit at order of Tribunal within 3 working days	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 87(3)	Power to apply to VCAT for the cancellation or amendment of a permit	SO, TSODF, MSTP, CSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DDG, EMDF, PSTP, PP	
s 90(1)	Function of being heard at hearing of request for cancellation or amendment of a permit	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 91(2)	Duty to comply with the directions of VCAT	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 91(2A)	Duty to issue amended permit to owner if Tribunal so directs	SO, STP, TSODF, MSTP, CSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DDG, EMDF, PSTP, SSTP, CP, PP	
s 92	Duty to give notice of cancellation/amendment of permit by VCAT to persons entitled to be heard under s 90	SO, STP, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 93(2)	Duty to give notice of VCAT order to stop development	SO, STP, CCPSC, TSODF, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, EMRS, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 95(3)	Function of referring certain applications to the Minister	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 95(4)	Duty to comply with an order or direction	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 96(1)	Duty to obtain a permit from the Minister to use and develop its land	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 96(2)	Function of giving consent to other persons to apply to the Minister for a permit to use and develop Council land	MSTP, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 96A(2)	Power to agree to consider an application for permit concurrently with preparation of proposed amendment	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 96C	Power to give notice, to decide not to give notice, to publish notice and to exercise any other power under s 96C	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 96F	Duty to consider the panel's report under s 96E	Not Delegated	
s 96G(1)	Power to determine to recommend that a permit be granted or to refuse to recommend that a permit be granted and power to notify applicant of the determination (including power to give notice under s 23 of the Planning and Environment (Planning Schemes) Act 1996)	MSTP, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 96H(3)	Power to give notice in compliance with Minister's direction	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 96J	Power to issue permit as directed by the Minister	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 96K	Duty to comply with direction of the Minister to give notice of refusal	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 96Z	Duty to keep levy certificates given to it under ss 47 or 96A for no less than 5 years from receipt of the certificate	CO, POC, MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 97C	Power to request Minister to decide the application	DDG, EMDF	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 97D(1)	Duty to comply with directions of Minister to supply any document or assistance relating to application	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 97G(3)	Function of receiving from Minister copy of notice of refusal to grant permit or copy of any permit granted by the Minister	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 97G(6)	Duty to make a copy of permits issued under s 97F available in accordance with the public availability requirements	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 97L	Duty to include Ministerial decisions in a register kept under s 49	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 97MH	Duty to provide information or assistance to the Planning Application Committee	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 97MI	Duty to contribute to the costs of the Planning Application Committee or subcommittee	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 97O	Duty to consider application and issue or refuse to issue certificate of compliance	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 97P(3)	Duty to comply with directions of VCAT following an application for review of a failure or refusal to issue a certificate	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, PP	
s 97Q(2)	Function of being heard by VCAT at hearing of request for amendment or cancellation of certificate	STP, MSTP, CSTP, DDG,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMDF, PSTP, SSTP, CP, PP	
s 97Q(4)	Duty to comply with directions of VCAT	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 97R	Duty to keep register of all applications for certificate of compliance and related decisions	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 98(1)&(2)	Function of receiving claim for compensation in certain circumstances	MSTP, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 98(4)	Duty to inform any person of the name of the person from whom compensation can be claimed	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 101	Function of receiving claim for expenses in conjunction with claim	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 103	Power to reject a claim for compensation in certain circumstances	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s.107(1)	function of receiving claim for compensation	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 107(3)	Power to agree to extend time for making claim	MSTP, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 113(2)	Power to request a declaration for land to be proposed to be reserved for public purposes	SO, STP, MSTP, EMDF	
s 114(1)	Power to apply to the VCAT for an enforcement order	CCPSC, MSTP, CSTP, DDG, EMDF, PSTP, EMRS, PP	
s 117(1)(a)	Function of making a submission to the VCAT where objections are received	CCPSC, MSTP, CSTP, DDG, EMDF, PSTP, EMRS, PP	
s 120(1)	Power to apply for an interim enforcement order where s 114 application has been made	CCPSC, MSTP, CSTP, DDG, EMDF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PSTP, EMRS, PP	
s 123(1)	Power to carry out work required by enforcement order and recover costs	CCPSC, MSTP, CSTP, DDG, EMDF, PSTP, EMRS, PP	
s 123(2)	Power to sell buildings, materials, etc salvaged in carrying out work under s 123(1)	MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP	Except Crown Land
s 129	Function of recovering penalties	MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 130(5)	Power to allow person served with an infringement notice further time	CCPSC, MSTP, DCS, CSTP, DDG, EMDF, PSTP, EMRS, PP	
s 149A(1)	Power to refer a matter to the VCAT for determination	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 149A(1A)	power to apply to VCAT for the determination of a matter relating to the interpretation of a s.173 agreement	CCPSC, MSTP, CSTP, DDG, EMDF, PSTP, EMRS, PP	
s 156	Duty to pay fees and allowances (including a payment to the Crown under s 156(2A)), and payment or reimbursement for reasonable costs and expenses incurred by the panel in carrying out its functions unless the Minister directs otherwise	MSTP, CSTP, DDG, EMDF, PSTP, PP	Where Council is the relevant planning authority



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	under s 156(2B)power to ask for contribution under s 156(3) and power to abandon amendment or part of it under s 156(4)		
s 171(2)(f)	Power to carry out studies and commission reports	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 171(2)(g)	Power to grant and reserve easements	STP, MSTP, CSTP, DDG, EMDF, PSTP, CP, PP	
s 172C	Power to compulsorily acquire any outer public purpose land that is specified in the approved infrastructure contributions plan	DCS, DDG, EMDF	Where Council is a development agency specified in an approved infrastructure contributions plan
s 172D(1)	Power to compulsorily acquire any inner public purpose land that is specified in the plan before the time that the land is required to be provided to Council under s 46GV(4)	DCS, DDG, EMDF	Where Council is a collecting agency specified in an approved infrastructure contributions plan



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 172D(2)	Power to compulsorily acquire any inner public purpose land, the use and development of which is to be the responsibility of Council under the plan, before the time that the land is required to be provided under s 46GV(4)	DCS, DDG, EMDF	Where Council is the development agency specified in an approved infrastructure contributions plan
s 173(1)	Power to enter into agreement covering matters set out in s 174	MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP	
s 173(1A)	Power to enter into an agreement with an owner of land for the development or provision of land in relation to affordable housing	DCS, DDG, TLEG	Where Council is the relevant responsible authority
	Power to decide whether something is to the satisfaction of Council, where an agreement made under s 173 of the Planning and Environment Act 1987 requires something to be to the satisfaction of Council or Responsible Authority	MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	Power to give consent on behalf of Council, where an agreement made under s 173 of the Planning and Environment Act 1987 requires that something may not be done without the consent of Council or Responsible Authority	MSTP, DCS, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 177(2)	Power to end a s 173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 178	power to amend a s 173 agreement with the agreement of all those bound by any covenant in the agreement or otherwise in accordance with Division 2 of Part 9	MSTP, DCS, CSTP, DDG, EMDF, PSTP, PP	
s 178A(1)	Function of receiving application to amend or end an agreement	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		SSTP, MSP, CP, PP	
s 178A(3)	Function of notifying the owner as to whether it agrees in principle to the proposal under s 178A(1)	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178A(4)	Function of notifying the applicant and the owner as to whether it agrees in principle to the proposal	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178A(5)	Power to propose to amend or end an agreement	SP, STP, MSTP, CSTP, DDG, EMDF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PSTP, SSTP, MSP, CP, PP	
s 178B(1)	Duty to consider certain matters when considering proposal to amend an agreement	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178B(2)	Duty to consider certain matters when considering proposal to end an agreement	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178C(2)	Duty to give notice of the proposal to all parties to the agreement and other persons who may be detrimentally affected by decision to amend or end	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		SSTP, MSP, CP, PP	
s 178C(4)	Function of determining how to give notice under s 178C(2)	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 178E(1)	Duty not to make decision until after 14 days after notice has been given	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s.178E(2)(a)	Power to amend or end the agreement in accordance with the proposal	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	If no objections are made under s 178D Must consider matters in s 178B



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 178E(2)(b)	Power to amend or end the agreement in a manner that is not substantively different from the proposal	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	If no objections are made under s 178D Must consider matters in s 178B
s 178E(2)(c)	Power to refuse to amend or end the agreement	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	If no objections are made under s 178D Must consider matters in s 178B
s 178E(3)(a)	Power to amend or end the agreement in accordance with the proposal	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	After considering objections, submissions and matters in s 178B



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 178E(3)(b)	Power to amend or end the agreement in a manner that is not substantively different from the proposal	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	After considering objections, submissions and matters in s 178B
s.178E(3)(c)	power to amend or end the agreement in a manner that is substantively different from the proposal	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	After considering objections, submissions and matters in s.178B
s 178E(3)(d)	Power to refuse to amend or end the agreement	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	After considering objections, submissions and matters in s 178B



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 178F(1)	Duty to give notice of its decision under s 178E(3)(a) or (b)	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178F(2)	Duty to give notice of its decision under s 178E(2)(c) or (3)(d)	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178F(4)	Duty not to proceed to amend or end an agreement under s 178E until at least 21 days after notice has been given or until an application for review to the Tribunal has been determined or withdrawn	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 178G	Duty to sign amended agreement and give copy to each other party to the agreement	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	
s 178H	Power to require a person who applies to amend or end an agreement to pay the costs of giving notices and preparing the amended agreement	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 178I(3)	Duty to notify, in writing, each party to the agreement of the ending of the agreement relating to Crown land	SP, STP, SPAO, MSTP, EMPSFM, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 179(2)	Duty to make copy of each agreement available in accordance with the public availability requirements	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 181	Duty to apply to the Registrar of Titles to record the agreement and to deliver a memorial to Registrar-General	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 181(1A)(a)	Power to apply to the Registrar of Titles to record the agreement	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 181(1A)(b)	Duty to apply to the Registrar of Titles, without delay, to record the agreement	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 182	Power to enforce an agreement	MSTP, CSTP, DDG, EMDF,	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		PSTP, EMRS, PP	
s 183	Duty to tell Registrar of Titles of ending/amendment of agreement	MSTP, CSTP, DDG, EMDF, PSTP, PP	
s 184F(1)	Power to decide to amend or end an agreement at any time after an application for review of the failure of Council to make a decision	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 184F(2)	Duty not to amend or end the agreement or give notice of the decision after an application is made to VCAT for review of a failure to amend or end an agreement	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 184F(3)	Duty to inform the principal registrar if the responsible authority decides to amend or end an agreement after an application is made for the review of its failure to end or amend the agreement	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 184F(5)	Function of receiving advice from the principal registrar that the agreement may be amended or ended in accordance with Council's decision	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 184G(2)	Duty to comply with a direction of the Tribunal	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 184G(3)	Duty to give notice as directed by the Tribunal	SP, STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
s 198(1)	Function to receive application for planning certificate	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 199(1)	Duty to give planning certificate to applicant	STP, SPAO, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 201(1)	Function of receiving application for declaration of underlying zoning	STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, CP, PP	
s 201(3)	Duty to make declaration	MSTP, CSTP, DDG, EMDF, PSTP, PP	
	Power to decide, in relation to any planning scheme or permit, that a specified thing has or has not been done to the satisfaction of Council	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
	Power, in relation to any planning scheme or permit, to consent or refuse to consent to any matter which requires the consent or approval of Council	MSTP, CSTP, DDG, EMDF, PSTP, MSP, PP	



Planning and Environment Act 1987			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
	Power to approve any plan or any amendment to a plan or other document in accordance with a provision of a planning scheme or condition in a permit	MSTP, CSTP, DDG, EMDF, PSTP, PP	
	Power to give written authorisation in accordance with a provision of a planning scheme	MSTP, CSTP, DDG, PSTP, PP	
s 201UAB(1)	Function of providing the Victoria Planning Authority with information relating to any land within municipal district	DDG, MSP	
s 201UAB(2)	Duty to provide the Victoria Planning Authority with information requested under s 201UAB(1) as soon as possible	DDG, MSP	



Residential Tenancies Act 1997			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 518F	Power to issue notice to caravan park regarding emergency management plan if determined that the plan does not comply with the requirements	TLEH, TOEH, EHO, CEH, EMPSFM, EMRS	
s 522(1)	Power to give a compliance notice to a person	TLEH, TOEH, EHO, MBS, CEH, CBS, EMRS	
s 525(2)	Power to authorise an officer to exercise powers in s 526 (either generally or in a particular case)	DIE	
s 525(4)	Duty to issue identity card to authorised officers	EMGR, SCO, AOSC, CRC	
s 526(5)	Duty to keep record of entry by authorised officer under s 526	TLEH, TOEH, EHO, MBS, CEH,	



Residential Tenancies Act 1997			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMPSFM, CBS, EMRS	
s 526A(3)	Function of receiving report of inspection	TLEH, TOEH, EHO, AOEH, CEH, TLRSATS, HSO, AORS	
s 527	Power to authorise a person to institute proceedings (either generally or in a particular case)	TLEH, TOEH, EHO, MBS, CEH, EMPSFM, DDG, CBS, EMRS	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 11(1)	Power to declare a road by publishing a notice in the Government Gazette	EMO, DDG, DIE, EMDF, EMI	Obtain consent in circumstances specified in s 11(2)
s 11(8)	Power to name a road or change the name of a road by publishing notice in Government Gazette	EMO, DDG, DIE, EMDF, EMI	
s 11(9)(b)	Duty to advise Registrar	EMO, DDG, DIE, EMDF, EMI	
s 11(10)	Duty to inform Secretary to Department of Environment, Land, Water and Planning of declaration etc.	EMO, DDG, DIE, EMDF, EMI	Subject to s 11(10A)



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 11(10A)	Duty to inform Secretary to Department of Environment, Land, Water and Planning or nominated person	EMO, DDG, DIE, EMDF, EMI	Where Council is the coordinating road authority
s 12(2)	Power to discontinue road or part of a road	EMO, DDG, DIE, EMDF, EMI	Where Council is the coordinating road authority
s 12(4)	Duty to publish, and provide copy, notice of proposed discontinuance	EMO, DDG, DIE, EMDF, EMI	Power of coordinating road authority where it is the discontinuing body Unless s 12(11) applies
s 12(5)	Duty to consider written submissions received within 28 days of notice	EMO, DDG, DIE, EMDF, EMI	Duty of coordinating road authority where it is the discontinuing body Unless s 12(11) applies



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 12(6)	Function of hearing a person in support of their written submission	EMO, DDG, DIE, EMDF, EMI	Function of coordinating road authority where it is the discontinuing body Unless s 12(11) applies
s 12(7)	Duty to fix day, time and place of meeting under s 12(6) and to give notice	EMO, DDG, DIE, EMDF, EMI	Duty of coordinating road authority where it is the discontinuing body Unless s 12(11) applies
s 12(10)	Duty to notify of decision made	EMO, DDG, DIE, EMDF, EMI	Duty of coordinating road authority where it is the discontinuing body Does not apply where an exemption is specified by the regulations or given by the Minister
s 13(1)	Power to fix a boundary of a road by publishing notice in Government Gazette	EMO, DDG, DIE, EMDF, EMI	Power of coordinating road authority and obtain consent under s 13(3) and s 13(4) as appropriate



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 14(4)	Function of receiving notice from the Head, Transport for Victoria	EMO, DDG, DIE, EMDF, EMI, CIT	
s 14(7)	Power to appeal against decision of the Head, Transport for Victoria	EMO, DDG, DIE, CAM, EMDF, EMI, CIT	
s 15(1)	Power to enter into arrangement with another road authority, utility or a provider of public transport to transfer a road management function of the road authority to the other road authority, utility or provider of public transport	EMO, DDG, DIE, CAM, EMDF, EMI	
s 15(1A)	Power to enter into arrangement with a utility to transfer a road management function of the utility to the road authority	DDG, DIE, CAM, EMDF, EMI	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 15(2)	Duty to include details of arrangement in public roads register	DDG, DIE, CAM, EMDF, EMI	
s 16(7)	Power to enter into an arrangement under s 15	DDG, DIE, CAM, EMDF, EMI	
s 16(8)	Duty to enter details of determination in public roads register	DDG, DIE, CAM, EMDF, EMI	
s 17(2)	Duty to register public road in public roads register	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 17(3)	Power to decide that a road is reasonably required for general public use	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 17(3)	Duty to register a road reasonably required for general public use in public roads register	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 17(4)	Power to decide that a road is no longer reasonably required for general public use	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 17(4)	Duty to remove road no longer reasonably required for general public use from public roads register	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 18(1)	Power to designate ancillary area	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority, and obtain consent in circumstances specified in s 18(2)
s 18(3)	Duty to record designation in public roads register	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 19(1)	Duty to keep register of public roads in respect of which it is the coordinating road authority	DDG, DIE, CAM, EMDF, EMI	
s 19(4)	Duty to specify details of discontinuance in public roads register	DDG, DIE, CAM, EMDF, EMI	
s 19(5)	Duty to ensure public roads register is available for public inspection	DDG, DIE, CAM, EMDF, EMI	
s 21	Function of replying to request for information or advice	DDG, DIE, CAM, EMDF, EMI	Obtain consent in circumstances specified in s 11(2)
s 22(2)	Function of commenting on proposed direction	DDG, DIE, CAM, EMDF, EMI	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 22(4)	Duty to publish a copy or summary of any direction made under s 22 by the Minister in its annual report.	EMO, DIE	
s 22(5)	Duty to give effect to a direction under s 22	EMO, DIE	
s 40(1)	Duty to inspect, maintain and repair a public road.	SPD, SRS, RMS, EMO, DDG, DIE, RMCS, SUR, SUSR, EMDF, EMI, CRM	
s 40(5)	Power to inspect, maintain and repair a road which is not a public road	SPD, SRS, RMS, EMO, DDG, DIE, RMCS, SUR, SUSR, EMDF, EMI, CRM	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 41(1)	Power to determine the standard of construction, inspection, maintenance and repair	SPD, SRS, RMS, EMO, DDG, DIE, CAM, RMCS, SUR, SUSR, EMDF, EMI, SASU, CRM	
s 42(1)	Power to declare a public road as a controlled access road	DDG, DIE, CAM, EMDF, EMI	Power of coordinating road authority and sch 2 also applies
s 42(2)	Power to amend or revoke declaration by notice published in Government Gazette	DDG, DIE, CAM, EMDF, EMI	Power of coordinating road authority and sch 2 also applies
s 42A(3)	Duty to consult with Head, Transport for Victoria and Minister for Local Government before road is specified	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
			If road is a municipal road or part thereof
s 42A(4)	Power to approve Minister's decision to specify a road as a specified freight road	EMO, DDG, DIE, EMDF, EMI, CIT	Where Council is the coordinating road authority If road is a municipal road or part thereof and where road is to be specified a freight road
s 48EA	Duty to notify the owner or occupier of land and provider of public transport on which rail infrastructure or rolling stock is located (and any relevant provider of public transport)	EMO, DDG, DIE, EMDF, EMI	Where Council is the responsible road authority, infrastructure manager or works manager
s 48M(3)	Function of consulting with the relevant authority for purposes of developing guidelines under s 48M	EMO, DDG, DIE, EMDF, EMI	
s 49	Power to develop and publish a road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 51	Power to determine standards by incorporating the standards in a road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
s 53(2)	Power to cause notice to be published in Government Gazette of amendment etc of document in road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
s 54(2)	Duty to give notice of proposal to make a road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
s 54(5)	Duty to conduct a review of road management plan at prescribed intervals	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 54(6)	Power to amend road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
s 54(7)	Duty to incorporate the amendments into the road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
s 55(1)	Duty to cause notice of road management plan to be published in Government Gazette and newspaper	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
s 63(1)	Power to consent to conduct of works on road	SPD, SRS, RMS, EMO, CAM, RMCS, SUR, SUSR,	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMI, SASU, CRM	
s 63(2)(e)	Power to conduct or to authorise the conduct of works in, on, under or over a road in an emergency	SPD, SRS, RMS, CEH, CAM, RMCS, SUR, SUSR, EMI, SASU, CRM	Where Council is the infrastructure manager
s 64(1)	Duty to comply with cl 13 of sch 7	DDG, DIE, CAM, EMDF, EMI	Where Council is the infrastructure manager or works manager
s 66(1)	Power to consent to structure etc	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 67(2)	Function of receiving the name & address of the person responsible for distributing the sign or bill	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 67(3)	Power to request information	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 68(2)	Power to request information	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
s 71(3)	Power to appoint an authorised officer	SPD, SRS, RMS, EMO, DDG, DIE, CAM, RMCS, SUR, SUSR, TLCP, EMDF,	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		EMI, SASU, CID, CRM, CIT	
s 72	Duty to issue an identity card to each authorised officer	DCS, EMGR, SCO, AOSC, CRC	
s 85	Function of receiving report from authorised officer	DDG, DIE, EMDF, EMI	
s 86	Duty to keep register re s 85 matters	DDG, DIE, EMDF, EMI	
s 87(1)	Function of receiving complaints	SPD, SRS, RMS, EMO, DDG, DIE, RMCS, SUR, SUSR, EMDF, EMI, CRM	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 87(2)	Duty to investigate complaint and provide report	SPD, SRS, RMS, EMO, DCS, DDG, DIE, RMCS, SUR, SUSR, EMDF, EMI, CRM	
s 96	Power to authorise a person for the purpose of instituting legal proceedings	DIE, EMI	
s 112(2)	Power to recover damages in court	EMO, DDG, DIE, EMDF, EMI	
s 116	Power to cause or carry out inspection	SPD, SRS, RMS, EMO, DDG, DIE, RMCS, SUR,	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		SUSR, EMDF, EMI, CRM	
s 119(2)	Function of consulting with the Head, Transport for Victoria	EMO, DDG, DIE, EMDF, EMI	
s 120(1)	Power to exercise road management functions on an arterial road (with the consent of the Head, Transport for Victoria)	EMO, DDG, DIE, CAM, EMDF, EMI, SASU	
s 120(2)	Duty to seek consent of the Head, Transport for Victoria to exercise road management functions before exercising power in s 120(1)	SPD, SRS, RMS, EMO, DDG, DIE, CAM, RMCS, SUR, SUSR, EMDF, EMI, SASU, CRM	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 121(1)	Power to enter into an agreement in respect of works	EMO, DDG, DIE, CAM, EMDF, EMI	
s 122(1)	Power to charge and recover fees	EMO, DDG, DIE, CAM, EMDF, EMI	
s 123(1)	Power to charge for any service	SPD, SRS, RMS, EMO, DCS, DDG, DIE, RMCS, SUR, SUSR, EMDF, EMI, CRM	
sch 2 cl 2(1)	Power to make a decision in respect of controlled access roads	DDG, DIE, CAM, EMDF, EMI	



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 2 cl 3(1)	Duty to make policy about controlled access roads	Not Delegated	
sch 2 cl 3(2)	Power to amend, revoke or substitute policy about controlled access roads	Not Delegated	
sch 2 cl 4	Function of receiving details of proposal from the Head, Transport for Victoria	DDG, DIE, CAM, EMDF, EMI	
sch 2 cl 5	Duty to publish notice of declaration	DDG, DIE, CAM, EMDF, EMI	
sch 7 cl 7(1)	Duty to give notice to relevant coordinating road authority of proposed installation of non-road infrastructure or related works on a road reserve	DDG, DIE, CAM, EMDF, EMI	Where Council is the infrastructure manager or works manager



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 8(1)	Duty to give notice to any other infrastructure manager or works manager responsible for any non-road infrastructure in the area, that could be affected by any proposed installation of infrastructure or related works on a road or road reserve of any road	DDG, DIE, CAM, EMDF, EMI	Where Council is the infrastructure manager or works manager
sch 7 cla 9(1)	Duty to comply with request for information from a coordinating road authority, an infrastructure manager or a works manager responsible for existing or proposed infrastructure in relation to the location of any non-road infrastructure and technical advice or assistance in conduct of works	SPD, SRS, RMS, EMO, DDG, DIE, CAM, RMCS, SUR, SUSR, EMDF, EMI, CRM	Where Council is the infrastructure manager or works manager responsible for non-road infrastructure
sch 7 cl 9(2)	Duty to give information to another infrastructure manager or works manager where becomes aware any infrastructure or works are not in the location shown on records, appear to be in an unsafe condition or appear to need maintenance	DDG, DIE, CAM, EMDF, EMI	Where Council is the infrastructure manager or works manager



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 10(2)	Where Sch 7 cl 10(1) applies, duty to, where possible, conduct appropriate consultation with persons likely to be significantly affected	DDG, DIE, CAM, EMDF, EMI	Where Council is the infrastructure manager or works manager
sch 7 cl 12(2)	Power to direct infrastructure manager or works manager to conduct reinstatement works	DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the coordinating road authority
sch 7 cl 12(3)	Power to take measures to ensure reinstatement works are completed	DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the coordinating road authority
sch 7 cl 12(4)	Duty to ensure that works are conducted by an appropriately qualified person	SPD, SRS, RMS, EMO, DDG, DIE, CAM, RMCS, SUR, SUSR, EMDF, EMI, SASU, CRM	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 12(5)	Power to recover costs	DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the coordinating road authority
sch 7 cl 13(1)	Duty to notify relevant coordinating road authority within 7 days that works have been completed, subject to sch 7 cl 13(2)	DDG, DIE, CAM, EMDF, EMI	Where Council is the works manager
sch 7 cl 13(2)	Power to vary notice period	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
sch 7 cl 13(3)	Duty to ensure works manager has complied with obligation to give notice under sch 7 cl 13(1)	DDG, DIE, CAM, EMDF, EMI	Where Council is the infrastructure manager
sch 7 cl 16(1)	Power to consent to proposed works	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 16(4)	Duty to consult	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority, responsible authority or infrastructure manager
sch 7 cl 16(5)	Power to consent to proposed works	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
sch 7 cl 16(6)	Power to set reasonable conditions on consent	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
sch 7 cl 16(8)	Power to include consents and conditions	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
sch 7 cl 17(2)	Power to refuse to give consent and duty to give reasons for refusal	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl18(1)	Power to enter into an agreement	DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
sch7 cl 19(1)	Power to give notice requiring rectification of works	DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the coordinating road authority
sch 7 cl 19(2) & (3)	Power to conduct the rectification works or engage a person to conduct the rectification works and power to recover costs incurred	DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the coordinating road authority
sch 7 cl 20(1)	Power to require removal, relocation, replacement or upgrade of existing non-road infrastructure	DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the coordinating road authority
sch 7A cl 2	Power to cause street lights to be installed on roads	DDG, DIE, EMDF, EMI	Power of responsible road authority where it is the coordinating road authority or responsible road authority in respect of the road



Road Management Act 2004			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 7 cl 3(1)(d)	Duty to pay installation and operation costs of street lighting - where road is not an arterial road	DDG, DIE, EMDF, EMI	Where Council is the responsible road authority
sch 7A cl 3(1)(e)	Duty to pay installation and operation costs of street lighting - where road is a service road on an arterial road and adjacent areas	DDG, DIE, EMDF, EMI	Where Council is the responsible road authority
sch 7A cl (3)(1)(f)	Duty to pay installation and percentage of operation costs of street lighting - for arterial roads in accordance with cls 3(2) and 4	DDG, DIE, EMDF, EMI	Duty of Council as responsible road authority that installed the light (re: installation costs) and where Council is relevant municipal council (re: operating costs)

Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 24	Duty to ensure that cemetery complies with depth of burial requirements	EMPSFM, DIE	



Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 25	Duty to ensure that the cemetery complies with the requirements for interment in concrete-lined graves	EMPSFM, DIE	
r 27	Power to inspect any coffin, container or other receptacle if satisfied of the matters in paragraphs (a) and (b)	EMPSFM, DIE	
r 28(1)	Power to remove any fittings on any coffin, container or other receptacle if the fittings may impede the cremation process or damage the cremator	EMPSFM, DIE	
r 28(2)	Duty to ensure any fittings removed of are disposed in an appropriate manner	EMPSFM, DIE	
r 29	Power to dispose of any metal substance or non-human substance recovered from a cremator	EMPSFM, DIE	
r 30(2)	Power to release cremated human remains to certain persons	EMPSFM, DIE	Subject to any order of a court



Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 31(1)	Duty to make cremated human remains available for collection within 2 working days after the cremation	EMPSFM, DIE	
r 31(2)	Duty to hold cremated human remains for at least 12 months from the date of cremation	EMPSFM, DIE	
r 31(3)	Power to dispose of cremated human remains if no person gives a direction within 12 months of the date of cremation	EMPSFM, DIE	
r 31(4)	Duty to take reasonable steps notify relevant people of intention to dispose of remains at expiry of 12 month period	EMPSFM, DIE	
r 32	Duty to ensure a mausoleum is constructed in accordance with paragraphs (a)-(d)	EMPSFM, DIE	
r 33(1)	Duty to ensure that remains are interred in a coffin, container or receptacle in accordance with paragraphs (a)-(c)	EMPSFM, DIE	



Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 33(2)	Duty to ensure that remains are interred in accordance with paragraphs (a)-(b)	EMPSFM, DIE	
r 34	Duty to ensure that a crypt space in a mausolea is sealed in accordance with paragraphs (a)-(b)	EMPSFM, DIE	
r 36	Duty to provide statement that alternative vendors or supplier of monuments exist	EMPSFM, DIE	
r 40	Power to approve a person to play sport within a public cemetery	EMPSFM, DIE	
r 41(1)	Power to approve fishing and bathing within a public cemetery	EMPSFM, DIE	
r 42(1)	Power to approve hunting within a public cemetery	EMPSFM, DIE	
r 43	Power to approve camping within a public cemetery	EMPSFM, DIE	

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Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 45(1)	Power to approve the removal of plants within a public cemetery	CPG, EMPSFM, DIE	
r 46	Power to approve certain activities under the Regulations if satisfied of regulation (1)(a)-(c)	CPG, EMO, EMPSFM, DIE	
r 47(3)	Power to approve the use of fire in a public cemetery	EMPSFM, DIE	
r 48(2)	Power to approve a person to drive, ride or use a vehicle on any surface other than a road, track or parking area	CPG, EMO, EMPSFM, DIE	
	Note: Schedule 2 contains Model Rules – only applicable if the cemetery trust has not made its own cemetery trust rules	CPG, EMO, EMPSFM, DIE	
sch 2 cl 4	Power to approve the carrying out of an activity referred to in rules 8, 16, 17 and 18 of sch 2	CPG, EMO, EMPSFM, DIE	See note above regarding model rules



Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 2 cl 5(1)	Duty to display the hours during which pedestrian access is available to the cemetery	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 5(2)	Duty to notify the Secretary of, (a) the hours during which pedestrian access is available to the cemetery; and (b) any changes to those hours	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 6(1)	Power to give directions regarding the manner in which a funeral is to be conducted	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 7(1)	Power to give directions regarding the dressing of places of interment and memorials	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 8	Power to approve certain mementos on a memorial	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 11(1)	Power to remove objects from a memorial or place of interment	CPG, EMO, EMPSFM, DIE	See note above regarding model rules



Cemeteries and Crematoria Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
sch 2 cl 11(2)	Duty to ensure objects removed under sub rule (1) are disposed of in an appropriate manner	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 12	Power to inspect any work being carried out on memorials, places of interment and buildings for ceremonies	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 14	Power to approve an animal to enter into or remain in a cemetery	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 16(1)	Power to approve construction and building within a cemetery	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 17(1)	Power to approve action to disturb or demolish property of the cemetery trust	CPG, EMO, EMPSFM, DIE	See note above regarding model rules
sch 2 cl 18(1)	Power to approve digging or planting within a cemetery	CPG, EMO, EMPSFM, DIE	See note above regarding model rules



Planning and Environment Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r.6	function of receiving notice, under section 19(1)(c) of the Act, from a planning authority of its preparation of an amendment to a planning scheme	MSTP, DDG, EMDF, MSP	where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.
r.21	power of responsible authority to require a permit applicant to verify information (by statutory declaration or other written confirmation satisfactory to the responsible authority) in an application for a permit or to amend a permit or any information provided under section 54 of the Act	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	
r.25(a)	duty to make copy of matter considered under section 60(1A)(g) available for inspection free of charge	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	where Council is the responsible authority



Planning and Environment Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r.25(b)	function of receiving a copy of any document considered under section 60(1A)(g) by the responsible authority and duty to make the document available for inspection free of charge	SP, STP, MSTP, CSTP, DDG, EMDF, PSTP, SSTP, MSP, CP, PP	where Council is not the responsible authority but the relevant land is within Council's municipal district
r.42	function of receiving notice under section 96C(1)(c) of the Act from a planning authority of its preparation of a combined application for an amendment to a planning scheme and notice of a permit application	MSTP, DDG, EMDF, MSP	where Council is not the planning authority and the amendment affects land within Council's municipal district; or where the amendment will amend the planning scheme to designate Council as an acquiring authority.

Planning and Environment (Fees) Regulations 2016			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 19	Power to waive or rebate a fee relating to an amendment of a planning scheme	DDG, MSP	



Planning and Environment (Fees) Regulations 2016			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 20	Power to waive or rebate a fee other than a fee relating to an amendment to a planning scheme	MSTP, DDG, EMDF	
r 21	Duty to record matters taken into account and which formed the basis of a decision to waive or rebate a fee under r 19 or 20	MSTP, DDG, EMDF, MSP	

Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 7	Function of entering into a written agreement with a caravan park owner	TLEH, TOEH, EHO, CEH, EMPSFM	
r 10	Function of receiving application for registration	TLEH, TOEH, EHO, AOBS,	



Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		AOEH, AOLLT, TOBS, CEH, TLRSATS, EMRS, HSO, AORS	
r 11	Function of receiving application for renewal of registration	EMPSFM, DIE	
r 12(1)	Duty to grant the registration if satisfied that the caravan park complies with these regulations	TLEH, TOEH, EHO, CEH	
r 12(1)	Power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	TLEH, EHO, CEH	
r 12(2)	Duty to renew the registration if satisfied that the caravan park complies with these regulations	TLEH, TOEH, EHO, CEH	



Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 12(2)	Power to refuse to renew the registration if not satisfied that the caravan park complies with these regulations	EMPSFM, DIE	
r 12(3)	Duty to have regard to matters in determining an application for registration or an application for renewal of registration	EMPSFM, DIE	
r 12(4) & (5)	Duty to issue certificate of registration	TLEH, TOEH, EHO, CEH	
r 14(1)	Function of receiving notice of transfer of ownership	TLEH, TOEH, EHO, AOBS, AOEH, AOLLT, TOBS, CEH, TLRSATS, EMRS, HSO, AORS	



Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 14(3)	Power to determine where notice of transfer is displayed	TLEH, TOEH, EHO, CEH	
r 15(1)	Duty to transfer registration to new caravan park owner	TLEH, TOEH, EHO, CEH	
r 15(2)	Duty to issue a certificate of transfer of registration	TLEH, TOEH, EHO, CEH	
r 16(1)	Power to determine the fee to accompany applications for registration or applications for renewal of registration	TLEH, EHO, CEH, EMPSFM	
r 17	Duty to keep register of caravan parks	TLEH, CEH	
r 18(4)	Power to determine where the emergency contact person's details are displayed	TLEH, TOEH, EHO, CEH	



Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 18(6)	Power to determine where certain information is displayed	TLEH, TOEH, EHO, CEH	
r 22(1)	Duty to notify a caravan park owner of the relevant emergency services agencies for the caravan park, on the request of the caravan park owner	TLEH, TOEH, EHO, CEH	
r 22(2)	Duty to consult with relevant emergency services agencies	TLEH, TOEH, EHO, CEH	
r 23	Power to determine places in which caravan park owner must display a copy of emergency procedures	TLEH, TOEH, EHO, CEH	
r 24	Power to determine places in which caravan park owner must display copy of public emergency warnings	TLEH, TOEH, EHO, CEH	
r 25(3)	Duty to consult with relevant floodplain management authority	TLEH, TOEH, EHO, CEH	



Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 26	Duty to have regard to any report of the relevant fire authority	TLEH, TOEH, EHO, CEH	
r 28(c)	Power to approve system for the collection, removal and disposal of sewage and waste water from a movable dwelling	TLEH, TOEH, EHO, CEH	
r 40	Function of receiving notice of proposed installation of unregistrable movable dwelling or rigid annexe	TLEH, TOEH, EHO, AOBS, AOEH, AOLLT, TOBS, MBS, CEH, EMPSFM, CBS, TLRSATS, EMRS, HSO, AORS	
r 40(b)	Power to require notice of proposal to install unregistrable movable dwelling or rigid annexe	MBS, EMPSFM,	



Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
		DDG, DIE, CBS, EMRS	
r 41(4)	Function of receiving installation certificate	MBS, EMPSFM, DDG, DIE, CBS, EMRS	
r 43	Power to approve use of a non-habitable structure as a dwelling or part of a dwelling	MBS, EMPSFM, DDG, DIE, CBS, EMRS	
sch 3 cl 4(3)	Power to approve the removal of wheels and axles from unregistrable movable dwelling	DDG, DIE, EMRS	



Road Management (General) Regulations 2016			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 8(1)	Duty to conduct reviews of road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
r 9(2)	Duty to produce written report of review of road management plan and make report available	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
r 9(3)	Duty to give notice where road management review is completed and no amendments will be made (or no amendments for which notice is required)	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	Where Council is the coordinating road authority
r.10	Duty to give notice of amendment which relates to standard of construction, inspection, maintenance or repair under s 41 of the Act	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	



Road Management (General) Regulations 2016			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 13(1)	Duty to publish notice of amendments to road management plan	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	where Council is the coordinating road authority
r 13(3)	Duty to record on road management plan the substance and date of effect of amendment	EMO, DDG, DIE, CAM, EMGR, EMDF, EMI, CRC	
r 16(3)	Power to issue permit	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
r 18(1)	Power to give written consent re damage to road	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority



Road Management (General) Regulations 2016			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 23(2)	Power to make submission to Tribunal	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
r 23(4)	Power to charge a fee for application under s 66(1) Road Management Act	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the coordinating road authority
r 25(1)	Power to remove objects, refuse, rubbish or other material deposited or left on road	EMO, DDG, DIE, CAM, EMDF, EMI, SASU	Where Council is the responsible road authority
r 25(2)	Power to sell or dispose of things removed from road or part of road (after first complying with regulation 25(3))	EMO, DDG, DIE, CAM, EMDF, EMI	Where Council is the responsible road authority



Road Management (General) Regulations 2016			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 25(5)	Power to recover in the Magistrates' Court, expenses from person responsible	EMO, DDG, DIE, CAM, EMDF, EMI	

Road Management (Works and Infrastructure) Regulations 2015			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
r 15	Power to exempt a person from requirement under cl 13(1) of sch 7 of the Act to give notice as to the completion of those works	EMO, DDG, DIE, EMDF, EMI	Where Council is the coordinating road authority and where consent given under s 63(1) of the Act
r 22(2)	Power to waive whole or part of fee in certain circumstances	EMO, DDG, DIE, EMDF, EMI	Where Council is the coordinating road authority

8.13. S18 INSTRUMENT OF SUB-DELEGATION UNDER THE ENVIRONMENT PROTECTION ACT 2017

Division: Corporate Services
Director: John Hausler
Author/Position: Sarah Anstis – Statutory Compliance Officer

PURPOSE

1. The purpose of the report is to review and adopt the S18 Instrument of Sub-Delegation under the *Environment Protection Act 2017* (the Act).

BACKGROUND

2. The amended *Environment Protection Act 2017* came into force on 1 July 2021 and allows the Environment Protection Authority by Instrument of Delegation to delegate certain powers and functions to the Council.
3. The Instrument of Delegation template was provided to Council following legal advice and officers have been delegated to sections within the Act following consultation with the appropriate managers.
4. It is imperative that Council staff have the correct delegation for dealing with matters under the current Acts and Regulations.
5. It is proposed that the Instrument of Delegation be granted to the positions of Council staff rather than to the individual staff member. This means that the delegation will still apply to the position should there be a change in personnel or any staff acting in the role.

KEY MATTERS

6. Changes to the Instrument of Delegation since the last approved iteration includes:
 - Change in position title Coordinator Compliance and Parking Enforcement (CCPE) to Coordinator Compliance Parking and School Crossings (CCPSC).

OFFICER RECOMMENDATION

In the exercise of the power conferred by 437(2) of the *Environment Protection Act 2017* and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, Ballarat City Council Resolves that:

- 7.1 **There be delegated to the members of the Council staff holding, acting in or performing the duties of the officers or positions referred to in the attached Instrument of Delegation to members of Council staff, the powers, duties and functions set out in that Instrument, subject to the conditions and limitations specified in that Instrument.**
- 7.2 **The Instrument comes into force immediately the common seal of Council is affixed to the instrument.**

- 7.3. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.**

ATTACHMENTS

1. Governance Review [**8.13.1** - 2 pages]
2. S18 Instrument of Sub-Delegation [**8.13.2** - 6 pages]

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ALIGNMENT WITH COUNCIL VISION, COUNCIL PLAN, STRATEGIES AND POLICIES

1. The Instrument of Delegation is a statutory requirement of Council.

COMMUNITY IMPACT

2. There are no community impacts identified for the subject of this report.

CLIMATE EMERGENCY AND ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

3. There are no climate emergency and environmental sustainability implications identified for the subject of this report.

ECONOMIC SUSTAINABILITY IMPLICATIONS

4. There are no economic sustainability implications identified for the subject of this report.

FINANCIAL IMPLICATIONS

5. There are no financial implications identified for the subject of this report.

LEGAL AND RISK CONSIDERATIONS

6. The endorsement of the revised S18 Instrument of Delegation ensures that the core operations functions of the Council are not impeded.
7. Council's delegations are constantly maintained and periodically monitored to ensure that appropriated Council officers have the power to carry out their duties lawfully.

HUMAN RIGHTS CONSIDERATIONS

8. It is considered that the report does not impact on any human rights identified in the *Charter of Human Rights and Responsibilities Act 2006*.

COMMUNITY CONSULTATION AND ENGAGEMENT

9. There has been consultation with the relevant managers to ensure the correct delegations have included in the Instrument of Delegation.

GENDER EQUALITY ACT 2020

10. There are no gender equality implications identified for the subject of this report.

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CONFLICTS OF INTEREST THAT HAVE ARISEN IN PREPARATION OF THE REPORT

11. No Council Officers who have provided advice in relation to this report have a conflict of interest regarding the matter.

2
2

2
OFFICIAL

OFFICIAL



BALLARAT CITY COUNCIL

INSTRUMENT OF DELEGATION

S18 INSTRUMENT OF SUB-DELEGATION UNDER THE ENVIRONMENT PROTECTION ACT 2017

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Instrument of Sub-Delegation

By this Instrument of Sub-Delegation, in exercise of the power conferred by s 437(2) of the Environment Protection Act 2017 ('Act') and the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021, the Council:

1. delegates each duty and/or function and/or power described in column 1 of the Schedule (and summarised in column 2 of the Schedule) to the member of Council staff holding, acting in or performing the duties of the office or position described in column 3 of the Schedule;
2. record that references in the Schedule are as follows

Abbreviation	Position
CAEO	Compliance and Events Officer
CO	Compliance Officer
CCPSC	Coordinator Compliance Parking and School Crossings
CEH	Coordinator Environmental Health
DDG	Director Development and Growth
EHO	Environmental Health Officer
EMRS	Executive Manager Regulatory Services
TLEH	Team Leader Environmental Health
TOEH	Technical Officer Environmental Health

3. this Instrument of Sub-Delegation is authorised by #a resolution of Council passed on #date pursuant to a power of sub-delegation conferred by the Instrument of Delegation of the Environment Protection Authority under the Act dated 4 June 2021;

4. the delegation:

4.1 comes into force immediately the common seal of Council is affixed to this Instrument of Sub-Delegation;

4.2 remains in force until varied or revoked;

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- 4.3 is subject to any conditions and limitations set out in sub-paragraph 5, and the Schedule; and
- 4.4 must be exercised in accordance with any guidelines or policies which Council from time to time adopts; and
- 5. this Instrument of Sub-Delegation is subject to the following limitations:
 - 5.1 the powers, duties and functions described in column and summarised in column 2 of the Schedule are only delegated for the purpose of regulating:
 - 5.1.1 onsite wastewater management systems with a design or actual flow rate of sewage not exceeding 5000 litres on any day; and
 - 5.1.2 noise from the construction, demolition or removal of residential premises;
 - 6. the delegate must not determine the issue, take the action or do the act or thing:
 - 6.1.1 if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
 - 6.1.2 if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a
 - (a) policy; or
 - (b) strategy
 adopted by Council;
 - 6.1.3 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; or
 - 6.1.4 the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

The Common Seal of Ballarat City Council)
 was affixed by authority of the Council in the)
 presence of:)

..... Mayor/Councillor

..... Chief Executive Officer

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Delegation Sources

- Environment Protection Act 2017

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S18 Instrument of Sub-Delegation under the Environment Protection Act 2017

Environment Protection Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 271	Power to issue improvement notice	TLEH, TOEH, CO, EHO, CCPSC, CAEO, CEH, DDG, EMRS	
s 272	Power to issue prohibition notice	TLEH, TOEH, CO, EHO, CCPSC, CAEO, CEH, DDG, EMRS	
s 279	Power to amend a notice	TLEH, TOEH, CO, EHO, CCPSC, CAEO, CEH, DDG, EMRS	
s 358	Functions of the Environment Protection Authority	TLEH, TOEH, CO, EHO, CCPSC, CAEO, CEH, DDG, EMRS	



Environment Protection Act 2017			
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations
s 359(1)(b)	Power to do all things that are necessary or convenient to be done for or in connection with the performance of the Environment Protection Authority's functions and duties and to enable the Authority to achieve its objective.	TLEH, TOEH, CO, EHO, CCPSC, CAEO, CEH, DDG, EMRS	
s 359(2)	Power to give advice to persons with duties or obligations	TLEH, TOEH, CO, EHO, CCPSC, CAEO, CEH, DDG, EMRS	

8.14. OUTSTANDING QUESTION TIME ITEMS

Division: Corporate Services
Director: John Hausler
Author/Position Sophie Constable – Administration Officer Statutory Compliance

PURPOSE

1. This report provides Council with an update of responses to questions taken on notice and outstanding unanswered questions from public question time.

BACKGROUND

2. The City of Ballarat Governance Rules, section 3.7.1 calls for a standard agenda item at each Council Meeting that reflects unanswered questions from question time

KEY MATTERS

3. Nil

OFFICER RECOMMENDATION

4. **That Council:**

- 4.1 **Endorse the Outstanding Question Time report.**

ATTACHMENTS

1. Outstanding Question Time Items [8.14.1 - 1 page]
2. QT16/22 Stuart Kelly Response Letter [8.14.2 - 1 page]
3. QT19/22 - Lachlan MacDonald Response Letter [8.14.3 - 1 page]
4. QT20/22 - Scott Gallop Response Letter [8.14.4 - 1 page]
5. QT21/22 - Gareth Smith Response Letter [8.14.5 - 1 page]
6. QT22/22 Pauline Gleeson Response Letter [8.14.6 - 2 pages]
7. QT24/22 - Jason Gross Response Letter [8.14.7 - 1 page]
8. QT28/22 - John Barnes Response Letter [8.14.8 - 2 pages]

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Outstanding Question Time Items					
Meeting	Status	Requested	Question	Officer Responsible	Response
23/03/2022 QT16/22	Closed	Stuart Kelly	1. I understand that some of the advisory committees have not met so far this year. Why is this and in particular when will the Heritage Advisory Committee next meet? 2. The Heritage Advisory Committee's Terms of Reference lists membership as including 2 elected community representatives and 2 elected representatives 15 to 25 years of age. One community position has been vacant for several years since the previous member resigned - even though the meeting on 1st June 2020 decided that an expression of interest process should be actioned. The positions for the 2 representatives aged 15 to 25 have apparently never been filled. When is it proposed that these positions will be filled?	Natalie Robertson, Director Development and Growth	Natalie Robertson, Director Development and Growth provided a written response on 4 April 2022
23/03/2022 QT19/22	Closed	Lachlan MacDonald	1. Considering the current flood disaster in NSW and Qld. Could I ask each individual Councillor if they are confident they can assure ratepayers in their Ward, who have recently built, purchased, or plan to build a dwelling in areas known to flood, they are confident there will be no possible damage to their dwellings due to heavy rain events, and historic flooding can be ignored? 2. Considering the damage and suffering caused in the NSW and Qld. flood events, would each individual Councillor support conducting an independent report on the affects if historic flood levels, or higher, were again seen in the flood prone areas of their Ward?	Natalie Robertson, Director Development and Growth	Natalie Robertson, Director Development and Growth provided a written response on 4 April 2022 (see attached)
23/03/2022 QT20/22	Closed	Scott Gallop	1. In relation to Lake Lighting, the CEO stated in yesterday's Courier that the funding agreements for this project have a whole lot of milestones in them. In the interest of good governance and Council being open, could you please advise the public what the milestone agreements between the Council and the State Government are for the lighting project and what exact dates these milestones must be met by for this Lake Lighting project?	John Hausler, Director Corporate Services	Cameron Montgomery, Executive Manager Governance and Risk provided a written response on 28 March 2022 (see attached)
23/03/2022 QT21/22	Closed	Gareth Smith	1. In relation to the Council proposals for 14 – 16 Book Avenue, what consultation, discussion and communication was had with the community by council to review the options identified following the drop-in session and survey conducted in 2021 before bringing this agenda item tonight, both for those who lodged formal objections as well as those who provided separate feedback?	Matthew Wilson, Director Community Wellbeing	Matthew Wilson, Director Community Wellbeing provided a written response on 25 March 2022 (see attached)
23/03/2022 QT22/22	Closed	Pauline Gleeson	1. Is the Council aware of that the precise area covered by the Interim Protection Order granted by the Heritage Council based on my application to the Heritage Council is Lake Wendouree and the area from the foreshore to the perimeter of the road surrounding the lake, (formally known as the Steven Moneghetti Track) so that worries about letterboxes, tram tracks, fences and anything else in the area around the Lake but not in the immediate foreshore can be put to rest? 2. Is the Council aware of that the proposed cross path illumination does not have any upward light spill?	Natalie Robertson, Director Development and Growth	Natalie Robertson, Director Development and Growth provided a written response on 4 April 2022 (see attached)
23/03/2022 QT24/22	Closed	Jason Gross	1. There are three issues being discussed tonight regarding the council not listening to what the ratepayers have to say, Buninyong, Mt Helen, and lake lighting. Many submissions objecting to them were put in by the public and all have been ignored. Do you think this is a sign of good governance or a clear indication that there is something amiss with the councils community consultation program and will you look at improving your systems?	John Hausler, Director Corporate Services	Darren Whitford, Coordinator Risk and Compliance provided a written response on 29 March 2022 (see attached)
23/03/2022 QT28/22	Closed	John Barnes	1. How did Council determine \$430 million dollars' worth of priority infrastructure projects as listed in the Courier on 8 March 2022? At which Council Meeting were they endorsed by Council, how have members of the public been able to contribute to the setting of these priorities and where can copies of the supporting business cases be found?	Evan King, Chief Executive Officer	Evan King, CEO provided a written response on 20 April 2022 (see attached)

OFFICIAL

OFFICIAL

PO Box 655
Ballarat Vic 3353
AUSTRALIA

Telephone: 03 5320 5500
Facsimile: 03 5333 4061



Stuart Kelly

Email: [REDACTED]

Date: 4 April 2022

Our Ref: NR:kr

Your Ref: QT23/22

Enquiries: (61) 03 5320 5500

Direct Email: info@ballarat.vic.gov.au

Dear Stuart,

RE: OUTSTANDING QUESTION TIME ITEM – QT23/22

Thank you for your questions.

1. *I understand that some of the advisory committees have not met so far this year. Why is this and in particular when will the Heritage Advisory Committee next meet?*

The Heritage Advisory Committee meet several times across the year, usually on the first Monday of the month, so the next meeting is scheduled for Monday 4 April 2022.

2. *Is The Heritage Advisory Committee's Terms of Reference lists membership as including 2 elected community representatives and 2 elected representatives 15 to 25 years of age. One community position has been vacant for several years since the previous member resigned - even though the meeting on 1st June 2020 decided that an expression of interest process should be actioned. The positions for the 2 representatives aged 15 to 25 have apparently never been filled. When is it proposed that these positions will be filled?*

Despite a targeted recruitment process via the Universities and other channels, a previous request for members aged 15-25 years to join the Ballarat Heritage Advisory Committee did not result in any applications – meaning those positions are unfilled.

As noted, the community representative positions do also remain formally unfilled, however the Committee has extended the invitation to community observers to be part of the committee for the last few years and we have been pleased that you have taken up that opportunity and have attended on a number of occasions.

At the last meeting the Heritage Advisory Committee members agreed to workshop the future format and membership of the committee – to put forward suggestions on how best to give a forum for discussion of heritage matters. We look forward to having those discussions before any call for additional members will be progressed.

Yours sincerely

A handwritten signature in blue ink, appearing to read "N. Robertson".

Natalie Robertson
Director Development and Growth

OFFICIAL

OFFICIAL

PO Box 655
Ballarat Vic 3353
AUSTRALIA

Telephone: 03 5320 5500
Facsimile: 03 5333 4061



Date: 4 April 2022

Our Ref: NR:kr

Your Ref: QT19/22

Enquiries: (61) 03 5320 5500

Direct Email: info@ballarat.vic.gov.au

Mr Lachlan MacDonald

Email: [REDACTED]

Dear Mr MacDonald,

RE: OUTSTANDING QUESTION TIME ITEM – QT19/22

Thank you for your questions.

1. *Considering the current flood disaster in NSW and Qld, could I ask each individual Councillor if they are confident, they can assure ratepayers in their Ward, who have recently built, purchased or plan to build a dwelling in areas known to flood, they are confident there will be no possible damage to their dwellings due to heavy rain events and historic flooding can be ignored?*

As we saw this recent disaster in New South Wales and Queensland demonstrated that none of us can anticipate what damage these events might produce. Some of these areas were in recognised flood prone areas with dwellings built appropriately.

In context to the location you raise, the subdivision development received approval from CCMA which was developed in accordance with those conditions as set out in the planning permit. Single dwellings do not require a planning permit and an independent building surveyor approves dwelling design and construction including what floor level to build to.

City of Ballarat's property information reports will indicate that the area is subject to flooding even if it does not have a flood overlay and this should assist the owner in deciding floor levels etc and this should be supported by a process through an independent building surveyor.

2. *Considering the damage and suffering caused in the NSW and Qld. flood events, would each individual Councillor support conducting an independent report on the affects if historic flood levels or higher were again seen in the flood prone areas of their Ward?*

City of Ballarat already has historical information on flood prone areas together with extensive information from the CMA. This informs the work currently undertaken to develop the Flood extents work by our engineering team.

Yours sincerely

A handwritten signature in blue ink, appearing to read "N. Robertson".

Natalie Robertson
Director Development and Growth

OFFICIAL

OFFICIAL

PO Box 655
Ballarat Vic 3353
AUSTRALIA
Telephone: 03 5320 5500



Date: 28 March 2022
Our Ref: QT20/22
Your Ref:
Enquiries: 03 5320 5500
Email: info@ballarat.vic.gov.au

Mr Scott Gallop

E: [REDACTED]

Dear Mr Gallop,

RE: OUTSTANDING QUESTION TIME ITEM – QT20/22

I refer to your question at the 23 March 2022 Council Meeting, namely:

“In relation to Lake Lighting, the CEO stated in yesterday’s Courier that the funding agreements for this project have a whole lot of milestones in them.

In the interest of good governance and Council being open, could you please advise the public what the milestone agreements between the Council and the State Government are for the lighting project and what exact dates these milestones must be met by for this Lake Lighting project?”

This question was taken on notice by the Chief Executive Officer for a response to be provided in writing.

After liaising with Regional Development Victoria, Department of Jobs, Precincts and Regions, I can advise that a request for such information will need to be processed via the *Freedom of Information Act 1982 (FOI Act)*.

If you do wish to lodge a request, could you please complete the attached Freedom of Information Application Form.

An FOI application fee of \$30.10 is payable in respect to this request. This fee can be paid via customer service:

By phone: 5320 5500
In person: The Phoenix, 25 Armstrong Street, Ballarat, 3350
By post: PO Box 655, Ballarat, Vic 3353

Please note, there may also be additional costs associated with identifying these documents, however you will be informed if this is the case once a valid request has been received.

Should you require further information in relation to Freedom of Information, please do not hesitate to contact Council Officer, [REDACTED] directly on [REDACTED].

Regards,

A handwritten signature in black ink, appearing to be "Cameron Montgomery".

Cameron Montgomery
Executive Manager Governance and Risk

OFFICIAL

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PO Box 655
Ballarat Vic 3353
AUSTRALIA

Telephone: 03 5320 5500
Facsimile: 03 5333 4061



Date: 24 March 2022

Our Ref: QT

Your Ref:

Enquiries: (61) 03 5320 5500

Direct Email: info@ballarat.vic.gov.au

Gareth Smith
[REDACTED]

Dear Gareth

Thank you for your question submitted to the Council Meeting held on Wednesday, 23 March 2022, in relation to the property at 15-16 Boak Avenue and the community consultation.

I have provided my response, which was read out at the Council meeting, below:

“Council conducted the community engagement process on this issue in April and May 2021. This included an online survey plus a drop-in session directly with residents at the site. There was no further engagement with participants in that process or with objectors as referred to in the question. The community input from this engagement process is outlined in the report before Council in tonight’s agenda, along with consideration of other information including Council’s Open Space Strategy and associated guidelines, a liveability score for the Mount Helen area in relation to the provision of open space, the costs associated with options to retain the property, and the proximity of facilities at other parks and play spaces within the local area.”

If you wish to discuss this matter further, please do not hesitate to contact me via Council’s customer service number (03) 5320 5500.

Yours sincerely

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

Matthew Wilson
Director Community Wellbeing

OFFICIAL

PO Box 655
Ballarat Vic 3353
AUSTRALIA

Telephone: 03 5320 5500
Facsimile: 03 5333 4061



Date: 4 April 2022

Our Ref: NR:kr

Your Ref: QT22/22

Enquiries: (61) 03 5320 5500

Direct Email: info@ballarat.vic.gov.au

Pauline Gleeson

Email: [REDACTED]

Dear Pauline,

RE: OUTSTANDING QUESTION TIME ITEM – QT22/22

Thank you for your questions.

- 1. Is the Council aware of that the precise area covered by the Interim Protection Order granted by the Heritage Council based on my application to the Heritage Council is Lake Wendouree and the area from the foreshore to the perimeter of the road surrounding the lake, (formally known as the Steven Moneghetti Track) so that worries about letterboxes, tram tracks, fences and anything else in the area around the Lake but not in the immediate foreshore can be put to rest?*

The Heritage Council have specifically identified the area of HO163 in their notice stating "the area known as the Lake Wendouree Heritage Precinct (HO163 in the Ballarat Planning Scheme). The IPO formal process does not distinguish only elements within the HO163 precinct but in fact includes the whole precinct excluding the already HVR listed HO13 precinct.

The Heritage Overlay 163 includes the Lake, the area from the foreshore, the reserves and roads and all works or possible ground disturbances within that area are now the jurisdiction of Heritage Victoria until there is a decision in favour or not in registering the HO163 precinct as an area of State Significance.

All the area known as the place or object under HO 163 must not be removed, relocated, demolished, damaged, despoiled, developed, altered or excavated unless with an exemption or appropriate heritage planning permit from Heritage Victoria until this matter is resolved.

- 2. Is the Council aware of that the proposed cross path illumination does not have any upward light spill?*

City of Ballarat has considered in-ground and low-level lighting, both upward and sideways spilling, through the detailed design process. Cross path illumination lighting does not meet the relevant Australian Standards used during the design. The relevant category of these Australian Standards is category PP3 which is specific to designated pedestrian public pathways. This category includes minimum requirements for vertical and horizontal illumination which low level cross path illumination does not meet.

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These Australian Standards, and the recommendations made in the Lake Wendouree Master Plan on page 14, include achieving a consistent level of lighting also and to achieve this via a low-level cross path illumination would require an exponential increase in the number of light fittings.

Yours sincerely



Natalie Robertson
Director Development and Growth

OFFICIAL

OFFICIAL

PO Box 655
Ballarat Vic 3353
AUSTRALIA
Telephone: 03 5320 5500



Date: 29 March 2022
Our Ref: QT24/22
Enquiries: 03 5320 5500
Email: info@ballarat.vic.gov.au

Mr Jason Gross
E: [REDACTED]

Dear Jason,

COUNCIL MEETING 23 MARCH 2022

Thank you for your written question:

1. There are three issues being discussed tonight regarding the council not listening to what the ratepayers have to say, Buninyong, Mt Helen, and lake lighting. Many submissions objecting to them were put in by the public and all have been ignored. Do you think this is a sign of good governance or a clear indication that there is something amiss with the councils community consultation program and will you look at improving your systems?

The Mayor, Cr Moloney, responded:

The challenges we sometimes face is that consultation doesn't mean consensus and we receive such a wide variety of feedback from across the community with quite a lot of competing views. Council always does its best to listen to the diverse range of views. We usually ran a MySay process and multistage process for many of these plans/projects. This often includes information gathering exercises which sometimes requires expert reports. All of this comes together to inform an officer's recommendation. Consistent improvement in community consultation is always an aim of Council.

A full recording of the meeting is available on Council's website:

<https://www.ballarat.vic.gov.au/city/about-us/council-meetings>

Should you require further information in relation to your application, please do not hesitate to contact me directly on 03 5320 5883.

Regards,

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

Darren Whitford
Coordinator Risk and Compliance

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OFFICIAL

PO Box 655
Ballarat Vic 3353
AUSTRALIA

Telephone: 03 5320 5500
Facsimile: 03 5333 4061



Date: 20 April 2022

Our Ref: QT28/22

Your Ref:

Enquires: (61) 03 5320 5500

Direct Email: info@ballarat.vic.gov.au

Mr John Barnes
[REDACTED]

Dear Mr Barnes

I write in response to the questions you asked me at the 23 March Council meeting relating to City of Ballarat's selection of priority projects for advocacy.

You will be aware how important it is for local governments to undertake ongoing advocacy to secure funding for the delivery of key infrastructure projects. This work has become even more critical in an environment where Council finances are constrained by rate capping and cost shifting by other levels of government. Added to that, escalating building costs are having an impact on project budgets and Council's ability to deliver the infrastructure needed to support our growing population.

Many of the large infrastructure projects we have prioritised are transformational in nature. They carry hefty price tags and are therefore beyond Council's ability to fund without financial support from state and federal government. Others are smaller in nature but equally important for the communities they service and equally in need of funding support from government.

The priority projects City of Ballarat is advocating for in this election year are all projects which have been thoroughly tested with residents and with Council. All have been drawn from Council-endorsed City of Ballarat strategies, plans and precinct structure plans. The development of each has involved significant initial community consultation and engagement, followed by numerous other opportunities for community input and review during various public exhibition phases. Such plans then go to Council for adoption.

Councillors were closely involved in selecting which projects would be the focus of our advocacy program this election year. We held a number of workshops with Councillors in 2021 where they reviewed the project pipeline and indicated the advocacy priority it should have.

The purpose of that exercise was to identify which projects we wanted to prioritise and then to rank them. Tier 1 projects are of state significance, Tier 2 projects will have city wide impacts while Tier 3 are smaller localised projects. The value of the projects range from \$200 million for the Ballarat Link Road next stages down to smaller \$100,000 local skate park projects. Some of these projects will have full business cases and some will have master plans which have been previously approved by Council.

To reiterate, the priority project list as such did not go to the Council chamber, however the strategies and masterplans the projects have devolved from certainly did.

You can feel confident that we have a good range of projects at a range of price points to advocate for during the election process.

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In response to your question as to whether we considered other projects (such as the quadruplication and electrification of the Melbourne to Melton line, the upgrade of the heritage listed Ballarat Train Station to include all abilities access, and additional funding for the airport), I can advise that the intent of the list of priority projects is to focus on the core business of Council, securing investment into growth areas, and delivery and maintenance of Council's asset base.

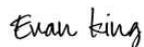
However that is not to say that we do not advocate for other projects. In the recent past City of Ballarat was represented on a group advocating for quadruplication and electrification of the Melbourne to Melton rail line; as an organisation we will continue to advocate for improved regional rail services as per our Integrated Transport Action Plan 2020.

I agree that all-abilities access at Ballarat Train Station is critically important. City of Ballarat is pursuing this with the Victorian Government as this is also a key action in our Integrated Transport Action Plan 2020. My hope is that Ballarat's role hosting Commonwealth Games events will mean that the upgrade to the station will be delivered as a priority.

In terms of the Ballarat Airport I can report that City of Ballarat is in regular conversations with government about this project, including the current delivery, and plans for next stage works.

City of Ballarat has also been working with key Ballarat stakeholders to develop a city-wide set of priorities which we will use our united voices to advocate for in the lead up to the elections. Those bundled projects will be launched under the banner *Ballarat. Now and Into the Future 2022* next week at the Art Gallery. I look forward to seeing you at the launch.

Regards



Evan King
Chief Executive Officer

OFFICIAL

9. NOTICE OF MOTION

Nil

10. REPORTS FROM COMMITTEES/COUNCILLORS**11. URGENT BUSINESS****12. SECTION 66 (IN CAMERA)****8.3 COMMERCE BALLARAT FUNDING AGREEMENT 2022-2026**

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Kelli Moran – Team Leader Economic Growth

(confidential information)

8.4 STRATEGIC PARTNERSHIP PROGRAM 2021/2022 ROUND 2 APPLICATIONS

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Sandra Kennedy – Strategic Grants Officer

(confidential information)

8.6 CONTRACT 2019/20-102 VARIATION - BAKERY HILL - FUTURE STAGES

Division: Development and Growth
Director: Natalie Robertson
Author/Position: James Guy – Executive Manager Economic Growth

(confidential information)

8.8 ART GALLERY OF BALLARAT NEW BOARD APPOINTMENTS

Division: Community Wellbeing
Director: Matthew Wilson
Author/Position: Louise Tegart – Director, Art Gallery of Ballarat

(confidential information)

8.10 CONTRACTS APPROVAL DELEGATED COMMITTEE

Division: Corporate Services
Director: John Hausler
Author/Position: Lorraine Sendall - Executive Assistant, Director Corporate Services

(confidential information)

12.1 LAND ACQUISITION – 701-723 CRESWICK ROAD, WENDOUREE AND 735 CRESWICK ROAD, WENDOUREE

Division: Development and Growth
Director: Natalie Robertson
Author/Position: Natalie Robertson – Director Development and Growth

(confidential information)

12.2 CEO ANNUAL PERFORMANCE REVIEW 2021-2022

Division: Corporate Services
Director: John Hausler
Author/Position: Andrew Prestage – Executive Manager People and Culture

(confidential information)

13. CLOSE